

Defence Forces Retirement Benefits

No. 25 of 1965

An Act relating to Retirement Benefits for Members of the Defence Forces of the Commonwealth.

[Assented to 28 May, 1965]

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

PART I.—PRELIMINARY.

1.—(1.) This Act may be cited as the *Defence Forces Retirement Benefits Act 1965*. Short title and citation.

(2.) The *Defence Forces Retirement Benefits Act 1948–1963** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by Part II. of this Act, may be cited as the *Defence Forces Retirement Benefits Act 1948–1965*.

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

3. This Act is divided into Parts, as follows:— Parts.

Part I.—Preliminary (Sections 1–3).

Part II.—Amendments of the *Defence Forces Retirement Benefits Act 1948–1963* (Sections 4–10).

Part III.—Amendments of the *Defence Forces Retirement Benefits Act 1963* (Sections 11–17).

PART II.—AMENDMENTS OF THE DEFENCE FORCES RETIREMENT BENEFITS ACT 1948–1963.

4. Section 3 of the Principal Act is amended by omitting the words— Parts.

“ Division 5.—General Provisions as to Contributions (Sections 36–37).”

* Act No. 31, 1948, as amended by No. 37, 1949; No. 73, 1950; No. 29, 1951; No. 93, 1952; No. 80, 1953; No. 20, 1954; No. 19, 1955; No. 24, 1956; No. 95, 1957; No. 46, 1958; No. 103, 1959; No. 67, 1962; and No. 103, 1963.

and inserting in their stead the words—

“Division 5.—General Provisions as to Contributions (Sections 35–37).”.

Interpretation.

5. Section 4 of the Principal Act is amended by omitting sub-sections (7.) and (8.).

Categories of members.

6. Section 4A of the Principal Act is amended by inserting after sub-section (3.) the following sub-sections:—

“(3A.) Where, after the expiration of a period of two years after a member has attained the retiring age for the rank held by him, his category changes, the change in category shall be disregarded for the purposes of this Act.

“(3B.) Where the category of a member changes and, as a result of the change, the amount of contribution to be paid fortnightly by him to the Fund would, if he did not make an election under this sub-section, become less, he may, by notice in writing given to the Board within four months after the change, elect to have that change in category disregarded, and, if he so elects, that change in category shall be disregarded for the purposes of this Act.”.

7. Before section 36 of the Principal Act the following section is inserted in Division 5 of Part IV.:—

Refund of excess contributions.

“35. Where a member who is entitled to make an election under sub-section (3B.) of section 4A of this Act does not make that election, he is entitled to a refund of contributions made by him of an amount equal to the difference between the amount of contributions required to be made by him up to and including the date of the change in category referred to in that sub-section and the amount of contributions that he would have been required to make up to and including that date if the rate of his contributions to the Fund had never exceeded the rate at which he is required to contribute to the Fund by reason of not making the election.”.

Payment to other ranks after six years' service.

8. Section 42A of the Principal Act is amended—

(a) by omitting paragraphs (a) and (b) of sub-section (2.) and inserting in their stead the following paragraphs:—

“(a) a member who has received a payment under the last preceding sub-section ceases, otherwise than by death, to be a member; and

(b) pension or invalidity benefit is not payable to or in respect of the member,”; and

(b) by omitting from sub-section (4.) the word “four” and inserting in its stead the word “twelve”.

9. Section 53A of the Principal Act is amended—

Invalidity
pensioner
engaged in
employment.

- (a) by omitting from sub-section (1.) the words “ the rate of his pay, as determined in accordance with the regulations, immediately before his retirement ” and inserting in their stead the words “ such rate as is determined by the Board to be the rate of pay that corresponds with the rate of pay, as determined in accordance with the regulations, that was payable to the person immediately before his retirement ”; and

- (b) by inserting after sub-section (2.) the following sub-section:—

“ (2A.) This section does not apply in relation to a person who, immediately before his retirement—

(a) was a member other than an officer; and

(b) had completed not less than twenty years’ service for pension.”.

