

# Repatriation

No. 64 of 1965

An Act to amend the *Repatriation Act* 1920–1964.

[Assented to 6 October, 1965]

**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:—

1.—(1.) This Act may be cited as the *Repatriation Act* 1965.

Short title  
and citation.

(2.) The *Repatriation Act* 1920–1964<sup>†</sup> is in this Act referred to as the Principal Act.

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<sup>†</sup> 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. 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; No. 58, 1952; No. 69, 1953; No. 31, 1954; No. 39, 1955; Nos. 68 and 97, 1956; No. 44, 1957; No. 47, 1958; No. 58, 1959; No. 44, 1960; No. 46, 1961; Nos. 75 and 91, 1962; No. 47, 1963; and Nos. 62 and 105, 1964.

(3.) The Principal Act, as amended by this Act, may be cited as the *Repatriation Act 1920-1965*.

Commence-  
ment.

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

Pension payable  
to dependants  
on death of a  
member after  
termination of  
war service.

3. Section 45 of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) Where a member of the Forces has died or dies, after the termination of his war service, from causes other than the result of an occurrence that happened during his war service and a pension—

(a) was being paid, or was payable, to a dependant of the member under this Division immediately before the death of the member; or

(b) would have been payable to a dependant of the member under this Division immediately before the death of the member if—

(i) in a case where a claim for pension had been lodged by the dependant, but had not been determined, before the death of the member—it had been so determined;

(ii) in a case where a claim for pension had not been lodged by the dependant before the death of the member—a claim for pension had been lodged by the dependant, and had been determined, before the death of the member; or

(iii) in a case where the dependant is a posthumous child of the member—the dependant had been born, and a claim for pension had been lodged by him, and had been determined, before the death of the member,

the dependant is entitled to receive that pension.”.

Right of  
appellant to  
appear.

4. Section 72 of the Principal Act is amended by inserting after sub-section (4A.) the following sub-section:—

“(4B.) Where the Commission appeals to an Appeal Tribunal under sub-section (9.) of section sixty-four of this Act, sub-sections (1.) and (3.) of this section, and the regulations made by virtue of sub-section (4.) of this section, apply in respect of the appeal as if the person who made the claim to which the appeal relates were the appellant in relation to the appeal.”.

5. Section 79 of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

Deceased or mentally afflicted person.

“(1.) If an appellant dies or becomes mentally afflicted after lodging an appeal to an Appeal Tribunal or an Assessment Appeal Tribunal, or after submitting further evidence to the Commission under sub-section (7.) of section sixty-four of this Act in relation to a claim for pension, the appeal may be continued, or the claim may be pursued and any subsequent appeal may be made, as the case may be, by a person approved by the Appeal Tribunal, the Assessment Appeal Tribunal or the Commission, as the case may be, as a proper representative of the appellant, and the approved person has, for the purposes of the appeal or of the claim and any subsequent appeal, all the rights of the appellant.”

6. Section 83 of the Principal Act is amended—

Definitions.

- (a) by omitting from sub-paragraph (i) of paragraph (b) of the definition of “Child” in sub-section (1.) the words “eighteen years” and inserting in their stead the words “twenty-one years”; and
- (b) by omitting sub-section (2.).

7. Section 84 of the Principal Act is amended by adding at the end thereof the following sub-section:—

Grant of service pension on account of age.

“(2.) In the application of section twenty-eight of the *Social Services Act 1947-1965* for the purposes of the last preceding sub-section—

- (a) the reference in sub-paragraph (iii) of paragraph (a) of sub-section (1A.) of that section to a service pension under this Act shall be read as not including a reference to a service pension that is payable to the wife of a member of the Forces by reason of her being his wife; and
- (b) a child of a member of the Forces shall be deemed to be in the custody, care and control of the member.

8. Section 85 of the Principal Act is amended—

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

Pension in respect of a member permanently unemployable, &c.

“(3.) A pension under this section shall not be granted to the wife or child of a member of the Forces unless—

- (a) a pension under this Division is payable to or in respect of the member or the member would, in the opinion of the Commission or a Board, have been granted a pension under this Division but for his death before the determination of an application made by him before his death; and

(b) in the case of the wife of a member of the Forces whose pension is payable, or would have been granted, under the last preceding section—a pension under this section is payable to a child of the member.”; and

(b) by omitting from sub-section (3A.) the word and letter “paragraph (b)” and inserting in their stead the word and letter “paragraph (a)”.

