



# Repatriation Legislation Amendment Act 1985

No. 90 of 1985

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#### NEW SCHEDULE 3 TO THE REPATRIATION ACT 1920



# Repatriation Legislation Amendment Act 1985

No. 90 of 1985

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## An Act relating to repatriation and related matters

[Assented to 6 June 1985]

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

### PART I—PRELIMINARY

#### Short title

1. This Act may be cited as the *Repatriation Legislation Amendment Act 1985*.

#### Commencement

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

### PART II—AMENDMENTS OF THE REPATRIATION ACT 1920

#### Principal Act

3. The *Repatriation Act 1920*<sup>1</sup> is in this Part referred to as the Principal Act.

### **Interpretation**

4. Section 23 of the Principal Act is amended—

- (a) by omitting the definition of “Dependant” and substituting the following definition:
  - “ ‘Dependant’, in relation to a member of the Forces, means—
  - (a) the widow of the member; or
  - (b) a child of the member;”;
- (b) by omitting “is, or was” from paragraph (a) of the definition of “Dependent female” and substituting “was,”;
- (c) by omitting “is, or was” from paragraph (c) of the definition of “Dependent female” and substituting “was,”;
- (d) by omitting the definitions of “Member of a family”, “Other dependants” and “Parents”;
- (e) by omitting the definition of “Unmarried member of the Forces”; and
- (f) by omitting the definition of “Wife”.

### **Pensions upon death or incapacity**

5. Section 24 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “be liable to pay to the member or his dependants, or both, as the case may be, pensions in accordance with this Division” and substituting the following:
  - “be liable to pay—
  - (d) in the case of the death of the member—pensions to the dependants of the member in accordance with this Division; or
  - (e) in the case of the incapacity of the member—a pension to the member in accordance with this Division”; and
- (b) by omitting from sub-section (2) “be liable to pay to the member or his dependants, or both, as the case may be, pensions in accordance with this Division.” and substituting the following:
  - “be liable to pay—
  - (c) in the case of the death of the member—pensions to the dependants of the member in accordance with this Division; or
  - (d) in the case of the incapacity of the member—a pension to the member in accordance with this Division.”.

### **Who may make claim or application**

6. Section 27 of the Principal Act is amended by omitting “member of the Forces or” (second occurring).

### **Failure of pensioner to attend at review**

7. Section 32 of the Principal Act is amended—

- (a) by omitting “pension, and any pensions payable under this Division to the dependants of the member shall not be continued for more than 12

months from the date fixed for the review:" and substituting "pension."; and

(b) by omitting the proviso to the section.

**Repeal of sections 35A and 35B**

8. Sections 35A and 35B of the Principal Act are repealed.

**Pension payable for limited period in certain cases**

9. Section 39 of the Principal Act is amended—

- (a) by omitting sub-section (1); and
- (b) by omitting sub-sections (2), (3) and (4).

**Pensions to spouses to cease upon dissolution of marriage**

10. Section 39A of the Principal Act is repealed.

**Gratuity to certain persons on re-marriage or marriage**

11. Section 40A of the Principal Act is amended—

- (a) by adding "or" at the end of paragraph (1) (a); and
- (b) by omitting paragraph (1) (b).

**Maximum pension payable to widowed mother**

12. Section 41 of the Principal Act is repealed.

**Pensions to certain dependent females**

13. Section 42 of the Principal Act is amended—

- (a) by omitting from sub-section (1) "incapacity or"; and
- (b) by omitting from sub-section (2) "wife or the widow, as the case may be," and substituting "widow".

**Pension to divorcee of member**

14. Section 44 of the Principal Act is amended by omitting "incapacity or".

**Pension payable to dependants on death of member after termination of war service**

15. Section 45 of the Principal Act is repealed.

**Hearing and determination of claims, &c.**

16. Section 47 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-sections:

"(2) Where the Commission is considering and determining a claim for a pension with respect to the death or incapacity of a member of the Forces, the Commission shall not grant the claim if it is reasonably satisfied—

- (a) that the investigation of the claim did not disclose material, and there is no other material before the Commission, that raises a reasonable hypothesis that there exists a connection required by this Act to exist

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between the death or incapacity of the member and the member's war service; or

- (b) that any such reasonable hypothesis raised by material before the Commission has been dispelled.

“(3) Subject to sub-section (2)—

- (a) in respect of a claim for a pension made under section 24—

(i) by a member of the Forces whose war service included qualifying war service; or

(ii) by a dependant of a deceased member of the Forces who died before 12 November 1958 and whose war service included qualifying war service,

the Commission shall grant the claim unless it is satisfied, beyond reasonable doubt, that there are insufficient grounds for granting the claim; and

- (b) in respect of any other claim for a pension—the Commission shall not grant the claim unless it is reasonably satisfied that there are sufficient grounds for granting the claim.

“(4) Subject to sub-sections (2) and (3), in determining, or making a decision in relation to, any matter under this Act or the regulations, including the assessment or re-assessment of the rate of a pension, the Commission shall decide the matter to its reasonable satisfaction.

“(5) For the purposes of sub-section (3)—

- (a) the qualifying war service of a member of the Forces consists of the war service (if any) of the member outside Australia; and

- (b) a reference to the grant of a claim shall be read as not including a reference to the assessment of the rate at which pension is to be paid.”.

**Extension of application of Act to certain male members of the Forces**

**17. (1)** Section 99 of the Principal Act is amended—

- (a) by omitting from sub-paragraph (2) (b) (i) “wife or”;

- (b) by omitting sub-paragraph (2) (b) (ii);

- (c) by adding “and” at the end of sub-paragraph (2) (b) (iii); and

- (d) by omitting sub-paragraphs (2) (b) (iv) to (vii) (inclusive).

**(2)** Section 99 of the Principal Act is amended—

- (a) by omitting from paragraph (2) (e) “and”; and

- (b) by adding at the end of sub-section (2) the following word and paragraph:

“; and (g) section 47 applies as if—

- (i) the references in sub-sections (2), (3) and (5) to war service were read as references to war service within the meaning of section 100;

- (ii) the reference in sub-section (3) to section 24 were read as a reference to section 101;

- (iii) the reference in sub-paragraph (3) (a) (ii) to before 12 November 1958 were read as a reference to before the expiration of the period of 40 years commencing on 30 October 1945; and
- (iv) for paragraph (5) (a) there were substituted the following paragraph:
  - '(a) the qualifying war service of a member of the Forces consists of—
    - (i) the war service within the meaning of section 100 (if any) of the member outside Australia during the war within the meaning of section 100; and
    - (ii) the war service within the meaning of section 100 (if any) of the member during that war within Australia rendered in such circumstances as, in the opinion of the Commission, involved direct combat with the enemy; and'.