10. Section 60 of the Principal Act is amended—

Refund of
contributions.

- (a) by inserting in sub-section (2.), after the word “ but ”, the words “, unless the next succeeding sub-section applies in relation to him,” ; and

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

“ (3.) Where—

(a) a member has, on his retirement, become entitled to invalidity benefit consisting of a refund of the amount of contributions paid by him under this Act or of such a refund together with a gratuity;

(b) within a period of twelve months after his retirement, he again becomes a member and a contributor; and

(c) before the expiration of a period of twelve months after he again becomes a contributor or before he again ceases to be a member, whichever first occurs, he repays to the Fund the amount of the contributions refunded to him under sub-section (1.) of this section and pays to the Commonwealth an amount equal to the gratuity, if any, received by him,

his service before his retirement and his service after he again becomes a contributor shall be deemed to be continuous.”.

PART III.—AMENDMENTS OF THE DEFENCE FORCES RETIREMENT BENEFITS ACT 1963.

Interpretation.

11. Section 32 of the *Defence Forces Retirement Benefits Act* 1963 is amended by inserting in sub-section (1.), after the definition of “ previous basic pension ”, the following definition:—

“ ‘ retiring age ’, in relation to a prescribed contributor, means the age that is the retiring age for the rank held by him; ”.

Contributions on change in category, &c., of prescribed contributors.

12. Section 43 of the *Defence Forces Retirement Benefits Act* 1963 is amended by omitting from sub-section (6.) the definition of “ retiring age ”.

13. After section 44 of the *Defence Forces Retirement Benefits Act* 1963 the following section is inserted:—

Contribution on change of retiring age by prescribed contributor who has attained retiring age.

“ 44A. Where, for any reason, a prescribed contributor who has attained the retiring age ceases to be such a prescribed contributor, he shall, in addition to any other contributions that he is required to make to the Fund, make, as from the date on which he so ceased (or, if that date is not a pay-day, as from the next following pay-day), fortnightly contributions to the Fund of such amount as is determined by the Board on the advice of the Commonwealth Actuary.”.

Deferment of payment of contributions payable on change of category, &c.

14. Section 56 of the *Defence Forces Retirement Benefits Act* 1963 is amended by omitting from sub-section (1.) the definition of “ retiring age ”.

15. After section 61 of the *Defence Forces Retirement Benefits Act* 1963 the following sections are inserted:—

Election to limit contributions on change in category.

“ 61A.—(1.) Where—

(a) the category of a prescribed contributor (not being a prescribed contributor who has previously made an election under this sub-section or under sub-section (1.) of the next succeeding section) changes; and

(b) as a result of the change—

(i) he would, if he did not make an election under this sub-section, be required by sub-section (2.) of section forty-three of this Act to make fortnightly contributions to the Fund;

(ii) the amount to be paid fortnightly by him to the Fund in respect of additional contributions that he is liable to make to the Fund would, if he did not make an election under this sub-section, be increased by virtue of the operation of sub-section (3.) of section forty-three of this Act; or

- (iii) he would, if he did not make an election under this sub-section, be required by section forty-four of this Act to make a contribution to the Fund,

he may, by notice in writing given to the Board within the prescribed period after the change or within such further period as the Board, in special circumstances, allows, elect not to increase his contributions to the Fund.

“(2.) Where a prescribed contributor makes an election under the last preceding sub-section, then, for the purposes of this Part and any other law of the Commonwealth relating to retirement benefits for members of the Defence Forces of the Commonwealth, the change in category by virtue of which he made the election and any further change in his category (including a change having effect from a date earlier than the date from which the first-mentioned change had effect) shall, except as provided by the next succeeding sub-section in relation to a change of category of the kind referred to in paragraph (b) of that sub-section, be disregarded.