Variation of rate of service pension according to means.

9. Section 87 of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) A service pension shall not be granted at a rate that exceeds the highest rate at which an age pension could be payable to the service pensioner under Part III. of the *Social Services Act 1947–1965* if—

(a) he were qualified to receive an age pension under that Part;

(b) the maximum rate of that age pension fixed by or in accordance with sub-sections (1A.) to (1E.) (inclusive) of section twenty-eight of that Act were a rate equal to the maximum rate at which his service pension could be granted under section eighty-four or section eighty-five of this Act; and

(c) his means as assessed, for the purposes of that Part of that Act, were an amount equal to his means as assessed for the purposes of this Division.”.

Supplementary assistance.

10. Section 98A of the Principal Act is amended—

(a) by omitting sub-sections (1.), (2.), (3.) and (4.) and inserting in their stead the following sub-sections:—

“(1.) This section applies to a person if—

(a) he is a service pensioner;

(b) the amount of his means as assessed is less than Seventy-eight pounds; and

(c) the Commission is satisfied that he requires supplementary assistance by reason that he pays rent and is entirely or substantially dependent on his pension.

“(2.) Subject to this section, there is payable to a person to whom this section applies, in addition to his service pension, an allowance by way of supplementary assistance.

“(3.) The rate at which an allowance under this section is payable to a person is—

- (a) where the amount of his means as assessed is Twenty-six pounds or less—Fifty-two pounds per annum; or
- (b) in any other case—an amount per annum equal to the amount by which Seventy-eight pounds exceeds the amount of his means as assessed.

“(4.) An allowance under this section is payable from a date determined by the Commission, which may be a date before the date of the determination.

“(4A.) An allowance under this section is not payable—

- (a) to a married person in relation to whose income sub-section (2.) of section eighty-seven of this Act applies if the husband or wife of that person is in receipt of a service pension (other than a service pension granted to a person by reason of being a wife), an age pension or invalid pension under Part III. of the *Social Services Act 1947-1965* or an allowance under section nine of the *Tuberculosis Act 1948*; or
- (b) to a child of a member of the Forces.”;

(b) by omitting sub-section (7.); and

(c) by omitting from sub-section (9.) the words “ a pension or allowance ” and inserting in their stead the words “ an age pension or invalid pension ”.

**11. Section 124 of the Principal Act is amended—**

**Regulations.**

(a) by omitting from paragraph (b) of sub-section (1.) the words “ eighteen years ” and inserting in their stead the words “ twenty-one years ”; and

(b) by omitting paragraph (h) of sub-section (1.) and inserting in its stead the following paragraph:—

“(h) by way of payment of funeral expenses in respect of—

- (i) deceased members of the Forces;
- (ii) deceased children of members of the Forces;

- (iii) deceased spouses of members of the Forces;
- (iv) deceased dependants (as defined by the regulations) of members of the Forces;
- (v) deceased persons who, at the time of their death, were persons to whom section forty-two of this Act applied;
- (vi) deceased persons who, at the time of their death, were persons specified in section one hundred and twenty of this Act; and
- (vii) deceased spouses and deceased children of persons specified in section one hundred and twenty of this Act.”.

**First Schedule.** 12. The First Schedule to the Principal Act is amended by adding at the end thereof the following paragraph:—

“ 6. Where the incapacity of a member of the Forces is such that he is unable to earn a living wage by reason that he is unable to engage in a remunerative occupation except on a part-time basis or intermittently, the amount specified in relation to him in Column 4 of the scale in this Schedule shall be deemed to be Twenty pounds five shillings.”.

**Fifth Schedule.** 13. The Fifth Schedule to the Principal Act is amended by adding at the end thereof the following paragraph:—

“ 6. Where the total amount per fortnight of pension payable under this Act to a member of the Forces referred to in paragraph 6 of the First Schedule to this Act would, but for this paragraph, by reason of the payment to him in accordance with this Schedule of an amount per fortnight specified in column 2 of the table in paragraph 1 of this Schedule, exceed the amount per fortnight set out in the Second Schedule to this Act as the Rate for Special Pensions, the amount per fortnight payable to him under this Schedule shall be reduced by the amount of the excess.”.

**Application of amendments.** 14. In so far as an amendment made by this Act affects instalments of pensions or allowances, the amendment applies in relation to an instalment of a pension or an allowance, as the case may be, falling due on the first pension pay day after the commencement of this Act and to all subsequent instalments.