

DEFENCE RETIREMENT.

No. 9 of 1922.

An Act relating to the retirement or discharge of certain persons from the Permanent Services of the Defence Department, and for other purposes.

[Assented to 13th September, 1922.]

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 *Defence Retirement Act 1922*.
- Commencement.** 2. This Act shall be deemed to have commenced on the tenth day of June, One thousand nine hundred and twenty-two.
- Definitions.** 3.—(1.) In this Act, unless the contrary intention appears—
- “Classified office in the Defence Department” means an office of a permanent nature in the Administrative, Professional, Clerical or General Division within the meaning of any regulations made in pursuance of section sixty-three of the *Defence Act 1903–1918* or section forty-one of the *Naval Defence Act 1910–1918*, or the *Defence (Civil Employment) Act 1918*, or a civilian office of a permanent nature on the Instructional Staff of the Royal Military College;
- “Pay” includes in the case of each class of member or employee such allowances as are prescribed either generally or in the case of that class;
- “Pay for the unexpired period of the service of the member or employee” means the total of the pay which, in the opinion of the Naval Board of Administration, the Military Board of Administration, the Air Board or the Secretary to the Department of Defence, as the case may be, the member or employee would probably have received had he continued, until the age prescribed by law for retirement or discharge therefrom, to occupy the office or hold the rank occupied or held by him at the time of his retirement or discharge under this Act;
- “Service” means continuous service under the provisions of the *Defence Act 1903–1918*, the *Naval Defence Act 1910–1918*, the *Commonwealth Public Service Act 1902–1918*, or the *Defence (Civil Employment) Act 1918*, and includes continuous service under a State or under the Agreement contained in the *Naval Agreement Act 1903* in any case in which such service is continuous with service under the Commonwealth.

(2.) For the purposes of this Act, one month's pay of a member or employee means one-twelfth of the amount of pay earned by the member or employee in twelve months at the rate of pay earned by him immediately prior to the date of his retirement or discharge.

4.—(1.) Any member of the Permanent Naval, Military or Air Forces, and any employee holding, on or before the thirtieth day of June, One thousand nine hundred and twenty-two, a classified office in the Defence Department, may be retired or discharged on or before the thirtieth day of June, One thousand nine hundred and twenty-three, by the Governor-General, or (in the case of a person holding any rank or office the appointment to which is made by an authority other than the Governor-General) by the Minister.

Power to retire members of Defence Force.

(2.) Any such retirement or discharge may be effected notwithstanding that the member or employee has not attained the age for retirement prescribed by law for holders of that rank or office, or that the term for which he was appointed or enlisted has not expired.

(3.) For the purposes of this Act a member of the Permanent Military Forces whose term of engagement expired on or after the first day of January, One thousand nine hundred and twenty-two, and on or before the thirtieth day of June, One thousand nine hundred and twenty-two, and who, under instructions issued by Army Head-quarters, was not permitted to re-engage, shall be deemed to have been discharged in pursuance of this section.

5. Upon the retirement or discharge, in pursuance of the last preceding section, of any member of the Permanent Naval, Military or Air Forces, or of any employee holding on or before the thirtieth day of June, One thousand nine hundred and twenty-two, a classified office in the Defence Department, who has not attained the age of sixty-five years, there shall be payable to him compensation in the proportion of one month's pay for each year of service :

Compensation payable.

Provided that the amount payable to any member or employee under this section shall be not less than the equivalent of six months' pay, and shall not exceed the equivalent of twelve months' pay plus pay for the unexpired period of the service of the member or employee.

6. Compensation payable in pursuance of this Act shall be in addition to any pay in lieu of furlough to which the member or employee is entitled under the provisions of any regulations made in pursuance of the *Defence Act 1903-1918*, the *Naval Defence Act 1910-1918*, or the *Defence (Civil Employment) Act 1918*.

Compensation to be in addition to pay in lieu of furlough.

7.—(1.) If it appears that any member or employee who is retired or discharged in pursuance of this Act is entitled upon retirement or discharge to any pension, retiring allowance, gratuity, or compensation under any other law, compensation under this Act shall only be allowed upon the member or employee undertaking not to claim pension, retiring allowance, gratuity, or compensation under that other law.

Compensation where person entitled to pension, &c.

(2.) There shall be deducted from the compensation payable to any member or employee under this Act the amount of any compensation or special grant already paid to him in respect of any portion of the service in respect of which compensation is payable under this Act.

Compensation not liable to income tax.

8. Compensation paid under this Act shall not be liable to income tax under any law of the Commonwealth or a State.

Provision in case of re-appointment of retired or discharged persons.

9. A person to whom compensation has been paid in pursuance of this Act shall not be appointed to any position under the Commonwealth until he has, if so required by the authority making the appointment, paid into the Treasury an amount equal to the compensation so paid to him, or such proportionate amount as that authority determines.

Voluntary retirements.

10.—(1.) Any member of the Permanent Naval, Military, or Air Forces, and any employee holding on or before the thirtieth day of June, One thousand nine hundred and twenty-two, a classified office in the Defence Department may make application to the Minister for permission to retire from office, with compensation in accordance with this Act on or before the thirtieth day of June, One thousand nine hundred and twenty-three.

(2.) If the application is granted the member or employee shall upon such retirement be entitled to receive the compensation which would be payable if he were retired or discharged in pursuance of section four of this Act, and the provisions of this Act shall apply in relation to him as if he were so retired or discharged.

Non-application of Act to certain persons.

11. This Act shall not apply to—

- (a) any member or employee whose retirement or discharge has been in the nature of a penalty, or on account of unsatisfactory service or inefficiency or medical unfitness ;
- (b) any person whose first appointment to or in connexion with the Defence Department has not been confirmed ;
- (c) any person who was discharged as having reached the age for retirement ; or
- (d) any person discharged at his own request, not being a person to whom the provisions of sub-section (2.) of section ten of this Act apply.

Compensation not payable as a right.

12. Compensation 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.

Provision for payment where member or employee dies before payment.

13. Where any person entitled to payment of compensation under this Act dies before payment is made, the amount of the compensation so payable shall not form part of the estate of the deceased, and shall not be claimable by the executor or administrator of the estate, but may be paid to the dependants of the deceased in such proportions and under such conditions as the Minister approves.

14. There shall be payable from the Consolidated Revenue Fund, Appropriation. which to the necessary extent is hereby appropriated accordingly, the following payments :—

- (a) compensation payable under this Act ;
- (b) pay in lieu of furlough payable to any member or employee who is retired or discharged in pursuance of this Act ;
- (c) the cost of removal, where authorized by law, of *personnel*, families, and furniture of members or employees retired or discharged in pursuance of this Act ; and
- (d) the pay of excess *personnel* of the Defence Force pending absorption, transfer, retirement, or discharge.

15. The Governor-General may make regulations, not inconsistent Regulations. 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.
