

Defence Forces Retirement Benefits

No. 61 of 1969

An Act to amend the *Defence Forces Retirement Benefits Act 1948-1968*.

[Assented to 5 September 1969]

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

1.—(1.) This Act may be cited as the *Defence Forces Retirement Benefits Act 1969*. Short title and citation.

(2.) The *Defence Forces Retirement Benefits Act 1948-1968** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Defence Forces Retirement Benefits Act 1948-1969*.

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

3. Section 3 of the Principal Act is amended by inserting after the words and figures— Parts.

“ Part VI.—Assurance Policies (Section 75).”

the words and figures—

“ Part VIA.—Candidates at Parliamentary Elections (Sections 76-81).”.

4. Section 51 of the Principal Act is amended by adding at the end thereof the following sub-section:— Invalidation benefits.

“ (4.) Where a person who has ceased to be a member again becomes a member (other than a person referred to in Part VIA. as a ‘ re-instated candidate to whom this Part applies ’), the last preceding sub-section applies in relation to him as if he had become a contributor at the time he commenced to make contributions after again becoming a member.”.

* 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; No. 103, 1963; Nos. 25, 98 and 135, 1965; No. 70, 1966; and Nos. 55, 56 and 128, 1968.

5. After Part VI. of the Principal Act the following Part is inserted:—

“ PART VIA.—CANDIDATES AT PARLIAMENTARY ELECTIONS.

Definitions.

“ 76. In this Part, unless the contrary intention appears—

‘ re-instated candidate ’ means a person who—

(a) ceased to be a member by reason of having been transferred to a Reserve, having been discharged from the Defence Force or having had his continuous full-time service terminated under the Defence (Parliamentary Candidates) Act;

(b) again became a member; and

(c) is a person referred to in sub-section (2.) of section ten, sub-section (2.) of section eleven, sub-section (2.) of section twelve or sub-section (4.) of section fifteen of the Defence (Parliamentary Candidates) Act;

‘ re-instated candidate to whom this Part applies ’ means a re-instated candidate who, by notice in writing given to the Board within one month after again becoming a member or within such further period as the Board in special circumstances allows, elects to be treated as a contributor in respect of the period during which he was not a member;

‘ the Defence (Parliamentary Candidates) Act ’ means the *Defence (Parliamentary Candidates) Act 1969*.

Refund of
benefits
to Fund.

“ 77.—(1.) Where a person who is a re-instated candidate to whom this Part applies became entitled to pension upon his ceasing to be a member, he shall pay to the Fund an amount equal to the aggregate of the payments of pension received by him.

“ (2.) Where there was payable to a person who is a re-instated candidate to whom this Part applies, upon his ceasing to be a member, a refund of his contributions or a refund of his contributions and a gratuity, he shall pay to the Fund an amount equal to the refund of contributions or to the refund of contributions and the gratuity.

“ (3.) An amount payable by a person to the Fund under this section may be paid in a lump sum, or in such instalments and at such times as the Board approves.

“ (4.) Where—

(a) an amount is payable by a person to the Fund under this section;

(b) the person again ceases to be a member; and

(c) at the time he so ceases, the amount, or a part of the amount, has not been paid to the Fund,

there shall be deducted by the Board from any payment of pension or other benefit payable to or in respect of the person under this Act an amount equal to that amount, or that part of that amount, as the case

may be, and, to the extent that that amount or that part of that amount is not so deducted, it may be recovered by the Board in a court of competent jurisdiction as a debt payable to the Board by the person.

“(5.) An amount deducted or recovered by the Board under the last preceding sub-section shall be paid by the Board to the Fund.

“(6.) The amount, or the aggregate of the amounts, paid to the Fund under this section in respect of payments of pension received by a person shall, to the extent that it exceeds the difference between the aggregate of the payments of pension and the aggregate of the amounts paid by the Commonwealth to the Fund in respect of the payments of pension, be paid from the Fund to the Commonwealth.

“(7.) The amount, or the aggregate of the amounts, paid to the Fund under this section in respect of benefit consisting of a refund of contributions and gratuity received by a person shall, to the extent that it exceeds the amount of the refund of contributions, be paid from the Fund to the Commonwealth.

