

Defence Forces Retirement Benefits (Pension Increases)

No. 91 of 1967

An Act to provide for Increases in certain Defence Forces Retirement Pensions.

[Assented to 8 November 1967]

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

- Short title.** 1. This Act may be cited as the *Defence Forces Retirement Benefits (Pension Increases) Act 1967*.
- Commencement.** 2. This Act shall come into operation on the day on which it receives the Royal Assent.
- Interpretation.** 3.—(1) In this Act, unless the contrary intention appears—
“actual pension entitlement”, in relation to an eligible pensioner, means the rate at which pension was payable to him immediately before the commencing date, or, if section 69 of the *Defence Forces Retirement Benefits Act 1948* applied in relation to him at that time, he had commuted a portion of his pension before that time or he had made an election under section 61A or section 61B

of the *Defence Forces Retirement Benefits Act 1963–1965*, the rate at which pension would have been payable to him at that time if that section had not so applied in relation to him, he had not commuted a portion of his pension or he had not made that election, as the case may be;

“basic pension entitlement”, in relation to an eligible pensioner—means—

- (a) in the case of a pensioner who retired before the commencement of the *Defence Forces Retirement Benefits (Pension Increases) Act 1961*—
 - (i) the rate at which pension was payable to him immediately before the commencement of that Act; or
 - (ii) if section 69 of the *Defence Forces Retirement Benefits Act 1948* applied in relation to him at that time, he had commuted a portion of his pension before that time or (if pension is payable to him under section 52 of the *Defence Forces Retirement Benefits Act 1948*) his classification for the purposes of that section was, at that time, different from his classification on the commencing date—the rate at which pension would have been payable to him at that time if section 69 of the *Defence Forces Retirement Benefits Act 1948* had not so applied in relation to him, he had not commuted a portion of his pension or his classification at that time had been the same as his classification on the commencing date, as the case may be;
- (b) in the case of a pensioner who retired after the commencement of the *Defence Forces Retirement Benefits (Pension Increases) Act 1961* but before the commencement of the *Defence Forces Retirement Benefits Act 1963*—
 - (i) the rate at which pension was payable to him immediately before the commencement of the *Defence Forces Retirement Benefits Act 1963*; or
 - (ii) if section 69 of the *Defence Forces Retirement Benefits Act 1948* applied in relation to him at that time, he had commuted a portion of his pension before that time or (if pension is payable to him under section 52 of the *Defence Forces Retirement Benefits Act 1948*) his classification for the purposes of that section was, at that time, different from his classification on the commencing date—the rate at which pension would have been payable to him at that time if section 69 of the *Defence Forces Retirement Benefits Act 1948* had not so applied in relation to him, he had not commuted a portion of his pension or his classification at that time had been the same

as his classification on the commencing date, as the case may be; and

(c) in any other case—his actual pension entitlement;

“eligible pensioner” means a person to whom, immediately before the commencing date, a pension was payable by virtue of that person having been a contributor or by virtue of section 73 of the *Defence Forces Retirement Benefits Act* 1948, being a pension that commenced to be payable before the thirtieth day of June, One thousand nine hundred and sixty-seven;

“notional rate of annual pay”, in relation to an eligible pensioner or a pensioner included in a class of eligible pensioners, means such rate of annual pay payable to members on the thirtieth day of June, One thousand nine hundred and sixty-seven, as the Treasurer determines to be the rate that corresponds with the maximum rate of annual pay that was applicable to the pensioner or to that class of pensioners, as the case may be, immediately before the retirement of the pensioner;

“pension at current rate”, in relation to an eligible pensioner, means—

(a) except in the case of a pensioner to whom paragraph (b) of this definition applies—the rate at which pension would have been payable to him immediately before the commencing date if the *Defence Forces Retirement Benefits Act* 1948–1966 had been in force immediately before his retirement and he were, subject to the next succeeding sub-section, entitled to pension in accordance with the provisions of that Act; and

(b) in the case of a pensioner who was not an officer immediately before his retirement and in relation to whose pension section 45 of the *Defence Forces Retirement Benefits Act* 1948 applies—such rate of pension as is ascertained by multiplying the rate of Ninety-one dollars per annum by a number the same as the category number applicable under section 4A of the *Defence Forces Retirement Benefits Act* 1948–1966 to a rate of annual pay the same as the notional rate of annual pay of the pensioner;

“the commencing date” means the date of commencement of this Act.

