

REPATRIATION.

No. 58 of 1952.

An Act to amend the *Repatriation Act* 1920-1951,
and for other purposes.

[Assented to 2nd October, 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:—

Short title
and citation.

1.—(1.) This Act may be cited as the *Repatriation Act* 1952.

(2.) The *Repatriation Act* 1920-1951* is in this Act referred to as
the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as
the *Repatriation Act* 1920-1952.

Commencement.

2. This Act shall come into operation on the day on which it
receives the Royal Assent.

Definitions.

3. Section six of the Principal Act is amended—

(a) by inserting before the definition of "Board" the following
definition:—

“ ‘adopted’ means, in relation to a child of a member
of the Forces in respect of whom a claim or
application for a pension or benefit is made after
the commencement of the *Repatriation Act* 1952,
adopted in accordance with the law of a State or
Territory of the Commonwealth; ”; and

* Act No. 6, 1920, as amended by No. 34, 1921; No. 23, 1922; No. 14, 1929; No. 74, 1930;
Nos. 10 and 47, 1931; No. 17, 1933; Nos. 16 and 32, 1934; No. 58, 1935; Nos. 29 and 67, 1936;
Nos. 12, 24 and 42, 1937; No. 55, 1938; Nos. 37 and 96, 1940; No. 49, 1941; No. 22, 1943; No. 11,
1945; No. 49, 1946; Nos. 1, 29 and 74, 1947; No. 39, 1948; No. 38, 1949; Nos. 34 and 80, 1950;
and No. 31, 1951.

(b) by omitting from the definition of "organization representing returned soldiers" the words "who are 'Members of the Forces' as defined by section twenty-three or section one hundred of this Act" and inserting in their stead the words "who are members of the Forces as defined by section twenty-three, one hundred or one hundred and seven B of this Act".

4. Section thirty-four of the Principal Act is amended by omitting from paragraph (b) the words "as defined in that Division".

Suspension of pension during imprisonment.

5. Section thirty-five of the Principal Act is amended by omitting sub-sections (1.), (1A.), (1B.), (1C.), (1D.) and (1E.) and inserting in their stead the following sub-section:—

Rates of pension.

"(1.) The rates of pension payable under this Division and Divisions 6 to 9 (inclusive) of this Part are those specified in the Schedules to this Act."

6. Section thirty-seven of the Principal Act is amended by omitting from sub-section (1.) the words "column four of Table A or Table B of the First Schedule to this Act" and inserting in their stead the words "Column 4 of the scale in the First Schedule to this Act in relation to the rank or rating of the member".

Pension for pulmonary tuberculosis.

7. Section thirty-nine of the Principal Act is amended by omitting from sub-section (4.) the words "Table A or Table B of the First Schedule to this Act" and inserting in their stead the words "the scale in the First Schedule to this Act in relation to the rank or rating of the member of the Forces concerned".

Pensions payable for limited period in certain cases.

8. Section sixty-four of the Principal Act is amended—

Appeals.

(a) by omitting the proviso to sub-section (7.);

(b) by inserting after that sub-section the following sub-sections:—

"(7AA.) Where, in the opinion of the Commission, further evidence submitted by an appellant is not material to, and has not a substantial bearing upon, the appellant's claim, the appellant may—

(a) within twelve months after the date of notification to him of the Commission's opinion, submit that evidence in writing to an Appeal Tribunal; and

(b) if the Appeal Tribunal decides that the evidence is material to, and has a substantial bearing upon, his claim, appeal to the Tribunal.

“(7AB.) The Appeal Tribunal to which an appeal is made in pursuance of paragraph (b) of the last preceding sub-section shall consider the further evidence and decide the appeal.”;

- (c) by omitting from sub-section (7A.) the words “the proviso to the last preceding sub-section,” and inserting in their stead the words “sub-section (7AA.) of this section,”; and
- (d) by omitting from sub-section (9.) the words “or sub-section (7.)” and inserting in their stead the words “, sub-section (7.) or sub-section (7AB.)”.

Service pension in respect of a member permanently unemployable or suffering from pulmonary tuberculosis.