“(3.) Where—

- (a) a prescribed contributor has made an election under sub-section (1.) of this section;
- (b) after the change in his category by virtue of which he made the election there is a further change in his category (including a change having effect from a date earlier than the date from which the first-mentioned change had effect) and, as a result of the further change, he is included within a category that has a lower category number than the category within which he was included immediately before the further change; and
- (c) he does not, by notice in writing given to the Board within a period of four months after the further change in his category or within such further period as the Board, in special circumstances, allows, elect to have the further change disregarded,

the last preceding sub-section does not apply in relation to the further change.

“(4.) In this section—

‘ additional contributions ’ means contributions payable to the Fund as provided by this Part, other than contributions payable in accordance with the provisions of the *Defence Forces Retirement Benefits Act 1948–1958*;

‘ the prescribed period ’ means—

- (a) in relation to a prescribed contributor who, if he did not make an election under sub-section (1.) of this section, would be required to make

a contribution to the Fund by section forty-four of this Act—the period within which he would be required, by that section, to make that contribution; or

(b) in any other case—four months.

“(5.) This section extends to members other than officers.

“61B.—(1.) Where—

Election to
limit
contributions
on change in
retiring age.

(a) the retiring age of a prescribed contributor (not being a prescribed contributor who has previously made an election under this sub-section or under sub-section (1.) of the last preceding section) changes; and

(b) as a result of the change—

(i) the amount to be paid fortnightly by him to the Fund in respect of additional contributions that he is liable to make to the Fund would, if he did not make an election under this sub-section, be increased by virtue of the operation of sub-section (4.) of section forty-three of this Act; or

(ii) he would, if he did not make an election under this sub-section, be required by section forty-four A of this Act to make contributions to the Fund,

he may, by notice in writing given to the Board within a period of four months after the change or within such further period as the Board, in special circumstances, allows, elect not to increase his contributions to the Fund.

“(2.) Where a prescribed contributor makes an election under the last preceding sub-section, then, for the purposes of this Part and any other law of the Commonwealth relating to retirement benefits for members of the Defence Forces of the Commonwealth—

(a) sub-section (4.) of section forty-three of this Act or section forty-four A of this Act, as the case may be, does not apply to him in relation to the change in retiring age by virtue of which he made the election; and

(b) any change in his category subsequent to the change in his retiring age (including a change in category having effect from a date earlier than the date of the change in retiring age) shall be disregarded.

“(3.) In this section, ‘additional contributions’ means contributions payable to the Fund as provided by this Part, other than contributions payable in accordance with the provisions of the *Defence Forces Retirement Benefits Act 1948–1958*.

“ 61C.—(1.) Subject to sub-section (3.) of this section, where—

- (a) the retiring age of a prescribed contributor who makes an election under sub-section (1.) of section sixty-one A of this Act changed at the time of the change in category by virtue of which he made the election, or changes at any subsequent time, or the retiring age of a prescribed contributor who makes an election under sub-section (1.) of the last preceding section changes at any time subsequent to the change by virtue of which he made the election; and

Change in retiring age of person making election under section 61A.

- (b) the prescribed contributor was, immediately before the change in retiring age, liable to make additional contributions to the Fund,

the amount to be paid fortnightly by him to the Fund in respect of those contributions shall, as from the date of the change in retiring age (or, if that date is not a pay-day, as from the next following pay-day), be, in lieu of the amount that but for this sub-section would be payable, such amount as is determined by the Board on the advice of the Commonwealth Actuary, being an amount that is not greater than the amount that but for this sub-section would be payable.

“ (2.) Subject to the next succeeding sub-section, where—

- (a) the retiring age of a prescribed contributor who makes an election under sub-section (1.) of section sixty-one A of this Act changed at the time of the change in category by virtue of which he made the election, or changes at any subsequent time, or the retiring age of a prescribed contributor who makes an election under sub-section (1.) of the last preceding section changes at any time subsequent to the change by virtue of which he made the election; and
- (b) the prescribed contributor was not, before the change in retiring age, liable to make additional contributions to the Fund,

he shall not, by reason of the change, become liable to make additional contributions to the Fund.

