

# **REPATRIATION ACTS AMENDMENT ACT 1974**

**No. 90 of 1974**

## **TABLE OF PROVISIONS**

### **PART I—PRELIMINARY**

- |         |              |
|---------|--------------|
| Section |              |
| 1.      | Short title  |
| 2.      | Commencement |

### **PART II—AMENDMENTS OF THE REPATRIATION ACT 1920-1973, AS AMENDED**

- |     |   |
|-----|---|
| 3.  | Citation  |
| 4.  | Interpretation  |
| 5.  | Members of Commission   |
| 6.  | Appointment of Secretary as chairman of the Commission  |
| 7.  | Members of Repatriation Boards  |
| 8.  | Appropriation for pensions, &c.   |
| 9.  | Appeals to Assessment Appeal Tribunals  |
| 10. | Question to be decided by majority vote   |
| 11. | Interpretation  |
| 12. | Pensions in respect of a member permanently unemployable, &c.                                   |
| 13. | Restrictions as to dual pensions  |
| 14. | Persons resident in Papua New Guinea after independence   |
| 15. | Supplementary assistance  |
| 16. | On death of married person, widow, widower or children to receive certain benefits for 12 weeks |
| 17. | Modification of certain other laws  |
| 18. | Regulations   |
| 19. | Schedule 1  |
| 20. | Schedule 2  |
| 21. | Schedule 3  |
| 22. | Schedule 5  |
| 23. | Application of certain amendments   |
| 24. | Questions decided by majority vote before Royal Assent  |

### **PART III—AMENDMENTS OF THE REPATRIATION (SPECIAL OVERSEAS SERVICE) ACT 1962-1973**

- |     |   |
|-----|---|
| 25. | Citation  |
| 26. | Interpretation                                      |
| 27. | Extension of certain provisions of Repatriation Act |
| 28. | Appropriation for pensions, &c.                     |
| 29. | Regulations   |

### **PART IV—AMENDMENTS OF THE REPATRIATION (FAR EAST STRATEGIC RESERVE) ACT 1956-1973**

- |     |                                 |
|-----|---------------------------------|
| 30. | Citation                        |
| 31. | Appropriation for pensions, &c. |
| 32. | Regulations                     |

**TABLE OF PROVISIONS—continued****PART V—AMENDMENTS OF THE INTERIM FORCES BENEFITS  
ACT 1947-1973**

- 33. Citation
- 34. Appropriation for pensions, &c.
- 35. Regulations

**PART VI—AMENDMENTS OF THE SEAMEN'S WAR PENSIONS AND  
ALLOWANCES ACT 1940-1973, AS AMENDED**

- 36. Citation
- 37. Interpretation
- 38. Seamen's Pensions and Allowances Committees
- 39. Sections to be inserted in Principal Act—
  - 8AA. Appeals to War Pensions Entitlement Appeal Tribunals
  - 8AB. Appeals to Assessment Appeal Tribunals
  - 8AC. Application of certain provisions of the Repatriation Act
- 40. Form of determination
- 41. Medical reports
- 42. Rate of pension on death or total incapacity
- 43. Medical certificates
- 44. Appropriation for pensions, &c.
- 45. Schedules 1 and 2
- 46. Application of certain amendments
- 47. Questions decided by majority vote before Royal Assent

**PART VII—AMENDMENTS OF THE NATIVE MEMBERS OF THE  
FORCES BENEFITS ACT 1957-1972**

- 48. Citation
- 49. Title
- 50. Definitions
- 51. Omission of word "native" from certain provisions
- 52. Appropriation for pensions, &c.
- 53. Regulations

# REPATRIATION ACTS AMENDMENT ACT 1974

**No. 90 of 1974**

An Act relating to Repatriation and related Matters.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

## PART I—PRELIMINARY

- Short title.      1. This Act may be cited as the *Repatriation Acts Amendment Act* 1974.<sup>1</sup>
- Commence-  
ment.            2. (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup>
- (2) Section 6 shall come into operation on a date to be fixed by Proclamation.

## PART II—AMENDMENTS OF THE REPATRIATION ACT 1920-1973, AS AMENDED

- Citation.        3. (1) The *Repatriation Act* 1920-1973,<sup>2</sup> as amended by the *Repatriation Act* 1974,<sup>3</sup> and by the *Repatriation Act (No. 2)* 1974,<sup>4</sup> is in this Part referred to as the Principal Act.
- (2) Section 1 of the *Repatriation Act (No. 2)* 1974 is amended by omitting sub-section (4).
- (3) The Principal Act, as amended by this Act, may be cited as the *Repatriation Act* 1920-1974.
- Interpret-  
ation.            4. Section 6 of the Principal Act is amended by adding at the end thereof the following sub-section:—
- “(2) For the purposes of this Act, a person residing in Papua New Guinea immediately before it becomes an independent sovereign state shall, until he ceases so to reside, be deemed to be resident in Australia.”.
- Members of  
Commission.    5. Section 8 of the Principal Act is amended by adding at the end thereof the following sub-section:—
- “(8) A question arising at a meeting of the Commission shall be decided by a majority of votes of members present and voting.”.

