

# REPATRIATION.

No. 69 of 1953.

An Act to amend the *Repatriation Act 1920-1952*.

[Assented to 28th October, 1953.]

**B**E 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 1953*.  
(2.) The *Repatriation Act 1920-1952\** 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 1920-1953*.
- Commencement.** 2. This Act shall come into operation on the day on which it receives the Royal Assent.
- Interpretation.** 3.—(1.) Section six of the Principal Act is amended—  
(a) by omitting the definition of “adopted” and inserting in its stead the following definition :—  
“ ‘adopted’ means, in relation to a child of a member of the Forces, adopted in accordance with the law of a State or Territory of the Commonwealth or of another country ;” ; and

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\* Act No. 8, 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; No. 31, 1951; and No. 58, 1952.

(b) by adding at the end thereof the following sub-section :—

“(2.) For the purposes of this Act, a person whose birth was ex-nuptial but whose parents have married each other since his or her birth shall be deemed to be a son or daughter, as the case may be, of those parents and shall be deemed not to be an ex-nuptial child.”.

(2.) Notwithstanding the amendment effected by paragraph (a) of the last preceding sub-section, a child who, before the second day of October, One thousand nine hundred and fifty-two, was treated as an adopted child for the purpose of the grant of a benefit under the *Australian Soldiers' Repatriation Act 1920*, or under that Act as amended, or under the regulations in force under that Act or under that Act as amended, shall be deemed to be an adopted child for the purposes of the Principal Act, as amended by this Act.

(3.) The amendment effected by paragraph (a) of sub-section (1.) of this section shall be deemed to have come into operation on the second day of October, One thousand nine hundred and fifty-two.

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

Suspension and  
removal of  
Commissioner  
or Acting  
Commissioner.

“(2.) The Minister shall cause to be laid before each House of the Parliament a full statement of the grounds of suspension within seven sitting days of that House after the suspension.

“(3.) If each House of the Parliament, within fifteen sitting days of that House after the statement has been laid before it, declares by resolution that the Commissioner or Acting Commissioner, as the case may be, ought to be restored to office, he shall forthwith be restored to office by the Minister, and shall be entitled to receive the remuneration of his office for the period of his suspension.

“(4.) If resolutions of both Houses of the Parliament are not passed in accordance with the last preceding sub-section, the Governor-General shall—

- (a) terminate the appointment of the Commissioner or Acting Commissioner ;
- (b) direct that the suspension of the Commissioner or Acting Commissioner continue for such further period as the Governor-General specifies ; or
- (c) direct that the suspension of the Commissioner or Acting Commissioner cease.

“(5.) Where a Commissioner or Acting Commissioner has been suspended from office by the Minister, he is not, unless he is restored to office in pursuance of the provisions of sub-section (3.) of this section or the Governor-General otherwise directs, entitled to receive any remuneration in respect of the period for which he has been so suspended or any further period of suspension directed by the Governor-General.”.

Suspension and  
removal of  
member of  
Board.

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

“(2.) The Commission shall, within seven days after the suspension, forward to the Minister a full statement of the grounds of suspension.

“(3.) The Governor-General may, on the recommendation of the Minister—

- (a) terminate the appointment of the member or acting member ;
- (b) direct that the suspension of the member or acting member continue for such further period as the Governor-General specifies ; or
- (c) direct that the suspension of the member or acting member cease.

“(4.) Where a member or acting member has been suspended from office by the Commission, he is not, unless the Governor-General otherwise directs, entitled to receive any remuneration in respect of the period for which he has been so suspended or any further period of suspension directed by the Governor-General.”.

Definitions.

6. Section twenty-three of the Principal Act is amended by omitting from the definition of “Child” the words “but does not include any step-son, step-daughter or adopted child who becomes a dependant after the first day of July One thousand nine hundred and thirty-one”.

Pensions upon  
death or  
incapacity.

7. Section twenty-four of the Principal Act is amended—

(a) by omitting paragraph (c) of the proviso to sub-section (1.) and inserting in its stead the following paragraph :—

“(c) if the member or any of his dependants is entitled under—

- (i) the law of a part of the Queen’s dominions other than the Commonwealth ; or
- (ii) the law of a State,

to receive any payment in respect of incapacity or death resulting from employment in connexion with warlike operations in which the armed forces of the Sovereign have been engaged since the commencement of the present war, the rate or the amount of that payment shall be taken into account in assessing the rate of pension payable under this Act.”; and

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

“(3.) Where a pension is granted under this Division, the Commission or a Board may, subject to this Act, approve of the payment of the pension from and including a date not earlier than three months before the date of lodgment of the claim for pension.”.

