

# DEFENCE FORCES RETIREMENT BENEFITS FUND (DISTRIBUTION OF SURPLUS TO PENSIONERS) ACT 1976

No. 128 of 1976

An Act to provide for the Distribution amongst certain Defence Force Pensioners of certain of the moneys paid out of the Defence Forces Retirement Benefits Fund into the Consolidated Revenue Fund.

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

1. This Act may be cited as the *Defence Forces Retirement Benefits Fund (Distribution of Surplus to Pensioners) Act 1976*.<sup>1</sup> Short title.
2. This Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup> Commencement.
3. (1) In this Act, unless the contrary intention appears— Interpretation.
  - “Actuary” means the Australian Government Actuary;
  - “Board” means the Defence Forces Retirement Benefits Board constituted by the *Defence Forces Retirement Benefits Act 1948*;
  - “Defence Forces Retirement Benefits Act” means the *Defence Forces Retirement Benefits Act 1948*, and includes any other Act relating to retirement benefits for members of the Defence Force that came into operation before 1 October 1972 and that modifies or affects the provisions of the *Defence Forces Retirement Benefits Act 1948*;
  - “*Defence Forces Retirement Benefits Act 1948*” means the *Defence Forces Retirement Benefits Act 1948* or that Act as amended and in force from time to time;
  - “distribution date” means a date fixed by the Minister by notice published in the *Gazette* as the distribution date for the purposes of this Act;
  - “eligible pensioner” means a person, or a deceased person, to or in respect of whom, at any time during the relevant period, pension, other than a non-contributory pension, was, by reason of the person’s having been a contributor to the Fund, payable under the *Defence Forces Retirement Benefits Act* or would, but for the pension’s having been suspended, have been so payable,

but does not include such a person, or such a deceased person, who was not—

- (a) in the case of a person who died during the relevant period—immediately before his death; or
- (b) in any other case—immediately before the expiration of the relevant period,

entitled to a pension by reason of his having been reclassified as Class C under section 53 of the *Defence Forces Retirement Benefits Act* 1948;

“Fund” means the Defence Forces Retirement Benefits Fund established under the *Defence Forces Retirement Benefits Act* 1948;

“relevant period” means the period that commenced on 1 July 1964 and ended on 30 September 1972.

(2) Where, on 30 September 1972, deferred benefits were applicable under section 82ZB of the *Defence Forces Retirement Benefits Act* 1948 in respect of a person who was, at some time, whether during the relevant period or not, a contributor to the Fund, but had not become payable to or in respect of the person on or before that date, the person shall be deemed to be an eligible pensioner within the meaning of this Act.

(3) Expressions used in this Act that are also used in the *Defence Forces Retirement Benefits Act* 1948-1975 have, in this Act, unless the contrary intention appears, the same respective meanings as they have in that Act.

Object of Act.

4. The object of this Act is to make provision for and in relation to the distribution to or in respect of eligible pensioners of the amount of \$6,337,000, being the amount which the Board, in the report of the Board relating to the assets and liabilities of the Fund at 30 September 1972 that was laid before the House of Representatives on 28 April 1976, recommended be distributed to pensioners.

Allocation of amount to be distributed.

5. (1) The Board shall allocate among eligible pensioners, in such manner as the Minister, after receiving advice from the Actuary, determines, the amount nearest to the amount referred to in section 4 that it is practicable to allocate in that manner among those pensioners.

(2) In furnishing advice to the Minister for the purposes of subsection (1), the Actuary shall have regard to actuarial principles and practice and shall take into account all matters relevant to ensure that the amount to be distributed will be allocated among eligible pensioners on a fair and reasonable basis.

6. As soon as practicable after the making of the determination under section 5, there shall be paid—
- (a) to each eligible pensioner; or
  - (b) if he has died—to such person as the Board considers proper having regard to all the circumstances of the case, an amount equal to the sum of—
    - (c) the amount allocated to the pensioner under section 5; and
    - (d) the amount that, if compound interest were payable on the amount referred to in paragraph (c), calculated at the rate of \$6.583 per centum per annum, in respect of the period commencing on 1 October 1972 and ending on the distribution date, would be the amount of that interest.
7. Sections 85 and 85A of the *Defence Forces Retirement Benefits Act* 1948 apply in relation to any amount payable under this Act as if the amount were benefit payable under that Act.
8. Payments in accordance with this Act shall be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

Payments of amounts in respect of individual pensioners.

Assignment and attachment of amounts payable under this Act.

Appropriation.

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**NOTE**

1. Act No. 128, 1976; assented to 24 November 1976.