

DEFENCE FORCES RETIREMENT BENEFITS.

No. 93 of 1952.

An Act to amend the *Defence Forces Retirement Benefits Act* 1948-1951, and for other purposes.

[Assented to 18th November, 1952.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Defence Forces Retirement Benefits Act* 1952.

Short title
and citation.

(2.) The *Defence Forces Retirement Benefits Act* 1948-1951* is in this Act referred to as the Principal Act.

* Act No. 31, 1948, as amended by No. 37, 1949; No. 73, 1950; and No. 29, 1951.

(3.) The Principal Act, as amended by this Act, may be cited as the *Defence Forces Retirement Benefits Act 1948-1952*.

Commencement. 2. Except as otherwise provided by this Act, this Act shall come into operation on the day on which it receives the Royal Assent.

Parts. 3. Section three of the Principal Act is amended—

(a) by inserting after the words—
“Division 2.—Commutation of pension.”
the words—
“Division 3.—Transfer to the Superannuation Fund.”;
and

(b) by inserting after the words—
“Part VIA.—Application of this Act to members of the
Nursing Services.”
the words—
“Part VIB.—Application of this Act to Pensioners who
again become Members.”.

4.—(1.) Section twenty-five of the Principal Act is repealed and the following section inserted in its stead :—

Cessation of membership. “25.—(1.) Subject to the next succeeding sub-section, a member who retires ceases to be a member, for the purposes of this Act, on the day following the date of his retirement.

“ (2.) Where a contributor retires and, without a break in the continuity of his service, again becomes a member, he shall, for the purposes of this Act, be deemed not to have ceased to be a member by reason of that retirement.”.

(2.) The amendment effected by the last preceding sub-section shall be deemed to have come into operation on the twenty-third day of June, One thousand nine hundred and fifty-two.

5. Section twenty-seven of the Principal Act is repealed and the following section inserted in its stead :—

Counting of service under short-term engagement. “27.—(1.) Where a member (not being an officer)—

(a) is serving under an engagement for a term of not less than six years ; and

(b) commenced to serve under that engagement, without a break in the continuity of his service, following previous service, he may elect to have that previous service, or a part of that previous service, taken into account for the purposes of pension under this Act.

“ (2.) Where, under the last preceding sub-section, a member elects to have previous service, or a part of previous service, taken into account for the purposes of pension under this Act—

(a) that previous service, or that part of previous service, shall be taken into account for the purposes of pension under this Act ; and

(b) the member shall pay contributions of such amounts, and during such period, as the Board determines.

“ (3.) In this section, ‘ previous service ’, in relation to a member, means service in the Defence Force of the Commonwealth by that

member after he attained the age of twenty years, being service under an engagement for a term of not more than three years or service otherwise than under engagement immediately following service under such an engagement.”.

6.—(1.) Section forty-one of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-sections :—

Pensions after
twenty years—
other ranks.

“(2.) Subject to section fifty of this Act, the pension payable under this section is a pension at the rate set out in column four of the Fifth Schedule opposite to the rank held by the member on his retirement and such additional pension, if any, as is payable under the next succeeding sub-section.

“(2A.) A member (not being an officer) who has completed more than twenty years’ service for pension prior to attaining the retiring age for his rank is entitled to additional pension—

- (a) for each completed year of service for pension in excess of twenty years up to and including the twenty-fifth year— at the rate set out in column five of the Fifth Schedule opposite to the rank held by the member on his retirement ;
- (b) for each completed year of service for pension in excess of twenty-five years up to and including the thirtieth year— at the rate set out in column six of that Schedule opposite to the rank held by the member on his retirement ; and
- (c) for each completed year of service for pension in excess of thirty years—at the rate set out in column seven of that Schedule opposite to the rank held by the member on his retirement.”.

(2.) The amendment effected by the last preceding sub-section shall be deemed to have come into operation on the second day of October, One thousand nine hundred and fifty-two.

7.—(1.) Section fifty-seven of the Principal Act is amended by omitting sub-section (3.) and inserting in its stead the following sub-section :—

Pension on
death of
pensioner.

