

SEAMEN'S WAR PENSIONS AND
ALLOWANCES.

No. 17 of 1952.

An Act to amend the *Seamen's War Pensions and Allowances Act 1940-1950*.

[Assented to 30th May, 1952.]

BE 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 *Seamen's War Pensions and Allowances Act 1952*.

Short title
and citation.

(2.) The *Seamen's War Pensions and Allowances Act 1940-1950** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Seamen's War Pensions and Allowances Act 1940-1952.*

2. Except as otherwise provided by this Act, this Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

3. Section two of the Principal Act is amended by omitting the words— Parts.

“ Part IV.—Allowances in respect of Detention.

Part V.—Compensation for War Damage to Effects.”.

4.—(1.) Section three of the Principal Act is amended— Interpretation.

(a) by inserting after paragraph (a) of the definition of “ Australian mariner ” in sub-section (1.) the following paragraph :—

“ (aa) any master, officer or seaman employed under agreement, or any apprentice employed under indenture, in sea-going service, in a ship registered outside Australia, who was, or whose dependants were, resident in Australia for at least twelve months immediately before his entering into the agreement or indenture ;” ;

(b) by omitting from sub-section (1.) the definitions of “ detained person ”, “ detention allowance ” and “ effects ”, paragraph (b) of the definition of “ relevant date ” and the definition of “ war damage ” ; and

(c) by inserting after sub-section (1.) the following sub-sections :—

“ (1A.) A war injury shall, for the purposes of this Act, be deemed to have been sustained by a person in the course of his employment as an Australian mariner where the war injury occurred—

(a) while he was employed in a ship as an Australian mariner ;

(b) while he was at a place outside Australia on leave from a ship in which he was employed as an Australian mariner and which was at a port outside Australia ;

(c) while he was at a place (not being a place on land in Australia) in the course of proceeding to employment in a ship as an Australian mariner ;

(d) while he was at a place at which he was awaiting return to Australia from employment in a ship as an Australian mariner ; or

(e) while he was returning to Australia from employment in a ship as an Australian mariner.

* Act No. 60, 1940, as amended by No. 77, 1946 ; and No. 80, 1950.

“(1B.) For the purposes of paragraph (e) of the last preceding sub-section, a person shall be deemed not to have returned to Australia until he has disembarked in Australia.”

(2.) The amendments effected by paragraphs (a) and (c) of the last preceding sub-section shall be deemed to have come into operation on the fourteenth day of April, One thousand nine hundred and forty-three.

Grant of pensions.

5. Section twelve of the Principal Act is amended by inserting after the word “pilot,” (first occurring) the words “has died while suffering detention or”.

Pensions to dependants.

6. Section sixteen of the Principal Act is amended by omitting from sub-section (3.) the word “mother” and inserting in its stead the word “parent”.

7. Section eighteen of the Principal Act is repealed and the following section inserted in its stead:—

Rates of pension on death or total incapacity.

“18.—(1.) Subject to this Act, the rates of pension are as specified in this section.

“(2.) The rate of pension payable to the widow of an Australian mariner in the case of his death is the rate specified in column 2 of the First Schedule opposite to the item in column 1 of that Schedule in which the rate of pay per day of the Australian mariner is included.

“(3.) The rate of pension payable to a dependant of an Australian mariner, other than his widow or child, in the case of his death is such rate as is assessed by the Commission or a Pensions Committee, but so that the aggregate of the pensions payable to all dependants, other than his widow and children, shall not exceed the amount specified in column 3 of the First Schedule opposite to the item in column 1 of that Schedule in which the rate of pay per day of the Australian mariner is included.

“(4.) The rate of pension payable to an Australian mariner in the case of his total incapacity is the rate specified in column 4 of the First Schedule opposite to the item in column 1 of that Schedule in which the rate of pay per day of the Australian mariner is included.

“(5.) The rate of pension payable to the wife of an Australian mariner in the case of his total incapacity is Three pounds one shilling per fortnight.

“(6.) The rate of pension payable to a dependant of an Australian mariner, other than his wife or child, in the case of his total incapacity, is such rate as is assessed by the Commission or a Pensions Committee, but so that the aggregate of the pensions payable to all dependants, other than his wife and children, shall not exceed the amount of Four pounds four shillings per fortnight.

“(7.) The rate of pension payable to children of an Australian mariner is—

- (a) in the case of his death—Two pounds four shillings per fortnight in respect of one child or, if the number of children exceeds one, Two pounds four shillings per fortnight in respect of the eldest child and One pound eleven shillings per fortnight in respect of each other child ; or
- (b) in the case of his total incapacity—One pound three shillings per fortnight in respect of each child.

“(8.) Notwithstanding anything contained in the last preceding sub-section, where the mother of the children of a deceased Australian mariner is dead, the rate of pension payable in respect of each of those children is Four pounds per fortnight.”.