6. After section 8 of the Principal Act the following section is inserted:—

“8A. The person holding office under the *Public Service Act* 1922-1974 as Secretary to the Department of Repatriation and Compensation may be appointed as chairman of the Commission while retaining his office as Secretary to that Department and, in that event—

Appointment of Secretary as chairman of the Commission.

- (a) he shall perform his duties as chairman of the Commission concurrently with his performance of his duties as Secretary to that Department;
- (b) he shall cease to hold office as chairman of the Commission if he ceases to hold office as Secretary to that Department;
- (c) he shall not be paid remuneration or allowances in his capacity as chairman of the Commission, but, for the purpose of the payment of allowances to him, his duties as Secretary to that Department shall be deemed to include his duties as chairman of the Commission;
- (d) the performance by him of his duties as Secretary to that Department shall not be taken to involve absence for the purpose of performing the duties of another office as referred to in subsection (4) of section 8; and
- (e) subject to this section, the provisions of this Act other than the provisions of sections 9 and 21 apply to and in relation to him as chairman of the Commission.”.

7. Section 15 of the Principal Act is amended by inserting after subsection (10) the following sub-section:—

Members of Repatriation Boards.

“(10A) A question arising at a meeting of a Board shall be decided by a majority of votes of members present and voting.”.

8. (1) Section 51 of the Principal Act is repealed and the following section substituted:—

“51. There are payable out of the Consolidated Revenue Fund, which is appropriated accordingly—

Appropriation for pensions, &c.

- (a) pensions, allowances under section 98A and transitional benefits under section 98AAA; and
- (b) allowances and other pecuniary benefits under the regulations the rate or amount of which, or the maximum rate or amount of which, is fixed by the regulations or by reference to this Act.”.

(2) The appropriation made by section 51 of the Principal Act as amended by this Act shall be deemed to have taken effect on 1 July 1974.

9. Section 67 of the Principal Act is amended by omitting from subsection (1) the words “whichever is the later,”.

Appeals to Assessment Appeal Tribunals.

10. After section 77 of the Principal Act the following section is inserted:—

Question to be decided by majority vote.

“77A. A question arising at a meeting of an Appeal Tribunal or an Assessment Appeal Tribunal shall be decided by a majority of votes of members present and voting.”.

Interpretation.

11. Section 83 of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(5) For the purposes of this Division, a person resident in Papua New Guinea after it becomes an independent sovereign state, being the wife of a service pensioner who is, by virtue of sub-section (2) of section 6, to be deemed to be resident in Australia, shall be deemed to be resident in Australia.”.

Pensions in respect of a member permanently unemployable, &c.

12. Section 85 of the Principal Act is amended by omitting from sub-section (1) the words “Two hundred and sixty dollars per annum” and substituting the words “the rate per annum specified in sub-section (1B) of section 28 of the *Social Services Act 1947-1974*”.

Restrictions as to dual pensions.

13. Section 86 of the Principal Act is amended by omitting from sub-section (2) the words “service pensions may be granted to the wife and children” and substituting the words “service pension may be granted to the wife”.

14. After section 96 of the Principal Act the following section is inserted:—

Persons resident in Papua New Guinea after independence.

“96A. (1) This section applies in relation to a service pensioner who is residing in Papua New Guinea after it becomes an independent sovereign state and who is, by virtue of sub-section (2) of section 6 or sub-section (5) of section 83, to be deemed to be resident in Australia.

“(2) Where a service pensioner to whom this section applies leaves the country where he is residing, except to go to Australia, without first giving notice to the Commission of his intention so to leave that country, the Commission may cancel his pension.”.

Supplementary assistance.

15. (1) Section 98A of the Principal Act is amended—

- (a) by omitting from paragraph (b) of sub-section (1) the words “Two hundred and sixty dollars” and substituting the words “the amount specified in paragraph (b) of sub-section (1) of section 30A of the *Social Services Act 1947-1974*”;
- (b) by omitting paragraphs (d) and (e) of sub-section (3) and substituting the following paragraphs:—

