

PARLIAMENTARY RETIRING ALLOWANCES.

No. 89 of 1948.

An Act to make Provision for Contributory Retiring Allowances for Persons who have served as Members of the Parliament.

[Assented to 21st December, 1948.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Parliamentary Retiring Allowances Act* 1948. Short title.

2. This Act shall be deemed to have come into operation on the first day of December, One thousand nine hundred and forty-eight. Commencement.

3. This Act is divided into Parts, as follows :—

Parts.

Part I.—Preliminary.

Part II.—The Parliamentary Retiring Allowances Trust.

Part III.—The Parliamentary Retiring Allowances Fund.

Part IV.—Contributions.

Part V.—Pensions and other Benefits.

Part VI.—Miscellaneous.

Definitions.

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

“contributions” means contributions to the Fund;

“House” means a House of the Parliament;

“member” means a member of either House;

“parliamentary allowance” means the allowance payable to a member under section three of the *Parliamentary Allowances Act 1920–1947*, and includes the allowance so payable, to a person who has been a member, from and including the day of dissolution or expiration of the House of which he was a member to and including the day to which the allowance is reckoned by virtue of section four or section five of that Act;

“pension” means pension under this Act;

“period of service”, in relation to a member or former member, means the period, or the sum of the periods (whether continuous or not, and whether before or after the commencement of this Act), during which the member or former member was entitled to a parliamentary allowance;

“the Commonwealth supplement” means the amount of the Commonwealth supplement ascertained in accordance with section sixteen of this Act;

“the Fund” means the Parliamentary Retiring Allowances Fund established by this Act;

“the Trust” means the Parliamentary Retiring Allowances Trust established by this Act;

“trustee” means one of the trustees who constitute the Trust, and includes a Minister performing the powers and functions of the Treasurer as a trustee.

PART II.—THE PARLIAMENTARY RETIRING ALLOWANCES TRUST.

**The
Parliamentary
Retiring
Allowances
Trust.**

5.—(1) There shall be a body to be called the Parliamentary Retiring Allowances Trust.

(2) The Trust shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding and disposing of property and of suing and being sued in its corporate name.

(3) The Trust shall be constituted by five trustees, namely:—

(a) the Treasurer;

(b) two senators; and

(c) two members of the House of Representatives.

(4) The powers and functions of the Treasurer as a trustee may be exercised by any Minister thereunto authorized in writing by the Treasurer, but no such authorization shall prevent the exercise of those powers and functions by the Treasurer himself.

(5) A vacancy in the office of a trustee shall not invalidate the proceedings of the trustees.

(6.) The seal of the Trust shall not be attached to any document except in accordance with a resolution of the trustees, and shall be authenticated by the signatures of two trustees.

6.—(1.) The trustees specified in paragraphs (b) or (c) of sub-section (3.) of the last preceding section shall be appointed, and may be removed, by the House of which they are members. Appointment of certain trustees.

(2.) A trustee appointed under the last preceding sub-section who has ceased to be a senator or a member of the House of Representatives (as the case may be), by reason of the dissolution or expiration of the House of which he was a member, shall not thereby cease to be a trustee until he ceases to receive a parliamentary allowance.

7.—(1.) If a vacancy occurs in the office of a trustee, the Governor-General may appoint a trustee to hold office until the vacancy is otherwise filled. Temporary trustees.

(2.) The Governor-General may appoint two senators and two members of the House of Representatives to hold office as trustees until the first appointment as trustees of two senators and two members of the House of Representatives, respectively, under the last preceding section.

8.—(1.) The affairs of the Trust shall be conducted at meetings of the trustees. Meetings of the trustees.

(2.) At all meetings of the trustees, three trustees shall form a quorum.

(3.) The Treasurer (or a Minister exercising the powers and functions of the Treasurer as a trustee) shall preside at any meeting of the trustees at which he is present and, if neither the Treasurer nor such a Minister is present at a meeting, the trustees present shall elect one of their number to preside at that meeting.

(4.) A majority of the trustees present at a meeting shall have power to bind the Trust and to pass resolutions of the trustees, and, if the number of trustees present is four, the trustee presiding and one other trustee shall also have power to bind the Trust and to pass such resolutions.

(5.) The Secretary to the Department of the Treasury, or an officer of the Department of the Treasury appointed by him for the purpose, shall attend meetings of the trustees and give such advice and assistance as the trustees require.

PART III.—THE PARLIAMENTARY RETIRING ALLOWANCES FUND.

9.—(1.) For the purposes of this Act there shall be a Parliamentary Retiring Allowances Fund. The Parliamentary Retiring Allowances Fund.