“ (3.) A prescribed contributor may, by notice in writing given to the Board within a period of four months after a change in his retiring age or within such further period as the Board, in special circumstances, allows, elect that sub-section (1.) of this section, or the last preceding sub-section, as the case requires, do not apply to him in respect of that change and, if he so elects, that sub-section does not apply to him in respect of that change.

“ (4.) In this section, ‘ additional contributions ’ means contributions payable to the Fund as provided by this Part, other than contributions payable in accordance with the provisions of the *Defence Forces Retirement Benefits Act 1948–1958*.

“ (5.) This section extends to members other than officers.

Elections having
retrospective
effect
for purposes
of section 61A.

“ 61D.—(1.) Where—

- (a) the category of a prescribed contributor changed on the prescribed date; and
- (b) he would, if section sixty-one A of this Act had been in operation on that date, have been entitled to make an election under that section by virtue of the change,

he may, by notice in writing given to the Board within a period of three months after the commencement of this section or within such further period as the Board, in special circumstances, allows, elect to be treated as if he had made an election under that section by virtue of that change.

“ (2.) Where a prescribed contributor makes an election under the last preceding sub-section—

- (a) the election has effect, and shall be deemed to have had effect, for the purposes of this Part and any other law of the Commonwealth relating to retirement benefits for members of the Defence Forces of the Commonwealth, as if sections sixty-one A and sixty-one C of this Act had been in operation on the prescribed date and he had made the election under sub-section (1.) of section sixty-one A of this Act by reason of the change in category referred to in the last preceding sub-section;
- (b) in the application of sub-section (3.) of section sixty-one A of this Act in relation to him in respect of any change in his category that occurred after the prescribed date and before the commencement of this section, the reference in paragraph (c) of that sub-section to a period of four months after the change in category shall be read as a reference to a period of three months after the commencement of this section or such further period as the Board, in special circumstances, allows; and
- (c) in the application of section sixty-one C of this Act in relation to him in respect of a change in his retiring age that occurred on or after the prescribed date and before the commencement of this section, the reference in sub-section (3.) of that section to a period of four months after the change in retiring age shall be read as a reference to a period of three months after the commencement of this section or such further period as the Board, in special circumstances, allows.

“(3.) In this section, ‘ the prescribed date ’ means—

- (a) in relation to a prescribed contributor who, on the first day of November, One thousand nine hundred and sixty-four, held a rank specified in regulation 1 of Statutory Rules 1965, No. 20—that date; and
- (b) in relation to any other prescribed contributor—the date from which Statutory Rules 1964, No. 113 had effect in relation to him.

“(4.) This section extends to members other than officers.

“ 61E.—(1.) Subject to this section, where a person who has made an election under sub-section (1.) of section sixty-one A of this Act becomes entitled to pension under the *Defence Forces Retirement Benefits Act 1948–1965*, the amount per annum of that pension as ascertained in accordance with that Act and the provisions of this Part other than this section shall be increased by an amount equal to the product of—

Pension in respect of person making election under section 61A or 61B.

- (a) the amount by which the amount per annum as so ascertained is less than the amount per annum that, but for the election, would have been the amount per annum of that pension as so ascertained; and
- (b) the pension factor that, under the next succeeding sub-section, is applicable to the pension.