- “(d) where the amount of his means as assessed is not greater than the maximum amount of means as assessed specified in paragraph (d) of sub-section (3) of section 30A of the *Social Services Act* 1947-1974—the rate specified in that paragraph; or
    - (e) in any other case—an amount per annum equal to the amount by which the amount specified in paragraph (e) of sub-section (3) of section 30A of the *Social Services Act* 1947-1974 exceeds the amount of his means as assessed.”;
  - (c) by inserting after sub-section (3A) the following sub-sections:—
    - “(3B) Notwithstanding anything contained in this section, allowance by way of supplementary assistance by reason of the payment of rent is not payable to a person at a rate exceeding the rate at which that person pays rent.
    - “(3C) Where a person and the wife or husband of that person are persons the rates of whose supplementary allowances are fixed by sub-section (3A), the rent paid by that person shall, for the purposes of sub-section (3B), be deemed to be one-half of the rent paid by that person, by the wife or husband of that person or by both that person and the wife or husband of that person, as the case may be, in respect of their matrimonial home.”; and
  - (d) by omitting sub-section (8) and substituting the following sub-section:—
    - “(8) Where a person in receipt of an allowance under this section—
      - (a) ceases to pay rent;
      - (b) has the rate of his rent reduced; or
      - (c) in any period of 2 consecutive weeks, receives income the average weekly rate of which is higher than the weekly rate of income last specified by him in a claim, statement or notification under this Part,the person shall, within 14 days after the date on which the last payment of rent was due, the date on which the rate of his rent was reduced or the last day of the period referred to in paragraph (c), as the case may be, notify the Commission in writing accordingly.
- Penalty: \$40.”.

(2) The amendment made by paragraph (1) (c), in so far as it affects an allowance granted before the date on which this Act received the Royal Assent, does not have the effect of authorizing or requiring the payment of that allowance at a rate less than the rate of that allowance that was payable immediately before that date.

On death of married person, widow, widower or children to receive certain benefits for 12 weeks.

**16. Section 98B of the Principal Act is amended—**

- (a) by omitting sub-section (1) and substituting the following sub-section:—

“(1) For the purposes of this section, unless the contrary intention appears—

- (a) a woman shall be deemed to be the widow of a deceased man where, immediately before his death, she was a dependent female in respect of him for the purposes of the operation of a provision of Part III of the *Social Services Act 1947-1974*; and
- (b) a man shall be deemed to be the widower of a deceased woman where, immediately before her death, she was a dependent female in respect of him—
  - (i) for the purposes of this Division; or
  - (ii) for the purposes of the operation of a provision of Part III of the *Social Services Act 1947-1974*.”;

and

- (b) by omitting from sub-section (8) the words “the last preceding section” and substituting the words, figures and letters “section 98A and a benefit under section 98AAA”.

Modification of certain other laws.

**17. Section 123A of the Principal Act is amended by omitting sub-sections (1) and (2) and substituting the following sub-section:—**

“(1) A person shall not be taken to be a pensioner for the purposes of regulation 29 of the Telephone Regulations in force under the *Post and Telegraph Act 1901-1974* by reason that the person is in receipt of, or is entitled to, a service pension where that person would not be eligible to receive such a pension if any of the following amendments had not been made:—

- (a) an amendment of the *Repatriation Act 1920-1968*, or of that Act as amended at any time, being—
  - (i) an amendment alleviating the operation of the means test in relation to that person; or
  - (ii) an amendment of a rate of pension, allowance or benefit under Division 5 of Part III made after the date of commencement of the *Repatriation Act (No. 3) 1973*;
- (b) an amendment of the *Social Services Act 1947-1968*, or of that Act as amended at any time, being—
  - (i) an amendment alleviating the operation of the means test in relation to that person; or
  - (ii) an amendment of a rate of pension, allowance or benefit made after the date of commencement of the *Social Services Act (No. 4) 1973*.”.

**18. Section 124 of the Principal Act is amended—**

Regulations.

- (a) by omitting sub-paragraphs (i), (ii) and (iii) of paragraph (a) of sub-section (1AB) and substituting the following sub-paragraphs:—

“(i) members of the Forces and the dependants of those members and persons referred to in section 120; and

(ii) persons referred to in sub-section (1AA); and”;

- (b) by omitting sub-section (1C) and substituting the following sub-section:—

“(1C) Sub-section (1A) does not apply in relation to—

- (a) medical treatment in respect of a condition giving rise to an incapacity in respect of which Australia—

(i) is liable to pay pension under this Act to the person;

(ii) would be so liable if the incapacity were great enough to warrant a pension assessment; or

(iii) would be so liable but for paragraph (c) of the proviso to sub-section (1) of section 24, section 43, paragraph (c) of the proviso to sub-section (1) of section 101, sub-section (6) of section 107C, section 107Q or section 107R; or

- (b) medical treatment for a member of the Forces, including a member of the Forces within the meaning of Division 10 of Part III, in respect of malignant neoplasia.”.

**19. (1) Schedule 1 to the Principal Act is amended by omitting the table and substituting the following table:—**

Schedule 1.

| Column 1<br>Pension payable to Widowed<br>Mother on Death of Member | Column 2<br>Pension payable to Widow<br>on Death of Member | Column 3<br>Pension payable to Member<br>on Total Incapacity |
|---|--|--|
| \$<br>Per fortnight<br>17   | \$<br>Per fortnight<br>62                                  | \$<br>Per fortnight<br>50                                    |

(2) Schedule 1 to the Principal Act is further amended by omitting from paragraph 6 the words “Eighty-two dollars ten cents” and substituting the symbol and figures “\$89.10”.

