



Defence Forces Retirement Benefits (Pension Increases) Act 1973

No. 85 of 1973

**An Act to provide for Increases in certain Defence
Force Retirement Pensions**

Contents

1 Short title	1
2 Commencement.....	2
3 Incorporation with the Defence Forces Retirement Benefits Act	2
4 Interpretation	2
5 Increase in certain pensions.....	3
6 Application of increase to suspended pensions.....	4
7 Adjustment of increase	4
8 Modifications of certain sections of the Defence Forces Retirement Benefits Act.....	6
9 Rate of invalidity pension payable on reclassification.....	7
10 Commutation of pensions on and after 1st July, 1973	7
11 Increases to be paid out of Consolidated Revenue Fund	7
12 Date of effect of increases	8



Defence Forces Retirement Benefits (Pension Increases) Act 1973

No. 85, 1973

An Act to provide for Increases in certain Defence Force Retirement Pensions

[Assented to 19 June 1973]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Defence Forces Retirement Benefits
(Pension Increases) Act 1973*.

2 Commencement

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

3 Incorporation with the Defence Forces Retirement Benefits Act

This Act is incorporated, and shall be read as one, with the *Defence Forces Retirement Benefits Act 1948-1973*.

4 Interpretation

- (1) In this Act, unless the contrary intention appears:

Defence Forces Retirement Benefits Act means the *Defence Forces Retirement Benefits Act 1948-1973*, and includes any other Act relating to retirement benefits for members of the Defence Force that came into operation before 1st October, 1972, and that modifies or affects the provisions of the *Defence Forces Retirement Benefits Act 1948* or that Act as amended and in force from time to time.

pension means a pension payable under the Defence Forces Retirement Benefits Act immediately before 1st July, 1973, in respect of the retirement or death of a contributor on or before 30th September, 1972.

- (2) For the purposes of this Act, the prescribed percentage is whichever is the lower of:
- (a) 1.4 times the percentage ascertained in accordance with the formula

$$\frac{100(A - B)}{B}; \text{ or}$$

- (b) the percentage ascertained in accordance with the formula

$$\frac{100(C - D)}{D},$$

where:

A is the all groups consumer price index number for the weighted average of the six State capital cities published by the

Commonwealth Statistician in respect of the March quarter of the year 1973;

B is the all groups consumer price index number for the weighted average of the six State capital cities published by the Commonwealth Statistician in respect of the June quarter of the year 1971;

C is the estimate of the seasonally adjusted average weekly earnings per employed male unit throughout Australia published by the Commonwealth Statistician in respect of the March quarter of the year 1973; and

D is the estimate of the seasonally adjusted average weekly earnings per employed male unit throughout Australia published by the Commonwealth Statistician in respect of the June quarter of the year 1971.

- (3) If, at any time, whether before or after the commencement of this Act, the Commonwealth Statistician has published in respect of the March quarter of the year 1973 or the June quarter of the year 1971, an all groups consumer price index number for the weighted average of the six State capital cities or an estimate of the seasonally adjusted average weekly earnings per employed male unit throughout Australia in substitution for an index number or estimate previously published by him in respect of that quarter, the publication of the later index number or estimate shall be disregarded for the purposes of this Act.
- (4) If the prescribed percentage for the purposes of this Act is or includes a fraction of one-tenth of one per centum:
 - (a) if that fraction is less than one-half of one-tenth—that fraction shall be disregarded; and
 - (b) if that fraction is not less than one-half of one-tenth—that fraction shall be treated as one-tenth.
- (5) Where a contributor has died after his retirement, a pension payable to the widow of the contributor shall be deemed to be a pension payable in respect of the retirement of the contributor.

5 Increase in certain pensions

- (1) Subject to this Act, if:

- (a) the all groups consumer price index number for the weighted average of the six State capital cities published by the Commonwealth Statistician in respect of the March quarter of the year 1973 exceeds the all groups consumer price index number for the weighted average of the six State capital cities published by the Commonwealth Statistician in respect of the June quarter of the year 1971; and
- (b) the estimate of the seasonally adjusted average weekly earnings per employed male unit throughout Australia published by the Commonwealth Statistician in respect of the March quarter of the year 1973 exceeds the estimate of the seasonally adjusted average weekly earnings per employed male unit throughout Australia published by the Commonwealth Statistician in respect of the June quarter of the year 1971;

a person to whom a pension (not being a pension payable to or in respect of an eligible child) was payable immediately before 1st July, 1973, is entitled to an increase, as ascertained in accordance with this section, in the amount of the annual pension that was payable to him immediately before that date.

- (2) The increase provided for by subsection (1) in the amount of the annual pension payable to a person immediately before 1st July, 1973, is the prescribed percentage of seventy-seven and one-half per centum of the amount of that annual pension.

6 Application of increase to suspended pensions

Where a pension would, but for its suspension under section 53B of the *Defence Forces Retirement Benefits Act 1948-1973*, be payable to a person immediately before 1st July, 1973, that pension shall, for the purposes of this Act, be deemed to be payable to that person at that time, but any increase in that pension by virtue of this Act does not take effect in respect of any part of that period of suspension.