(2.) The Fund shall consist of—

- (a) contributions paid and repayments made by members and former members in pursuance of this Act;
- (b) moneys paid into the Fund by the Commonwealth in pursuance of this Act; and
- (c) income derived from the investment of moneys forming part of the Fund.

(3.) From the Fund there shall be paid all pensions and other benefits (including refunds of contributions) provided by this Act.

(4.) The Fund shall be vested in, and managed by, the Trust.

Investment of
Fund, &c.

10.—(1.) The assets of the Fund shall, so far as practicable, be invested by the Trust—

(a) in securities of the Commonwealth; or

(b) in any other manner for the time being allowed by any Act or State Act for the investment of trust funds in Australia.

(2.) Moneys held uninvested by the Trust may be lodged either at call or on fixed deposit, or partly at call and partly on fixed deposit, with the Treasurer or with the Commonwealth Bank.

Audit.

11.—(1.) The accounts of the Fund shall be subject to inspection and audit, at least once yearly, by the Auditor-General.

(2.) The Auditor-General shall include in the report which he is required by section fifty-three of the *Audit Act* 1901–1948 to transmit to both Houses of the Parliament a report of the results of his last previous audit of the Fund.

Periodical
actuarial
investigations.

12.—(1.) An investigation as to the state and sufficiency of the Fund shall be made as at the thirtieth day of June immediately following the expiration of seven years after the commencement of this Act, and thereafter at intervals of not more than seven years.

(2.) The investigation shall be made by the Commonwealth Actuary, who shall report the results of the investigation to the Trust.

(3.) The Treasurer shall lay the report of the Commonwealth Actuary before each House of the Parliament within fourteen sitting days of that House after the report becomes available to him.

(4.) At the first such investigation, the Commonwealth Actuary shall certify the amount (if any) which, in his opinion, should be paid into the Fund by the Commonwealth in order to make proper provision for the payment out of the Fund of benefits payable under this Act in relation to periods of service before the commencement of this Act.

(5.) The Commonwealth shall pay to the Fund such amount (if any) as is determined by resolution of each House after consideration of the first report of the Commonwealth Actuary under this section.

PART IV.—CONTRIBUTIONS.

Contributions
by members.

13.—(1.) Every member and every person who, having ceased to be a member, is in receipt of a parliamentary allowance, shall contribute to the Fund at the rate of One hundred and fifty-six pounds per annum.

(2.) The contributions payable under this section shall be deducted in instalments from every payment of parliamentary allowance made to the member or other person, and each instalment shall be in respect of the same period as that in respect of which the payment is made.

(3.) Amounts so deducted shall be paid into the Fund.

14. The Commonwealth shall pay into the Fund—

(a) an amount equal to sixty per centum of each amount paid out of the Fund as pension; and

(b) an amount equal to the Commonwealth supplement payable to any person.

Contributions
by
Commonwealth.

PART V.—PENSIONS AND OTHER BENEFITS.

15. Pensions and other benefits under this Act shall be payable only to or in relation to persons who are members at the commencement of this Act or become members thereafter.

Benefits
applicable only
to present and
future members.

16.—(1.) For the purposes of this Act, the amount of the Commonwealth supplement, in relation to a member or former member, shall, subject to this section, be one and one half times the contributions paid by him during his period of service or, if that period exceeds eight years, during the last eight years thereof.

The
Commonwealth
supplement.

(2.) For the purpose of ascertaining the Commonwealth supplement in relation to a person who is a member at the date of commencement of this Act, he shall be deemed to have paid (in addition to the contributions which he has paid) the contributions which would have been payable by him before the date of commencement of this Act if this Act had commenced at the beginning of his period of service.

17.—(1.) For the purposes of this Part, the cases in which a member shall be deemed to have retired voluntarily shall be the cases specified in this section.

Meaning of
voluntary
retirement.

(2.) Notwithstanding anything contained in this section, a member shall not be deemed to have retired voluntarily if he has attained the age of seventy years at the time when he ceases to be entitled to a parliamentary allowance.

(3.) A member who resigns his place before the expiration of his term of office shall be deemed to have retired voluntarily if he fails to satisfy the Trust that his resignation was made *bona fide*—

(a) on account of ill-health;

(b) for the purpose of securing election for another electorate or for another State;

(c) for the purpose of submitting himself for re-election by the electors of his former electorate; or

(d) for the purpose of securing election as a member of the House of which he was not a member.