**20. Schedule 2 to the Principal Act is amended—**

Schedule 2.

- (a) by omitting the words—

“RATE FOR SPECIAL PENSIONS—ONE HUNDRED AND TWENTY DOLLARS AND TWENTY CENTS PER FORTNIGHT.”

and substituting the words—

“RATE FOR SPECIAL PENSIONS—\$128.20 PER FORTNIGHT.”;



- (b) by omitting the words “Twenty-six dollars” and substituting the symbol and figures “\$29.40”; and
- (c) by omitting the words “Forty-four dollars” and substituting the symbol and figures “\$49.80”.

## Schedule 3.

**21.** Schedule 3 to the Principal Act is amended—

- (a) by omitting from the words set out in Table A opposite to the words “Widow of the member” the words “, whichever is applicable”;
- (b) by omitting from Table A the symbol and figures “\$37.00” (wherever occurring) and substituting the symbol and figures “\$41.80”; and
- (c) by omitting from Table A the symbol and figures “\$18.50” and substituting the symbol and figures “\$20.90”.

## Schedule 5.

**22.** Schedule 5 to the Principal Act is amended by omitting the table in paragraph (1) and substituting the following table:—

| Column 1<br>Description of Disability                                    | Column 2<br>Amount  | Column 3<br>Allowance |
|--|---------------------|-----------------------|
|  | \$ per<br>fortnight | \$ per<br>fortnight   |
| Two arms amputated . . . . .   | 78.20               | 49.80                 |
| Two legs and one arm amputated . . . . .                                 | 78.20               | 29.40                 |
| Two legs amputated above the knee . . . . .                              | 78.20               | 29.40                 |
| Two legs amputated and loss of eye . . . . .                             | 78.20               | ..                    |
| One arm and one leg amputated and one eye destroyed . . . . .            | 78.20               | ..                    |
| One leg and one arm amputated . . . . .                                  | 78.20               | ..                    |
| One leg amputated above, and one leg amputated below, the knee . . . . . | 33.20               | ..                    |
| Two legs amputated below the knee . . . . .                              | 22.40               | ..                    |
| One arm amputated and one eye destroyed . . . . .                        | 19.30               | ..                    |
| One leg amputated and one eye destroyed . . . . .                        | 19.30               | ..                    |
| One leg amputated above the knee . . . . .                               | 9.60                | ..                    |
| One leg amputated below the knee . . . . .                               | 5.10                | ..                    |
| One arm amputated above the elbow . . . . .                              | 9.60                | ..                    |
| One arm amputated below the elbow . . . . .                              | 5.10                | ..                    |
| Loss of vision in one eye . . . . .                                      | 7.50                | ..                    |

Application  
of certain  
amendments.

**23.** In so far as an amendment made by this Part affects instalments of pensions or allowances, the amendment applies in relation to an instalment of a pension or an allowance falling due on the day on which this Act receives the Royal Assent, if that day is a pension pay-day, or, if it is not, on the first pension pay-day after that day, and to all subsequent instalments.

**24.** (1) For the purposes of this section, each of the following Authorities is a prescribed Authority:—

Questions decided by majority vote before Royal Assent.

- (a) the Repatriation Commission;
- (b) a Repatriation Board;
- (c) a War Pensions Entitlement Appeal Tribunal;
- (d) an Assessment Appeal Tribunal.

(2) Where, before the day on which this Act received the Royal Assent, a question arising at a meeting of a prescribed Authority was decided by a majority of votes of members present and voting, that question shall be deemed to have been as validly decided as if section 8, 15 or 77A of the Principal Act as amended by this Act, whichever is the relevant section, had been in force when the question was so decided.

### PART III—AMENDMENTS OF THE REPATRIATION (SPECIAL OVERSEAS SERVICE) ACT 1962-1973

**25.** (1) The *Repatriation (Special Overseas Service) Act 1962-1973*<sup>s</sup> is in this Part referred to as the Principal Act. Citation.

(2) The Principal Act, as amended by this Act, may be cited as the *Repatriation (Special Overseas Service) Act 1962-1974*.

**26.** Section 3 of the Principal Act is amended by adding at the end thereof the following sub-section:— Interpretation.

“(4) For the purposes of this Act, a person residing in Papua New Guinea immediately before it becomes an independent sovereign state shall, until he ceases so to reside, be deemed to be resident in Australia.”.

**27.** Section 7 of the Principal Act is amended—

Extension of certain provisions of Repatriation Act.

- (a) by omitting from paragraph (e) of sub-section (3) the word “and”; and
- (b) by inserting after paragraph (e) of sub-section (3) the following paragraph:—

“(ea) the reference in sub-section (5) of section 83 of the Repatriation Act to sub-section (2) of section 6 of that Act shall be read as a reference to sub-section (4) of section 3 of this Act; and”.

**28.** (1) After section 13 of the Principal Act the following section is inserted:—

Appropriation for pensions, &c.