“(2.) The pension factor that, for the purposes of the last preceding sub-section, is applicable to the pension payable to a person is—

- (a) if section thirty-eight of the *Defence Forces Retirement Benefits Act 1948–1965* applies to the pension and the person retired on attaining the retiring age for the rank held by him, or paragraph (a), or sub-paragraph (i) of paragraph (c), of sub-section (2.) of section fifty-two of that Act applies to the pension—the factor set out in column 3 of the Schedule to this Act opposite to the age set out in column 1 of that Schedule that is the retiring age for the rank held by the person on the date of his retirement;
- (b) if section thirty-eight of the *Defence Forces Retirement Benefits Act 1948–1965* applies to the pension and the person retired after attaining the retiring age for the rank held by him, or section thirty-nine, or paragraph (b) of sub-section (2.), or sub-section (5.), of section fifty-two, of that Act applies to the pension—the factor set out in column 3 of the Schedule to this Act opposite to the age set out in column 1 of that Schedule that was the age of that person on the date of his retirement;

- (c) if section forty-one, the proviso to section forty-three, or sub-section (8.) of section fifty-two, of the *Defence Forces Retirement Benefits Act* 1948–1965 applies to the pension—the factor set out in column 3 of the Schedule to this Act opposite to the number of years set out in column 2 of that Schedule that is the number of years of service for pension completed by the person on retirement;
- (d) if paragraph (a) of sub-section (3.) of section fifty-two of the *Defence Forces Retirement Benefits Act* 1948–1965 applies to the pension—the factor set out in column 3 of the Schedule to this Act opposite to the number of years set out in column 2 of that Schedule that is the number of years of service for pension that would have been completed by the person if he had retired upon completing the engagement under which he was serving at the time of his retirement;
- (e) if paragraph (b) of sub-section (3.) of section fifty-two of the *Defence Forces Retirement Benefits Act* 1948–1965 applies to the pension—a factor of .80; and
- (f) in any other case—a factor of .714.

“(3.) Where—

- (a) a person who made an election under sub-section (1.) of section sixty-one A of this Act became entitled to make an election under sub-section (3.) of section sixty-one C of this Act but did not make the election; and
- (b) he becomes entitled to pension under the *Defence Forces Retirement Benefits Act* 1948–1965,

sub-section (1.) of this section does not apply to or in relation to that pension, but the amount per annum of that pension is, in lieu of the amount that, but for this sub-section, would be payable, such amount as is determined by the Board on the advice of the Commonwealth Actuary.

“(4.) Where—

- (a) a person who made an election under sub-section (1.) of section sixty-one A of this Act has ceased to be a member; and
- (b) he was, immediately before he so ceased, included in a category the number of which is lower than the category within which he was included immediately before the change in category by virtue of which he made the election,

sub-section (1.) of this section does not apply to or in relation to any pension to which he becomes entitled under the *Defence Forces Retirement Benefits Act 1948–1965*, but, if the Board so directs, the amount per annum of that pension is, in lieu of the amount that, but for the direction, would be payable, such amount as is determined by the Board on the advice of the Commonwealth Actuary.

“(5.) Where a person who has made an election under sub-section (1.) of section sixty-one B of this Act becomes entitled to pension under the *Defence Forces Retirement Benefits Act 1948–1965*, the amount per annum of that pension is, in lieu of the amount that, but for this sub-section, would be payable, such amount as is determined by the Board on the advice of the Commonwealth Actuary.

“(6.) Where a person who has made an election under sub-section (1.) of section sixty-one A, or sub-section (1.) of section sixty-one B, of this Act makes an election under section fifty of the *Defence Forces Retirement Benefits Act 1959–1962*, section thirty-five of the *Defence Forces Retirement Benefits Act 1962–1963* or section forty-five of this Act and becomes entitled to pension under the *Defence Forces Retirement Benefits Act 1948–1965*—

- (a) if sub-section (1.) of this section applies in relation to the pension—the amount by which, under that sub-section, the amount per annum of that pension is to be increased shall be further increased by such amount as is determined by the Board on the advice of the Commonwealth Actuary; or
- (b) if sub-section (3.) or (4.) of this section, or the last preceding sub-section, applies in relation to the pension—the amount per annum of that pension as determined under that sub-section shall be increased by such amount as is determined by the Board on the advice of the Commonwealth Actuary.