(4.) A member who ceases to be a member upon the dissolution or expiration of the House of which he is a member, or upon the expiration of his term of office, shall be deemed to have retired voluntarily—

(a) if he is not a candidate, at the time of the next ensuing elections for that House, for election to that House or, if elections for the other House are held at the same time, for election to that other House, and he does not satisfy the Trust that his failure to be such a candidate was due to—

- (i) ill-health ;
- (ii) his failure to secure the support of a political party from which he reasonably sought support ; or
- (iii) his expulsion from a political party ; or

(b) if he is such a candidate but does not, in the opinion of the Trust, genuinely desire to be elected.

(5.) A member shall be deemed to have retired voluntarily if his place becomes vacant—

(a) under section twenty or section thirty-eight of the Constitution ; or

(b) by reason of his becoming subject to any of the disabilities mentioned in paragraphs (iv) and (v) of section forty-four of the Constitution, or because he has directly or indirectly taken or agreed to take any fee or honorarium for services rendered to the Commonwealth, within the meaning of sub-section (iii) of section forty-five of the Constitution.

(6.) Notwithstanding anything contained in this section (except sub-section (2.)), a member shall be deemed to have retired voluntarily if he ceases to be a member in circumstances which, in the opinion of the Trust, should justly be treated as constituting a voluntary retirement for the purposes of this Part.

Benefits to members.

18.—(1.) Subject to this Act, a member who ceases to be entitled to a parliamentary allowance shall be entitled to benefits from the Fund in accordance with this section.

(2.) In the case of a member who does not retire voluntarily, the benefit shall be—

(a) where his period of service is not less than eight years—

(i) if he has attained the age of forty-five years before he ceases to be entitled to a parliamentary allowance—a pension at the rate of Eight pounds per week during his life-time ; or

(ii) in any other case—a pension at the rate of Eight pounds per week during his life-time, but commencing on the day on which he attains the age of forty-five years ;

(b) where his period of service is less than eight years—a refund of his contributions together with a payment of the Commonwealth supplement.

(3.) In the case of a member who retires voluntarily, the benefit shall be—

(a) where his period of service is not less than twelve years and he has attained the age of forty-five years before he ceases to be entitled to a parliamentary allowance—a pension at the rate of Eight pounds per week during his life-time; or

(b) in any other case—a refund of his contributions.

(4.) A person who becomes entitled to a pension (including a pension commencing on the day on which he attains the age of forty-five years) may, unless he is a male who, at the time he becomes so entitled, has attained the age of fifty years, elect, as prescribed, to accept in lieu of the pension a refund of his contributions and a payment of the Commonwealth supplement, and in any such case the benefit to which he is entitled under this Act shall be a refund and payment accordingly.

19.—(1.) Where a person dies—

(a) while he is entitled to a parliamentary allowance; or

(b) while he is entitled to a pension under the preceding provisions of this Part (whether presently payable or not, but not including a pension in lieu of which another benefit has been accepted),

benefits from the Fund shall be payable in accordance with this section.

Benefits on death of a member.

(2.) If the deceased person was a male who is survived by a widow, there shall be payable to the widow, at her option, to be exercised as prescribed, either—

(a) a pension at the rate of Five pounds per week during her life-time but ceasing upon her re-marriage; or

(b) the sum of the deceased person's contributions and the Commonwealth supplement in relation to the deceased person, less the amount of pension (if any) received by, or accrued due to, the deceased person before his death.

(3.) If the deceased person was a male who is not survived by a widow, or was a female (other than a female specified in the next succeeding sub-section), there shall be payable to the personal representatives of the deceased person the contributions paid by the deceased person less the amount of pension (if any) received by, or accrued due to, the deceased person before his or her death.

(4.) If the deceased person was a female who is survived by a widower who, in the opinion of the Trust, was, by reason of his mental or physical incapacity, totally dependent upon her for his maintenance, there shall be payable to the widower a pension at such rate,

not exceeding Five pounds per week, and for such period, as the Trust, in its absolute discretion, determines.

(5.) Where a woman who is otherwise entitled to a pension under this section as the widow of a person—

- (a) was younger than that person by more than ten years; and
- (b) married him within five years before his death or within five years before he became entitled to a pension (as the case may be),

the Trust may, in its absolute discretion, determine that the pension shall be at such reduced rate, or for such reduced period, as it thinks fit, or that no such pension shall be paid.

(6.) Where, in the opinion of the Trust, a woman who is otherwise entitled to a pension or other benefit under this section as the widow of a person married that person principally for the purpose of becoming entitled to a benefit under this Act, the Trust may, in its absolute discretion, determine that the pension shall be at such reduced rate or for such reduced period, or that the benefit shall be such reduced amount, as it thinks fit, or that no such pension or benefit shall be paid.

(7.) Where a person was entitled to a pension at the time of death and the widow or widower of that person married that person after that person became entitled to that pension (whether the pension was presently payable or not), that widow or widower shall not be entitled to a pension or other benefit on the death of that person.

