

DEFENCE FORCES SPECIAL RETIREMENT BENEFITS.

No. 68 of 1960.

An Act to provide special Retirement Benefits for certain Members of the Australian Regular Army.

[Assented to 7th December, 1960.]

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. This Act may be cited as the *Defence Forces Special Retirement Benefits Act 1960.* Short title.

2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.

3.—(1.) This Act and the *Defence Forces Retirement Benefits Act 1948–1959* shall be read and construed together as one Act. This Act to be construed with *Defence Forces Retirement Benefits Act 1948–1959.*

(2.) Without in any way limiting the generality of the last preceding sub-section—

(a) in this Act, unless the contrary intention appears, expressions defined by the *Defence Forces Retirement Benefits Act 1948–1959* have the same respective meanings as they have in that Act;

(b) a reference in this Act to the category of a person to whom this Act applies shall be read as a reference to the category of members within which that person was, immediately before his retirement, included for the purposes of the *Defence Forces Retirement Benefits Act 1948–1959* and a number specified in a column headed "Category" in a Schedule to this Act shall be read as a reference to the category of members in relation to which that number is specified in the First Schedule to the *Defence Forces Retirement Benefits Act 1948–1959*; and

(c) the provisions of the *Defence Forces Retirement Benefits Act 1948–1959* and of the *Defence Forces Retirement Benefits Act 1959* apply, so far as they are applicable and are not inconsistent with this Act, to and in relation to persons to whom this Act applies and to and in relation to gratuities and pensions under this Act, and, for the purposes of those provisions as so applying, a gratuity or pension under this Act shall be

deemed to be a gratuity or pension under the *Defence Forces Retirement Benefits Act* 1948–1959 and a person in receipt of a pension under this Act shall be deemed to be a pensioner under the *Defence Forces Retirement Benefits Act* 1948–1959.

Persons to whom this Act applies.

4.—(1.) In this section—

“ the prescribed period ” means—

- (a) in relation to a person who is a member of the Royal Australian Army Ordnance Corps on the proclaimed date—the period of nine months commencing on that date; and
- (b) in any other case—the period of three months commencing on that date;

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

(2.) This Act applies to a person—

(a) who, on the proclaimed date—

- (i) is a male member of the Australian Regular Army;
- (ii) is a contributor to the Fund; and
- (iii) is serving under an engagement, being an engagement for a term that does not expire during the prescribed period;

(b) who is not, at any time during the prescribed period, an officer;

(c) the fifty-fifth anniversary of whose birthday has not occurred before the proclaimed date and does not occur during the prescribed period;

(d) who is declared by the Minister of State for the Army on the proclaimed date, by instrument in writing, to be a member who is to be discharged from the Australian Regular Army during the prescribed period by reason of a reduction in the establishment of his regiment or corps;

(e) who is discharged from the Australian Regular Army during the prescribed period for that reason; and

(f) who does not become a member on the day following the date of his discharge.

Service for pension.

5.—(1.) For the purposes of sections six and seven of this Act, “ service for pension ”, in relation to a person, includes—

- (a) service before attaining the age of twenty years under the engagement under which he was serving immediately before his retirement or, if he has had

successive and continuous engagements, under the first of those engagements, other than service under an initial engagement of less than six years; and

- (b) service in respect of which, by virtue of section thirty-six of the *Defence Forces Retirement Benefits Act* 1948–1955 or of that Act as amended from time to time, he was not permitted or required to contribute to the Fund.

(2.) Where, by virtue of an election made by a person to whom this Act applies under section twenty-six of the *Defence Forces Retirement Benefits Act* 1948 or of that Act as amended from time to time, a period of service, or part of a period of service, of the person was required to be taken into account for the purposes of pension under the *Defence Forces Retirement Benefits Act* 1948–1959, that period or that part of that period, as the case may be, shall be taken into account for the purposes of pension under this Act, but shall not be taken into account for any other purpose of this Act.

6. A person to whom this Act applies who, on retirement, has not completed six years' service for pension is entitled, in addition to a refund under section sixty of the *Defence Forces Retirement Benefits Act* 1948–1959 of the amount of the contributions paid by him to the Fund, to a gratuity of an amount calculated at the rate of Twenty pounds for each year of service for pension completed by him on retirement.