**Liability of Commonwealth to pay pensions to certain male members of the Forces**

**18.** Section 101 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “be liable to pay to the member, or his dependants, or both, as the case may be, pensions in accordance with Division 1” and substituting the following:

“be liable to pay—

- (c) in the case of the incapacity of the member—a pension to the member in accordance with Division 1; or
- (d) in the case of the death of the member—pensions to the dependants of the member in accordance with Division 1”; and

- (b) by omitting from sub-section (2) “be liable to pay to the member or his dependants, or both, as the case may be, pensions in accordance with Division 1.” and substituting the following:

“be liable to pay—

- (c) in the case of the incapacity of the member—a pension to the member in accordance with Division 1; or
- (d) in the case of the death of the member—pensions to the dependants of the member in accordance with Division 1.”.



**Extension of application of Act to certain female members of the Forces**

**19. (1)** Section 104 of the Principal Act is amended—

- (a) by omitting sub-paragraph (2) (b) (i); and
- (b) by omitting sub-paragraph (2) (b) (iii).

**(2)** Section 104 of the Principal Act is amended—

- (a) by omitting from paragraph (2) (e) “and”; and
- (b) by adding at the end the following word and paragraph:

“; and (g) the references in sub-sections 47 (2), (3) and (5), in their application in accordance with section 99, to war service shall be read as references to war service within the meaning of section 105.”.

**20.** Section 106 of the Principal Act is repealed and the following section is substituted:

**Pensions to dependants of certain female members of the Forces**

“106. A pension shall not be granted or continued to a dependant of a member of the Forces unless the dependant is without adequate means of support.”.

**Extension of application of Act to certain male members of the Forces**

**21. (1)** Section 107A of the Principal Act is amended—

- (a) by omitting from sub-paragraph (2) (b) (i) “wife or”;
- (b) by adding “and” at the end of sub-paragraph (2) (b) (i);
- (c) by omitting sub-paragraph (2) (b) (ii); and
- (d) by omitting sub-paragraphs (2) (b) (iv) to (vii) (inclusive).

**(2)** Section 107A of the Principal Act is amended—

- (a) by omitting from paragraph (2) (f) “and”; and
- (b) by adding at the end of sub-section (2) the following word and paragraph:

“; and (h) section 47 applies as if—

- (i) the references in sub-sections (2), (3) and (5) to war service were read as references to war service within the meaning of section 107B;
- (ii) the reference in sub-section (3) to section 24 were read as a reference to section 107C;
- (iii) the reference in sub-paragraph (3) (a) (ii) to before 12 November 1958 were read as a reference to before the expiration of the period of 40 years commencing on the day immediately following the conclusion of the period of the member’s war service within the meaning of section 107B or, if the member rendered more

than 1 period of such service, the conclusion of the last of those periods; and

- (iv) for paragraph (5) (a) there were substituted the following paragraph:

‘(a) the qualifying war service of a member of the Forces consists of the war service of the member; and’.

**Liability of Commonwealth to pay pensions to certain male members of the Forces**

**22.** Section 107C of the Principal Act is amended—

- (a) by omitting from sub-section (1) “liable to pay to the member or his dependants, or both, as the case may be, pensions in accordance with Division 1.” and substituting the following:

“liable to pay—

(d) in the case of the incapacity of the member—a pension to the member in accordance with Division 1; or

(e) in the case of the death of the member—pensions to the dependants of the member in accordance with Division 1.”; and

- (b) by omitting from sub-section (3) “liable to pay to the member or his dependants, or both, as the case may be, pensions in accordance with Division 1.” and substituting the following:

“liable to pay—

(c) in the case of the incapacity of the member—a pension to the member in accordance with Division 1; or

(d) in the case of the death of the member—pensions to the dependants of the member in accordance with Division 1.”.

**Extension of application of Act to certain female members of the Forces**

**23. (1)** Section 107E of the Principal Act is amended—

- (a) by omitting sub-paragraph (2) (b) (i); and

- (b) by omitting sub-paragraph (2) (b) (iii).

**(2)** Section 107E of the Principal Act is amended—

- (a) by omitting from paragraph (2) (f) “and”; and

- (b) by adding at the end of sub-section (2) the following word and paragraph:

“; and (h) section 47 applies as if—

(i) the references in sub-sections (2), (3) and (5) to war service were read as references to war service within the meaning of section 107B;

(ii) the reference in sub-section (3) to section 24 were read as a reference to section 107C;

(iii) the reference in sub-paragraph (3) (a) (ii) to before 12 November 1958 were read as a

reference to before the expiration of the period of 40 years commencing on the day immediately following the conclusion of the period of the member's war service within the meaning of section 107B or, if the member rendered more than 1 period of such service, the conclusion of the last of those periods; and

(iv) for paragraph (5) (a) there were substituted the following paragraph:

'(a) the qualifying war service of a member of the Forces consists of the war service of the member; and'.

### **Extension of application of Act to members to whom this Division applies**

**24. (1)** Section 107H of the Principal Act is amended—

- (a) by omitting from sub-paragraph (2) (b) (i) "wife or";
- (b) by adding "and" at the end of sub-paragraph (2) (b) (i); and
- (c) by omitting sub-paragraph (2) (b) (ii).

**(2)** Section 107H of the Principal Act is amended—

- (a) by omitting from paragraph (2) (e) "and"; and
- (b) by adding at the end of sub-section (2) the following paragraphs:

"(g) without limiting the application of paragraph (b) in relation to section 47, that section applies to and in relation to a member of a Peacekeeping Force as if—

- (i) the references to a member of the Forces were read as references to a member of a Peacekeeping Force;
- (ii) the reference in sub-section (2) to war service were read as a reference to peacekeeping service;
- (iii) the reference in sub-section (3) to section 24 were read as a reference to section 107M;
- (iv) the words 'whose war service included qualifying war service' were omitted from sub-paragraph (3) (a) (i);
- (v) the reference in sub-paragraph (3) (a) (ii) to before 12 November 1958 were read as a reference to before the expiration of the period of 40 years commencing on the day immediately following the completion of the period of the member's peacekeeping service or, if the member rendered more than 1 such period of service, the completion of the last of those periods;
- (vi) the words 'and whose war service included qualifying war service' were omitted from sub-paragraph (3) (a) (ii); and
- (vii) paragraph (5) (a) were omitted; and

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- “(h) without limiting the application of paragraph (b) in relation to section 47, that section applies to and in relation to a member of the Forces as if—
- (i) a reference to a member of the Forces were read as a reference to a member of the Forces within the meaning of section 107J;
  - (ii) the references in sub-sections (2) and (3) to war service were read as references to defence service;
  - (iii) the reference in sub-section (3) to section 24 were read as a reference to section 107M;
  - (iv) references in sub-paragraphs (3) (a) (i) and (ii) to qualifying war service were read as references to hazardous service;
  - (v) the reference in sub-paragraph (3) (a) (ii) to before 12 November 1958 were read as a reference to before the expiration of the period of 40 years commencing on the day immediately following the completion of the period of the member’s hazardous service or, if the member rendered more than 1 such period of service, the completion of the last of those periods; and
  - (vi) paragraph (5) (a) were omitted.”.