9. Section eighty-five of the Principal Act is amended by omitting from sub-section (1.) the words “Sixty shillings per fortnight,” and inserting in their stead the words “Seventy shillings per fortnight.”.

Maximum amount of service pension and war pension.

10. Section ninety-one A of the Principal Act is amended—

- (a) by omitting from paragraph (a) of sub-section (1.) the words “Eight pounds” and inserting in their stead the words “Eight pounds fifteen shillings”;
- (b) by omitting from paragraph (b) of that sub-section the words “Fourteen pounds ten shillings” and inserting in their stead the words “Sixteen pounds”;
- (c) by omitting from paragraph (c) of that sub-section the words “Eleven pounds fifteen shillings” and inserting in their stead the words “Twelve pounds ten shillings”.

11. Section one hundred and two of the Principal Act is repealed and the following section inserted in its stead :—

Extension of Division in respect of other parts of the Queen's dominions.

“102. The provisions specified in sub-section (1.) of section ninety-nine of this Act extend, in like manner as they extend to a member of the Forces, to, and in relation to, a person who—

- (a) having been appointed or enlisted before the first day of July, One thousand nine hundred and forty-seven, served before the first day of July, One thousand nine hundred and fifty-one, in the naval, military or air forces of a part of the Queen's dominions, other than the Commonwealth, on active service outside that part of the Queen's dominions or in a theatre of war;
- (b) satisfies the Commission that he was, immediately before his appointment or enlistment, domiciled in Australia or a Territory of the Commonwealth; and
- (c) is resident in Australia or a Territory of the Commonwealth.”.

12. Section one hundred and seven of the Principal Act is repealed and the following section inserted in its stead :—

“ 107. The provisions specified in sub-section (1.) of section one hundred and four of this Act extend, in like manner as they extend to a member of the Forces, to, and in relation to, a person who—

Extension of Division in respect of other parts of the Queen's dominions.

- (a) having been appointed, enlisted or enrolled before the first day of July, One thousand nine hundred and forty-seven, served before the first day of July, One thousand nine hundred and fifty-one, in a nursing service of, or other women's service auxiliary to, the naval, military or air forces of a part of the Queen's dominions, other than the Commonwealth, on active service outside that part of the Queen's dominions or in a theatre of war ;
- (b) satisfies the Commission that she was, immediately before her appointment, enlistment or enrolment, domiciled in Australia or a Territory of the Commonwealth ; and
- (c) is resident in Australia or a Territory of the Commonwealth.”.

13. Section one hundred and seven D of the Principal Act is amended by omitting paragraphs (a) and (b) and inserting in their stead the following paragraphs :—

Extension of Division in respect of other parts of the Queen's dominions.

- “ (a) served in an operational area ;
- (b) satisfies the Commission that he was, immediately before his appointment or enlistment, domiciled in Australia or a Territory of the Commonwealth ; and
- (c) is resident in Australia or a Territory of the Commonwealth.”.

14. Section one hundred and seven G of the Principal Act is amended by omitting paragraphs (a) and (b) and inserting in their stead the following paragraphs :—

Extension of Division in respect of other parts of the Queen's dominions.

- “ (a) served in an operational area ;
- (b) satisfies the Commission that she was, immediately before her appointment or enlistment, domiciled in Australia or a Territory of the Commonwealth ; and
- (c) is resident in Australia or a Territory of the Commonwealth.”.

15. Section one hundred and eight of the Principal Act is amended—

Definitions.

(a) by omitting paragraphs (c) and (d) of sub-section (2.) and inserting in their stead the following paragraphs :—

- “ (c) served during the present war in the naval or military forces of a part of the Queen's dominions, other than the Commonwealth, on active service outside that part of the Queen's

dominions, and satisfies the Commission that he was, immediately before his enlistment or appointment, domiciled in Australia or a Territory of the Commonwealth ; or

(d) was, during the present war, a member of the Army Medical Corps Nursing Service of a part of the Queen's dominions, other than the Commonwealth, and satisfies the Commission that she was, immediately before her acceptance by or appointment to that service, domiciled in Australia or a Territory of the Commonwealth," ; and

(b) by omitting paragraph (d) of sub-section (3.) and inserting in its stead the following paragraph :—

“(d) was, during the war, a member of a nursing service of, or other women's service auxiliary to, the naval, military or air forces of a part of the Queen's dominions, other than the Commonwealth, who was appointed, enlisted or enrolled before the first day of July, One thousand nine hundred and forty-seven, and served before the thirtieth day of June, One thousand nine hundred and fifty-one, and satisfies the Commission that she was, immediately before her appointment, enlistment or enrolment, domiciled in Australia or a Territory of the Commonwealth.”.

