

WAR GRATUITY.

No. 2 of 1920.

An Act relating to the Payment of the War Gratuity.

[Assented to 30th April, 1920.]

BE it enacted by the King'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 *War Gratuity Act 1920*.

Definitions.

2. In this Act, unless the contrary intention appears—

“Dependants” means the wife or widow and children (including ex-nuptial children) of any person who is or was a member of the Forces, and any person who is or was wholly or partly dependent for his support upon the earnings of that person either during his membership of the Forces, or after or within twelve months before such membership;

“Imperial Reservist” means a person, other than a member of the Naval Forces, who is or was a member of the Imperial Reserve Forces called up for active service since the fourth day of August, One thousand nine hundred and fourteen, and who at that date was *bonâ fide* resident in Australia;

“Member of the Forces” means—

(a) a member of the Naval Forces; or

(b) a member of the Military Forces enlisted for the duration of the war, or appointed without limitation of time, for active service outside Australia since the fourth day of August, One thousand nine hundred and fourteen, and includes a member of the Army Medical Corps Nursing Service who was since that date accepted or appointed by the Director-General of Medical Services for service outside Australia;

“Member of the Auxiliary Service” means a member of the Royal Australian Naval Brigade, Royal Australian Naval Brigade Staff, or Royal Australian Naval Radio Service, and includes any person appointed for permanent naval duty on shore;

“ Member of the Military Forces ” means a person who is or was a member of the Forces, other than a member of the Naval Forces, and includes a person who was a member of the Force known as the Royal Australian Naval Bridging Train ;

“ Member of the Naval Forces ” means a person who is or was a member of the Naval Forces raised in pursuance of the *Naval Defence Act 1910-1911* (not being a person appointed or enlisted for Home Service only, or appointed or enlisted after the tenth day of November, One thousand nine hundred and eighteen), and includes any person who held a rank or rating in the Imperial Naval Forces (whether Permanent, Reserve or Temporary), and who served in the Royal Australian Navy between the fourth day of August, One thousand nine hundred and fourteen, and the twenty-eighth day of June, One thousand nine hundred and nineteen ;

“ War Gratuity ” means a war gratuity under this Act.

3.—(1.) Subject to this Act, the Minister may pay a war gratuity to—

Payment of
war gratuity
authorized.

- (a) a member of the Naval Forces (other than a member of the Auxiliary Service), who, as a member of the Naval Forces, served in a sea-going ship after the fourth day of August, One thousand nine hundred and fourteen, and before the eleventh day of November, One thousand nine hundred and eighteen ;
- (b) a member of the Naval Forces (other than a member of the Auxiliary Service), who did not serve in a sea-going ship between the fourth day of August, One thousand nine hundred and fourteen, and the eleventh day of November, One thousand nine hundred and eighteen ;
- (c) a person who is or was a member of the Naval and Military Expeditionary Force to New Guinea ;
- (d) any other member of the Naval Forces who served in a sea-going ship during the war with Germany, and who, during that service, was borne for pay on the books of one of His Majesty's Australian ships ;
- (e) a member of the Military Forces who—
 - (i) embarked from Australia on or before the tenth day of November, One thousand nine hundred and eighteen, for service oversea, or
 - (ii) did not embark from Australia for service oversea, or embarked from Australia after the tenth day of November, One thousand nine hundred and eighteen, for that service ;
- (f) any person who is or was an Imperial Reservist, and who embarked from Australia on or before the tenth day of November, One thousand nine hundred and eighteen, for service oversea.

(2.) For the purposes of this section a person who embarked from one port in Australia and landed at another port in Australia, and did not leave Australia for service oversea, shall be deemed not to have embarked from Australia.

Rate of war gratuity.

4.—(1.) The rate of war gratuity payable in respect of the service of any person specified in paragraph (a), (c), (d) or (e) (i) of sub-section (1.) of the last preceding section shall be One shilling and six pence per diem.

(2.) The rate of war gratuity payable in respect of the service of any person specified in paragraph (b) or (e) (ii) of sub-section (1.) of the last preceding section shall be One shilling per diem.

(3.) The rate of war gratuity payable in respect of the service of any person specified in paragraph (f) of sub-section (1.) of the last preceding section shall be One shilling and sixpence per diem.

(4.) From the total amount payable in respect of the service of any person in pursuance of the last preceding sub-section there shall be deducted the amount of any war gratuity paid or payable by the Imperial Government to or in respect of the service of that person, or any bounty paid or payable by that Government upon the re-engagement of that person in the Imperial Forces.