Persons discharged with less than six years' service for pension.

7.—(1.) A person to whom this Act applies who, on retirement, has completed not less than six years' service for pension and is not entitled to a pension under section nine or ten of this Act—

Persons discharged with not less than six years', but less than fifteen years', service for pension.

- (a) shall, for the purposes of sub-section (1.) of section forty-two of the *Defence Forces Retirement Benefits Act* 1948–1959, be deemed to have retired after completion of his engagement or, if he has had successive and continuous engagements, after completion of the last of those engagements; and
- (b) is entitled, in addition to a refund under section sixty of the *Defence Forces Retirement Benefits Act* 1948–1959 of the amount of the contributions paid by him to the Fund and a gratuity under section forty-two of that Act, to a gratuity of an amount calculated by multiplying the amount applicable to him under the next succeeding sub-section by a number equal to the number of years of service for pension completed by him on retirement.

(2.) For the purposes of paragraph (b) of the last preceding sub-section, the amount applicable to a person is the amount ascertained by multiplying by fourteen the sum of—

- (a) the amount of the daily rate of active pay applicable to him on the date of his retirement having regard to his rank, branch and group on that date and to the period of his service in that rank; and
- (b) the amount of Ten shillings and sixpence.

Special provisions applicable to gratuities.

8.—(1.) Section sixty-six of the *Defence Forces Retirement Benefits Act 1959* does not apply to a person to whom this Act applies.

(2.) Section sixty-eight of the *Defence Forces Retirement Benefits Act 1959* does not apply to or in relation to a gratuity to which a person is entitled under section six of this Act or under paragraph (b) of sub-section (1.) of section seven of this Act.

(3.) Where a person entitled to a gratuity under section six of this Act, or under paragraph (b) of sub-section (1.) of section seven of this Act, makes an election under sub-section (1.) of section seventy-four B of the *Defence Forces Retirement Benefits Act 1948–1959*, paragraph (c) of sub-section (2.) of that last-mentioned section does not apply in relation to the payment of that gratuity to him.

Persons discharged with not less than fifteen years', but less than twenty years', service for pension.

9.—(1.) This section applies to a person to whom this Act applies who—

- (a) on retirement, has completed not less than fifteen years' service for pension but has not completed twenty years' service for pension; and
- (b) would, if he had continued to serve until he had attained the age of fifty-five years, have completed not less than twenty years' service for pension.

(2.) In this section—

“reduced benefit contributor” means a person to whom this section applies—

- (a) who has made an election under section forty-four of the *Defence Forces Retirement Benefits Act 1959*; or
- (b) who, immediately before the fourteenth day of December, One thousand nine hundred and fifty-nine, was a member to whom section seventy-seven or seventy-eight of the *Defence Forces Retirement Benefits Act 1948–1958* applied, being a member contributing for a number of units of pension less than the number for which he would have been contributing if that section had not applied to him;

“ the maximum additional pension contribution ”, in relation to a person to whom this section applies, means such amount as is determined by the Board on the advice of the Commonwealth Actuary as being the contribution that the person should pay to the Fund in respect of the difference between the maximum pension rate applicable to him and the minimum pension rate applicable to him;

“ the maximum pension rate ” in relation to a person to whom this section applies, means—

(a) if the person is not a reduced benefit contributor—
—such rate set out in the First Schedule to this Act as is applicable to him having regard to his category and the number of years of service for pension completed by him on retirement;
or

(b) if the person is a reduced benefit contributor—
such rate as is determined by the Board on the advice of the Commonwealth Actuary as being the maximum rate of pension applicable to him for the purposes of this section;

“ the minimum pension rate ”, in relation to a person to whom this section applies, means such rate as is determined by the Board on the advice of the Commonwealth Actuary as being the minimum rate of pension applicable to him for the purposes of this section;

“ the prescribed day ”, in relation to a person to whom this section applies, means the day occurring one month after service by the Board on the person of the statement referred to in sub-section (6.) of this section.