“78. For the purpose of calculating the contributions that a re-instated candidate to whom this Part applies is required to make to the Fund in respect of the period commencing when he ceased to be a member and ending when he again became a member, he shall be deemed to have held during that period the rank that he held immediately before the commencement of that period.

Contributions in respect of period during which a re-instated candidate was not a member.

“79. Section four AA of this Act does not apply in relation to any period during which a re-instated candidate to whom this Part applies is, by virtue of the Defence (Parliamentary Candidates) Act, deemed to have been absent on leave without pay for the purposes of this Act.

Application of section 4AA of this Act.

“80.—(1.) For the purposes of this Act and any other Act relating to retirement benefits for members of the Defence Force—

Provisions applicable to re-instated candidates to whom this Part does not apply.

- (a) sub-section (2.) of section ten, sub-section (2.) of section eleven, sub-section (2.) of section twelve and paragraph (b) of sub-section (4.) of section fifteen of the Defence (Parliamentary Candidates) Act do not apply to or in relation to a re-instated candidate who is not, and does not become, a re-instated candidate to whom this Part applies; and
- (b) a re-instated candidate who is not, and does not become, a re-instated candidate to whom this Part applies shall be deemed, upon again becoming a member—
 - (i) if he is an officer—to be serving under an appointment for a period ending at the end of the period of his appointment in the part of the Defence Force in which he is serving; or
 - (ii) if he is a member other than an officer—to be serving under an engagement for a period ending at the end of the period of his engagement in the part of the Defence Force in which he is serving.

“(2.) Sub-sections (3.) and (4.) of section twenty-three of this Act do not apply to a person who is a re-instated candidate but is not, and does not become, a re-instated candidate to whom this Part applies.

Death of
candidate
before
re-instatement.

“81.—(1.) This section applies in relation to a person who—

- (a) ceased to be a member by reason of having been transferred to a Reserve, having been discharged from the Defence Force or having had his continuous full-time service terminated under the Defence (Parliamentary Candidates) Act;
- (b) was a candidate at the election in relation to which he made the application in pursuance of which he was so transferred or discharged or his continuous full-time service was so discontinued;
- (c) failed to be elected in the election;
- (d) did not again become a member;
- (e) died before the expiration of the period of three months after the date that, for the purposes of the Defence (Parliamentary Candidates) Act, is the declared date in relation to the election; and
- (f) had not, at the time of his death, attained an age greater by more than two years than the retiring age for the rank held by him immediately before he ceased to be a member,

but does not apply in relation to such a person if the Board is of the opinion that, if he had survived, he would not have been re-instated in the part of the Defence Force in which he was serving immediately before he ceased to be a member.

“(2.) Where, before the expiration of the period of three months referred to in paragraph (e) of the last preceding sub-section or within such further period as the Board allows—

- (a) there is repaid to the Fund the amount, or the aggregate of the amounts, of any benefit (including benefit consisting of a refund of contributions) paid under this Act to or in respect of a person in relation to whom this section applies; and
- (b) there is paid to the Fund the contributions that he would have been required to make to the Fund after he ceased to be a member if he had not so ceased and he had, during that period, held the rank that he held immediately before he ceased to be a member,

he shall, for the purposes of this Act, be deemed to have continued to have been a member during the period commencing upon his ceasing to be a member and ending on the day on which he died and to have held, on that day, the rank that he held immediately before he ceased to be a member, and benefit under this Act shall be payable in respect of him accordingly.

“(3.) An amount, or the aggregate of the amounts, repaid to the Fund under the last preceding sub-section in respect of payments of pension received by a person shall, to the extent that it exceeds the difference between the aggregate of the payments of pension and the aggregate of the amounts paid by the Commonwealth to the Fund in respect of the payments of pension, be paid from the Fund to the Commonwealth.

“(4.) An amount, or the aggregate of the amounts, repaid to the Fund under sub-section (2.) of this section in respect of benefit consisting of a refund of contributions and gratuity received by a person shall, to the extent that it exceeds the amount of the refund of contributions, be paid from the Fund to the Commonwealth.”.