(5.) From the total amount payable, in pursuance of this section, in respect of the service of any person who was transferred from the Commonwealth Naval or Military Forces to the Imperial Forces or the Indian Army, there shall be deducted the amount of any war gratuity paid or payable by the Imperial Government or the Indian Government to or in respect of the service of that person.

Qualifying period of war service.

5.—(1.) Subject to this Act, the period in respect of which war gratuity is payable (in this section referred to as the "qualifying period of service") is as follows:—

- (a) in the case of a person specified in paragraph (a) or (d) of sub-section (1.) of section three—the period from the fourth day of August, One thousand nine hundred and fourteen, if he was serving in a sea-going ship on that date, or, if he was not serving in a sea-going ship on that date, from the date thereafter upon which he first took up duty in a sea-going ship, up to the twenty-eighth day of June, One thousand nine hundred and nineteen;
- (b) in the case of a person specified in paragraph (b) of sub-section (1.) of section three—the period from the fourth day of August, One thousand nine hundred and fourteen, or the date of his appointment or enlistment (whichever is the later), up to the twenty-eighth day of June, One thousand nine hundred and nineteen, or the date of his discharge (whichever is the earlier);
- (c) in the case of a person specified in paragraph (c) of sub-section (1.) of section three—the period from the date of his embarkation (or the first of them, if more than one) up to the twenty eighth day of June, One thousand nine hundred and nineteen;

- (d) in the case of a person specified in paragraph (e) (i) of sub-section (1.) of section three—the period from the date of his embarkation (or the first of them, if more than one) up to the twenty-eighth day of June, One thousand nine hundred and nineteen;
- (e) in the case of a person specified in paragraph (e) (ii) of sub-section (1.) of section three—the period from the date upon which he reported in camp up to the date of his discharge;
- (f) in the case of a person specified in paragraph (f) of sub-section (1.) of section three—the period from the date of his embarkation (or the first of them, if more than one) up to the twenty-eighth day of June, One thousand nine hundred and nineteen.

(2.) Payment of the war gratuity shall be made for each day of the qualifying period of service of the member, upon or in respect of which the member earned and received from the Commonwealth the full pay of his rank.

(3.) For the purposes of the last preceding sub-section—

- (a) a member of the Forces who was discharged on or before the twenty-eighth day of June, One thousand nine hundred and nineteen, and whose qualifying period of service extends to the said twenty-eighth day of June, shall be deemed to have earned and received from the Commonwealth the full pay of his rank from the date of his discharge up to the said twenty-eighth day of June;
- (b) a member of the Forces whose pay was forfeited for any period or periods each not exceeding twenty-eight days shall be deemed to have earned and received from the Commonwealth the full pay of his rank in respect of that period or each of those periods, as the case may be;
- (c) Where the prescribed authority is satisfied that, having regard to the meritorious services rendered by a member of the Forces whose pay was forfeited for any period exceeding twenty-eight days, it is inequitable, for the purposes of this section, that the member should receive no war gratuity in respect of that period, the prescribed authority may direct that the whole of that period, or such part thereof as it thinks fit, shall, for the purposes of this section, be deemed to be a period during which the member earned and received from the Commonwealth the full pay of his rank.

Provided that, in any case where a member of the Forces, whose pay was forfeited for any period, is deceased, he shall, for the purposes of this section, be deemed to have earned and received from the Commonwealth the full pay of his rank in respect of the whole period of the forfeiture;

- (d) an Imperial Reservist, or a member of the Naval Forces, who was paid by the Imperial Government shall be

deemed to have earned and received from the Commonwealth the full pay of his rank for each day upon or in respect of which he earned and received from the Imperial Government the full pay of his rank ; and

- (e) the qualifying period of service of a member, who died while on service with the Forces, shall be deemed to have extended to the twenty-eighth day of June, One thousand nine hundred and nineteen.
- (4.) Notwithstanding anything contained in this section—
- (a) the maximum period in respect of which war gratuity may be paid to, or in respect of the service of, any person specified in paragraph (b) or (e) (ii) of sub-section (1.) of section three shall not exceed one hundred and eighty-four days ; and
 - (b) where any person is eligible for, or has received, a full year's Imperial Gratuity for a portion of a year's service only, there shall be deducted from the total amount of the Australian Gratuity payable to that person a proportion of the amount of such Imperial Gratuity *pro rata* to the uncompleted portion of such year's service served in the Royal Australian Navy.

Disqualifications.