“(3.) If the male pensioner, at the time of his death, was in receipt of a pension under section fifty-two or fifty-three of this Act and the Board is satisfied that his death was due to the disease or injury which was the cause of his retirement, pension shall be paid to his widow at the rate or rates at which, under section fifty-five of this Act, pension is payable to the widow of a married member who was a contributor and died before retirement.”.

(2.) The amendment effected by the last preceding sub-section shall be deemed to have come into operation on the eighteenth day of November, One thousand nine hundred and fifty-one.

8. Section seventy-four of the Principal Act is amended by inserting in sub-section (1.), after the words “*Defence Forces Retirement Benefits Act 1950*”, the words “and the *Defence Forces Retirement Benefits Act 1952*”.

Commutation
of pension.

9.—(1.) After Division 2 of Part V. of the Principal Act the following Division is inserted :—

“ *Division 3.—Transfer to the Superannuation Fund.*

Persons to whom this Division applies.

“ 74A. This Division applies to a person who, being a contributor other than a contributor under paragraph (c) of section seventy-nine of this Act—

- (a) ceases to be a member ;
- (b) is not entitled to pension under this Act ; and
- (c) immediately after ceasing to be a member, becomes employed, otherwise than as a casual, exempt or temporary employee, by the Commonwealth or by an authority which is an approved authority for the purposes of the *Superannuation Act 1922-1952*.

Transfer to the Superannuation Fund.

“ 74B.—(1.) A person to whom this Division applies and who is entitled under this Act to a refund of contributions, or to a refund of contributions and a gratuity, may, within four months after he became employed by the Commonwealth or the authority, elect to have this section applied in relation to him.

“ (2.) Where a person makes an election under the last preceding sub-section—

- (a) an amount equal to the reserve value of his contributions, other than contributions, if any, made by him under section twenty-six or twenty-seven of this Act, shall be paid from the Fund into the Superannuation Fund ;
- (b) the contributions, if any, made by him under section twenty-six or twenty-seven of this Act shall be refunded to him ; and
- (c) notwithstanding any other provision of this Act, no other payment shall be made to or in respect of him under this Act.

“ (3.) For the purposes of this section, the reserve value of contributions is the amount determined by the Commonwealth Actuary to be the reserve value of those contributions.”

(2.) The Division inserted in the Principal Act by the last preceding sub-section shall come into operation on a date to be fixed by Proclamation.

Transfers from Superannuation Act 1922-1947 to this Act.

10.—(1.) Section seventy-seven of the Principal Act is amended—

- (a) by omitting from sub-section (3.) the words “, if the increases in the rates of pensions effected by the *Defence Forces Retirement Benefits Act 1950* had not been made,” ; and
- (b) by omitting sub-section (3A.).

(2.) The amendments effected by the last preceding sub-section shall be deemed to have come into operation on the second day of October, One thousand nine hundred and fifty-two.

11.—(1.) Section seventy-eight of the Principal Act is amended—

- (a) by omitting from sub-section (6.) the words “, if the increases in the rates of pensions effected by the *Defence Forces Retirement Benefits Act* 1950 had not been made.”; and
 (b) by omitting sub-section (7A.).

Elections by members entitled to deferred pay.

(2.) The amendments effected by the last preceding sub-section shall be deemed to have come into operation on the second day of October, One thousand nine hundred and fifty-two.

12.—(1.) Section seventy-nine of the Principal Act is amended by omitting paragraph (c) and inserting in its stead the following paragraph :—

Air Force officers contributing under Superannuation Act.

- “(c) if he does not elect to become a contributor for full benefits or for limited benefits under this Act, he shall, subject to the next succeeding paragraph, continue to pay, for the purposes of this Act, contributions equal to the contributions that he was paying under the *Superannuation Act* 1922–1947, and pension, benefit or refund of contributions shall be paid to or in respect of him in accordance with the next succeeding section, and not otherwise ;”.

(2.) The amendment effected by the last preceding sub-section shall be deemed to have come into operation on the date of commencement of the *Defence Forces Retirement Benefits Act* 1948.