8. Section thirty-four of the Principal Act is repealed and the following section inserted in its stead :—

“ 34.—(1.) If a pensioner is convicted of an offence and sentenced to a period of imprisonment, the Commission may order the suspension or forfeiture of all instalments of the pension accruing due during the period for which he is imprisoned or a part of that period.

Suspension  
and forfeiture  
of pension  
where  
pensioner  
imprisoned.

“ (2.) Where suspension or forfeiture of an instalment of a pension is ordered in pursuance of the last preceding sub-section, the Commission may, if it thinks fit, pay the whole or a part of the instalment to—

(a) a dependant of the pensioner ; or

(b) a person, not being a dependant of the pensioner, who, in the opinion of the Commission, is or has been dependent upon the pensioner for support.”

9. Section forty-three of the Principal Act is repealed and the following section inserted in its stead :—

“ 43.—(1.) Where a member of the Forces or a dependant of a member of the Forces has, in writing, requested the Commission or a Board to cancel a pension granted to that member or dependant, as the case may be, the Commission or Board may cancel the pension.

Termination of  
pension upon  
request or  
failure to draw  
pension.

“ (2.) Where a dependant of a member of the Forces has, for a continuous period of not less than six months, failed to draw a pension granted to him, the Commission or a Board may cancel the pension.”

10. Section forty-nine of the Principal Act is amended by omitting from sub-section (6.) the words—

Pension of  
member  
afflicted with  
lunacy.

“ On the death of the member, whilst afflicted with lunacy, the moneys held and investments made on his behalf by the Commission shall not form part of his estate,”

and inserting in their stead the words—

“ Where—

(a) a member whose pension is being retained by the Commission in pursuance of this section dies ; and

(b) proof has not been furnished to the Commission, within six months after the death of the member, that the member was not afflicted with lunacy at the time of his death,

the moneys held and investments made on his behalf by the Commission shall be deemed not to form, or to have formed, part of his estate for any purpose.”

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

Appeals.

(a) by omitting from sub-section (1.) the words “, within twelve months after the date of the determination by the Commission, or within such further time as is allowed by an Appeal Tribunal on special circumstances being shown,” ;

- (b) by omitting from sub-section (7.) the words “, within twelve months of the decision of the Commission,” ; and
- (c) by omitting sub-section (7AA.) and inserting in its stead the following sub-section :—

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

- (a) 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 an Appeal Tribunal.”.

**Definitions.**

**12.** Section eighty-three of the Principal Act is amended by omitting paragraphs (e) and (f) of the definition of “Income” and inserting in their stead the following paragraphs :—

“(e) a benefit under a law of the Commonwealth (other than the *Social Services Consolidation Act 1947-1953*) relating to the provision of pharmaceutical, sickness or hospital benefits, or of medical or dental services ;

“(f) such part of a payment, made by an organization registered under a law referred to in the last preceding paragraph, for or in respect of expenses incurred by a person for hospital, medical or dental treatment as does not exceed the amount remaining after deducting from the amount of those expenses the amount of benefit received under that law for or in respect of those expenses ;”.

**Limit of service pension and income.**

**13.** Section eighty-seven of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section :—

“(2.) In the case of a husband and wife, the income of each shall, unless—

(a) they are living apart in pursuance of a separation agreement in writing or of a decree, judgment or order of a court ; or

(b) for any special reason, in a particular case, the Commission otherwise determines,

be deemed to be half the total income of both.”.

14. Section eighty-nine of the Principal Act is repealed and the following section inserted in its stead :—

“ 89.—(1.) Where a service pensioner or an applicant for a service pension has accumulated property, the amount of the service pension which would, but for this sub-section, be payable to that person shall be reduced—

Reduction of service pension where pensioner has accumulated property.

- (a) if the net capital value of the accumulated property of the pensioner or applicant exceeds One hundred and fifty pounds but does not exceed Four hundred and fifty pounds—by Nine pence per fortnight for every complete Ten pounds by which the net capital value of that property exceeds One hundred and fifty pounds ; or
- (b) if the net capital value of the accumulated property of the pensioner or applicant exceeds Four hundred and fifty pounds—by the sum of One pound two shillings and six pence per fortnight, together with One shilling and six pence per fortnight for every complete Eleven pounds by which the net capital value of that property exceeds Four hundred and fifty pounds.

