
INVALID AND OLD-AGE PENSIONS.

No. 56 of 1933.

An Act to amend the *Invalid and Old-age Pensions Act 1908-1933* in relation to Claims of the Commonwealth against Property of Pensioners.

[Assented to 12th December, 1933.]

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 and citation.

1.—(1.) This Act may be cited as the *Invalid and Old-age Pensions Act 1933*.

(2.) Sub-section (2.) of section twenty-one of the *Financial Relief Act 1933** is repealed.

(3.) The *Invalid and Old-age Pensions Act 1908-1932†*, as amended by the *Financial Relief Act 1933*, is in this Act referred to as the *Principal Act*.

(4.) The *Principal Act*, as amended by this Act, may be cited as the *Invalid and Old-age Pensions Act 1908-1933*.

2. Section fifty-two C of the *Principal Act* is amended by omitting the words "commencement of this section" (wherever occurring) and inserting in their stead the words "thirty-first day of December, One thousand nine hundred and thirty-two,".

Acquisition
of property
by pensioners.

3.—(1.) Section fifty-two D of the *Principal Act* is repealed and the following section inserted in its stead :—

"52D.—(1.) Every pensioner who transfers or mortgages any land, or any estate or interest therein, shall, within thirty days after the date of the execution of the transfer or mortgage, give notice, as prescribed, of the transaction to the Commissioner or the Deputy Commissioner for the State in which he resides.

Dealings in
land.

"(2.) If any pensioner fails to comply with the provisions of the last preceding sub-section, the Commissioner may cancel the pension granted to him.

"(3.) If the Commissioner is satisfied that any pensioner has transferred or mortgaged any land, or any estate or interest therein, otherwise than *bona fide* and for value, the Commissioner shall review the rate of pension granted to the pensioner, and the value of the land transferred or mortgaged, or of the estate or interest of the pensioner therein, as the case may be, after deducting therefrom any sum actually received by the pensioner in consideration of the transfer or mortgage and taken into account for the purpose of determining the rate of his pension, shall be deemed to be included in the net capital value of the accumulated property of the pensioner.

"(4.) Any person who acquires from a pensioner, otherwise than *bona fide* and for value, any land, or any estate or interest therein, shall, upon the death of the pensioner, be liable to pay to the Commonwealth the debt due to the Commonwealth in respect of the pensioner under section fifty-two E of this Act to the extent of the value of the property acquired by that person otherwise than *bona fide* and for value after deducting therefrom any sum actually paid by him to the pensioner in consideration of the acquisition, and the amount payable to the Commonwealth under this section may be recovered from the person by the Commissioner in any court of competent jurisdiction."

* Act No. 17, 1933.

† Act No. 17, 1908, as amended by No. 8, 1909; No. 21, 1909; No. 27, 1912; No. 32, 1916; No. 22, 1917; No. 22, 1919; No. 53, 1920; No. 15, 1928; No. 27, 1925; No. 44, 1926; No. 31, 1928; No. 10, 1931; No. 46, 1931; No. 35, 1932; and by No. 64, 1932.

(2.) After the commencement of this section, every undertaking given by any person in pursuance of section fifty-two D of the Principal Act shall cease to be binding upon that person, and shall be destroyed by the Commissioner.

4. Section fifty-two E of the Principal Act is repealed and the following section inserted in its stead :—

Recovery of
pension on
death of
pensioner.

“ 52E.—(1.) Upon the death of any person who, at any time after the twelfth day of October, One thousand nine hundred and thirty-two, was in receipt of a pension (which person is hereafter in this section referred to as ‘ the pensioner ’) there shall be repayable to the Commonwealth out of the estate of the pensioner an amount ascertained in accordance with the provisions of this section.

“(2.) The amount of pension repayable under this section shall be ascertained by deducting from the amount of pension paid to the pensioner after the thirty-first day of December, One thousand nine hundred and thirty-two, the sum of the following amounts, namely—

- (a) the total amount of pension repaid to the Commissioner by or on behalf of the pensioner in pursuance of this Act, and
- (b) the total amount contributed in pursuance of section fifty-two M of this Act towards the cost of the pension :

Provided that where an interest in property passes under the will of the pensioner to a person who has contributed in pursuance of section fifty-two M of this Act towards the cost of the pension paid to the pensioner, for the purpose of determining the extent to which that interest may be applied towards the satisfaction of the debt due to the Commonwealth, the amount to be deducted under this paragraph shall be an amount equal to twice the total amount so contributed by that person but not exceeding the value of that interest.