13.—(1.) After section seventy-nine of the Principal Act the following section is inserted :—

“79A.—(1.) Subject to the next succeeding sub-section, where, prior to attaining the retiring age for the rank held by him, a member to whom paragraph (c) of the last preceding section applies has been retired on the ground of invalidity or of physical or mental incapacity to perform his duties, the Board shall determine the percentage of total incapacity of the member in relation to civil employment, and the member is entitled to pension, benefit or refund of contributions as follows :—

Pension, &c., payable to certain Air Force officers.

- (a) Where the percentage of total incapacity of the member, as determined by the Board, is fifty per centum or more, the member is entitled to pension at the rate at which, under sub-section (1.) of section fifty-two of this Act, a member in respect of whom that sub-section applies is entitled to pension ;
 (b) Where the percentage of total incapacity of the member, as determined by the Board, is less than fifty per centum, the member is entitled to—
 (i) pension at a rate equal to the percentage so determined of the rate of pension payable to a person to whom the last preceding paragraph applies ; or

- (ii) if, within four months after the date of his retirement, the member so elects, a refund of his contributions and an amount equal to the actuarial equivalent of the share of pension which would have been payable by the Commonwealth if he had not so elected.

“(2.) Where, prior to attaining the retiring age for the rank held by him—

- (a) a member to whom paragraph (c) of the last preceding section applies has been retired on the ground of invalidity or of physical or mental incapacity to perform his duties and the Board is of the opinion that the invalidity or incapacity is due to wilful action on the part of the member for the purpose of obtaining pension or benefit; or
- (b) a member to whom that paragraph applies has been retired otherwise than on the ground of invalidity or incapacity, the member is entitled to a refund of his contributions.

“(3.) On the death before retirement of a married member to whom paragraph (c) of the last preceding section applies, pension shall be paid to his widow at the rate or rates at which, under section fifty-five of this Act, pension is payable to the widow of a married member who was a contributor and died before retirement.

“(4.) On the death of a widow who was in receipt of a pension under the last preceding sub-section, pension shall be paid in respect of each of the children under the age of sixteen years of the widow (except children of her re-marriage) or of the member at the rates at which, under sub-section (2.) of section fifty-five of this Act, pension is payable in respect of a child in respect of whom that sub-section applies.

“(5.) On the death before retirement of a member to whom paragraph (c) of the last preceding section applies and who, at the time of his death, was not married or was a widower without children under the age of sixteen years, the contributions paid by him shall be paid to his personal representatives or, failing them, to such persons, if any, as the Board determines.

“(6.) On the death of a person who, at the time of his death, was in receipt of a pension under sub-section (1.) of this section, pension shall be paid to his widow—

- (a) at the rate or rates at which, under sub-section (1.) of section fifty-seven of this Act, pension is payable to the widow of a male pensioner; or
- (b) where the Board is satisfied that the death of the pensioner was due to the disease or injury which was the cause of his retirement—at the rate or rates at which, under sub-section (3.) of section fifty-seven of this Act, pension is payable to the widow of a male pensioner.

“(7.) On the death of a widow who was in receipt of a pension under the last preceding sub-section, pension shall be paid in respect of each of the children under the age of sixteen years of the widow (except children of her re-marriage) or of the pensioner at the rates at which, under sub-section (4.) of section fifty-seven of this Act, pension is payable in respect of a child in respect of whom that sub-section applies.

“(8.) Where the wife of a member to whom paragraph (c) of the last preceding section applies, or of a person in receipt of a pension under sub-section (1.) of this section, is dead or divorced and the member or the pensioner dies leaving children of himself or of his wife who are under the age of sixteen years and were dependent upon him at the time of his death—

- (a) pension shall be paid in respect of each child at the rate at which, under sub-section (1.) of section fifty-eight of this Act, pension is payable in respect of a child in respect of whom that sub-section applies; and
- (b) sub-section (2.) of that last-mentioned section applies as if that pension were payable in pursuance of sub-section (1.) of that section.”.

(2.) The section inserted in the Principal Act by the last preceding sub-section shall be deemed to have come into operation on the date of commencement of the *Defence Forces Retirement Benefits Act 1948*.