6.—(1.) A war gratuity shall not be payable in respect of the service of any of the following persons :—

- (a) a person absent without leave who has not, prior to the commencement of this Act, surrendered or been apprehended ;
- (b) a person who is proved to the satisfaction of a prescribed authority to have suffered from wounds intentionally self-inflicted ;
- (c) a person who is serving, or has served, a sentence of penal servitude, imprisonment or detention, at the expiration of which he has been or is to be discharged from the Forces with ignominy or for misconduct ;
- (d) a person who, by reason of a sentence of penal servitude, imprisonment or detention imposed while on the voyage or in a training camp or dépôt, was unable to join his unit in the field ;
- (e) a person who has, upon conviction by court martial or by a civil court, received a sentence of imprisonment with hard labour for not less than one year, or any greater sentence, unless the sentence expired or was remitted before the eleventh day of November, One thousand nine hundred and eighteen, or has been suspended and the suspension has not been revoked ;
- (f) a person who has been discharged from the Forces with ignominy or for misconduct ; and
- (g) a person who has been cashiered, dismissed or discharged from the Forces, or whose services have been dispensed with, for any disciplinary reason or misconduct which, in the opinion of the prescribed authority, renders him undeserving of a war gratuity :

Provided that, where the prescribed authority is satisfied that a person, absent without leave, who has not, prior to the commencement of this Act surrendered or been apprehended, has neglected or failed to provide adequately for his dependants, payment may be made to some or all of those dependants of such sum (not exceeding in amount the sum which might, but for this section, have been paid to, or in respect of the service of, that person) as the prescribed authority thinks fit.

(2.) Notwithstanding anything contained in this section, if the prescribed authority is satisfied that in any individual case, having regard to the meritorious service rendered by the member, or such other circumstance as the prescribed authority thinks sufficient, it is inequitable that any gratuity, which would, but for this section, have been payable, should be withheld, the prescribed authority may authorize the payment of the whole gratuity, or of such part of it as the prescribed authority thinks sufficient.

7. From the amount of any war gratuity payable under this Act, there shall be deducted—

Overpayments may be deducted in cases of fraud.

(a) any amount due to the Commonwealth by the person to whom, or in respect of whose service, the gratuity is payable, where the indebtedness of that person to the Commonwealth was caused by fraud, deception or misappropriation on his part ; or

(b) any amount due to the Minister for Repatriation or the Repatriation Commission by the person to whom, or in respect of whose service, the gratuity is payable, where that person has improperly disposed of property belonging to the Minister for Repatriation or the Repatriation Commission, or property over which the Minister for Repatriation or the Repatriation Commission holds security.

8.—(1.) The war gratuity payable under this Act shall not be claimable or recoverable by any person as a matter of right, but shall be deemed to be a free gift by the Commonwealth in recognition of honourable services during the war with Germany and her Allies, and may in any case be withheld or deferred or subjected to terms and conditions as the prescribed authority, having regard to the interests or deserts of the claimant, thinks just and proper.

War gratuity not payable as a right.

(2.) Where the prescribed authority is satisfied that any person, who is eligible for the payment of a war gratuity, has neglected or failed to provide adequately for his dependants, the prescribed authority may direct that payment of the whole or part of the gratuity be made to or for the benefit of some or all of those dependants.

9.—(1.) Where a person to whom a war gratuity would have been payable has died before payment of the gratuity (whether before or after the passing of this Act) the gratuity shall not form part of the estate of the deceased, and shall not be claimable by the

Provision for payment where eligible person dies before payment.

executor or administrator of the estate, but may be paid to such one or more of the following persons, and in such proportions, as the regulations prescribe or the prescribed authority approves, namely:—

any person who—

(a) is beneficially entitled under the will of the deceased to any part of his estate ; or

(b) is, or would, if the deceased had died intestate, have been, entitled to a share in the distribution of his intestate estate,

and who is either the widow, or a child, parent, step-parent, foster-parent, or dependant, of the deceased.

(2.) Subject to the regulations, the prescribed authority may, in special cases, approve of payment to persons other than those mentioned in sub-section (1.) of this section.

Provision in case of mentally unfit persons.

10. Where the prescribed authority is satisfied that any person to whom a war gratuity is payable under this Act is mentally unfit, the prescribed authority may cause payment of the gratuity to be made, for the benefit of that person or some or all of his dependants, to such person, in such manner, and under such conditions, as the prescribed authority thinks fit.

Authority to borrow moneys for purposes of Act.