“(3.) The amount of pension repayable under this section shall be a debt due to the Commonwealth, and shall be recoverable by the Commissioner in any court of competent jurisdiction.

“(4.) Any property comprised in the estate of the pensioner which—

- (a) is not *bona fide* required for the payment of his funeral and testamentary expenses and debts (including any rates and taxes charged upon his property), and
- (b) is not exempt from the provisions of this section,

shall be applied towards the satisfaction of the debt due to the Commonwealth under this section.

“(5.) The following property shall be exempt from the provisions of this section—

- (a) personal effects, as prescribed, of a value not exceeding Fifty pounds ;

- (b) any sum representing funeral or mortuary benefit received by reason of the death of the pensioner from a Friendly Society registered under any Act or State Act to the extent to which such sum exceeds the funeral expenses ;
- (c) property which passes under the will of the pensioner to a relative who—
- (i) is a pensioner, or
 - (ii) is, in the opinion of the Commissioner, in necessitous circumstances ; or
 - (iii) was, at the death of the pensioner, residing as a member of the family of the pensioner in a home owned by the pensioner.

“(6.) Where any person who has an interest in the estate of the pensioner satisfies the Commissioner that the application of the provisions of this section would cause undue hardship to him, the Commissioner may exempt the interest of that person from the provisions of this section, or may reduce the amount repayable under this section to such extent as he considers necessary for the purpose of preventing such hardship.

“(7.) The Commissioner or a Deputy Commissioner may send by post to any person administering the estate of the pensioner, or in possession of any part thereof, a notice, as prescribed, specifying the amount of pension paid to the pensioner after the thirty-first day of December, One thousand nine hundred and thirty-two, and requiring that person, within a specified period, to furnish, in the prescribed form, particulars relating to the property comprised in the estate or in his possession, as the case may be, and the manner in which he has disposed of, or intends to dispose of, that property.

“(8.) If any person fails to comply with a notice sent to him in pursuance of the last preceding sub-section, or fails to apply any property in accordance with the provisions of this section, he shall be guilty of an offence.

Penalty : Fifty pounds.

“(9.) For the purposes of this section “relative” means the widow, widower, father, mother, child (including an ex-nuptial child), sister or brother of the pensioner, but does not include any other relative of the pensioner.”

5. Sections fifty-two EA and fifty-two EB of the Principal Act are repealed. Repeal of ss. 52EA and 52EB.

6. Section fifty-two F of the Principal Act is amended by omitting the words “ or fifty-two E ”. Deductions from recoverable amounts.

7. Sections fifty-two G, fifty-two H, and fifty-two J of the Principal Act are repealed. Repeal of ss. 52 G, 52 H and 52 J.

Application
of insurance
moneys.

8. Section fifty-two κ is repealed and the following section inserted in its stead :—

“52κ. Where a pensioner's home is destroyed by fire, the Commissioner may consent to any insurance moneys received by the pensioner in respect of such destruction being used for the purpose of building a home in which the pensioner may reside, and thereupon if, within a period determined by the Commissioner, the moneys are used for that purpose, section fifty-two c of this Act shall not apply to the pensioner in respect of those moneys, nor shall the rate of pension payable to the pensioner be reduced by reason of the receipt or ownership of those moneys.”

Repeal of s.
52L.

Charges under
Principal Act
not to be
enforced.

9. Section fifty-two L of the Principal Act is repealed.

10. Upon the commencement of this Act every charge upon property created under section fifty-two E of the Principal Act shall cease to exist, but the amount of the charge shall be a debt due to the Commonwealth, and may be recovered by the Commissioner in the manner, and subject to the terms and conditions, provided under section four of this Act for the recovery of amounts of pension repayable to the Commonwealth.

Operation of
repeal of
section 52D (5).

11. The repeal of sub-section (5.) of section fifty-two D of the *Invalid and Old-age Pensions Act 1908-1932*, which was effected by section twenty-eight of the *Financial Relief Act 1933*, shall be deemed to have taken effect on and from the twelfth day of October, One thousand nine hundred and thirty-two.