8. After section twenty-two of the Principal Act the following section is inserted :—

“22A. Where an Australian mariner is incapacitated by reason of an incapacity described in paragraph 2 of the First Schedule to the *Repatriation Act 1920–1951*, or in the Second Schedule to that Act, or a disability described in the Fifth Schedule to that Act, and is entitled to a pension in respect of the incapacity or disability, the Commission may, in its discretion, grant to the Australian mariner a pension at the rate which would, in its opinion, be the rate of pension payable under the *Repatriation Act 1920–1951* if the Australian mariner were entitled to a pension under that Act in respect of that incapacity or disability.”.

Special rates of pension in certain cases.

9. Section twenty-four of the Principal Act is repealed and the following section inserted in its stead :—

“24. Notwithstanding anything contained in this Part—

- (a) the aggregate of the payments under this Part to an Australian mariner (exclusive of an allowance for an attendant) shall not, except where a pension is granted to him under section twenty-two A of this Act, exceed the amount which would be payable to that Australian mariner in accordance with section eighteen of this Act if he was totally incapacitated ; and
- (b) the rate of pension payable to a dependant, under the age of sixteen years, of an Australian mariner (other than a child of the Australian mariner) shall not exceed—
 - (i) in the case of the death of the Australian mariner—Four pounds per fortnight ; and
 - (ii) in the case of the total incapacity of the Australian mariner—One pound three shillings per fortnight.”.

Limit of payments in certain cases

Claim for pension.

10. Section twenty-six of the Principal Act is amended by omitting from sub-section (3.) the words "Unless the Commission in exceptional circumstances otherwise directs, a pension" and inserting in their stead the words "A pension".

Pensions to female dependants to cease on marriage or remarriage.

11. Section twenty-eight of the Principal Act is amended by inserting after the word "dependant" the words "or *de facto* wife".

12. After section twenty-eight of the Principal Act the following section is inserted:—

Gratuity to certain women on remarriage or marriage.

" 28A. Where a woman who—

- (a) is in receipt of a pension (including a pension under section seventeen of this Act) as the widow of an Australian mariner; or
- (b) is in receipt of a pension under section nineteen of this Act in relation to an Australian mariner who has died or dies,

remarries or marries, she may be paid a gratuity equal to twenty-six instalments of that pension at the rate payable immediately before the remarriage or marriage."

13. Section twenty-nine of the Principal Act is repealed and the following section inserted in its stead:—

Notification of marriage or divorce.

" 29.—(1.) This section applies to—

- (a) a female dependant of an Australian mariner to whom a pension is payable;
- (b) a woman in receipt of a pension under section nineteen or twenty of this Act.

" (2.) Where—

- (a) a person to whom this section applies marries; or
- (b) a decree or order nisi is made for the dissolution of the marriage of a person to whom this section applies,

that person shall forthwith send a written notification of the fact to the Deputy Commissioner of Repatriation for the State in which she resides.

Penalty: Twenty-five pounds."

Repeal of Parts IV. and V.

14. Parts IV. and V. of the Principal Act are repealed.

Pension or allowance granted on appeal or re-application.

15. Section fifty-one of the Principal Act is amended—

- (a) by omitting the words and figures "Part III. or Part IV. of"; and
- (b) by omitting the word "three" and inserting in its stead the word "six".

Re-grant of cancelled or relinquished pension or allowance.

16. Section fifty-two of the Principal Act is amended—

- (a) by omitting from sub-section (1.) all the words from and including the words "three months" and inserting in their stead the words "six months immediately preceding the date of the application upon which the re-instatement is granted"; and

- (b) by omitting from sub-section (2.) all the words from and including the words "three months" and inserting in their stead the words "six months immediately preceding the date of the application upon which the re-instatement is granted".

17. After section fifty-three of the Principal Act the following section is inserted:—

"53A. Where an Australian mariner or any of his dependants is entitled to receive payment by way of compensation for the death or incapacity of the Australian mariner arising out of a war injury—

Persons entitled to payments under other laws.

- (a) under any other law, from the public funds of the Commonwealth or of a State or Territory of the Commonwealth; or
- (b) under a law of a part of the Queen's dominions, other than the Commonwealth or a State or Territory of the Commonwealth,

the compensation so payable shall be taken into account for the purposes of this Act in such manner and to such extent as the Commission thinks just, and for that purpose the Commission may direct that a pension or allowance under this Act shall be reduced or shall not be payable."

18. After section fifty-five of the Principal Act the following section is inserted:—

"55A. Where the Commission is satisfied that a sum is payable to the Commonwealth by a person to or in respect of whom a pension, allowance or gratuity is payable under this Act, or that an overpayment has been made to or in respect of such a person by the Commonwealth, the Commission may deduct from payments of the pension, allowance or gratuity such amounts as it thinks fit in respect of that sum or overpayment, and may apply the amounts so deducted in or towards paying or repaying the sum or overpayment."

Deductions of amounts due to the Commonwealth.