“(2.) A service pension is not payable to a person the net capital value of whose accumulated property exceeds One thousand two hundred and fifty pounds.”.

15. Section ninety of the Principal Act is amended by omitting from sub-paragraph (vi) of paragraph (b) of sub-section (1.) the words “(not exceeding Seven hundred and fifty pounds in the aggregate) ”.

Net capital value of accumulated property.

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

- (a) by omitting from paragraph (a) of sub-section (1.) the words “Eight pounds fifteen shillings ” and inserting in their stead the words “ Nine pounds fifteen shillings ” ;
- (b) by omitting from paragraph (b) of sub-section (1.) the words “ Sixteen pounds ” and inserting in their stead the words “ Seventeen pounds fifteen shillings ” ; and
- (c) by omitting from paragraph (c) of sub-section (1.) the words “ the aggregate of that service pension and of the rates of any war pensions payable to them would exceed Twelve pounds ten shillings per fortnight ” and inserting in their stead the words “ the aggregate of the rate of that service pension and of the rates of any war pensions payable to them would exceed Fifteen pounds per fortnight ”.

Maximum amount of service pension and war pension.

17. Section ninety-five of the Principal Act is amended—

- (a) by omitting from sub-section (1.) all the words following the word “ amount ” (last occurring) and inserting in their stead the words “ payable under section fifty of the

Service pensioner in a public institution.

*Social Services Consolidation Act 1947-1953* to an age or invalid pensioner who is an inmate of a benevolent home"; and

(b) by omitting sub-section (1A.) and inserting in its stead the following sub-sections:—

“(1A.) If an applicant for service pension is, or a service pensioner becomes, an inmate of an institution that is a benevolent home as defined by section eighteen of the *Social Services Consolidation Act 1947-1953*, and is maintained in that institution at the public expense—

(a) he shall, subject to this section, for so long as he remains an inmate of the institution, be paid so much of his pension as does not exceed an amount equal to the amount payable under section fifty of the *Social Services Consolidation Act 1947-1953* to an age or invalid pensioner who is an inmate of a benevolent home; and

(b) the balance (if any) of his pension shall be paid to the person controlling the institution for the maintenance of the pensioner in the institution.

“(1B.) The portion of a pension referred to in paragraph (b) of the last preceding sub-section is not payable under that paragraph or otherwise in respect of a period during which a benefit is payable in respect of the pensioner under a law of the Commonwealth relating to the provision of hospital benefits.”.

Extension of application of Act to certain male members of the Forces.

18. Section ninety-nine of the Principal Act is amended by omitting sub-paragraph (iii) of paragraph (b) of sub-section (2.) and inserting in its stead the following sub-paragraph:—

“(iii) a child, under the age of sixteen years, of a member, being his son, daughter, step-son, step-daughter, adopted child or ex-nuptial child, but not including an ex-nuptial child born more than nine months after the termination of the member's war service, unless the member has adopted the child;”.

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

19.—(1.) Section one hundred and two of the Principal Act is amended by inserting after the word “Act” the words “and the provisions of sections one hundred and one and one hundred and three of this Act”.

(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.

(3.) Section one hundred and two inserted in the *Australian Soldiers' Repatriation Act 1920-1949* by the *Australian Soldiers' Repatriation Act 1950* shall be deemed to have included, after the word “Act”, the words “and the provisions of sections one hundred and one and one hundred and three of this Act”.

**20.** Section one hundred and seven A of the Principal Act is amended by omitting sub-paragraph (iii) of paragraph (b) of sub-section (2.) and inserting in its stead the following sub-paragraph :—

Extension of application of Act to certain male members of the Forces.

“(iii) a child, under the age of sixteen years, of a member, being his son, daughter, step-son, step-daughter, adopted child or ex-nuptial child, but not including an ex-nuptial child born more than nine months after the termination of the member’s war service, unless the member has adopted the child ;”.

**21.—(1.)** Section one hundred and seven D of the Principal Act is amended by inserting after the word “ Act ” the words “ and the provisions of the last preceding section ”.

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

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

**22.—(1.)** Section one hundred and nineteen of the Principal Act is repealed and the following section inserted in its stead :—

“ 119. The Governor-General may enter into arrangements with the Government of another part of the Queen’s dominions or of a country that has at any time been a part of the Queen’s dominions by which—

Arrangements with Governments of other parts of the Queen’s dominions.