14. After Part VIA. of the Principal Act the following Part is inserted :—

“PART VI B.—APPLICATION OF THIS ACT TO PENSIONERS WHO AGAIN BECOME MEMBERS.

“82E. This Part applies to a person who—

- (a) is in receipt of or entitled to a pension under this Act, being a pension payable by reason of his having been a member; and
- (b) again becomes a member.

Application
of Part.

“82F.—(1.) The application of Part IV. to and in relation to a person to whom this Part applies is subject to this section.

Contribution-

“(2.) A person to whom this Part applies shall contribute to the Fund from the date when he again becomes a member notwithstanding that he is not serving, and has not, after his re-entry, served, under an engagement or re-engagement for a period of six years or a period exceeding six years.

“(3.) In the application of the Second Schedule for the purpose of determining the amount of contribution payable by a person to whom this Part applies, the age at which that person becomes a contributor for a unit, or part of a unit, which corresponds with a unit, or part of a unit, for which he contributed before he became a pensioner shall be deemed to be the age at which he became a contributor for that last-mentioned unit or part of a unit.

Pension or
benefit payable.

“ 82G.—(1.) The application of Part V. to and in relation to a person to whom this Part applies is subject to this section.

“ (2.) For the purpose of determining the pension payable upon the retirement of a person to whom this Part applies, the service for pension of that person shall be deemed to be the aggregate of the periods of service for pension served by that person prior to and after his re-entry, other than service in respect of which a refund of contributions has been paid or is payable to him.

“ (3.) Where a person to whom this Part applies is, upon retirement, an officer, but not entitled to pension as an officer, he is entitled—

- (a) to a refund of contributions paid by him as an officer ; and
- (b) to pension as if, upon retirement, he held the rank last held by him before he became an officer.

Persons not
entitled to
double pension
and pensions
not to be
reduced.

“ 82H. Nothing in this Part has the effect—

- (a) of entitling a person to pension, at the one time, under more than one provision of this Act ; or
- (b) of reducing the rate of pension payable to a person to whom this Part applies below the rate of pension which was payable to him before his re-entry.”

15. Section eighty-seven of the Principal Act is repealed and the following sections are inserted in its stead :—

Extension or
modification of
the Act by
regulations.

“ 87. The regulations may make provision for or in relation to—

- (a) the modification of the application of this Act in relation to members in the conditions of whose service there is a change ; and
- (b) the application, with or without modification, of this Act in relation to members of the Defence Force of the Commonwealth in relation to whom this Act does not otherwise apply,

and provisions so made shall have effect notwithstanding anything contained in this Act.

Regulations.

“ 88. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular—

- (a) for prescribing the time within which an election under this Act may be made ;
- (b) for prescribing the manner in which the accounts of the Fund shall be kept ; and
- (c) for prescribing penalties for offences against the regulations, but so that no prescribed penalty shall exceed a fine of Fifty pounds.”

16.—(1.) The Third, Fourth and Fifth Schedules to the Principal Act are repealed and the following Schedules inserted in their stead :—

The Third,
Fourth and
Fifth Schedules.

THE THIRD SCHEDULE.

Section 38.

PENSIONS FOR OFFICERS.

Table I.—Officers other than those referred to in Table II. and Table III.

Column 1. Permanent Naval Forces.	Column 2. Permanent Military Forces.	Column 3. Permanent Air Force.	Column 4. Annual amount of pension.
			£ s. d.
Vice-Admiral (and relative rank) Rear-Admiral (and relative rank)	Lieutenant-General	Air Marshal ..	1,014 0 0
Captain (and relative rank) of six years' or more service in that rank	Major-General .. Brigadier ..	Air Vice-Marshal Air Commodore	900 0 0 780 0 0
Captain (and relative rank) of less than six years' service in that rank	Colonel	Group Captain..	730 0 0
Commander (and relative rank)	Lieutenant-Colonel	Wing Commander	570 0 0
Lieutenant - Commander (and relative rank)	Major	Squadron-Leader	430 0 0
Lieutenant (and relative rank)	Captain	Flight-Lieutenant	355 0 0
.. .. .	Lieutenant ..	Flying Officer ..	265 0 0

Table II.