19. Section fifty-six of the Principal Act is amended by omitting the words "and amounts of compensation" and inserting in their stead the words ", amounts of compensation and other benefits".

Payments to be made from moneys appropriated.

20. Sections fifty-eight and fifty-nine of the Principal Act are repealed and the following sections inserted in their stead:—

"58.—(1.) A person shall not—

Offences.

- (a) make, either orally or in writing, a false or misleading statement in, or in connexion with, or in support of, an application for pension, allowance, or in a claim for compensation or other benefit under this Act, either for himself or for any other person;

- (b) obtain a payment of pension, allowance, gratuity, compensation or other benefit under this Act which is not payable ;
- (c) obtain a payment of pension, allowance, gratuity, compensation or other benefit under this Act by means of a false or misleading statement ; or
- (d) make or present to the Commission, a Pensions Committee or to an officer doing duty in relation to this Act or the regulations a statement or document which is false or misleading in a particular.

Penalty : Fifty pounds or imprisonment for six months.

“(2.) Proceedings for an offence against the last preceding subsection may be commenced at any time within three years after the commission of the offence.

Regulations.

“59. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act 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 and, in particular, but without limiting the generality of the foregoing, for providing for—

- (a) the manner and form in which a claim for a pension, allowance, gratuity, compensation or other benefit shall be made ;
- (b) the person by whom and to whom, and the time within which, such a claim shall be made ;
- (c) the information and evidence which may be required and accepted in connexion with such a claim ;
- (d) the manner and form in which, and the person or class of persons by whom, a certificate relating to the death or incapacity of a person may be given for the purposes of this Act ;
- (e) medical, surgical and hospital benefits for Australian mariners suffering from war injuries ;
- (f) sustenance allowances for Australian mariners while they are receiving medical, surgical or hospital treatment for war injuries ;
- (g) medical benefits for widows, children, widowed mothers, separated widows and *de facto* wives of Australian mariners who have died as a result of war injuries ;
- (h) allowances to widows, separated widows and *de facto* wives of Australian mariners who have died as a result of war injuries ;
- (i) education benefits for children of Australian mariners who have suffered war injuries ;

(j) grants of furniture to—

(i) Australian mariners who, as a result of war injury, are blinded or totally and permanently incapacitated and who, at the relevant date, were married; or

(ii) widows, separated widows and *de facto* wives of Australian mariners who are maintaining children of Australian mariners who have died as a result of war injuries;

(k) grants towards the funeral expenses of Australian mariners whose deaths are attributable to war injuries;

(l) the general conditions governing the grant and administration of pensions, allowances, gratuities, compensation or other benefits under this Act;

(m) the manner in which a pension, allowance, gratuity, compensation or other benefit may be paid or applied; and

(n) penalties not exceeding Twenty-five pounds or imprisonment for three months for breaches of the regulations.”.

21. The First Schedule to the Principal Act is repealed and the following Schedule inserted in its stead:—

First
Schedule.

FIRST SCHEDULE.

Section 18.

GENERAL PENSIONS RATES—DEATH OR TOTAL INCAPACITY.

Column 1.	Column 2.	Column 3.	Column 4.
Rate of pay per day of the Australian mariner.	Pension payable per fortnight to widow on death of Australian mariner.	Total of pensions payable per fortnight to dependants other than widow and children on death of Australian mariner.	Pension payable per fortnight to Australian mariner upon total incapacity.
£ s. d.	£ s. d.	£ s. d.	£ s. d.
Exceeding 19 0 but not exceeding 1 0 0	7 0 0	7 0 0	7 0 0
Exceeding 1 0 0 but not exceeding 1 2 6	7 0 0	7 0 0	7 0 6
Exceeding 1 2 6 but not exceeding 1 7 6	7 0 0	7 0 0	7 4 6
Exceeding 1 7 6 but not exceeding 1 15 0	7 9 0	7 9 0	7 14 6
Exceeding 1 15 0 but not exceeding 2 2 6	8 1 0	8 1 0	8 4 6
Exceeding 2 2 6 but not exceeding 2 10 0	8 13 0	8 13 0	8 13 6
Exceeding 2 10 0	8 16 0	8 16 0	8 16 0

22. The Second Schedule to the Principal Act is amended by omitting from Column 2 the figures and letter “40s.” (wherever occurring) and “80s.” and inserting in their stead the symbol and figure “£3” and “£6”, respectively.

Second
Schedule.

Third
Schedule.

23. The Third Schedule to the Principal Act is amended—

(a) by omitting the words and figures—

“ Total loss of speech | 80 ”

and inserting in their stead the words and figures—

“ Total loss of speech | 100 ”;

and

(b) by omitting the words and figures—

“ Total deafness | 70 ”

and inserting in their stead the words and figures—

“ Total deafness | 100 ”.

Repeal of
certain
Schedules.

24. The Sixth, Seventh and Eighth Schedules to the Principal Act are repealed.