“13A. There are payable out of the Consolidated Revenue Fund, which is appropriated accordingly—

- (a) pensions;
- (b) service pensions, allowances and transitional benefits under Division 5 of Part III of the Repatriation Act as applied by section 7; and
- (c) allowances and other pecuniary benefits under the regulations the rate or amount of which, or the maximum rate or amount of which, is fixed—
  - (i) by the regulations; or
  - (ii) by reference to a rate or amount fixed by regulations under the Repatriation Act or by reference to that Act.”.

(2) The appropriation made by section 13A of the Principal Act as amended by this Act shall be deemed to have taken effect on 1 July 1974.

Regulations.

29. Section 14 of the Principal Act is amended by omitting sub-section (1C) and substituting the following sub-section:—

“(1C) Sub-section (1A) does not apply in relation to—

- (a) medical treatment in respect of a condition giving rise to an incapacity in respect of which Australia—
  - (i) is liable to pay pension under this Act to the person;
  - (ii) would be so liable if the incapacity were great enough to warrant a pension assessment; or
  - (iii) would be so liable but for sub-section (9) of section 6; or
- (b) medical treatment for a member of the Forces in respect of malignant neoplasia.”.

#### PART IV—AMENDMENTS OF THE REPATRIATION (FAR EAST STRATEGIC RESERVE) ACT 1956-1973

Citation.

30. (1) The *Repatriation (Far East Strategic Reserve) Act 1956-1973*<sup>6</sup> is in this Part referred to as the Principal Act.

(2) The Principal Act, as amended by this Act, may be cited as the *Repatriation (Far East Strategic Reserve) Act 1956-1974*.

31. (1) After section 12 of the Principal Act the following section is inserted:—

Appropriation for pensions, &c.

“12A. There are payable out of the Consolidated Revenue Fund, which is appropriated accordingly—

- (a) pensions; and
- (b) allowances and other pecuniary benefits under the regulations the rate or amount of which, or the maximum rate or amount of which, is fixed—
  - (i) by the regulations; or

- (ii) by reference to a rate or amount fixed by regulations under the Repatriation Act or by reference to that Act.”.

(2) The appropriation made by section 12A of the Principal Act as amended by this Act shall be deemed to have taken effect on 1 July 1974.

**32.** Section 13 of the Principal Act is amended by omitting sub-section (1C) and substituting the following sub-section:— Regulations.

“(1C) Sub-section (1A) does not apply in relation to—

- (a) medical treatment in respect of a condition giving rise to an incapacity in respect of which Australia—
  - (i) is liable to pay pension under this Act to the person;
  - (ii) would be so liable if the incapacity were great enough to warrant a pension assessment; or
  - (iii) would be so liable but for sub-section (8) of section 6; or
- (b) medical treatment for a member of the Forces in respect of malignant neoplasia.”.

## PART V—AMENDMENTS OF THE INTERIM FORCES BENEFITS ACT 1947-1973

**33.** (1) The *Interim Forces Benefits Act 1947-1973*’ is in this Part referred to as the Principal Act. Citation.

(2) The Principal Act, as amended by this Act, may be cited as the *Interim Forces Benefits Act 1947-1974*.

**34.** (1) After section 8 of the Principal Act the following section is inserted:—

“8A. There are payable out of the Consolidated Revenue Fund, which is appropriated accordingly— Appropriation for pensions, &c.

- (a) pensions and other pecuniary benefits under the *Repatriation Act 1920-1974* as extended by virtue of this Act; and
- (b) allowances and other pecuniary benefits under the regulations the rate or amount of which, or the maximum rate or amount of which, is fixed—
  - (i) by the regulations; or
  - (ii) by reference to a rate or amount fixed by regulations under the *Repatriation Act 1920-1974* or by reference to that Act.”.

(2) The appropriation made by section 8A of the Principal Act as amended by this Act shall be deemed to have taken effect on 1 July 1974.

**35.** Section 9 of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-section:— Regulations.

“(4) Sub-section (2) does not apply in relation to—

- (a) medical treatment in respect of a condition giving rise to an incapacity in respect of which Australia—
  - (i) is liable to pay pension under this Act to the person;
  - (ii) would be so liable if the incapacity were great enough to warrant a pension assessment; or
  - (iii) would be so liable but for paragraph (c) of the proviso to sub-section (1) of section 24, or paragraph (c) of the proviso to sub-section (1) of section 101, of the *Repatriation Act* 1920-1974, as extended by this Act; or
- (b) medical treatment for a member of the Interim Forces in respect of malignant neoplasia.”.

**PART VI—AMENDMENTS OF THE SEAMEN’S WAR  
PENSIONS AND ALLOWANCES ACT 1940-1973, AS  
AMENDED**

Citation.