Re-election.

20.—(1.) Subject to this section, where a person has received under this Act an amount being a refund of contributions or a payment of the Commonwealth supplement, or both, and that person again becomes a member, the period or periods in respect of which, or by reference to which, he received that amount or any part thereof shall not be taken into account as part of his period of service, for the purposes of determining his rights in respect of any further benefit under this Act, unless, within three months after he again becomes a member, he contracts with the Trust, in the manner required by the Trust, to repay that amount to the Trust within three years.

(2.) Where an amount referred to in the last preceding sub-section was accepted in lieu of a pension, the amount which would otherwise be the subject of a contract of repayment under that sub-section shall be reduced by the amount of pension to which the member would have been entitled, up to the time when he again became a member, if he had not elected to accept a payment in lieu of pension.

(3.) Where a person in receipt of a pension under this Act in respect of his service as a member again becomes a member, the pension shall be cancelled, and thereafter his rights and liabilities under this Act shall be the same as if he had never received a pension.

(4.) Where a person in receipt of a pension as a widow or widower becomes a member—

- (a) the pension shall not be payable in respect of the period during which the pensioner is in receipt of a parliamentary allowance ; and
- (b) the pensioner shall not be entitled to receive the pension at any time after becoming entitled to a pension by virtue of the pensioner's own period of service (whether or not another benefit is accepted in lieu of that last-mentioned pension).

21.—(1.) Subject to this section, where a person entitled to a pension is or becomes—

- (a) the holder of an office under, or employed by, the Commonwealth or a State, or an authority of the Commonwealth or of a State ;
- (b) a person in receipt of a salary, or an allowance in the nature of a salary, as a member or former member of the Parliament of a State (whether by virtue of holding some special position in that Parliament or not) or as a Minister of State of a State ; or
- (c) a person in receipt of a pension arising out of any such office, employment, membership or ministry,

Government
employment or
membership of
State
Parliament.

the rate of pension otherwise payable to him shall be reduced by the rate of the remuneration in respect of the office or employment, the rate of the salary or allowance, or the rate of the pension referred to in paragraph (c) of this sub-section.

(2.) Where the remuneration, salary, allowance or pension by reference to which a reduction is to be made under the last preceding sub-section is payable otherwise than at a periodical rate, the reduction of the pension under this Act shall be made to such extent and in such manner as the Trust determines.

(3.) Where a person entitled to a pension under this Act is or becomes in receipt of a pension, or receives a lump sum payment in lieu of a pension, under any other law of the Commonwealth, the Trust may make such reduction in his pension under this Act as it considers just.

(4.) The regulations may provide that persons, bodies or authorities specified or described (either particularly or generally) in the regulations shall or shall not be deemed to be authorities of the Commonwealth or of a State for the purposes of this section, and this section shall be read and construed subject to any such regulations.

Certain
disqualifications.

22. A member whose place becomes vacant by reason of his becoming subject to any of the disabilities specified in paragraphs (i) and (ii) of section forty-four of the Constitution, or by reason of his having directly or indirectly taken or agreed to take any fee or honorarium for services rendered in the Parliament to any person or State within the meaning of paragraph (iii) of section forty-five of the Constitution, shall be entitled to a refund of his contributions, but to no other benefit under this Act.

PART VI.—MISCELLANEOUS.

Exemption of
Trust from
taxation.

23. The income, property and operations of the Trust shall not be subject to any rates, taxes or charges under any law of the Commonwealth or of a State.

Benefits not
assignable.

24.—(1.) Pensions and other benefits under this Act shall be absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy, or otherwise howsoever.

(2.) Notwithstanding anything contained in the last preceding sub-section, the Trust may deduct from a pension or other benefit payable to any person under this Act any amount previously over-paid or paid in error to that person as pension or other benefit under this Act.

Settlement of
disputes.

25.—(1.) Any dispute under this Act shall be determined in the first place by the Trust.

(2.) A person aggrieved by a decision of the Trust may appeal to the High Court constituted by a single Justice of that Court, whose decision shall be final and conclusive and without appeal.

Payment
otherwise than
to person
entitled.

26. Where, in the opinion of the Trust, payment of a pension or other benefit under this Act should be made to a person other than the pensioner or other person entitled to the benefit, the Trust may make the payment to that other person upon such conditions as the Trust thinks fit.

Appropriation.

27.—(1.) Payments by the Commonwealth to the Fund for the purposes of this Act shall be made from the Consolidated Revenue Fund, which is hereby appropriated accordingly.

(2.) The payments shall be made in such manner and at such times as are prescribed.

Regulations.

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