(2.) In the application of the provisions of the *Defence Forces Retirement Benefits Act* 1948–1966 in relation to an eligible pensioner for the purposes of paragraph (a) of the definition of “pension at current rate” in the last preceding sub-section—

(a) the category of the member at his retirement shall be deemed to be the category applicable under section 4A of that Act to a rate of annual pay the same as the notional rate of annual pay of the pensioner;

- (b) section 69 of that Act, and any commutation of a portion of his pension by the eligible pensioner, shall be disregarded;
- (c) if the eligible pensioner retired before the commencement of the *Defence Forces Retirement Benefits Act 1959*, paragraph (b) of sub-section (4.) of section 39 of the *Defence Forces Retirement Benefits Act 1948–1966* shall be disregarded;
- (d) if the eligible pensioner was an officer immediately before his retirement and retired—
 - (i) before the commencement of the *Defence Forces Retirement Benefits Act 1959*;
 - (ii) after attaining the retiring age for the rank held by him immediately before his retirement; and
 - (iii) before attaining the age of sixty years,
his age on retirement shall be deemed to be the retiring age for the rank held by him immediately before his retirement; and
- (e) if the eligible pensioner was not an officer immediately before his retirement and retired—
 - (i) before the commencement of the *Defence Forces Retirement Benefits Act 1959*;
 - (ii) after attaining the retiring age for the rank held by him immediately before his retirement;
 - (iii) before attaining the age of sixty years; and
 - (iv) after completing twenty years' service for pension,
the number of years of service for pension completed by him immediately before his retirement shall be deemed to be twenty years or such number of years of service for pension as had been completed by him immediately before he attained the retiring age for the rank held by him immediately before his retirement, whichever is the greater.

(3.) A reference in this Act to the *Defence Forces Retirement Benefits Act 1948* shall be read as a reference to that Act as amended and in force from time to time.

(4.) Expressions used in this Act that are also used in the *Defence Forces Retirement Benefits Act 1948–1966* have, in this Act, unless the contrary intention appears, the same respective meanings as they have in the *Defence Forces Retirement Benefits Act 1948–1966*.

4. Where the pension at current rate applicable to an eligible pensioner (other than an eligible pensioner to whom section 7 of this Act applies) exceeds his actual pension entitlement, he is, subject to this Act, entitled to an increase in the rate of his pension equal to five-sevenths of the difference between the pension at current rate applicable to him and his basic pension entitlement.

Increases in pensions of certain eligible pensioners.

Application of increases to commuted pensions, &c.

5.—(1.) Where an eligible pensioner who has commuted a portion of his pension under section 74 of the *Defence Forces Retirement Benefits Act* 1948 or has made an election under section 61A or section 61B of the *Defence Forces Retirement Benefits Act* 1963–1965 is entitled to an increase in the rate of his pension under the preceding provisions of this Act, he is, subject to this Act, in lieu of the increase to which, but for this section, he would have been entitled in accordance with those provisions, entitled to an increase that bears to the increase to which he would have been so entitled the same proportion as the rate at which pension was payable to him immediately before the commencing date bears to the rate at which pension would have been payable to him immediately before that date if he had not commuted a portion of his pension or had not made that election, as the case may be.

(2.) The operation of section 69 of the *Defence Forces Retirement Benefits Act* 1948 shall be disregarded for the purposes of the last preceding sub-section.

Adjustment in relation to previous increase.

6. Where an eligible pensioner was granted an increase in the rate of his pension under the *Defence Forces Retirement Benefits (Pension Increases) Act* 1961 or Part III. of the *Defence Forces Retirement Benefits Act* 1963, any increase in the rate of his pension to which he is entitled under the preceding provisions of this Act shall be reduced by the amount of that first-mentioned increase.

Increased rates of pensions payable to certain eligible pensioners.

7.—(1.) This section applies to an eligible pensioner—

- (a) the rate of whose pension has been reduced under section 58 or section 79A, or under an agreement entered into in pursuance of section 78 or section 79, of the *Defence Forces Retirement Benefits Act* 1959 or of that Act as amended;
- (b) the rate of whose pension is, by virtue of the operation of section 77 or section 78 of the *Defence Forces Retirement Benefits Act* 1948, less than it would otherwise be;
- (c) who retired after the commencement of the *Defence Forces Retirement Benefits Act* 1959 and, immediately before his retirement, was not a contributor for maximum additional basic pension for the purposes of Part III. of that Act;
- (d) who retired after the commencement of the *Defence Forces Retirement Benefits Act* 1962 and, immediately before his retirement, was not a contributor for maximum additional basic pension for the purposes of Part IV. of that Act;
- (e) who retired after the commencement of the *Defence Forces Retirement Benefits Act* 1963 and, immediately before his retirement, was not a contributor for maximum additional basic pension for the purposes of Part IV. of that Act; or
- (f) who is a person to whom the *Defence Forces Special Retirement Benefits Act* 1960 applies.

(2.) The rate of pension payable to an eligible pensioner to whom this section applies is, in lieu of the rate at which, apart from this section, that pension would be payable, such rate as the Treasurer determines to be appropriate having regard to the increases in the rates of pensions payable to other eligible pensioners by virtue of the preceding provisions of this Act and to all the circumstances of the case.