16. After section one hundred and twenty of the Principal Act the following sections are inserted :—

Post mortem
examinations.

“120A.—(1.) Subject to this section, the Commission may, where it is of opinion that a *post mortem* examination may facilitate the determination of a question arising under any provision of this Act or the regulations, authorize a legally qualified medical practitioner to make a *post mortem* examination of the body of a deceased member of the Forces, and may appoint a place for the making of that examination.

“(2.) A *post mortem* examination of the body of a deceased member of the Forces shall not be authorized under this section—

(a) where the Commission is aware that the member has expressed an objection to the making of a *post mortem* examination ;
or

- (b) where the member has died without having expressed such an objection of which the Commission is aware, and the widow, widower or nearest known relative of the member does not consent to the making of a *post mortem* examination.

“(3.) Where, under the law of the State or Territory of the Commonwealth in which the death of a member of the Forces occurs, a medical practitioner is under a duty to notify a coroner or a deputy coroner of that State or Territory of the death, the Commission shall not authorize a *post mortem* examination to be made under this section unless the coroner or deputy coroner decides that he does not require a *post mortem* examination to be made for the purposes of an inquiry under a law of the State or Territory.

“(4.) A law of a State or Territory of the Commonwealth relating to—

- (a) the registration or licensing of persons qualified to make *post mortem* examinations or of the places at which *post mortem* examinations may be made; or
- (b) the conditions (including the requirement of the consent of any person) upon which *post mortem* examinations may be made,

does not apply to, or in relation to, a *post mortem* examination authorized by the Commission under this section.

“120B.—(1.) Where, by virtue of an assessment, decision or determination made under this Act, an amount of pension or allowance becomes payable to a person in respect of a period prior to the date of the assessment, decision or determination, there shall be deducted from the amount so payable to that person the amount of any payment made during that period by way of pension or allowance, whether under this Act or under such provisions of any other Act as are administered by the Minister, which would not have been made if the first-mentioned pension or allowance had then been payable.

Deductions
from pensions
or allowances
of certain
amounts.

“(2.) Where, by virtue of the provisions of this Act or of such provisions of any other Act as are administered by the Minister, an amount which has been paid by way of pension or allowance is recoverable from a person, that amount may be recovered by deductions from any pension or allowance payable to that person under any of those provisions.”.

17. The First Schedule to the Principal Act is repealed and the following Schedule inserted in its stead:—

First Schedule.

THE FIRST SCHEDULE.

GENERAL PENSIONS RATES.

Section 85.

SCALE OF PENSIONS PAYABLE, SUBJECT TO THE PROVISIONS OF THE THIRD SCHEDULE, TO A WIDOWED MOTHER OR A WIDOW ON DEATH OF A MEMBER OF THE FORCES, OR TO A MEMBER UPON HIS TOTAL INCAPACITY.

COLUMN 1.	COLUMN 2.	COLUMN 3.	COLUMN 4.
Rank or Rating of the Member.	Pension payable to Widowed Mother on Death of Member.	Pension payable to Widow on Death of Member.	Pension payable to Member upon Total Incapacity.
	£ s. d. Per fortnight.	£ s. d. Per fortnight.	£ s. d. Per fortnight.
All ranks and ratings below Leading Seaman, Corporal and relative ranks and ratings	4 10 0	} 7 0 0	} 8 0 0
Leading Seaman, Corporal and relative ranks and ratings	5 0 0		
Petty Officer, Sergeant and relative ranks and ratings	5 3 0		
Chief Petty Officer, Staff Sergeant, Flight Sergeant and relative ranks and ratings	5 5 6		
Warrant Officer and relative ranks	5 13 6		
All commissioned ranks below Lieutenant (Navy), Captain (Army) and Flight Lieutenant (Air Force) and relative ranks	5 18 0		
Lieutenant (Navy), Captain (Army), Flight Lieutenant (Air Force) and relative ranks	6 8 0		8 4 6
Lieutenant-Commander, Major, Squadron Leader and relative ranks	6 19 0	7 9 0	8 14 6
Commander, Lieutenant-Colonel, Wing Commander and relative ranks	7 11 0	8 1 0	9 4 6
Captain (Navy), Colonel, Group Captain and relative ranks	8 3 0	8 13 0	9 13 6
All ranks higher than Captain (Navy), Colonel, Group Captain and relative ranks	8 6 0	8 16 0	9 16 0