**Interpretation**

25. Section 107J of the Principal Act is amended by inserting after the definition of “effective full-time service” the following definition:

“‘hazardous service’ means service in the Defence Force of a kind determined by the Minister for Defence, by instrument in writing, to be hazardous service for the purposes of this Act;”.

**Liability of Commonwealth to pay pensions to certain members of the Forces, &c.**

26. Section 107M of the Principal Act is amended—

- (a) by omitting from sub-section (1) “liable to pay to the member, to the dependants of the member or to both, as the case may be, pensions in accordance with Division 1, as applied by section 107H.” and substituting the following:

“liable to pay—

- (a) in the case of the incapacity of the member—a pension to the member in accordance with Division 1, as applied by section 107H; or
- (b) in the case of the death of the member—pensions to the dependants of the member in accordance with Division 1, as applied by section 107H.”;

- (b) by omitting from sub-section (3) “liable to pay to the member, to his dependants or to both, as the case may be, pensions in accordance with Division 1, as applied by section 107H.” and substituting the following:
  - “liable to pay—
  - (c) in the case of the incapacity of the member—a pension to the member in accordance with Division 1, as applied by section 107H; or
  - (d) in the case of the death of the member—pensions to the dependants of the member in accordance with Division 1, as applied by section 107H.”; and
- (c) by omitting from sub-section (3A) “liable to pay to the member, to his dependants or to both, as the case may be, pensions in accordance with Division 1, as applied by section 107H.” and substituting the following:
  - “liable to pay—
  - (c) in the case of the incapacity of the member—a pension to the member in accordance with Division 1, as applied by section 107H; or
  - (d) in the case of the death of the member—pensions to the dependants of the member in accordance with Division 1, as applied by section 107H.”.

27. Section 107N of the Principal Act is repealed and the following section is substituted:

**Conditions of payment of pension to certain dependants of female members to whom this Division applies**

“107N. A pension shall not be granted or continued to a dependant of a female member to whom this Division applies unless the dependant is without adequate means of support.”.

**Pensions payable to certain dependent females of members of the Forces**

28. Section 107P of the Principal Act is amended—
- (a) by omitting from paragraph (1) (a) “the incapacity of a member of the Forces or”;
  - (b) by omitting from paragraph (1) (b) “, or the discharge from the Defence Force on medical grounds,”;
  - (c) by omitting from sub-section (1) “that incapacity or” and substituting “the member’s”; and
  - (d) by omitting from sub-section (2) “wife or widow, as the case may be,” and substituting “widow”.

**Pensions payable to certain dependent females of members of a Peacekeeping Force**

29. Section 107PA of the Principal Act is amended—
- (a) by omitting from paragraph (1) (a) “the incapacity of a member of a Peacekeeping Force or”;

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- (b) by omitting from paragraph (1) (b) “or at the time when the member ceased to serve with the Peacekeeping Force on medical grounds”;
- (c) by omitting from sub-section (1) “that incapacity or” and substituting “the member’s”; and
- (d) by omitting from sub-section (2) “wife or widow, as the case may be,” and substituting “widow”.

**Dual entitlement**

**30.** Section 107Q of the Principal Act is amended—

- (a) by omitting from sub-section (2) “an incapacity or”; and
- (b) by omitting from sub-section (2) “incapacity or” (second occurring).

**Application for review**

**31.** Section 107VD of the Principal Act is amended by omitting from sub-section (2) “member of the Forces or”.

**Decision of Board**

**32.** Section 107VG of the Principal Act is amended—

- (a) by omitting sub-section (3) and substituting the following sub-section:

“(3) On the completion of its consideration of a review of a decision—

- (a) if the decision is a decision to refuse to grant a claim for a pension, being a claim to which paragraph 47 (3) (a) applies—the Board shall set aside the decision unless it is satisfied, beyond reasonable doubt, that there were insufficient grounds for granting the claim; or
- (b) in any other case—the Board shall not set aside the decision unless it is reasonably satisfied that the decision is not the decision that the Board would have made if it had had the responsibility for making the decision the subject of the review.”; and

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

“(7) Where the Board is reviewing a decision granting or refusing to grant a claim for a pension with respect to the death or incapacity of a member of the Forces, or is considering and determining the decision to be made by it in substitution for a decision that it has set aside, the Board shall not grant the claim if it is reasonably satisfied—

- (a) that the investigation of the claim did not disclose material, and there is no other material before the Board, that raises a reasonable hypothesis that there exists a connection required by this Act to exist between the death or incapacity of the member and the member’s war service; or
- (b) that any such reasonable hypothesis raised by material before the Board has been dispelled.”.

**Schedule 1**

**33. (1)** Schedule 1 to the Principal Act is amended—

- (a) by omitting from the heading to the table “A WIDOWED MOTHER OR”; and
- (b) by omitting from the table the column headed “Column 1”.

**(2)** Schedule 1 to the Principal Act is amended—

(a) by omitting paragraph 3 and substituting the following paragraph:

“3. Where—

- (a) a member of the Forces is temporarily incapacitated to such an extent, and in such circumstances, that, if he or she were so incapacitated permanently, the special rate of pension would be granted to the member under Schedule 3; and
- (b) the aggregate of the rate of pension payable to the member under Column 3 of the table in this Schedule and the amount (if any) payable to the member under Schedule 5 is less than the special rate of pension specified in Schedule 2,

the Commission may grant an additional pension to the member at a rate not exceeding the amount of the difference between that aggregate and the special rate of pension for such period, whether in excess of 6 months or not, as the Commission determines.”; and

(b) by omitting paragraph 6 and substituting the following paragraphs:

“6. Where—

- (a) a member of the Forces is in receipt of, or is eligible to receive, a general rate pension at the rate specified in column 3 of the table in this Schedule;
- (b) the member’s incapacity from injury or disease that has been accepted as related to the relevant war service of the member is, of itself alone, of such a nature as to render the member incapable of undertaking remunerative work otherwise than on a part-time basis or intermittently; and
- (c) the member is, by reason of incapacity from that injury or disease alone, prevented from continuing to undertake remunerative work that the member was undertaking and is, by reason thereof, suffering a loss of salary or wages, or of earnings on his or her own account, that the member would not be suffering if the member were free from that incapacity,

the amount specified in column 3 of the table in this Schedule shall, in its application to the member, be deemed to be \$242.00.