**36.** (1) The *Seamen’s War Pensions and Allowances Act* 1940-1973,<sup>8</sup> as amended by the *Seamen’s War Pensions and Allowances Act* 1974,<sup>9</sup> and by the *Seamen’s War Pensions and Allowances Act* (No. 2) 1974,<sup>10</sup> is in this Part referred to as the Principal Act.

(2) Section 1 of the *Seamen’s War Pensions and Allowances Act* (No. 2) 1974 is amended by omitting sub-section (4).

(3) The Principal Act, as amended by this Act, may be cited as the *Seamen’s War Pensions and Allowances Act* 1940-1974.

Interpretation.

**37.** Section 3 of the Principal Act is amended by inserting in sub-section (1), before the definition of “Australian Mariner”, the following definitions:—

“ ‘Appeal Tribunal’ means a War Pensions Entitlement Appeal Tribunal established under the *Repatriation Act* 1920-1974;

‘Assessment Appeal Tribunal’ means an Assessment Appeal Tribunal established under the *Repatriation Act* 1920-1974;”.

Seamen’s  
Pensions and  
Allowances  
Committees.

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

“(6) A question arising at a meeting of a Pensions Committee shall be decided by a majority of votes of members present and voting.”.

39. After section 8 of the Principal Act the following sections are inserted:—

“8AA. (1) A person who has claimed a pension or other benefit under this Act arising out of the incapacity or death of an Australian mariner and whose claim has been refused by the Commission on the grounds that—

Appeals to  
War  
Pensions  
Entitlement  
Appeal  
Tribunals.

- (a) the mariner is not suffering from any incapacity; or
- (b) the incapacity or death of the mariner is not directly attributable to a war injury sustained by the mariner,

may lodge with the person who is the prescribed person for the purposes of sub-section (1) of section 64 of the *Repatriation Act* 1920-1974 an appeal to an Appeal Tribunal against the determination of the Commission.

“(2) The person with whom an appeal is lodged under sub-section (1) shall forward the appeal to the Commission, which shall transmit it to the Appeal Tribunal with the records in the possession of the Commission relating to the appellant.

“(3) Section 64 (other than sub-sections (1), (1A) and (2) ) of the *Repatriation Act* 1920-1974 applies in relation to an appeal under sub-section (1) as if that appeal were an appeal under that section.

“8AB. (1) An Australian mariner—

Appeals to  
Assessment  
Appeal  
Tribunals.

- (a) who is in receipt of a pension under this Act; or
- (b) who is not in receipt of a pension under this Act but as to whom—

- (i) the Commission, a Pensions Committee or an Appeal Tribunal has determined that he has an incapacity that is directly attributable to a war injury sustained by the mariner; and
- (ii) the Commission or a Pensions Committee has decided that the incapacity is so slight that it does not warrant a pension assessment,

may, within 3 months after—

- (c) the date of the notification of the assessment by the Commission or a Pensions Committee of his pension or the date of the notification of the refusal by the Commission or a Pensions Committee to alter the existing assessment; or
- (d) the date of the notification by the Commission or a Pensions Committee that the incapacity of the mariner did not warrant a pension assessment,

or, if the appellant was at any time during that period a resident of the Torres Strait Islands, within a further 3 months after the expiration of that period, lodge with the person who is the prescribed person for the purposes of sub-section (1) of section 67 of the *Repatriation Act* 1920-1974 an appeal against the current assessment of the rate of his

pension or against the decision that a pension assessment is not warranted, as the case may be.

“(2) The person with whom an appeal is lodged under sub-section (1) shall forward it to an Assessment Appeal Tribunal with all the records relative to the assessment appealed against or to the decision that a pension assessment was not warranted, as the case may be.

“(3) Sections 68, 69 and 71 of the *Repatriation Act* 1920-1974 apply in relation to an appeal under sub-section (1) as if that appeal were an appeal by a member of the Forces under section 67 of that Act.

“(4) For the purposes of the application, by virtue of sub-section (3) of this section, of the provisions of the *Repatriation Act* 1920-1974 referred to in that sub-section—

- (a) a reference in those provisions to a Repatriation Board shall be read as a reference to a Pensions Committee;
- (b) a reference in those provisions to Division 3 of Part III of the *Repatriation Act* 1920-1974 shall be read as a reference to this section;
- (c) a reference in those provisions to the *Repatriation Act* 1920-1974 shall be read as a reference to this Act; and
- (d) a reference in those provisions to a pension shall be read as a reference to a pension under this Act.

Application  
of certain  
provisions of  
the  
Repatriation  
Act.

“8AC. (1) Division 4 of Part III of the *Repatriation Act* 1920-1974—

- (a) applies in relation to an appeal under section 8AA of this Act as if that appeal were an appeal under section 64 of that Act; and
- (b) applies in relation to an appeal under section 8AB of this Act as if that appeal were an appeal under section 67 of that Act.