8.—(1.) Where, immediately before the commencing date—

- (a) a pension was payable to a person under section 55 of the *Defence Forces Retirement Benefits Act 1948* by virtue of that person being the widow of a member who died before retirement but who, if he had retired on the day on which he died and had been in receipt of a pension immediately before the commencing date under sub-section (1.) of section 52 of the *Defence Forces Retirement Benefits Act 1948*, would have been entitled to an increase in that pension under this Act;
- (b) a pension was payable to a person under sub-section (1.) of section 57 of the *Defence Forces Retirement Benefits Act 1948* by virtue of that person being the widow of a pensioner who, if he had not died and had been in receipt of his pension immediately before the commencing date, would have been entitled to an increase in that pension under this Act; or
- (c) a pension was payable to a person under sub-section (3.) of section 57 of the *Defence Forces Retirement Benefits Act 1948* by virtue of that person being the widow of a pensioner who, if he had not died and had been in receipt of a pension immediately before the commencing date under sub-section (1.) of section 52 of the *Defence Forces Retirement Benefits Act 1948*, would have been entitled to an increase in that pension under this Act,

Increase in certain widows' pensions.

the widow is, subject to this Act, entitled to an increase in her pension, being an increase equal to five-eighths of the increase in pension to which her husband would have been entitled under this Act, but, in ascertaining the increase in pension to which her husband would have been entitled, if her husband commuted a portion of his pension under section 74 of the *Defence Forces Retirement Benefits Act 1948*, section 5 of this Act shall be disregarded in so far as it applies by reason of the commutation.

(2.) The reference in the last preceding sub-section to the fraction of five-eighths shall, in the case of the widow of a person who made an election under sub-section (6.) of section 47 of the *Defence Forces Retirement Benefits Act 1959* and has not revoked that election, or has made an election under sub-section (4.) of section 48 of that Act, be read as a reference to the fraction of one-half.

(3.) This section does not apply to a widow to whom the next succeeding section applies.

Increased rates of pensions payable to certain widows.

9.—(1.) This section applies to a person who is—

- (a) the widow of a pensioner the rate of whose pension was reduced under section 58 or section 79A, or under an agreement entered into in pursuance of section 78 or section 79, of the *Defence Forces Retirement Benefits Act* 1959 or of that Act as amended;
- (b) the widow of a member, being a widow the rate of whose pension has been reduced under a section or an agreement referred to in the last preceding paragraph;
- (c) the widow of a member or of a pensioner, being a widow the rate of whose pension is, by virtue of the operation of section 77 or section 78 of the *Defence Forces Retirement Benefits Act* 1948, less than it would otherwise be;
- (d) the widow of a member who died, or of a pensioner who retired, after the commencement of the *Defence Forces Retirement Benefits Act* 1959 and who, immediately before his death or retirement, as the case may be, was not a contributor for maximum additional basic pension for the purposes of Part III. of that Act;
- (e) the widow of a member who died, or of a pensioner who retired, after the commencement of the *Defence Forces Retirement Benefits Act* 1962 and who, immediately before his death or retirement, as the case may be, was not a contributor for maximum additional basic pension for the purposes of Part IV. of that Act;
- (f) the widow of a member who died, or of a pensioner who retired, after the commencement of the *Defence Forces Retirement Benefits Act* 1963 and who, immediately before his death or retirement, as the case may be, was not a contributor for maximum additional basic pension for the purposes of Part IV. of that Act; or
- (g) the widow of a pensioner who was a person to whom the *Defence Forces Special Retirement Benefits Act* 1960 applied.

(2.) The rate of pension payable to a person to whom this section applies is, in lieu of the rate at which, apart from this section, that pension would be payable, such rate as the Treasurer determines to be appropriate having regard to the increases in the rates of pensions payable by virtue of the last preceding section and to all the circumstances of the case.

Application of increases to suspended pensions.

10. Where a person would, but for section 53A of the *Defence Forces Retirement Benefits Act* 1948, be an eligible pensioner, that person shall, upon his pension again becoming payable to him after the commencing date, be entitled to an increase in the pension equal to the increase to which he would have been entitled if he had been an eligible pensioner.

Re-engagement of pensioners.

11. Any increase in pension to which a person is entitled under this Act is subject to the operation of section 69 of the *Defence Forces Retirement Benefits Act* 1948.

12. Where, on or after the commencing date, an eligible pensioner to whom pension is payable under section 52 of the *Defence Forces Retirement Benefits Act* 1948 is reclassified under section 53 of that Act, the rate at which pension is payable to him on and after the date from which the reclassification has effect shall be the rate at which pension would have been payable to him on the commencing date if he had been so reclassified with effect on and from the day immediately preceding the commencing date.

Rate of
invalidity
pension
payable on
reclassification.

13. An increase in pension provided for by this Act (other than a pension payable to a person as a widow or a pension in respect of a child) is not payable to or in relation to a person who was, immediately before the commencing date, also entitled to pension under the *Superannuation Act* 1922–1967.

Increases
not payable
to certain
superannuation
pensioners.

14.—(1.) The reference in sub-section (1.) of section 15B of the *Defence Forces Retirement Benefits Act* 1948–1966 to benefits under that Act shall be read as including a reference to increases in pensions payable under this Act.

Payment of
pension
increases.

(2.) The Commonwealth shall pay to the Defence Forces Retirement Benefits Fund amounts equal to the amounts by which payments of pensions (including pensions that become payable to widows of eligible pensioners who die on or after the commencing date) are increased by virtue of this Act, and the Consolidated Revenue Fund is, to the necessary extent, appropriated accordingly.

15. Increases in pensions payable by virtue of this Act have effect from and including the first fortnightly payment of pensions made after the commencing date.

Application.