“7. Sub-paragraph 6 (b) shall not be taken to be fulfilled in respect of a member of the Forces who is undertaking, or is capable of undertaking, work of a particular kind—

- (a) if the member undertakes, or is capable of undertaking, that work for 50 per centum or more of the time (excluding

- overtime) ordinarily worked by persons engaged in work of that kind on a full-time basis; or
- (b) in a case where sub-paragraph (a) is inapplicable to the work which the member is undertaking, or is capable of undertaking—if the member is undertaking, or is capable of undertaking, that work for 20 or more hours per week.
- “8. For the purpose of sub-paragraph 6 (c)—
- (a) a member of the Forces who is incapacitated from injury or disease that has been accepted as related to the relevant war service of the member to the extent set out in sub-paragraph 6 (b) shall not be taken to be suffering a loss of salary or wages, or of earnings on his or her own account, by reason of that incapacity—
- (i) if the member has ceased to engage in remunerative work for reasons other than his or her incapacity from that injury or disease;
- (ii) if the member is incapacitated, or prevented, from engaging in remunerative work for some other reason; or
- (iii) if the member has been engaged in remunerative work on a part-time basis or intermittently for reasons other than his or her incapacity from that injury or disease; and
- (b) where a member of the Forces, not being a member who has attained the age of 65 years, who has not been engaged in remunerative work satisfies the Commission that he or she has been genuinely seeking to engage in remunerative work, that he or she would, but for the incapacity, be continuing so to seek to engage in remunerative work and that that incapacity is a substantial cause of his or her inability to obtain remunerative work in which to engage, the member shall be treated as having been prevented, by reason of that incapacity, from continuing to undertake remunerative work that the member was undertaking.
- “9. For the purposes of this Schedule—
- (a) ‘remunerative work’ has the same meaning as it has in Schedule 2; and
- (b) the question whether a member of the Forces who is incapacitated from injury or disease is incapable of undertaking remunerative work shall be decided in the same manner as that question is required to be decided for the purposes of Schedule 2.”.

## **Schedule 2**

**34. (1)** Schedule 2 to the Principal Act is amended by omitting the first and second paragraphs and substituting the following paragraphs:



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“The special rate of pension may be granted to—

- (a) a member of the Forces who has been blinded as a result of war service; and
- (b) any other member of the Forces if—
  - (i) the other member is in receipt of, or is eligible to receive, a general rate pension at the rate specified in column 3 of the table in Schedule 1;
  - (ii) the other member is totally and permanently incapacitated, that is to say, the member’s incapacity from injury or disease that has been accepted as related to the member’s relevant war service is of such a nature as, of itself alone, to render the member incapable of undertaking remunerative work for periods aggregating more than 8 hours per week; and
  - (iii) the other member is, by reason of incapacity from that injury or disease alone, prevented from continuing to undertake remunerative work that the member was undertaking and is, by reason thereof, suffering a loss of salary or wages, or of earnings on his or her own account, that the member would not be suffering if the member were free of that incapacity.

“For the purpose of the last preceding paragraph—

- (a) a member of the Forces who is incapacitated from injury or disease that has been accepted as related to the member’s relevant war service shall not be taken to be suffering a loss of salary or wages, or of earnings on his or her own account, by reason of that incapacity if—
  - (i) the member has ceased to engage in remunerative work for reasons other than his or her incapacity from that injury or disease; or
  - (ii) the member is incapacitated, or prevented, from engaging in remunerative work for some other reason; and
- (b) where a member of the Forces, not being a member who has attained the age of 65 years, who has not been engaged in remunerative work satisfies the Commission that he or she has been genuinely seeking to engage in remunerative work, that he or she would, but for that incapacity, be continuing so to seek to engage in remunerative work and that that incapacity is a substantial cause of his or her inability to obtain remunerative work in which to engage, the member shall be treated as having been prevented by reason of that incapacity from continuing to undertake remunerative work that the member was undertaking.

“In determining whether a member of the Forces who is incapacitated from injury or disease is incapable of undertaking remunerative work, the Commission shall have regard to the following matters only:

- (a) the vocational, trade and professional skills, qualifications and experience of the member;

- (b) the kinds of remunerative work which a person with skills, qualifications and experience referred to in sub-paragraph (a) might reasonably undertake; and
- (c) the degree to which the incapacity of the member from injury or disease that has been accepted as related to the member's relevant war service has reduced his or her capacity to undertake the kinds of remunerative work referred to in sub-paragraph (b)."

(2) Schedule 2 to the Principal Act is amended by adding at the end the following paragraph:

"In this Schedule, a reference to remunerative work shall be read as including a reference to any remunerative activity."

#### **Repeal of Schedule 3 and substitution of new Schedule**

35. Schedule 3 to the Principal Act is repealed and the Schedule set out in the Schedule to this Act is substituted.

### **PART III—AMENDMENTS OF THE SEAMEN'S WAR PENSIONS AND ALLOWANCES ACT 1940**

#### **Principal Act**

36. The *Seamen's War Pensions and Allowances Act 1940*<sup>2</sup> is in this Part referred to as the Principal Act.

#### **Interpretation**

37. Section 3 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definition of "dependant" and substituting the following definition:
  - " 'dependant', in relation to an Australian mariner, means—
  - (a) the widow of the mariner; and
  - (b) a child of the mariner;"; and
- (b) by omitting from sub-section (1) the definition of "member of the family".

#### **Grant of pensions**

38. Section 12 of the Principal Act is amended by omitting from sub-section (1) "pay to his dependants, or to him, or to both, pensions in accordance with this Act." and substituting the following:

"pay—

- (a) in the case of the death of the Australian mariner—pensions to the dependants of the Australian mariner in accordance with this Act; or
- (b) in the case of the incapacity of the Australian mariner—a pension to the mariner in accordance with this Act."

#### **Repeal of sections 16 and 17**

39. Sections 16 and 17 of the Principal Act are repealed.

**Rates of pension on death or total incapacity**

**40. (1)** Section 18 of the Principal Act is amended—

- (a) by omitting sub-section (3);
- (b) by omitting sub-sections (5) and (6); and
- (c) by omitting from sub-section (7) all the words from and including “mariner” and substituting “mariner is \$38.40 per fortnight in respect of each child.”.

**(2)** Section 18 of the Principal Act is amended by omitting sub-section (4A) and substituting the following sub-section:

“(4A) Where—

- (a) an Australian mariner is in receipt of, or is entitled to receive, a pension in respect of war injury; and
- (b) the Commission is satisfied that the provisions of paragraph 6 of Schedule 1 to the *Repatriation Act 1920* would apply to the rate at which pension would be payable to the mariner in respect of that incapacity if he or she were entitled to pension under that Act in respect of the incapacity,

the amount specified in column 3 of the table in Schedule 1 to this Act shall be deemed to be \$242.00.”.