“(7.) Where pension is payable to or in respect of a person who has made an election under sub-section (1.) of section sixty-one A of this Act (not being a person who has made an election under sub-section (3.) of section sixty-one C of this Act), section sixty-one of the *Defence Forces Retirement Benefits Act 1959–1962* does not apply in respect of so much of a payment of that pension as exceeds the amount that, but for this section, would be payable, and the Commonwealth shall pay to the Fund an amount equal to the excess.

“(8.) Where pension (not being pension in respect of which the last preceding sub-section applies) is payable to or in respect of a person who has made an election under sub-section (1.) of

section sixty-one A, or sub-section (1.) of section sixty-one B, of this Act, then, in respect of each payment of that pension, the Commonwealth shall, in lieu of making a payment to the Fund under section sixty-one of the *Defence Forces Retirement Benefits Act 1959–1962*, pay to the Fund such amount as is determined, on the advice of the Commonwealth Actuary, by the Treasurer or by a person authorized by the Treasurer to make determinations for the purposes of this sub-section.

“(9.) This section extends to members other than officers.

Election on change of category to increase basic pension entitlement where election previously made under section 61A or 61B.

“61F.—(1.) Nothing in section sixty-one A or section sixty-one B of this Act prevents a prescribed contributor who has made an election under sub-section (1.) of the first-mentioned section or sub-section (1.) of the second-mentioned section from making an election under section fifty of the *Defence Forces Retirement Benefits Act 1959–1962*, section thirty-five of the *Defence Forces Retirement Benefits Act 1962–1963* or section forty-five of this Act.

“(2.) Where a prescribed contributor who has made an election under sub-section (1.) of section sixty-one A, or sub-section (1.) of section sixty-one B, of this Act makes an election under section fifty of the *Defence Forces Retirement Benefits Act 1959–1962*, section thirty-five of the *Defence Forces Retirement Benefits Act 1962–1963* or section forty-five of this Act, sub-section (3.) of section fifty of the *Defence Forces Retirement Benefits Act 1959–1962*, sub-section (3.) of section thirty-five of the *Defence Forces Retirement Benefits Act 1962–1963* or sub-section (3.) of section forty-five of this Act, as the case may be, does not apply in relation to him, but sub-section (6.) of the last preceding section applies in relation to any pension to which he becomes entitled.

“(3.) This section extends to members other than officers.

Annual amount of certain pensions to be calculated to nearest pound.

“61G.—(1.) Where a person becomes entitled to pension under section thirty-eight, section thirty-nine, section forty-one, the proviso to section forty-three or section fifty-two of the *Defence Forces Retirement Benefits Act 1948–1965* and the amount of that pension per annum as ascertained in accordance with the provisions of that Act and of this Part includes an amount of shillings, of pence or of shillings and pence—

- (a) if that last-mentioned amount is less than Ten shillings—the amount of that pension per annum shall be deemed to be reduced by that last-mentioned amount; and
- (b) in any other case—the amount of that pension per annum shall be deemed to be increased by treating the shillings or the shillings and pence, as the case may be, as One pound.

“(2.) This section extends to members other than officers.”.

16. The *Defence Forces Retirement Benefits Act 1963* is The Schedule.
amended by adding at the end thereof the following Schedule:—

THE SCHEDULE

Section 61E.

PENSION FACTORS

Column 1 Age (in years)	Column 2 Number of years	Column 3 Factors
62	..	.689
61	..	.702
60	40	.714
59	39	.72
58	38	.72
57	37	.72
56	36	.73
55	35	.73
54	34	.74
53	33	.75
52	32	.75
51	31	.76
50	30	.77
49	29	.78
48	28	.79
47	27	.80
46	26	.80
45	25	.80
44	24	.80
43	23	.80
42	22	.80
41	21	.80
40	20	.80

17. The *Defence Forces Retirement Benefits Act 1963*, as Citation.
amended by this Part, may be cited as the *Defence Forces Retirement Benefits Act 1963–1965*.