(3.) The Commonwealth Actuary shall, in advising the Board in relation to a person for the purposes of the last preceding sub-section, have regard—

(a) to the contributions (other than a contribution paid to the Fund for the purposes of this section) that the person has paid or is liable to pay to the Fund;

(b) to the number of units of pension for which the person was contributing immediately before the fourteenth day of December, One thousand nine hundred and fifty-nine;

(c) to any election made by the person under section forty-seven of the *Defence Forces Retirement Benefits Act* 1959;

- (d) if the person is a reduced benefit contributor referred to in paragraph (a) of the definition of "reduced benefit contributor" in the last preceding sub-section—to the election made by him under section forty-four of the *Defence Forces Retirement Benefits Act 1959*;
- (e) if the person is a reduced benefit contributor referred to in paragraph (b) of the definition of "reduced benefit contributor" in the last preceding sub-section—to the number of units of pension for which he would have been contributing immediately before the fourteenth day of December, One thousand nine hundred and fifty-nine, if he had not been such a reduced benefit contributor;
- (f) to the age of the person on the date of his retirement; and
- (g) to such other matters as the Commonwealth Actuary considers should, in accordance with actuarial principles, be taken into account.

(4.) A person to whom this section applies is entitled, on retirement, in lieu of a refund under section sixty of the *Defence Forces Retirement Benefits Act 1948-1959* of the amount of the contributions paid by him to the Fund and a gratuity under section forty-two of that Act, to a pension in accordance with this section.

(5.) The rate at which pension is payable to a person under this section is—

- (a) if, before the prescribed day, the person pays to the Fund, for the purposes of this section, a contribution of an amount that is equal to the maximum additional pension contribution applicable to him—the maximum pension rate applicable to him;
- (b) if, before the prescribed day, the person pays to the Fund, for the purposes of this section, a contribution of an amount that is less than the maximum additional pension contribution applicable to him—a rate equal to the sum of—
 - (i) the minimum pension rate applicable to him; and
 - (ii) a rate that bears to the difference between the maximum pension rate applicable to him and the minimum pension rate applicable to him the same proportion as the amount of the contribution so paid by him to the Fund bears to the maximum additional pension contribution applicable to him; and
- (c) if, before the prescribed day, the person does not pay to the Fund a contribution for the purposes of this section—the minimum pension rate applicable to him.

(6.) The Board shall, as soon as practicable after the retirement of a person to whom this section applies, serve on him, by post or otherwise, a statement in writing setting out—

- (a) the maximum pension rate applicable to him;
- (b) the amount of the maximum additional pension contribution applicable to him; and
- (c) the minimum pension rate applicable to him.

(7.) If—

- (a) a person to whom this section applies dies before the prescribed day leaving a widow;
- (b) he has not paid a contribution to the Fund for the purposes of this section; and
- (c) before the prescribed day or such later day as the Board allows, his personal representatives pay, or his widow pays, an amount to the Fund for the purposes of this section,

the payment shall be deemed to be a contribution paid by the person to the Fund for the purposes of this section before the prescribed day.

10.—(1.) This section applies to a person to whom this Act applies who, on retirement, has completed not less than twenty years' service for pension.

Persons discharged with not less than twenty years' service for pension.

(2.) In this section—

“person contributing on retirement for additional benefits” means a person to whom this section applies who had, before his retirement, become liable to make to the Fund—

- (a) additional contributions as defined by sub-section (5.) of section fifty-one of the *Defence Forces Retirement Benefits Act 1959*; or
- (b) contributions to which sub-section (4.) of that section applies,

and had not, before his retirement, ceased to be liable to make those contributions;

“person not contributing on retirement for additional benefits” means a person to whom this section applies other than a person contributing on retirement for additional benefits;

“the maximum additional pension contribution” means—

- (a) in relation to a person not contributing on retirement for additional benefits, such amount as is determined by the Board on the advice of the Commonwealth Actuary as being the amount of the additional contribution that the person should pay to the Fund in respect of the difference between the maximum pension rate applicable to him and the minimum pension rate applicable to him; and

(b) in relation to a person contributing on retirement for additional benefits, the sum of—

(i) the normal additional pension contribution applicable to him; and

(ii) such amount as is determined by the Board on the advice of the Commonwealth Actuary as being the amount of additional contribution that the person should pay to the Fund in respect of the difference between the maximum pension rate applicable to him and the normal pension rate applicable to him;