“(2) For the purposes of the application, by virtue of sub-section (1) of this section, of Division 4 of Part III of the *Repatriation Act* 1920-1974—

- (a) a reference in that Division to a Repatriation Board shall be read as a reference to a Pensions Committee;
- (b) a reference in that Division to a pension shall be read as a reference to a pension under this Act; and
- (c) a reference in that Division to a member of the Forces shall be read as a reference to an Australian mariner.”.

Form of  
determin-  
ation.

**40.** Section 8A of the Principal Act is amended—

- (a) by adding at the end of sub-section (1) the following paragraphs:—
  - “(c) the Appeal Tribunals;
  - (d) the Assessment Appeal Tribunals.”; and
- (b) by inserting in the definition of “claimant” in sub-section (4), after the word “appellant”, the words “(including a person who

is to be treated as an appellant by virtue of sub-section (4B) of section 72 of the *Repatriation Act* 1920-1974 as applied by virtue of section 8AC of this Act)".

**41.** Section 14 of the Principal Act is repealed and the following section substituted:—

"14. (1) A medical practitioner shall, in reporting on any claim in relation to an Australian mariner, set out in his report his opinion— Medical reports.

- (a) in the case of a claim in respect of the death of the mariner—as to the cause of the death; and
- (b) in the case of a claim in respect of the incapacity of the mariner—as to the nature, cause and extent of the incapacity.

"(2) Where a medical practitioner entertains a doubt concerning a matter upon which he is required, under sub-section (1), to report, he shall state in his report that he entertains that doubt and shall indicate, so far as practicable, the nature and extent of that doubt.

"(3) This section applies in relation to a medical practitioner, whether an officer of the Department of Repatriation and Compensation or not, who is required by the Commission, a Pensions Committee or an Appeal Tribunal to report on a claim."

**42.** Section 18 of the Principal Act is amended—

- (a) by omitting from sub-section (4A) the words "Eighty-two dollars ten cents" and substituting the symbol and figures "\$89.10"; and
- (b) by omitting sub-sections (7) and (8) and substituting the following sub-sections:—

"(7) The rate of pension payable to children of an Australian mariner is—

- (a) in the case of his death—\$20.90 per fortnight in respect of each child; or
- (b) in the case of his total incapacity—\$2.75 per fortnight in respect of each child.

"(8) Notwithstanding anything contained in sub-section (7), where the mother of the children of a deceased Australian mariner is dead, the rate of pension payable in respect of each of those children is \$41.80 per fortnight."

**43.** Section 32 of the Principal Act is repealed.

Medical certificates.

**44.** (1) Section 56 of the Principal Act is repealed and the following section substituted:—



Appropriation for pensions, &c.

“56. There are payable out of the Consolidated Revenue Fund, which is appropriated accordingly—

- (a) pensions, allowances and gratuities under this Act; and
- (b) allowances and other pecuniary benefits under the regulations the rate or amount of which, or the maximum rate or amount of which, is fixed by the regulations or by reference to this Act.”.

(2) The appropriation made by section 56 of the Principal Act as amended by this Act shall be deemed to have taken effect on 1 July 1974.

Schedules 1 and 2.

45. Schedules 1 and 2 to the Principal Act are repealed and the following Schedules substituted:—

### SCHEDULE 1

Section 18

#### GENERAL PENSION RATES—DEATH OR TOTAL INCAPACITY

| Column 1  | Column 2  | Column 3  |
|---|---|---|
| Rate of pension payable per fortnight to widow on death of Australian mariner | Aggregate of rates of pensions payable per fortnight to dependants other than widow and children on death of Australian mariner | Rate of pension payable per fortnight to Australian mariner on total incapacity |
| \$<br>62.00   | \$<br>17.60   | \$<br>50.00   |

### SCHEDULE 2

Section 21

#### ALLOWANCE FOR ATTENDANT

| Column 1   | Column 2                |
|--|-------------------------|
| Description of disability  | Allowance for attendant |
|  | \$                      |
| Blind or with eyesight so defective as to have no useful sight                                     | 29.40                   |
| An injury affecting the cerebro-spinal system or causing incapacity similar in effect and severity | 29.40                   |
| Loss of two arms   | 49.80                   |
| Loss of two legs and one arm   | 29.40                   |
| Loss of one leg at the hip and of the other either at the hip or in the upper third                | 29.40                   |

Application of certain amendments.

46. In so far as an amendment made by this Part affects instalments of pensions or allowances, the amendment applies in relation to an instalment of a pension or allowance falling due on the day on which this Act receives the Royal Assent, if that day is a pension pay-day, or, if it is not, on the first pension pay-day after that day, and to all subsequent instalments.

47. Where, before the day on which this Act received the Royal Assent, a question arising at a meeting of a Seamen's Pensions and Allowances Committee was decided by a majority of votes of members present and voting, that question shall be deemed to have been as validly decided as if section 4 of the Principal Act as amended by this Act had been in force when the question was so decided.

Questions decided by majority vote before Royal Assent.