7 Adjustment of increase

- (1) Where a person would, but for this section, be entitled to an increase in the amount of the annual pension that was payable to the person immediately before 1st July, 1973, and:

- (a) that pension is payable in respect of the retirement or death of a contributor on or after 1st October, 1971; or
- (b) in the case of a pension payable in accordance with section 82ZB:
 - (i) if the pension was payable to the person otherwise than as a widow—the pension became payable on or after 1st October, 1971; or
 - (ii) if the pension was payable to the person as a widow:
 - (A) if a pension in accordance with that section was not payable to the husband of the person immediately before his death—the pension became payable on or after 1st October, 1971; or
 - (B) if a pension in accordance with that section was payable to the husband of the person immediately before his death—the pension that was payable to that husband became payable on or after 1st October, 1971;

the following provisions of this section have effect.

- (2) Subject to the succeeding provisions of this section, the amount of the increase under section 5 is, by virtue of this subsection, so much only of the amount that, but for this subsection, would have been the amount of the increase under section 5 as bears to that last-mentioned amount the same proportion as the number of months in the period that commenced on the day after the day on which the retirement or death referred to in paragraph (1)(a) took place, or the pension referred to in subparagraph (1)(b)(i), clause (1)(b)(ii)(A) or clause (1)(b)(ii)(B), as the case may be, became payable, and ended on 30th June, 1973, bears to twenty-one.
- (3) If the pension in accordance with section 82ZB of the *Defence Forces Retirement Benefits Act 1948-1973* became payable after 15th June, 1973, the person is not entitled to the increase under section 5.
- (4) If the period referred to in subsection (2) is less than one month, that period shall be treated as one month.
- (5) If the period referred to in subsection (2) consists of a number of whole months and a part of a month:

- (a) where the number of days in that part of a month is less than one-half of the number of days in that month—that part of a month shall be disregarded; and
 - (b) where the number of days in that part of a month is not less than one-half of the number of days in that month—that part of a month shall be treated as a whole month.
- (6) Where:
- (a) subsection 69(1A) of the *Defence Forces Retirement Benefits Act 1948-1951* or that Act as amended at any time applied to a pensioner on his again becoming a member; and
 - (b) that member again retired on a date on or after 1st October, 1971, and before 1st October, 1972;
- the date of retirement of that member for the purposes of this section is the date of his retirement before that subsection applied to him or first applied to him.

8 Modifications of certain sections of the Defence Forces Retirement Benefits Act

- (1) In calculating, for the purposes of pension payable under paragraph 55(1)(b) or 57(1)(b) of the *Defence Forces Retirement Benefits Act 1948-1973*, the amount of the annual rate of the pension, being a pension under paragraph 55(1)(a) or 57(1)(a) of that Act, that is, or is to be deemed, by virtue of subsection 55(3) or 57(5) of that Act, to be, payable to a widow, any amount by which that amount is, or would have been, increased by virtue of the operation of this Act shall be taken into account.
- (2) In calculating, for the purposes of pension payable under subsection 55(2) or 57(4) of the *Defence Forces Retirement Benefits Act 1948-1973*, the amount of the annual rate of the pension, being a pension under paragraph 55(1)(a) or 57(1)(a) of that Act, that, but for the death of a widow, would have been payable, or would, by virtue of subsection 55(3) or 57(5) of that Act, have been deemed to have been payable, to the widow, any amount by which that amount would have been increased by virtue of the operation of this Act shall be taken into account.
- (3) In calculating, for the purposes of pension payable under subsection 58(1) of the *Defence Forces Retirement Benefits Act 1948-1973*, the amount of the annual rate of the pension, being a

pension under paragraph 55(1)(a) or 57(1)(a) of that Act, that, but for the death or divorce of the wife of a contributor or pensioner, would have been payable to the wife, any amount by which that amount would have been increased by virtue of the operation of this Act shall be taken into account.

9 Rate of invalidity pension payable on reclassification

Where, on or after 1st July, 1973, a person to whom pension is payable under section 52 of the *Defence Forces Retirement Benefits Act 1948-1973* and who is entitled to an increase in the rate of his pension under section 5 of this Act is reclassified under section 53 of that Act, the rate at which pension is payable to him on and after the date from which the reclassification has effect is the rate at which pension would have been payable to him on 1st July, 1973, if he had been so reclassified with effect on and from the day immediately preceding 1st July, 1973.

10 Commutation of pensions on and after 1st July, 1973

- (1) Section 74 of the *Defence Forces Retirement Benefits Act 1948-1973* does not authorize the commutation of a pension in so far as the pension has been increased by virtue of this Act.
- (2) Where, on or after 1st July, 1973, a portion of the pension of a person who is entitled to an increase in the rate of his pension under section 5 of this Act is commuted, then, on and after the date on which that portion of his pension is so commuted, he is, in lieu of the increase to which, but for this section, he would have been entitled in accordance with section 5, entitled to an increase that bears to the increase to which he would have been so entitled the same proportion as the rate at which pension would have been payable to him immediately before 1st July, 1973, if he had commuted that portion of his pension before that date, bears to the rate at which pension was so payable immediately before that date.

11 Increases to be paid out of Consolidated Revenue Fund

Amounts by which payments of pensions are increased by virtue of this Act are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

12 Date of effect of increases

An increase payable by virtue of this Act in the amount of the annual pension payable to a person immediately before 1st July, 1973, applies in relation to the instalment of pension falling due on the pension pay-day that occurs on 5th July, 1973, and in relation to all subsequent instalments.