**Pension to de facto wife**

**41.** Section 19 of the Principal Act is amended—

- (a) by omitting “or total incapacity”;
- (b) by omitting “or wife” (wherever occurring); and
- (c) by omitting “, wife, separated widow or separated wife” and substituting “or separated widow”.

**Pension of separated widow**

**42.** Section 20 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “or total incapacity”;
- (b) by omitting from sub-section (1) “or separated wife”;
- (c) by omitting from sub-section (1) “, in the case of a separated wife is, or, in the case of a separated widow,”; and
- (d) by omitting paragraph (2) (a) and substituting the following paragraph:

“(a) where the separated widow is eligible for a pension by reason of having satisfied the Commission that the Australian mariner was contributing or liable to contribute to her support—the amount that the Australian mariner was contributing, or was liable to contribute, to her support immediately prior to his death; or”.

**Limit of payments in certain cases**

43. Section 24 of the Principal Act is amended—
- (a) by omitting from paragraph (a) “and”; and
  - (b) by omitting paragraph (b).

**Pensions for limited periods in certain cases**

44. Section 27 of the Principal Act is amended—
- (a) by omitting sub-section (1); and
  - (b) by omitting sub-section (2).

**Pensions to spouses to cease upon dissolution of marriage**

45. Section 27A of the Principal Act is repealed.

**Pensions to female dependants to cease on marriage or re-marriage**

46. Section 28 of the Principal Act is amended by omitting the proviso to the section.

**Schedule 1**

47. Schedule 1 to the Principal Act is amended by omitting the column headed “Column 2”.

**PART IV—AMENDMENTS OF THE INTERIM FORCES  
BENEFITS ACT 1947**

**Principal Act**

48. The *Interim Forces Benefits Act 1947*<sup>3</sup> is in this Part referred to as the Principal Act.

**War pensions for male members of the Interim Forces**

49. Section 6 of the Principal Act is amended by inserting after paragraph (2) (ba) the following paragraph:

“(bb) without limiting the application of paragraph (a), (b) or (ba) in relation to section 47, that section applies to and in relation to a male member of the Interim Forces as if—

- (i) the references in sub-sections (2) and (4) to the Repatriation Act were read as references to the provisions of that Act, in their application by virtue of sub-section (1) of this section, and of this Act;
- (ii) the reference in sub-section (3) to section 24 of the Repatriation Act were read as a reference to section 101 of the Repatriation Act in its application by virtue of sub-section (1) of this section;
- (iii) the words ‘whose war service included qualifying war service’ were omitted from sub-paragraph (3) (a) (i);

- (iv) the reference in sub-paragraph (3) (a) (ii) to before 12 November 1958 were read as a reference to before the expiration of the period of 40 years commencing on the day immediately following the day on which the member ceased to serve in the Interim Forces;
- (v) the words 'and whose war service included qualifying war service' were omitted from sub-paragraph (3) (a) (ii);
- (vi) the reference in sub-section (4) to the regulations under the Repatriation Act were read as a reference to the regulations under this Act; and
- (vii) paragraph (5) (a) were omitted;”.

**War pensions for female members of the Interim Forces**

**50.** Section 7 of the Principal Act is amended by inserting after paragraph (2) (ba) the following paragraph:

“(bb) without limiting the application of paragraph (a), (b) or (ba) in relation to section 47, that section applies to and in relation to a female member of the Interim Forces as if—

- (i) the references in sub-sections (2) and (4) to the Repatriation Act were read as references to the provisions of that Act, in their application by virtue of sub-section (1) of this section, and of this Act;
- (ii) the reference in sub-section (3) to section 24 of the Repatriation Act were read as a reference to section 101 of the Repatriation Act in its application by virtue of sub-section (1) of this section;
- (iii) the words 'whose war service included qualifying war service' were omitted from sub-paragraph (3) (a) (i);
- (iv) the reference in sub-paragraph (3) (a) (ii) to before 12 November 1958 were read as a reference to before the expiration of the period of 40 years commencing on the day immediately following the day on which the member ceased to serve in the Interim Forces;
- (v) the words 'and whose war service included qualifying war service' were omitted from sub-paragraph (3) (a) (ii);
- (vi) the reference in sub-section (4) to the regulations under the Repatriation Act were read as a reference to the regulations under this Act; and
- (vii) paragraph (5) (a) were omitted;”.

**PART V—AMENDMENTS OF THE REPATRIATION (FAR EAST STRATEGIC RESERVE) ACT 1956**

**Principal Act**

**51.** The *Repatriation (Far East Strategic Reserve) Act 1956*<sup>4</sup> is in this Part referred to as the Principal Act.

**Interpretation**

**52.** Section 3 of the Principal Act is amended—

- (a) by omitting from sub-section (4) “ ‘member of the family’, ‘parents’, ”; and
- (b) by omitting from sub-section (4) “, ‘widow’ and ‘wife’ ” and substituting “and ‘widow’ ”.

**Liability of the Commonwealth to pay pensions to members of the Forces**

**53.** Section 6 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “liable to pay to the member, his dependants or both, as the case may be, pensions in accordance with Division 1 of Part III of the Repatriation Act as applied by section 7.” and substituting the following:
  - “liable to pay—
  - (c) in the case of the incapacity of the member—a pension to the member in accordance with Division 1 of Part III of the Repatriation Act as applied by section 7; and
  - (d) in the case of the death of the member—pensions to the dependants of the member in accordance with Division 1 of Part III of the Repatriation Act as applied by section 7.”; and
- (b) by omitting from sub-section (3) “widower and” and substituting “the”.

**Extension of certain provisions of Repatriation Act**

**54. (1)** Section 7 of the Principal Act is amended—

- (a) by omitting from sub-paragraph (2) (b) (i) “wife or”;
  - (b) by adding “and” at the end of sub-paragraph (2) (b) (i);
  - (c) by omitting sub-paragraph (2) (b) (ii);
  - (d) by omitting sub-paragraphs (2) (b) (iv) to (vii) (inclusive);
  - (e) by omitting sub-paragraph (2) (c) (i);
  - (f) by omitting from sub-paragraph (2) (c) (ii) “and”; and
  - (g) by omitting sub-paragraph (2) (c) (iii).
- (2)** Section 7 of the Principal Act is amended—
- (a) by omitting from paragraph (2) (j) “and”; and

(b) by inserting after paragraph (2) (j) the following paragraph:

- “(ja) without limiting the application of paragraphs (a), (b), (c) and (d) in relation to section 47, that section applies to and in relation to a member of the Forces as if—
- (i) the references in sub-sections (2) and (4) to the Repatriation Act were read as references to the provisions of that Act, in their application by virtue of sub-section (1) of this section, and of this Act;
  - (ii) the reference in sub-section (3) to section 24 of the Repatriation Act were read as a reference to section 6 of this Act;
  - (iii) the words ‘whose war service included qualifying war service’ were omitted from sub-paragraph (3) (a) (i);
  - (iv) the reference in sub-paragraph (3) (a) (ii) to before 12 November 1958 were read as a reference to before the expiration of the period of 40 years commencing on the day immediately following the conclusion of the period of the member’s Malayan service or, if the member rendered more than 1 period of such service, the conclusion of the last of those periods;
  - (v) the words ‘and whose war service included qualifying war service’ were omitted from sub-paragraph (3) (a) (ii);
  - (vi) the reference in sub-section (4) to the regulations under the Repatriation Act were read as a reference to the regulations under this Act; and
  - (vii) paragraph (5) (a) were omitted; and”.