1. In this Schedule, "rank" or "rating" means, in relation to a member of the Forces, the rank or rating for which he was paid at the time of the occurrence of the event that resulted in his death or incapacity.

2. Where any rank or rating is not specified in the scale in this Schedule, any question as to the rank or rating specified in that scale to which the first-mentioned rank or rating is relative shall be determined by the Commission.

3. Where a member of the Forces is temporarily totally incapacitated to such an extent as to be precluded from earning other than a negligible percentage of a living wage while he is so incapacitated, and where the aggregate of the rate of pension payable to that member under Column 4 of the scale in this Schedule and the amount (if any) payable to him under the Fifth Schedule to this Act is less than the Special Rate of Pension specified in the Second Schedule to this Act, the Commission may grant an additional pension to a member at a rate not exceeding the amount of the difference between that aggregate sum and that Special Rate of Pension for such period, whether in excess of six months or not, as the Commission determines.

4. Where the rate of pension which, but for this provision, would be payable under this Schedule to a widow of a member of the Forces who dies while on war service, or to such a widow and her children, is less than the rate of standard allotment which would have been paid to her if the member had not died, a rate of pension equal to the standard allotment may be paid to the widow, or widow and children, for the first six months after the date of commencement of pension.

THE FIRST SCHEDULE—*continued.*

5. For the purposes of the last preceding paragraph, "standard allotment" means the total of—

- (a) the minimum amount that a member of the Defence Force is required to allot to qualify for marriage allowance; and
- (b) the amount of marriage allowance and separation allowance or provision allowance payable to the member.

18. The Second Schedule to the Principal Act is amended—

- (a) by omitting the words "Three pounds" and inserting in their stead the words "Three pounds ten shillings"; and
- (b) by omitting the words "Six pounds" and inserting in their stead the words "Seven pounds".

Second
Schedule.

19. The Third Schedule to the Principal Act is amended by omitting Table A and Table B and inserting in their stead the following tables:—

Third
Schedule.

TABLE A.
PENSIONS PAYABLE IN THE CASE OF DEATH OF A MEMBER OF THE FORCES.

Class of Person Eligible for Pension.	Rate of Pension Payable.
Widow of the member	The rate specified in Column 3 of the scale in, or in paragraph 4 of, the First Schedule, whichever is applicable
Widowed mother of—	The rate specified in Column 2 of the scale in the First Schedule, but, if that rate is less than the sum specified in paragraph (a) of sub-section (1.) of section ninety-one A of this Act, a rate not exceeding that sum but not less than the first-mentioned rate may be assessed in such cases as are prescribed
(a) unmarried member; or	
(b) unmarried member who was born out of wedlock and who was brought up by her, who became a widow before, or within three years after, the death of the member	
Unmarried mother of an unmarried member who was brought up by her	£4 16s. per fortnight
Child of the member—	
(a) where both the member and the wife or husband of the member are dead	£2 13s. per } and, in addition, such fortnight } amount, not exceeding 12s. £1 17s. per } per fortnight, as is assessed fortnight } in such cases as are pre- scribed
(b) in any other case—	
First Child	}
Second and each subsequent child	
Widower or any other dependant of the member	(a) Subject to the succeeding paragraphs of this item, such rate, not exceeding the rate specified in Column 2 of the scale in the First Schedule, as is assessed
	(b) Where a dependant is a parent of the member and the last-mentioned rate is less than the sum specified in paragraph (a) of sub-section (1.) of section ninety-one A of this Act, a rate per fortnight not exceeding that sum may be assessed in such cases as are prescribed

