

SERVICES TRUST FUNDS.

No. 23 of 1947.

An Act to establish, from the profits and other assets of Canteens conducted within the Defence Force during the time of war which commenced on the Third day of September, One thousand nine hundred and thirty-nine and from other sources, Trust Funds to be administered in the interests of servicemen, ex-servicemen and their dependants, and for other purposes.

[Assented to 10th June, 1947.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Services Trust Funds Act 1947*. Short title.
2. This Act shall come into operation on a date to be fixed by Commencement.
Proclamation.
3. This Act is divided into Parts, as follows :—Parts.
 - Part I.—Preliminary.
 - Part II.—Trustees Generally.
 - Part III.—The Services Canteens Trust Fund.

Part IV.—The Royal Australian Navy Relief Trust Fund.

Part V.—The Australian Military Forces Relief Trust Fund.

Part VI.—The Royal Australian Air Force Welfare Trust Fund.

Part VII.—General.

Definitions.

4. In this Act, unless the contrary intention appears—

“child” includes step-child, adopted child and ex-nuptial child ;
 “dependant”, in relation to a member of the Forces, means any person who, in the opinion of the trustees of any fund, has or had such relationship to, or dependence upon, the member of the Forces as to justify the receipt by that person of benefit from that fund ;

“fund” means any fund established under this Act ;

“member of the Forces” means a person who is, or was, prior to his discharge or death—

(a) a member of the Naval, Military or Air Forces of the Commonwealth ; or

(b) a member of any nursing service or women’s service attached or auxiliary to any branch of the Defence Force of the Commonwealth,

and includes a member of the canteens staff of any ship of the Royal Australian Navy and any person duly accredited to any part of the Defence Force who has served in an official capacity on full time paid duty ;

“the prescribed date” means a date determined by the Minister and notified in the *Gazette* ;

“the time of war” means the time of war which commenced on the third day of September, One thousand nine hundred and thirty-nine ;

“trustees”, in relation to any fund, means the trustees for the time being of that fund.

PART II.—TRUSTEES GENERALLY.

Appointment of trustees.

5.—(1.) The Governor-General shall appoint, in respect of each fund, trustees of such number as he thinks fit and a chairman of trustees.

(2.) Each trustee shall hold office during the pleasure of the Governor-General.

Trustees to be bodies corporate.

6.—(1.) The trustees of each fund shall be a body corporate with perpetual succession and a common seal and may hold real and personal property and may sue or be sued in their corporate name.

(2.) The corporate name of the trustees of any fund shall be “The Trustees of the (*specifying the name of the fund*)”.

(3.) All courts, judges and persons acting judicially shall take notice of the seal of the trustees of each fund affixed to any document and shall presume that it was duly affixed.

7. All assets from time to time forming part of any fund shall be vested in the trustees of that fund.

Assets to be
vested in
trustees.

8. The trustees of each fund may, from time to time, do all such acts and things as appear to them necessary for the due administration of the fund and, without limiting the generality of the foregoing, shall have power—

Powers of
trustees.

- (a) to receive and consider applications for benefits from the fund and determine whether any person or group or class of persons is entitled to benefit from the fund and the extent of the benefit to which that person or the persons comprising that group or class is or are so entitled ;
- (b) to invest any part of the fund in securities of the Commonwealth, on deposit with the Commonwealth Bank of Australia or in any other manner for the time being allowed by any Act or State Act for the investment of trust funds in Australia ;
- (c) to realise and convert into money any property forming part of the fund ;
- (d) to engage such clerical and other assistance in the management or administration of the fund as the trustees consider necessary ;
- (e) to make payments or grant benefits from the fund, either directly or through the agency of any person or association of persons, to or on behalf of any beneficiary or group or class of beneficiaries in such manner as the trustees think fit ; and
- (f) to appoint regional committees with such powers and functions, and upon such terms and conditions, as are prescribed.