(a) the same assistance and benefits (not being pensions) may be granted in the Commonwealth to, or in relation to, persons who are or have been members of the naval, military or air forces of that part of the Queen’s dominions or of that country and have been employed on active service during any war or warlike operations referred to in this Act as are granted in that part of the Queen’s dominions or in that country to, or in relation to, persons who have been members of the Defence Force of the Commonwealth and have been employed on that service ; or

(b) the Commission may act as the agent of the Government of that part of the Queen’s dominions or of that country in the granting to, or in relation to, persons who are or have been members of the naval, military or air forces of that part of the Queen’s dominions or of that country, of assistance, benefits and pensions.”.

(2.) An arrangement in force under section one hundred and nineteen of the Principal Act at the date of commencement of this section continues in force notwithstanding the repeal of that section effected by the last preceding sub-section.



First Schedule.

23. The First Schedule to the Principal Act is amended by omitting the scale and inserting in its stead the following scale :—

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 5 0	} 8 5 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), Flight Lieutenant (Air Force) and relative ranks .. .. .	5 18 0	} 8 9 6	} 8 9 6
Lieutenant (Navy), Captain (Army), Flight Lieutenant (Air Force) and relative ranks .. .. .	6 8 0		
Lieutenant-Commander, Major, Squadron Leader and relative ranks .. .. .	6 19 0		
Commander, Lieutenant-Colonel, Wing Commander and relative ranks .. .. .	7 11 0	8 6 0	9 9 6
Captain (Navy), Colonel, Group Captain and relative ranks .. .. .	8 3 0	8 18 0	9 18 6
All ranks higher than Captain (Navy), Colonel, Group Captain and relative ranks .. .. .	8 6 0	9 1 0	10 1 0

Second Schedule.

24. The Second Schedule to the Principal Act is amended by omitting the words—

“ RATE FOR SPECIAL PENSIONS—SEVENTEEN POUNDS TEN SHILLINGS PER FORTNIGHT.”

and inserting in their stead the words—

“ RATE FOR SPECIAL PENSIONS—EIGHTEEN POUNDS TEN SHILLINGS PER FORTNIGHT.”

Third Schedule.

25. The Third Schedule to the Principal Act is amended by inserting in Table A, after the words—

“(a) where both the member and the wife or husband of the member are dead .. £4 16s. per fortnight”,

the words—

<p>“(aa) in any prescribed case not covered by the last preceding paragraph where both parents of the child are dead</p>	<p>Such rate, not exceeding £4 16s. per fortnight, as is assessed”.</p>
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26. 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 :—

Fifth Schedule.

Column 1. Description of Disability.	Column 2. Amount.	Column 3. Allowance.
	£ s. d.	£ s. d.
	Per fortnight.	Per fortnight.
Two arms amputated .. .. .	10 5 0	7 0 0
Two legs and one arm amputated .. .. .	10 5 0	3 10 0
Two legs amputated above the knee .. .. .	10 5 0	3 10 0
Two legs amputated and loss of eye .. .. .	10 5 0	..
One leg and one arm amputated and one eye destroyed .. .. .	10 5 0	..
One leg and one arm amputated .. .. .	10 5 0	..
One leg amputated above and one leg amputated below the knee .. .. .	5 12 0	..
Two legs amputated below the knee .. .. .	3 15 0	..
One arm amputated and one eye destroyed .. .. .	3 4 0	..
One leg amputated and one eye destroyed .. .. .	3 4 0	..
One leg amputated above the knee .. .. .	1 13 0	..
One leg amputated below the knee .. .. .	0 17 0	..
One arm amputated above the elbow .. .. .	1 13 0	..
One arm amputated below the elbow .. .. .	0 17 0	..
Loss of vision in one eye .. .. .	1 6 0	..

27. A pension the right to which arises from the amendment of the Principal Act effected by section six, eighteen or twenty of this Act is not payable in respect of a period prior to the date of receipt by the Repatriation Commission of the application for the pension, but, where the application for the pension is lodged on or before the first day of February, One thousand nine hundred and fifty-four, and the step-son, step-daughter or adopted child in respect of whom the application is made became dependent upon a member of the Forces as defined in Division 1, Division 6 or Division 8 of Part III. of the Principal Act before the date of commencement of this Act, the pension may be granted from and including the last-mentioned date.

Date of commencement of certain pensions.

28. The amendments effected by sections twelve, fourteen to sixteen (inclusive), twenty-three, twenty-four and twenty-six of this Act apply in relation to payments of pensions falling due on the first pension pay day occurring after the date of commencement of this Act and to all subsequent payments.

Application of amendments.