

Compensation (Australian Government Employees) Act 1973

No. 105 of 1973

AN ACT

To amend the *Compensation (Commonwealth Employees) Act 1971-1972* in its application in relation to Members of the Forces within the meaning of Division 10 of Part III of the *Repatriation Act 1920-1973* and their Dependants.

[Assented to 26 September 1973]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

1. (1) This Act may be cited as the *Compensation (Australian Government Employees) Act 1973*.

Short title
and citation.

(2) The *Compensation (Commonwealth Employees) Act 1971-1972** is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Compensation (Australian Government Employees) Act 1971-1973*.

* Act No. 48, 1971, as amended by No. 136, 1971; and No. 122, 1972.

Commencement.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Persons in relation to whom Act applies.

3. Section 7 of the Principal Act is amended by omitting from sub-section (8) the words "*Repatriation Act 1920-1971*" and substituting the words "*Repatriation Act 1920-1973* (other than Division 10 of Part III)".

Reduction of compensation in certain cases.

4. Section 52 of the Principal Act is amended by inserting in sub-section (4), after paragraph (d), the following paragraph:—

"(da) an amount of pension paid or payable under Division 10 of Part III of the *Repatriation Act 1920-1973*;".

Compensation not payable to certain persons entitled to receive Repatriation benefits.

5. Section 98 of the Principal Act is amended by omitting from sub-sections (1) and (2) the words "*Repatriation Act 1920-1971*" (wherever occurring) and substituting the words "*Repatriation Act 1920-1973* (other than Division 10 of Part III)".

6. After section 98 of the Principal Act the following section is inserted:—

Certain persons may request cessation of compensation payments.

"98A. (1) Where a determination has been made under this Act in accordance with which compensation is payable to, or for the benefit of, a person who is a member of the Forces under Division 10 of Part III of the *Repatriation Act 1920-1973* or a dependant of such a member, the person may, by writing under his hand, request the Commissioner not to pay to, or for the benefit of, the person an amount of compensation under this Act that the person is, or may become, entitled to.

"(2) Where a request by a person under sub-section (1) is received by the Commissioner—

- (a) an amount of compensation under this Act that is payable to, or for the benefit of, that person at the time of that request, being an amount to which the request relates, ceases to be so payable; and
- (b) an amount of compensation under this Act that would, but for this section, become payable to, or for the benefit of, that person during the period when the request is in force, being an amount to which the request relates, does not become so payable.

"(3) A person may, by notice in writing to the Commissioner, revoke a request made by him under sub-section (1) and, on the receipt of the notice by the Commissioner, the request ceases to be in force.

"(4) The revocation of a request under sub-section (3) does not revive any entitlement to an amount of compensation that had ceased to be payable, or had not become payable, by reason of the request.

“(5) A person who is under a legal disability may not make a request under sub-section (1) or a revocation of a request under sub-section (3) but a request under sub-section (1) or a revocation under sub-section (3) may be made on his behalf by another person whom the Commissioner is satisfied has the custody, care and control of the person under a legal disability or otherwise represents that person’s interests.

“(6) A request or revocation made under sub-section (5) on behalf of a person under a legal disability by another person shall, for the purposes of this section, be deemed to have been made by the person under a legal disability.”.

7. Section 99 of the Principal Act is amended by adding at the end thereof the following sub-section:—

Compensation payable where damages recoverable.

“(10) This section does not apply in relation to an amount of damages that has been paid to Australia in accordance with section 107T of the *Repatriation Act 1920–1973*.”.

8. Section 100 of the Principal Act is amended—

Dependants not claiming compensation.

(a) by inserting in paragraph (b) of sub-section (1), after the word “made”, the words “or by whom or on whose behalf a request under section 98A relating to compensation under this Act in respect of that injury has been made”; and

(b) by adding at the end thereof the following sub-section:—

“(7) This section does not apply in relation to an amount of damages that has been paid to Australia in accordance with section 107T of the *Repatriation Act 1920–1973*.”.

9. Section 102 of the Principal Act is amended by adding at the end thereof the following sub-section:—

Payment of damages by persons to Australia.

“(6) In this section, unless the contrary intention appears, ‘damages’ does not include any amount that has been paid to Australia in pursuance of a notice under section 107T of the *Repatriation Act 1920–1973*.”.

10. After section 119 of the Principal Act the following section is inserted:—

“119A. (1) Where—

Deduction of over-payments of Repatriation pensions.

(a) an amount of pension under the *Repatriation Act 1920–1973* in respect of the incapacity or death of a member of the Forces within the meaning of Division 10 of Part III of that Act has been paid to a person; and

(b) that amount is not payable to that person by virtue of section 107R of that Act,

that amount is recoverable from that person by deduction from any payments by way of compensation payable to that person under this Act in respect of an injury from which the incapacity of the member has resulted or in respect of the death of the member.

“ (2) For the purposes of sub-section (1), a person authorized by the Repatriation Commission may, by writing under his hand, certify—

- (a) that an amount specified in the certificate has been paid by way of pension under the *Repatriation Act 1920-1973* to a person specified in the certificate;
- (b) that that amount was paid in respect of the incapacity or death of a person specified in the certificate;
- (c) that the person referred to in paragraph (b) is a member of the Forces within the meaning of Division 10 of Part III of that Act; and
- (d) that, by virtue of section 107R of that Act, the amount referred to in paragraph (a) is not payable to the person referred to in paragraph (a).

“ (3) In proceedings under sub-section (1), a certificate under sub-section (2) is *prima facie* evidence of the matters certified.

“ (4) Nothing in this section prevents the recovery of an amount referred to in sub-section (1) otherwise than in accordance with that sub-section, but an amount shall not be recovered twice.”.