9.—(1.) The trustees of each fund may, in relation to any matters or class of matters, or in relation to any particular region, by writing under the seal of the trustees, delegate to a regional committee appointed in pursuance of the last preceding section or to any person, such of their powers and functions as the trustees think fit (except this power of delegation) so that the delegated powers or functions may be exercised by the delegate with respect to the matters or class of matters or the region specified in the instrument of delegation.

Power of
delegation.

(2.) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power or function by the trustees making the delegation.

(3.) Where in this Act the exercise of any power or function by trustees is dependent upon the opinion, belief or state of mind of the trustees in relation to any matter, that power or function may be exercised by the committee or person to whom that power or function has been delegated by the trustees, upon the opinion, belief or state of mind of that committee or person in relation to that matter.

Benefits and expenses a charge on the fund.

10. All benefits granted by the trustees of a fund in accordance with this Act and all proper expenses of, and incidental to, the administration of the fund shall be a charge upon and payable out of that fund.

Offices to be honorary.

11.—(1.) A trustee of any fund shall not, as such, be entitled to receive from the fund any remuneration for any work done by him in relation to the administration of that fund.

(2.) A trustee may be paid, out of the fund, out of pocket expenses reasonably incurred by him in the exercise of his powers or functions under this Act.

Trustees not personally liable.

12. No person holding office as a trustee of a fund shall be personally liable for anything *bona fide* done or omitted to be done by him as holder of that office.

Trustees may be authorized to administer other property.

13. The Minister may, by instrument in writing published in the *Gazette*, authorize the trustees of any fund to administer and dispose of any property transferred to them, which does not form part of the fund, for purposes specified in the instrument and, upon publication of the instrument, the trustees shall administer and dispose of the property for those purposes.

Trustees and their dependants not eligible to benefit.

14. A person who is a trustee or a dependant of a trustee of any fund shall not receive benefits from that fund.

PART III.—THE SERVICES CANTEENS TRUST FUND.

Definitions.

15. In this Part, unless the contrary intention appears—

“canteens service” means a service established under any regulation made under any Act and providing for the supply or provision of goods, refreshments and services to, and for the entertainment and recreation of, members of the Defence Force in the time of war, or for similar purposes;

“disbanded war-time unit” means an establishment, unit or station of the Royal Australian Navy, the Australian Military Forces or the Royal Australian Air Force, formed or raised during the time of war, and which is disbanded, dissolved, lost by enemy action or otherwise ceases to exist before the prescribed date;

“eligible serviceman” means a person who is or was, at any time between the commencement of the time of war and the prescribed date, a member of the Forces;

“the appropriate Service Board” means, in relation to matters affecting the Royal Australian Navy, the Naval Board, in relation to matters affecting the Australian Military Forces, the Military Board, and, in relation to matters affecting the Royal Australian Air Force, the Air Board;

“the appropriate Service Minister” means the Minister for the time being responsible for the administration of matters affecting the Royal Australian Navy, the Australian Military Forces or the Royal Australian Air Force, as the case may be; “the Interim Force” has the same meaning as in section twenty-three of the *Income Tax Assessment Act* 1936–1946.

16.—(1.) There shall be a fund to be known as the Services Canteens Trust Fund, which shall be administered by trustees, in accordance with this Act, for the benefit of eligible servicemen and their dependants.

Services
Canteens
Trust Fund.

(2.) The Services Canteens Trust Fund shall consist of the assets transferred to the trustees of that fund in pursuance of this Part together with all other property which is received in any manner by the trustees of the fund for the purposes of the fund.

17.—(1.) Upon, or as soon as practicable after, the prescribed date, all assets under the control of each canteens service, except such as are agreed by the Treasurer and the appropriate Service Minister to be required, in each case—

Transfer of
funds from
Canteens
Services.