Column 1. Permanent Naval Forces.	Column 2. Permanent Military Forces.	Column 3. Annual amount of pension.
		£ s. d.
Officers promoted from Warrant Rank or from Branch Rank (except those specially selected and promoted direct to Lieutenant)—		
Commander (and relative rank)	660 0 0
Lieutenant-Commander (and relative rank)	Major (Quartermaster) ..	570 0 0
Lieutenant (and relative rank)	Captain (Quartermaster) ..	510 0 0
Commissioned Officer from Warrant Rank and Senior Commissioned Officer	450 0 0
Warrant Officer and Commissioned Officer	Lieutenant (Quartermaster) ..	390 0 0

Table III.

Column 1. Rank held by Officer on retirement.	Column 2. Annual amount of pension.
	£ s. d.
Matron-in-chief	540 0 0
Principal Matron	415 0 0
Matron	385 0 0
Senior Sister	320 0 0
Sister	260 0 0

THE FOURTH SCHEDULE.

Section 39.

DEDUCTION FROM PENSION FOR EACH YEAR OR PART OF A YEAR NOT SERVED.

Pension per annum—	Deduction for each year or part of a year—
	£
Exceeds £780	30
Exceeds £510 but does not exceed £780	20
Exceeds £390 but does not exceed £510	15
Exceeds £265 but does not exceed £390	10
Does not exceed £265	5

THE FIFTH SCHEDULE.

Section 41.

PENSIONS FOR MEMBERS OTHER THAN OFFICERS.

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.
Permanent Naval Forces.	Permanent Military Forces.	Permanent Air Force.	Annual pension in respect of 20 years' service for pension.	Annual additional pension for 21st year to 25th year of service for pension.	Annual additional pension for 26th year to 30th year of service for pension.	Annual additional pension for 31st year and each succeeding year of service for pension.
			£ s. d.	£	£	£
Chief Artificer ..	Warrant Officer (Class I.)	Warrant Officer	205 0 0	9	10	11
Chief Petty Officer (and relative rating, other than Chief Artificer)	Warrant Officer (Class II.) Staff Sergeant	Flight Sergeant	195 0 0	8	9	10
Petty Officer (and relative rating)	Sergeant ..	Sergeant ..	175 0 0	7	8	9
Leading Seaman (and relative rating)	Corporal (and relative rank) Lance Corporal (and relative rank)	Corporal Leading Air-craftman	150 0 0	7	8	9
Able Seaman (and relative rating)	Private (and relative rank)	Aircraftman 1st Class	135 0 0	7	8	9

(2.) The amendment effected by the last preceding sub-section shall be deemed to have come into operation on the second day of October, One thousand nine hundred and fifty-two.

Pensions to which increases apply, and appropriation.

17.—(1.) The increases in rates of pensions effected by this Act apply with respect to the pensions of persons who were in receipt of or entitled to pensions on the second day of October, One thousand nine hundred and fifty-two, or become entitled to pensions after that day.

(2.) The Commonwealth shall pay to the Fund such amounts as are equal to the amounts of any increases in pensions payable, by virtue of the amendments effected by this Act, to persons who were in receipt of or entitled to pensions on the second day of October, One thousand nine hundred and fifty-two, and the Consolidated Revenue Fund is, to the necessary extent, appropriated accordingly.

18.—(1.) Section seven of the *Defence Forces Retirement Benefits Act* 1951 is amended by adding at the end thereof the following sub-section :—

Amendment of
the *Defence
Forces
Retirement
Benefits Act
1951.*

“(2.) The amendments effected by the last preceding sub-section shall not have the effect of reducing the rate of pension payable to a person who, immediately before the date of commencement of this Act, was in receipt of or entitled to a pension under paragraph (c) of sub-section (2.) of section fifty-two of the Principal Act.”

(2.) The amendment effected by the last preceding sub-section shall be deemed to have come into operation on the date of commencement of the *Defence Forces Retirement Benefits Act* 1951.