TABLE A.—*continued.*

Class of Person Eligible for Pension.	Rate of Pension Payable.
Widower or any other dependant of the member— <i>continued.</i>	<p>(c) Where there is more than one dependant, none being a parent of a prescribed class, the aggregate amount payable in respect of those dependants shall not exceed the rate specified in Column 2 of the scale in the First Schedule plus £2 per fortnight</p> <p>(d) Where there is more than one dependant, including a parent of a prescribed class, the aggregate amount payable in respect of those dependants shall not exceed the rate payable to that parent under paragraph (b) of this item plus—</p> <p>(i) where another parent of a prescribed class is included—the difference between that rate and the sum specified in paragraph (b) of subsection (1.) of section ninety-one A of this Act ; or</p> <p>(ii) in any other case—£2 per fortnight</p>

TABLE B.

PENSIONS PAYABLE IN THE CASE OF TOTAL INCAPACITY OF A MEMBER OF THE FORCES.

Class of Person Eligible for Pension.	Rate of Pension Payable.
Member of the Forces—	
General Rate	The rate specified in Column 4 of the scale in the First Schedule
Special Rate	The rate specified in, or assessed in accordance with, the Second Schedule in the cases to which the provisions of that Schedule are applicable
Wife or husband of the member ..	£3 11s. per fortnight
Child of the member	£1 7s. 6d. per fortnight
Any other dependant of the member ..	<p>(a) Subject to the next succeeding paragraph, such rate, not exceeding the rate specified in Column 2 of the scale in the First Schedule, as is assessed</p> <p>(b) The aggregate amount payable in respect of dependants of this class shall not exceed the rate so specified plus £2 per fortnight</p>

20. The Fifth Schedule to the Principal Act is amended by omitting the table contained in paragraph 1 and inserting in its stead the following table :—

COLUMN 1. Description of Disability.	COLUMN 2. Amount.	COLUMN 3. Allowance.
	£ s. d. Per fortnight	£ s. d. Per fortnight
Two arms amputated	9 10 0	7 0 0
Two legs and one arm amputated	9 10 0	3 10 0
Two legs amputated above the knee	9 10 0	3 10 0
Two legs amputated and loss of eye	9 10 0	..
One leg and one arm amputated and one eye destroyed	9 10 0	..
One leg and one arm amputated	9 10 0	..
One leg amputated above and one leg amputated below the knee	5 5 0	..
Two legs amputated below the knee	3 10 0	..
One arm amputated and one eye destroyed	3 0 0	..
One leg amputated and one eye destroyed	3 0 0	..
One leg amputated above the knee	1 10 0	..
One leg amputated below the knee	0 15 0	..
One arm amputated above the elbow	1 10 0	..
One arm amputated below the elbow	0 15 0	..
Loss of vision in one eye	1 4 0	..

21. A person who, before the commencement of this Act, satisfied the Commission that he or she was resident in Australia or a Territory of the Commonwealth within the period of twelve months immediately preceding his or her appointment, enlistment or enrolment in the naval, military or air forces, or a service auxiliary to any of those forces, of a part of the Queen's dominions, other than the Commonwealth, shall be deemed to have been domiciled in Australia or a Territory of the Commonwealth for the purposes of section one hundred and two, one hundred and seven, one hundred and seven D or one hundred and seven G, or paragraph (c) or (d) of sub-section (2.) or paragraph (d) of sub-section (3.) of section one hundred and eight, as the case requires, of the Principal Act as amended by this Act.

Certain persons to be deemed domiciled in Australia or a Territory of the Commonwealth.

22. If the rate of pension payable to a person under the Principal Act, as amended by this Act, is less than the rate payable to that person under the Principal Act, the rate of that person's pension shall not be reduced by reason only of the amendment of the Principal Act effected by this Act.

Saving of certain pensions.

23. Pensions at the rates payable under the Principal Act, as amended by this Act, are payable from and including the second day of October, One thousand nine hundred and fifty-two.

Application of amendments.

Fifth Schedule.