(a) to meet any liabilities incurred by that canteens service prior to the prescribed date; or

(b) for the operations of that canteens service subsequent to the prescribed date,

and except any sum which, by any other provision of this Act, is required to be transferred from a canteens service to the trustees of any fund, shall be transferred to the trustees of the Services Canteens Trust Fund.

(2.) Subject to sub-section (4.) of this section, at least once in the period of three months next following the prescribed date, and in every period of three months thereafter, the operations, finances and commitments of each canteens service shall be reviewed by the Treasurer and the appropriate Service Minister, and on each such review, such further assets (if any) as the Treasurer, in agreement with the appropriate Service Minister, directs shall be transferred to the trustees of the Services Canteens Trust Fund.

(3.) Subject to the next succeeding sub-section, transfers of assets to the trustees in pursuance of the last preceding sub-section shall be continued until such time as the total amount so transferred from each canteens service fairly represents, in the opinion of the Treasurer and the appropriate Service Minister, the value of the assets excepted from transfer by that canteens service under sub-section (1.) of this section for the purposes of paragraph (b) of that sub-section, due regard being paid to the amount received on the realization of any assets after the prescribed date.

(4.) The appropriate Service Minister may, at any time after the prescribed date, and shall, not later than the date of disbandment of the Interim Force, direct that all assets under the control of a

canteens service shall be realized and thereupon all such assets shall be realized as soon as practicable and the net proceeds of the realization shall, after provision has been made for payment of all liabilities of the canteens service, be distributed among the trustees of the funds established by this Act in such proportions as the Treasurer and the appropriate Service Minister consider equitable :

Provided that there may be withheld from the realization any assets which, in the opinion of the Treasurer and the appropriate Service Minister, represent the value of any assets taken over from a canteens service which was in operation before the commencement of the time of war.

(5.) Where, in pursuance of this section, assets other than liquid assets are to be transferred to the trustees of the Services Canteens Trust Fund, those assets shall, prior to transfer, be realized and the net proceeds of the realization transferred to the trustees of that fund.

**Transfer of
moneys to
trustees.**

18.—(1.) All persons, not being trustees appointed under this Act, holding in trust any moneys derived from the profits or surplus assets of a canteens service or from a levy on the profits of canteens trading, shall transfer, in accordance with directions given by the Treasurer in agreement with the appropriate service Minister, to the trustees of the funds established by this Act, moneys so held by them :

Provided that no transfer shall be effected in pursuance of this sub-section in respect of moneys the transfer of which to a fund is provided for elsewhere in this Act.

(2.) There shall be transferred to the trustees of the Services Canteens Trust Fund all moneys derived from the sale of amenities supplied to any part of the Defence Force in time of war, except such as are considered by the appropriate service Minister to be required to maintain provision of amenities for the Interim Force.

(3.) Any assets used in the maintenance or provision of amenities for the Interim Force shall, upon their being no longer required for that purpose, be realized and the net proceeds of the realization shall be transferred to the trustees of the Services Canteens Trust Fund.

**Disposal of
mess funds of
disbanded
war-time units.**

19.—(1.) The appropriate Service Board shall transfer to the trustees of the Services Canteens Trust Fund all mess funds of disbanded war-time units in its possession except such as are determined by the appropriate Service Minister to be required for—

- (a) the payment of any debts which, in the opinion of the Board, are a lawful charge against the mess funds of any disbanded war-time unit ;
- (b) the restoration, repair or improvement of existing messes ; or
- (c) the establishment of new messes.

(2.) The appropriate Service Board may apply mess funds of any disbanded war-time unit in accordance with any determination made under the last preceding sub-section.

20.—(1.) The appropriate Service Board shall transfer to the trustees of the Services Canteens Trust Fund all regimental funds of disbanded war-time units in its possession except such as it determines to be required for the payment of any debts which, in its opinion, are a lawful charge against the regimental funds of a disbanded war-time unit.