11.—(1.) The Treasurer may, from time to time, under the provisions of the *Commonwealth Inscribed Stock Act 1911-1918*, or under the provisions of any Act authorizing the issue of Treasury Bills, borrow such moneys as are necessary for carrying out or giving effect to this Act.

(2.) The amount borrowed shall be issued and applied only for the expenses of borrowing and for the purposes of this Act.

Appropriation of Consolidated Revenue Fund.

12. The Consolidated Revenue Fund is, to the necessary extent, hereby appropriated for the purposes of this Act.

Method of payment of war gratuity.

13.—(1.) In the case of a war gratuity payable to—

(a) the widow of a member of the Forces ;

(b) the widowed mother of an unmarried deceased member of the Forces ;

(c) the mother of a deceased member of the Forces, if she was, prior to his death, a dependant of his ;

(d) a member of the Forces, who is found by the prescribed authority to be blind or totally and permanently incapacitated ;

(e) a member of the Forces who has married since the date of his discharge ; or

(f) a person who is found by the prescribed authority to be in necessitous circumstances,

payment shall be made in cash, if desired by the person entitled to the gratuity.

(2.) In all other cases payment shall be made by means of Treasury Bonds maturing not later than the thirty-first day of May, One thousand nine hundred and twenty-four :

Provided that, in the case of a war gratuity not exceeding in amount such amount as is fixed by the Treasurer, payment may be made in cash.

(3.) Treasury Bonds issued in pursuance of this section shall bear interest at the rate of Five pounds five shillings per centum per annum.

(4.) The provisions of the *Commonwealth Inscribed Stock Act 1911-1918* shall apply, with such modifications and adaptations as are prescribed, in relation to the issue of Treasury Bonds and to any Treasury Bonds issued in pursuance of this section.

(5.) Subject to any such modifications and adaptations, Treasury Bonds issued in pursuance of this section shall be deemed to be Treasury Bonds within the meaning of that Act.

14. Notwithstanding anything contained in this Act, no gratuity shall be payable where the total amount is less than One pound.

Minimum amount of gratuity payable.

15. Treasury Bonds issued in pursuance of section thirteen of this Act shall be accepted at their face value, plus interest accrued to date, in repayment of any moneys due by the person to whom they were issued under the *Australian Soldiers' Repatriation Act 1917-1918* or the *War Service Homes Act 1918-1919*.

Acceptance of Bonds by Repatriation Department or War Service Homes Commission.

16. Except as prescribed, no interest in any war gratuity, or in any Treasury Bond issued or to be issued in payment of any war gratuity, shall be alienable, whether by way or in consequence of sale, assignment, charge, execution, insolvency, or otherwise howsoever.

War gratuity inalienable except as prescribed.

17.—(1.) Any person to whom a war gratuity is payable under this Act may—

Investment in approved companies.

- (a) authorize the Treasurer to issue to, and in the name of, any approved company the whole or part of the Treasury Bonds issuable to him in pursuance of this Act ;
- (b) transfer to any approved company any Treasury Bonds issued to him in pursuance of this Act ; and
- (c) authorize the Treasurer on his behalf to pay to any approved company any money payable in cash to him in pursuance of this Act.

(2.) Subject to the regulations, any approved company may lodge with or transfer to any bank or financial institution approved by the Treasurer any Treasury Bonds issued or transferred to that company pursuant to sub-section (1.) of this section as security for any advance made by the bank or financial institution to the company.

(3.) In this section "approved company" means a company—

- (a) formed for the purpose of the development of primary or secondary production in the Commonwealth, or for the purpose of trading ;
- (b) incorporated in the Commonwealth ; and
- (c) approved by the Minister.

Gratuity and
interest not
liable to
Income tax.

18. The amount of—

- (a) any war gratuity, or
- (b) any interest paid or payable to any person in pursuance of section thirteen of this Act,

shall not be liable to income tax under any law of the Commonwealth or a State, and shall not be deemed to be income for the purposes of the *Invalid and Old-age Pensions Act* 1908–1919 or the *War Pensions Act* 1914–1916.

Offences.

19. Any person who—

- (a) obtains any war gratuity or interest which is not payable ;
- (b) obtains payment of any war gratuity or interest by means of any false or misleading statement ; or
- (c) makes or presents to the Minister, or to any officer or authority doing duty in relation to this Act or the regulations, any statement or document which is false in any particular,

shall be guilty of an offence.

Penalty : One hundred pounds or imprisonment for one year.

Regulations.

20. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.