

EXPLANATORY STATEMENT

STATUTORY RULES 1985 No. 273

Minute No. 23 of 1985 - Minister of State for Veterans' Affairs

Subject - Papua New Guinea (Members of the Forces Benefits)
Act 1957

Papua New Guinea (Members of the Forces Benefits)
Regulations (Amendment)

Under section 9 of the Papua New Guinea (Members of the Forces Benefits) Act 1957 (the Act), the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The regulations are to give effect to the decisions of the Government announced in the Treasurer's Economic Statement on 14 May 1985.

There were two items in the Treasurer's Economic Statement which required amendment to the Papua New Guinea (Members of the Forces Benefits) Regulations. First, the criteria applied by Repatriation determining authorities in deciding whether a member of the Forces is eligible to receive the Special

Rate (totally and permanently incapacitated) pension were amended. Secondly, there will be no future grants of pension to dependants of members of the Forces, or deceased members of the Forces, other than pensions to the widow or orphan of a member payable in respect of the member's death.

The criteria for payment of disability pensions at the Special Rate and for payment of pensions to dependants are contained in the Papua New Guinea (Members of the Forces Benefits) Regulations. In other Repatriation legislation, these criteria are expressed in the principal legislation which has been amended by the Repatriation Legislation Amendment Act 1985 to give effect to the decisions announced in the Treasurer's Economic Statement.

Details of the Regulations are set out below.

Regulation 1 - Definitions

Existing regulation 3 of the Papua New Guinea (Members of the Forces Benefits) Regulations contains definitions of terms used in the Regulations.

Sub-regulation 1(a) amended the definition of "dependant" to include only the widow or child of a member who has died. The references to the wife or child of an incapacitated member, or any

other person who was dependent on the member, have been removed because pensions payable to these people were abolished.

Sub-regulation 1(b) amended the definition of "totally incapacitated" to align it with the criteria for the grant of the Special Rate (totally and permanently incapacitated) pension contained in Schedule 2 to the Repatriation Act 1920, as amended by the Repatriation Legislation Amendment Act 1985. The amended definition of "totally incapacitated" requires that a member is totally and permanently incapacitated solely as a result of service-related incapacity; is unable to undertake remunerative work for periods aggregating more than 8 hours per week and loses salary, wages or earnings as a result of that incapacity.

Sub-regulation 1(c) precludes a member from being considered as "totally incapacitated" if the member has ceased work for reasons other than service-related injury or disease.

Regulation 2 - Who may claim pension

Former regulation 5 specified who may make a claim for pension. Regulation 2 amended former sub-regulation 5(b) so that a dependant may only make a claim in respect of a member's death.

Regulation 3 - Rates of pension

Existing regulation 9 of the Papua New Guinea (Members of the Forces Benefits) Regulations specifies the rates of pension payable under the Regulations. Former sub-regulation 9(1A) referred to the rate payable to a dependant who was not the wife, widow or child of a member while former sub-regulation 9(2) referred to the rate paid where a member had more than one wife. As pensions to dependants other than the widow or child of a deceased member have been abolished, these sub-regulations have been omitted.

Regulation 4 - Cessation of pension payable to dependants of member

Existing sub-regulation 12(1) of the Papua New Guinea (Members of the Forces Benefits) Regulations provided that a pension to a dependant of a member (other than his wife or widow) ceases when the dependant reaches 16 years of age. Regulation 4 removed the reference to a wife in that sub-regulation as pensions are no longer to be granted to the wife of an incapacitated member.

Regulation 5 - Schedule 1

Former Table B of Schedule 1 to the Papua New Guinea (Members of the Forces Benefits) Regulations specified rates of pension payable to the member, the wife of an incapacitated member, dependant of an incapacitated member under 16 years of age

and any other dependant of an incapacitated member. As pensions are now only granted to the member in respect of incapacity and not to dependants, Items 2, 3 and 4 of this Table have been omitted by this regulation.

S.R. 160/85

Authority: Section 9 of the
Papua New Guinea
(Members of the
Forces) Benefits Act
1957