*Disposal of
regimental
funds of
disbanded
war-time
units.*

(2.) The appropriate Service Board may apply the regimental funds of any disbanded war-time unit in its possession in the payment of any debts which, in its opinion, are a lawful charge against the regimental funds of a disbanded war-time unit.

(3.) In this section, "regimental funds" means moneys subscribed by, or for, or otherwise appropriated to the use of, or belonging to, any corps, ship's company, air force unit or station or any part of any such corps, ship's company, unit or station.

21. Upon, or as soon as practicable after, the prescribed date there shall be transferred to the trustees of the Services Canteens Trust Fund—

*Transfer of
funds from
service welfare
funds.*

- (a) all moneys or securities in excess of Sixty thousand pounds under the control of the trustees for the time being of the fund known as the Royal Australian Navy Relief Fund declared by Declaration of Trust dated the sixth day of May, One thousand nine hundred and twenty-two ; and
- (b) all moneys or securities in excess of Sixty thousand pounds under the control of the trustees for the time being of the fund known as the Royal Australian Air Force Welfare Fund established and constituted under Declaration of Trust dated the thirteenth day of October, One thousand nine hundred and forty-four.

22.—(1.) Of the funds transferred to the trustees of the Services Canteens Trust Fund in pursuance of this Part, the sum of Two million five hundred thousand pounds and such further sums as the trustees, from time to time, consider advisable shall be set aside by the trustees to be applied in providing educational assistance, including professional and trade training—

*Administration
of the Services
Canteens Trust
Fund.*

- (a) for the children of deceased or incapacitated eligible servicemen or of eligible servicemen who are in needy circumstances ; and
- (b) for the children of eligible servicemen other than those mentioned in paragraph (a) of this sub-section, which children are, in the opinion of the trustees, particularly deserving of assistance by reason of exceptional circumstances,

and in providing, wherever considered desirable by the trustees, for the maintenance or welfare of any children of eligible servicemen for whom educational assistance, including professional or trade training, is provided in pursuance of this sub-section.

(2.) The balance of the Services Canteens Trust Fund, after setting aside, as required by the last preceding sub-section, the sums referred to in that sub-section, shall be applied by the trustees for the benefit of—

- (a) eligible servicemen in necessitous or deserving circumstances ;
- (b) the dependants of deceased or totally or partially incapacitated eligible servicemen or of eligible servicemen in necessitous or deserving circumstances ; and
- (c) the dependants of eligible servicemen, other than those mentioned in paragraph (b) of this sub-section, which dependants are, in the opinion of the trustees, in necessitous circumstances or particularly deserving of assistance,

and in the provision of relief or benefit for eligible servicemen and their dependants in such other cases as the trustees think fit.

Part III. to have effect notwithstanding certain legislation.

23. This Part shall have effect notwithstanding anything contained in section one hundred and eleven of the *Defence Act* 1903–1945, the Australian Military (Canteens Service) Regulations, Part XXV. of the Military Financial Regulations or the Air Force (Canteens) Regulations.

PART IV.—THE ROYAL AUSTRALIAN NAVY RELIEF TRUST FUND.

R.A.N. Relief Trust Fund.

24.—(1.) There shall be a fund to be known as the Royal Australian Navy Relief Trust Fund, which shall be administered by trustees in accordance with this Act.

(2.) The Royal Australian Navy Relief Trust Fund shall consist of the assets transferred to the trustees of that fund in pursuance of this Act, together with all other property which is received in any manner by the trustees of that fund for the purposes of that fund.

Transfer of funds to trustees.

25. The trustees for the time being of the fund known as the Royal Australian Navy Relief Fund, declared by Declaration of Trust dated the sixth day of May, One thousand nine hundred and twenty-two, shall transfer to the trustees of the fund established by this Part, the sum of Sixty thousand pounds.

Administration of the R.A.N. Relief Trust Fund.

26. The trustees of the Royal Australian Navy Relief Trust Fund shall, subject to and in accordance with the regulations, apply that fund in providing benefits for members of the Forces who have served in, or in association with, the Royal Australian Navy and to the dependants of such members.