#### **Pensions payable to certain dependent females**

**55.** Section 8 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “incapacity or”; and
- (b) by omitting from sub-section (2) “wife or widow, as the case may be,” and substituting “widow”.

#### **Pension to divorced wife of a member**

**56.** Section 9 of the Principal Act is amended by omitting “incapacity or”.

**57.** Section 10 of the Principal Act is repealed and the following section is substituted:

#### **Limitations on pensions to dependants of female members**

“10. A pension under this Act shall not be granted or continued to a dependant of a female member of the Forces unless the dependant is without adequate means of support.”.

**PART VI—AMENDMENTS OF THE REPATRIATION (SPECIAL OVERSEAS SERVICE) ACT 1962**

**Principal Act**

**58.** The *Repatriation (Special Overseas Service) Act 1962*<sup>s</sup> is in this Part referred to as the Principal Act.

**Interpretation**

**59.** Section 3 of the Principal Act is amended by omitting from sub-section (2) “ ‘member of the family’, ‘parents’, ”.

**Liability of Commonwealth to pay pensions to members of the Forces**

**60.** Section 6 of the Principal Act is amended—

(a) by omitting from sub-section (1) “liable to pay to the member, his dependants or both, as the case may be, pensions in accordance with Division 1 of Part III of the Repatriation Act as applied by section 7.” and substituting the following:

“liable to pay—

(c) in the case of the incapacity of the member—a pension to the member in accordance with Division 1 of Part III of the Repatriation Act as applied by section 7; or

(d) in the case of the death of the member—pensions to the dependants of the member in accordance with Division 1 of Part III of the Repatriation Act as applied by section 7.”;

(b) by omitting from sub-paragraph (2) (a) (i) “wife or”;

(c) by adding “and” at the end of sub-paragraph (2) (a) (i);

(d) by omitting sub-paragraph (2) (a) (ii);

(e) by adding “and” at the end of sub-paragraph (2) (a) (iii);

(f) by omitting sub-paragraphs (2) (a) (iv) to (vii) (inclusive);

(g) by omitting sub-paragraph (2) (b) (i);

(h) by omitting from sub-paragraph (2) (b) (ii) “and”; and

(j) by omitting sub-paragraph (2) (b) (iii).

**Extension of certain provisions of Repatriation Act**

**61.** (1) Section 7 of the Principal Act is amended—

(a) by omitting from paragraph (3) (b) “an incapacity or”; and

(b) by omitting from paragraph (3) (b) “that incapacity or” and substituting “the member’s”.



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(2) Section 7 of the Principal Act is amended by inserting after paragraph (3) (d) the following paragraph:

- “(e) without limiting the application of paragraphs (a), (b) and (c) in relation to section 47, that section applies to and in relation to a member of the Forces as if—
- (i) the references in sub-sections (2) and (4) to the Repatriation Act were read as references to the provisions of that Act, in their application by virtue of sub-section (1) of this section, and of this Act;
  - (ii) the reference in sub-section (3) to section 24 of the Repatriation Act were read as a reference to section 6 of this Act;
  - (iii) the words ‘whose war service included qualifying war service’ were omitted from sub-paragraph (3) (a) (i);
  - (iv) the reference in sub-paragraph (3) (a) (ii) to before 12 November 1958 were read as a reference to before the expiration of the period of 40 years commencing on the day immediately following the conclusion of the period of the member’s special service or, if the member rendered more than 1 period of such service, the conclusion of the last of those periods;
  - (v) the words ‘and whose war service included qualifying war service’ were omitted from sub-paragraph (3) (a) (ii);
  - (vi) the reference in sub-section (4) to the regulations under the Repatriation Act were read as a reference to the regulations under this Act; and
  - (vii) paragraph (5) (a) were omitted;”.

**Pensions payable to certain dependent females**

**62.** Section 8 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “incapacity or”; and
- (b) by omitting from sub-section (2) “wife or widow, as the case may be,” and substituting “widow”.

**Pension to divorced wife of member**

**63.** Section 9 of the Principal Act is amended by omitting “incapacity or”.

**64.** Section 10 of the Principal Act is repealed and the following section is substituted:

**Limitations on pensions to dependants of female members**

“10. A pension under this Act shall not be granted or continued to a child of a female member of the Forces unless the child is without adequate means of support.”.

## **PART VII—TRANSITIONAL PROVISIONS**

### **Interpretation**

**65.** In this Part—

“Commission” means the Repatriation Commission;

“relevant Act” means—

- (a) the *Repatriation Act 1920*;
- (b) the *Seamen’s War Pensions and Allowances Act 1940*;
- (c) the *Interim Forces Benefits Act 1947*;
- (d) the *Repatriation (Far East Strategic Reserve) Act 1956*; or
- (e) the *Repatriation (Special Overseas Service) Act 1962*.

### **Application of amendments relating to dependants’ pensions**

**66. (1)** The amendments and repeals effected by the relevant provisions of this Act to the relevant Acts apply to and in relation to grants of pension made after the commencement of this section (including grants of pension made after the commencement of this section in relation to claims made before the commencement of this section).

**(2)** Notwithstanding the amendments and repeals effected by the relevant provisions of this Act to the relevant Acts, pensions that—

- (a) were granted under the relevant Acts before the commencement of this section;
- (b) were payable immediately before the commencement of this section; and
- (c) would not have been payable if the relevant Acts as affected by the amendments and repeals effected by the relevant provisions of this Act had been in force at the time when those pensions were granted,

continue, by force of this sub-section, to be payable, after the commencement of this section, as if those amendments and repeals had not been made.

**(3)** In this section, “relevant provisions” means sections 4 to 15 (inclusive), sub-section 17 (1), section 18, sub-section 19 (1), section 20, sub-section 21 (1), section 22, sub-sections 23 (1) and 24 (1), sections 26 to 31 (inclusive), sub-section 33 (1), section 35, sections 37 to 39 (inclusive), sub-section 40 (1), sections 41 to 47 (inclusive), 52 and 53, sub-section 54 (1), sections 55 to 57 (inclusive), 59 and 60, sub-section 61 (1) and sections 62 to 64 (inclusive).