“the maximum pension rate”, in relation to a person to whom this section applies, means the rate at which pension would have been payable to him under section forty-one of the *Defence Forces Retirement Benefits Act 1948–1959* if he had completed the engagement under which he was serving immediately before his retirement and had retired on the completion of that engagement;

“the minimum pension rate” means—

(a) in relation to a person not contributing on retirement for additional benefits, the rate at which pension would have been payable to him under the *Defence Forces Retirement Benefits Act 1948–1959* if this Act had not been enacted; and

(b) in relation to a person contributing on retirement for additional benefits, a rate equal to the normal pension rate applicable to him reduced to such extent as is determined by the Board on the advice of the Commonwealth Actuary;

“the normal additional pension contribution”, in relation to a person contributing on retirement for additional benefits, means such amount as is determined by the Board on the advice of the Commonwealth Actuary;

“the normal pension rate”, in relation to a person contributing on retirement for additional benefits, means the rate at which pension would have been payable to him under the *Defence Forces Retirement Benefits Act 1948–1959* if this Act, and section fifty-eight of the *Defence Forces Retirement Benefits Act 1959*, had not been enacted;

“ the prescribed day ”, in relation to a person to whom this section applies, means the day occurring one month after service by the Board on the person of the statement referred to in sub-section (6.) of this section.

(3.) The Commonwealth Actuary shall, in advising the Board in relation to a person for the purposes of the last preceding sub-section, have regard—

- (a) to the contributions (other than a contribution paid to the Fund for the purposes of this section) that the person has paid or is liable to pay to the Fund;
- (b) to the number of units of pension for which the person was contributing immediately before the fourteenth day of December, One thousand nine hundred and fifty-nine;
- (c) to any election made by the person under section forty-seven of the *Defence Forces Retirement Benefits Act 1959*;
- (d) to the rate at which pension would have been payable to the person under the *Defence Forces Retirement Benefits Act 1948–1959* if this Act, and section fifty-eight of the *Defence Forces Retirement Benefits Act 1959*, had not been enacted;
- (e) to the age of the person on the date of his retirement; and
- (f) to such other matters as the Commonwealth Actuary considers should, in accordance with actuarial principles, be taken into account.

(4.) A person to whom this section applies is entitled, on retirement, in lieu of a pension under section forty-three of the *Defence Forces Retirement Benefits Act 1948–1959*, to a pension in accordance with this section.

(5.) The rate at which pension is payable to a person under this section is—

- (a) if, before the prescribed day, the person pays to the Fund, for the purposes of this section, a contribution of an amount that is equal to the maximum additional pension contribution applicable to him—the maximum pension rate applicable to him;
- (b) if, before the prescribed day, the person (being a person not contributing on retirement for additional benefits) pays to the Fund, for the purposes of this section, a contribution of an amount that is less than the maximum additional pension contribution applicable to him—a rate equal to the sum of—
 - (i) the minimum pension rate applicable to him;
 - and

- (ii) a rate that bears to the difference between the maximum pension rate applicable to him and the minimum pension rate applicable to him the same proportion as the amount of the contribution so paid by him to the Fund bears to the maximum additional pension contribution applicable to him;
- (c) if, before the prescribed day, the person (being a person contributing on retirement for additional benefits) pays to the Fund, for the purposes of this section, a contribution of an amount that is less than the maximum additional pension contribution applicable to him but greater than the normal additional pension contribution applicable to him—a rate equal to the sum of—
- (i) the normal pension rate applicable to him; and
 - (ii) a rate that bears to the difference between the maximum pension rate applicable to him and the normal pension rate applicable to him the same proportion as the difference between the amount of the contribution so paid by him to the Fund and the normal additional pension contribution applicable to him bears to the difference between the maximum additional pension contribution applicable to him and the normal additional pension contribution applicable to him;
- (d) if, before the prescribed day, the person (being a person contributing on retirement for additional benefits) pays to the Fund, for the purposes of this section, a contribution of an amount that is equal to the normal additional pension contribution applicable to him—the normal pension rate applicable to him;
- (e) if, before the prescribed day, the person (being a person contributing on retirement for additional benefits) pays to the Fund, for the purposes of this section, a contribution of an amount that is less than the normal additional pension contribution applicable to him—a rate equal to the sum of—
- (i) the minimum pension rate applicable to him ;
and
 - (ii) a rate that bears to the difference between the normal pension rate applicable to him and the minimum pension rate applicable to him the same proportion as the amount of the contribution so paid by him to the Fund bears to the normal additional pension contribution applicable to him; and

(f) if, before the prescribed day, the person does not pay to the Fund a contribution for the purposes of this section—the minimum pension rate applicable to him.