PART V.—THE AUSTRALIAN MILITARY FORCES RELIEF TRUST FUND.

A.M.F. Relief Trust Fund

27.—(1.) There shall be a fund to be known as the Australian Military Forces Relief Trust Fund, which shall be administered by trustees in accordance with the provisions of this Act.

(2.) The Australian Military Forces Relief Trust Fund shall consist of the assets transferred to the trustees of that fund in pursuance of this Act, together with all other property which is received in any manner by the trustees of that fund for the purposes of that fund.

28. Upon, or as soon as practicable after, the prescribed date the Central Canteens Control Board established under the Australian Military (Canteens Service) Regulations shall, out of the moneys under their control, pay to the trustees of the fund established by this Part the sum of Sixty thousand pounds.

Transfer of
Canteens Funds
to A.M.F.
Relief Trust
Fund.

29. The trustees of the Australian Military Forces Relief Trust Fund shall, subject to and in accordance with the regulations, apply that fund in providing benefits for members of the Forces who have served in, or in association with, the Australian Military Forces and to the dependants of such members.

Administration
of the A.M.F.
Relief Trust
Fund.

PART VI.—THE ROYAL AUSTRALIAN AIR FORCE WELFARE TRUST FUND.

30.—(1.) There shall be a fund known as the Royal Australian Air Force Welfare Trust Fund, which shall be administered by trustees in accordance with this Act.

R.A.A.F.
Welfare Trust
Fund.

(2.) The Royal Australian Air Force Welfare Trust Fund shall consist of the assets transferred to the trustees of that fund in pursuance of this Act, together with all other property which is received in any manner by the trustees of that fund for the purposes of that fund.

31. The trustees for the time being of the fund known as the Royal Australian Air Force Welfare Fund, established and constituted under Declaration of Trust dated the thirteenth day of October, One thousand nine hundred and forty-four, shall transfer to the trustees of the fund established by this Part, the sum of Sixty thousand pounds.

Transfer of
fund to the
R.A.A.F.
Welfare Trust
Fund.

32. The trustees of the Royal Australian Air Force Welfare Trust Fund shall, subject to and in accordance with the regulations, apply that fund in providing benefits for members of the Forces who have served in, or in association with, the Royal Australian Air Force and to the dependants of such members.

Administration
of the R.A.A.F.
Welfare Trust
Fund.

PART VII.—GENERAL.

33. The trustees of the Royal Australian Navy Relief Trust Fund, of the Australian Military Forces Relief Trust Fund, or of the Royal Australian Air Force Welfare Trust Fund, shall not, out of the funds administered by them, grant any benefit to any person otherwise eligible to benefit from that fund, if the person is eligible to benefit from the Services Canteens Trust Fund and if a benefit of the type

Benefits not
payable if
available
from Services
Canteens
Trust Fund.

sought from the funds administered by those trustees is, at the time of the application by that person, actually available from the Services Canteens Trust Fund.

Annual report. **34.**—(1.) The trustees of each fund shall furnish to the Treasurer an annual report upon the receipts, expenditure and administration of the fund.

(2.) The Treasurer shall cause a copy of each such report to be laid before each House of the Parliament.

Audit. **35.**—(1.) All books and accounts kept by the trustees of each fund shall be audited from time to time by the Auditor-General for the Commonwealth.

(2.) A report of those audits shall be made, not less frequently than once in each year, by the Auditor-General to the Treasurer, who shall cause a copy thereof to be laid before each House of the Parliament.

Regulations. **36.** The Governor-General may make regulations not inconsistent with this Act prescribing all matters which 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—

- (a) for regulating proceedings at meetings of trustees appointed under this Act ;
 - (b) for providing for the appointment of a person to act in the absence of the chairman of any trustees so appointed ; and
 - (c) for prescribing the times at which meetings of any trustees so appointed shall be held.
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