### **Rates of certain pensions**

**67. (1)** Subject to sub-section (2), where—

- (a) a pension had been granted to a person before the commencement of this section and was, immediately before the commencement of this section, payable to the person at the rate of a particular amount per fortnight (in this section referred to as the “relevant rate”); and

- (b) the pension continues to be payable to the person by virtue of sub-section 66 (2),

the pension continues to be payable, while the person continues to be entitled to the pension, at the relevant rate and at no higher rate.

(2) Sub-section (1) does not apply to a pension the rate of which is fixed by reference to the provisions of the *Social Security Act 1947*.

#### **Application of amendments affecting intermediate rate pensions and special rate pensions**

**68. (1)** In sub-section (2), “pension” means pension (other than service pension) payable under a relevant Act other than the *Seamen’s War Pensions and Allowances Act 1940*.

(2) The amendments of the *Repatriation Act 1920* effected by sub-section 33 (2) and section 34 of this Act apply to and in relation to any assessment or re-assessment of the rate of a pension that is made by the Commission, by the Veterans’ Review Board or by the Administrative Appeals Tribunal after the commencement of this Act.

(3) The amendments of the *Seamen’s War Pensions and Allowances Act 1940* effected by sub-section 40 (2) of this Act, and the amendments of the *Repatriation Act 1920* effected by sub-section 33 (2) and section 34 of this Act, in so far as they affect the assessment of the rates of pension payable under the *Seamen’s War Pensions and Allowances Act 1940* by virtue of sub-section 18 (4A) or section 22A of the last-mentioned Act as amended by this Act, apply to and in relation to any assessment or re-assessment of the rate of such a pension that is made by the Commission, by a Pensions Committee, by the Veterans’ Review Board or by the Administrative Appeals Tribunal after the commencement of this Act.

(4) Sub-sections (2) and (3) apply to the assessment or re-assessment of the rate of a pension whether the proceedings in relation to which the assessment or re-assessment is made commenced before, or commence after, the commencement of this Act.

#### **Application of amendments of section 47 of Repatriation Act**

**69. (1)** Subject to sub-section (2), the amendments of section 47 of the *Repatriation Act 1920* made by section 16 of this Act do not apply to or in relation to the consideration and determination by the Commission, after the commencement of this Act, of a claim for a pension (not being a claim for a service pension) that was received at an office of the Department before 15 May 1985.

(2) Sub-section 47 (2) of the *Repatriation Act 1920* as amended by this Act applies to and in relation to the consideration and determination by the Commission, after the commencement of this Act, of a claim for a pension referred to in sub-section (1) of this section.

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(3) Section 47 of the *Repatriation Act 1920* as amended by this Act applies to and in relation to the consideration and determination by the Commission, after the commencement of this Act, of a claim for a pension that was received at an office of the Department on or after 15 May 1985.

(4) Subject to sub-sections (1), (2) and (3), section 47 of the *Repatriation Act 1920* as amended by this Act applies to and in relation to a determination or decision made by the Commission, after the commencement of this Act, in relation to any matter under a relevant Act (other than the *Seamen's War Pensions and Allowances Act 1940*) or under regulations in force under such a relevant Act.

(5) In this section—

- (a) a reference to a claim for a pension shall be read as a reference to a claim for a pension under a relevant Act other than the *Seamen's War Pensions and Allowances Act 1940*; and
- (b) a reference to section 47, or sub-section 47 (2), of the *Repatriation Act 1920* as amended by this Act shall be read as including a reference to that section, or sub-section, as so amended, in its application in accordance with—
  - (i) section 99 of the *Repatriation Act 1920* as amended by sub-section 17 (2) of this Act;
  - (ii) section 104 of the *Repatriation Act 1920* as amended by sub-section 19 (2) of this Act;
  - (iii) section 107A of the *Repatriation Act 1920* as amended by sub-section 21 (2) of this Act;
  - (iv) section 107E of the *Repatriation Act 1920* as amended by sub-section 23 (2) of this Act;
  - (v) section 107H of the *Repatriation Act 1920* as amended by sub-section 24 (2) of this Act;
  - (vi) section 6 of the *Interim Forces Benefits Act 1947* as amended by section 49 of this Act;
  - (vii) section 7 of the *Interim Forces Benefits Act 1947* as amended by section 50 of this Act;
  - (viii) section 7 of the *Repatriation (Far East Strategic Reserve) Act 1956* as amended by sub-section 54 (2) of this Act; and
  - (ix) section 7 of the *Repatriation (Special Overseas Service) Act 1962* as amended by sub-section 61 (2) of this Act.

**Application of amendments of section 107VG of Repatriation Act**

70. (1) Subject to sub-section (2), the amendments of sections 47 and 107VG of the *Repatriation Act 1920* made by this Act do not apply to or in relation to a decision of the Veterans' Review Board given, after the commencement of this Act, upon its review of a decision of the Commission with respect to a claim for a pension if application was made for the review before 15 May 1985.

(2) Sub-section 107VG (7) of the *Repatriation Act 1920* as amended by this Act applies to and in relation to a decision of the Veterans' Review Board given, after the commencement of this Act, upon a review to which sub-section (1) of this section applies.

(3) Subject to sub-sections (1) and (2), sections 47 and 107VG of the *Repatriation Act 1920* as amended by this Act apply to and in relation to any decision given by the Veterans' Review Board after the commencement of this Act.

### **Application of amendments to reviews by Administrative Appeals Tribunal**

71. (1) Subject to sub-sections (2) and (3), where the Administrative Appeals Tribunal reviews, after the commencement of this Act, a decision granting, or refusing to grant, a claim for a pension, the person who made the decision shall be deemed, for the purposes of section 43 of the *Administrative Appeals Tribunal Act 1975*, to have the powers and discretions conferred on that person by the relevant Acts as amended by this Act.

(2) Subject to sub-section (3), where the Administrative Appeals Tribunal, upon application made by the Commission, reviews, after the commencement of this Act, a decision given by the Veterans' Review Board upon an application that had been made to that Board before 15 May 1985, being a decision granting a claim for a pension, the person who made the decision shall be deemed, for the purposes of section 43 of the *Administrative Appeals Tribunal Act 1975*, to have the powers and discretions conferred on that person by the relevant Acts, apart from the amendments of those Acts made by this Act.

(3) Where the Administrative Appeals Tribunal is reviewing a decision (not being a decision of the Veterans' Review Board to which sub-section (2) applies that was made before 15 May 1985) granting or refusing to grant a claim for a pension with respect to the death or incapacity of a member of the Forces, or is considering and determining the decision to be made by it in substitution for a decision that it has set aside, that Tribunal shall not grant the claim if it is reasonably satisfied—

- (a) that the investigation of the claim did not disclose material, and there is no other material before the Tribunal, that raises a reasonable hypothesis that there exists a connection required by this Act to exist between the death or incapacity of the member and the member's war service; or
- (b) that any such reasonable hypothesis raised by material before the Tribunal has been dispelled.