(6.) The Board shall, as soon as practicable after the retirement of a person to whom this section applies, serve on him, by post or otherwise, a statement in writing setting out—

- (a) the maximum pension rate applicable to him;
- (b) the amount of the maximum additional pension contribution applicable to him;
- (c) the minimum pension rate applicable to him; and
- (d) if he is a person contributing on retirement for additional benefits—
 - (i) the normal pension rate applicable to him; and
 - (ii) the amount of the normal additional pension contribution applicable to him.

(7.) If—

- (a) a person to whom this section applies dies before the prescribed day leaving a widow;
- (b) he has not paid a contribution to the Fund for the purposes of this section; and
- (c) before the prescribed day or such later day as the Board allows, his personal representatives pay, or his widow pays, an amount to the Fund for the purposes of this section,

the payment shall be deemed to be a contribution paid by the person to the Fund for the purposes of this section before the prescribed day.

11.—(1.) In the application of sub-section (1.) of section sixty-nine of the *Defence Forces Retirement Benefits Act 1948–1959* to a pensioner in receipt of a pension under section nine of this Act, each reference in that sub-section to the sum of Five hundred pounds ten shillings shall be read as a reference to an amount calculated by subtracting from that sum an amount equal to the product of—

Re-employment
of pensioners.

- (a) such amount set out in the Second Schedule to this Act as is applicable to him having regard to his category; and
- (b) the number by which the number of years of service for pension completed by him on his retirement is less than twenty.

(2.) In the application of sub-section (3.) of section sixty-nine of the *Defence Forces Retirement Benefits Act 1948–1959* to the widow of a pensioner who was in receipt of a pension under section nine of this Act, each reference in that sub-section to the sum of Three hundred and twelve pounds sixteen shillings and threepence shall be read as a reference to an amount that bears to that sum

the same proportion as the amount calculated in accordance with the last preceding sub-section in relation to her husband bears to the sum of Five hundred pounds ten shillings.

Commonwealth contributions in respect of pensions.

- 12.—(1.) In this section, “special contribution” means—
- (a) in relation to a person to whom section nine of this Act applies who has, for the purposes of that section, paid a contribution to the Fund—that contribution;
 - (b) in relation to a person to whom section ten of this Act applies, being a person not contributing on retirement for additional benefits as defined in sub-section (2.) of that section, who has, for the purposes of that section, paid a contribution to the Fund—that contribution; and
 - (c) in relation to a person to whom section ten of this Act applies, being a person contributing on retirement for additional benefits as defined in sub-section (2.) of that section, who has, for the purposes of that section, paid a contribution to the Fund that is in excess of the normal additional pension contribution applicable to him under that section—that contribution to the extent of the excess.

(2.) In the application of section sixty-one of the *Defence Forces Retirement Benefits Act 1959* in respect of a payment of pension from the Fund to or in respect of a person to whom this Act applies, such part of any special contribution paid by the person to the Fund as the Board, on the advice of the Commonwealth Actuary, determines shall be deemed to be a contribution of a kind referred to in paragraph (a) of that section.

THE SCHEDULES.

FIRST SCHEDULE. Section 9. RATES OF PENSION PER ANNUM.

Category.	Number of Completed Years of Service for Pension—				
	15	16	17	18	19
	£	£	£	£	£
101	400	420	440	460	480
102	365	383	401	419	437
103	345	362	379	396	413
104	330	346	362	378	394
105	310	325	340	355	370
106	295	309	323	337	351
107	275	288	301	314	327
108	260	272	284	296	308
109	245	256	267	278	289

1960. *Defence Forces Special Retirement Benefits.* No. 68.

SECOND SCHEDULE.
AMOUNTS APPLICABLE TO PENSIONERS. Section 11.

Category.	Amount.
	£
101	20
102	18
103	17
104	16
105	15
106	14
107	13
108	12
109	11