### **Cessation of operation of certain provisions**

72. (1) Section 16, sub-sections 17 (2), 19 (2), 21 (2), 23 (2) and 24 (2), sections 25 and 32, Part IV, sub-sections 54 (2) and 61 (2) and sections 69, 70 and 71 shall cease to be in force at the expiration of 6 months after the commencement of this Act.

(2) When provisions of this Act cease to be in force by virtue of sub-section (1), the relevant Acts shall have effect as if those Acts had not been amended by those provisions.

(3) After the expiration of 6 months after the commencement of this Act, the relevant Acts apply, in accordance with sub-sections (1) and (2), to and in relation to—

- (a) decisions of the Commission in respect of claims for pension where consideration of the claims by the Commission commenced after the expiration of that period;
- (b) decisions of the Veterans' Review Board in respect of reviews of decisions of the Commission referred to in paragraph (a); and
- (c) decisions of the Administrative Appeals Tribunal in respect of reviews of decisions of the Commission referred to in paragraph (a) or reviews of decisions of the Veterans' Review Board in substitution for decisions of the Commission so referred to.

(4) In this section, "relevant Acts" means the Acts referred to in section 65.

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**SCHEDULE**

Section 34

NEW SCHEDULE 3 TO THE REPATRIATION ACT 1920

SCHEDULE 3

TABLE A

PENSIONS PAYABLE IN THE CASE OF DEATH OF A MEMBER OF THE FORCES

Class of person eligible for pension	Rate of pension payable
Widow of the member . . . . .	The rate specified in column 2 of the Table in Schedule 1
Child of the member—	
(a) where (in the case of a child other than an ex-nuptial child) both the member and the wife or husband of the member are dead;	\$76.80 per fortnight
(b) where paragraph (a) does not apply in relation to the child and the Commission is satisfied that the child is not being maintained by a parent, adoptive parent or step-parent of the child; or	\$76.80 per fortnight
(c) in any other case.	\$38.40 per fortnight

**SCHEDULE—continued**

**TABLE B**

**PENSIONS PAYABLE IN THE CASE OF TOTAL INCAPACITY OF A MEMBER OF THE FORCES**

Description of rate	Rate of pension payable
General Rate . . . . .	The rate specified in column 3 of the Table in Schedule 1
Special Rate . . . . .	The rate specified in, or assessed in accordance with, Schedule 2 in the cases to which the provisions of that Schedule are applicable

**TABLE C**

**PENSIONS PAYABLE IN CASES OF PARTIAL OR SPECIFIC INCAPACITY OF MEMBERS OF THE FORCES**  
**RATE OF PENSION PAYABLE**

Such rate, being less than the rate or the maximum rate, as the case may be, prescribed by Table B of this Schedule, as is assessed, having regard to the nature and probable duration of the incapacity, or in accordance with Schedules 4 and 5 in the cases to which those Schedules apply.

**NOTES**

1. No. 6, 1920, as amended. For previous amendments, see No. 34, 1921; No. 23, 1922; No. 14, 1929; No. 74, 1930; Nos. 10 and 47, 1931; No. 32, 1934; No. 58, 1935; Nos. 29 and 67, 1936; Nos. 12, 24 and 42, 1937; No. 55, 1938; Nos. 37 and 96, 1940; No. 49, 1941; No. 22, 1943; No. 11, 1945; No. 49, 1946; Nos. 1, 29 and 74, 1947; No. 39, 1948; No. 38, 1949; Nos. 34 and 80, 1950; No. 31, 1951; No. 58, 1952; No. 69, 1953; No. 31, 1954; No. 39, 1955; Nos. 68 and 97, 1956; No. 44, 1957; No. 47, 1958; No. 58, 1959; No. 44, 1960; No. 46, 1961; Nos. 75 and 91, 1962; No. 47, 1963; Nos. 62 and 105, 1964; No. 64, 1965; No. 42, 1966; No. 64, 1967; Nos. 66 and 120, 1968; No. 95, 1969; Nos. 4 and 60, 1970; Nos. 17 and 68, 1971; Nos. 15, 82 and 139, 1972; Nos. 2, 27 and 104, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 3, 24 and 90, 1974; Nos. 35, 56 and 111, 1975; Nos. 27, 91 and 112, 1976; No. 56, 1977; Nos. 129 and 170, 1978; Nos. 18 and 124, 1979; No. 129, 1980; Nos. 41, 61 and 160, 1981; Nos. 20 and 80, 1982; No. 100, 1982 (as amended by No. 39, 1983); Nos. 36 and 70, 1983; and Nos. 78, 97 and 134, 1984.
2. No. 60, 1940, as amended. For previous amendments, see No. 77, 1946; No. 80, 1950; Nos. 17 and 75, 1952; No. 70, 1953; No. 32, 1954; No. 40, 1955; No. 45, 1957; No. 48, 1958; No. 59, 1959; No. 46, 1960; No. 47, 1961; Nos. 64 and 113, 1964; No. 65, 1965; No. 43, 1966; No. 102, 1967; No. 67, 1968; No. 96, 1969; No. 61, 1970; Nos. 18 and 69, 1971; Nos. 16 and 83, 1972; Nos. 6 and 106, 1973; Nos. 4, 25 and 90, 1974; Nos. 35 and 111, 1975; Nos. 27, 91 and 112, 1976; No. 56, 1977; No. 129, 1978; Nos. 18 and 124, 1979; No. 129, 1980; No. 160, 1981; Nos. 80 and 100, 1982; No. 70, 1983; and No. 97, 1984.

*Repatriation Legislation Amendment No. 90, 1985*

**NOTES—continued**

3. No. 46, 1947, as amended. For previous amendments, see No. 79, 1950; No. 106, 1964; No. 93, 1966; No. 5, 1973; No. 90, 1974; No. 18, 1979; No. 160, 1981; No. 100, 1982; and No. 97, 1984.
4. No. 91, 1956, as amended. For previous amendments, see No. 90, 1962; No. 107, 1964; No. 93, 1966; No. 81, 1972; No. 4, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 90, 1974; No. 129, 1978; No. 18, 1979; No. 160, 1981; No. 100, 1983; and No. 97, 1984.
5. No. 89, 1962, as amended. For previous amendments, see No. 108, 1964; No. 110, 1965; No. 93, 1966; No. 78, 1968; No. 80, 1972; No. 3, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 90, 1974; No. 129, 1978; No. 18, 1979; No. 160, 1981; No. 100, 1982; No. 70, 1983; and No. 97, 1984.

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*[Minister's second reading speech made in—  
House of Representatives on 17 May a.m. 1985  
Senate on 22 May 1985]*