## PART VII—AMENDMENTS OF THE NATIVE MEMBERS OF THE FORCES BENEFITS ACT 1957-1972

48. (1) The *Native Members of the Forces Benefits Act 1957-1972*<sup>11</sup> is in this Part referred to as the Principal Act. Citation.

(2) The Principal Act, as amended by this Act, may be cited as the *Papua New Guinea (Members of the Forces Benefits) Act 1957-1974*.

49. The title of the Principal Act is amended by omitting the word "Natives" and substituting the words "Indigenous Inhabitants of Papua New Guinea". Title.

50. Section 3 of the Principal Act is amended by omitting the definition of "native member of the Forces" and substituting the following definition:— Definitions.

" 'member of the Forces' means a male indigenous inhabitant of Papua New Guinea or of an island in the Pacific Ocean (other than an island forming part of the territory of a State) who served during the war in the Defence Force at a rate of pay less than the minimum rate of pay that was prescribed as payable to a male member of the Australian Military Forces and whose service has been terminated by discharge or death;".

51. Sections 4, 5, 6 and 7 of the Principal Act are amended by omitting the word "native" (wherever occurring). Omission of word "native" from certain provisions.

52. (1) After section 8 of the Principal Act the following section is inserted:—

"8A. There are payable out of the Consolidated Revenue Fund, which is appropriated accordingly, pensions, allowances and other pecuniary benefits under the regulations the rate or amount of which, or the maximum rate or amount of which, is fixed— Appropriation for pensions, &c.

- (a) by the regulations;
- (b) by reference to a rate or amount fixed by the regulations; or
- (c) by reference to a rate or amount fixed by regulations under the *Repatriation Act 1920-1974*."

(2) The appropriation made by section 8A of the Principal Act as amended by this Act shall be deemed to have taken effect on 1 July 1974.

- Regulations.      **53.** Section 9 of the Principal Act is amended—
- (a) by adding at the end of paragraph (a) of sub-section (1) the word “and”;
  - (b) by omitting from paragraph (b) of sub-section (1) the word “native”;
  - (c) by omitting from paragraph (b) of sub-section (1) the word “and” (last occurring);
  - (d) by omitting paragraph (c) of sub-section (1); and
  - (e) by omitting from sub-sections (2) and (3) the word “native” (wherever occurring).
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#### NOTES

1. Act No. 90, 1974; assented to 31 October 1974.
2. Act No. 6, 1920, as amended by No. 34, 1921; No. 23, 1922; No. 14, 1929; No. 74, 1930; Nos. 10 and 47, 1931; No. 32, 1934; No. 58, 1935; Nos. 29 and 67, 1936; Nos. 12, 24 and 42, 1937; No. 55, 1938; Nos. 37 and 96, 1940; No. 49, 1941; No. 22, 1943; No. 11, 1945; No. 49, 1946; Nos. 1, 29 and 74, 1947; No. 39, 1948; No. 38, 1949; Nos. 34 and 80, 1950; No. 31, 1951; No. 58, 1952; No. 69, 1953; No. 31, 1954; No. 39, 1955; Nos. 68 and 97, 1956; No. 44, 1957; No. 47, 1958; No. 58, 1959; No. 44, 1960; No. 46, 1961; Nos. 75 and 91, 1962; No. 47, 1963; Nos. 62 and 105, 1964; No. 64, 1965; No. 42, 1966; No. 64, 1967; Nos. 66 and 120, 1968; No. 95, 1969; Nos. 4 and 60, 1970; Nos. 17 and 68, 1971; Nos. 15, 82 and 139, 1972; Nos. 2, 27 and 104, 1973; and No. 216, 1973 (as amended by No. 20, 1974).
3. Act No. 3, 1974.
4. Act No. 24, 1974.
5. Act No. 89, 1962, as amended by No. 108, 1964; No. 110, 1965; No. 93, 1966; No. 78, 1968; No. 80, 1972; and No. 3, 1973.
6. Act No. 91, 1956, as amended by No. 90, 1962; No. 107, 1964; No. 93, 1966; No. 81, 1972; and No. 4, 1973.
7. Act No. 46, 1947, as amended by No. 79, 1950; No. 106, 1964; No. 93, 1966; and No. 5, 1973.
8. Act No. 60, 1940, as amended by No. 77, 1946; No. 80, 1950; Nos. 17 and 75, 1952; No. 70, 1953; No. 32, 1954; No. 40, 1955; No. 45, 1957; No. 48, 1958; No. 59, 1959; No. 46, 1960; No. 47, 1961; Nos. 64 and 113, 1964; No. 65, 1965; No. 43, 1966; No. 102, 1967; No. 67, 1968; No. 96, 1969; No. 61, 1970; Nos. 18 and 69, 1971; Nos. 16 and 83, 1972; and Nos. 6 and 106, 1973.
9. Act No. 4, 1974.

1974

*Repatriation Acts Amendment*

No. 90

NOTES—continued

10. Act No. 25, 1974.

11. Act No. 89, 1957, as amended by No. 109, 1965; No. 93, 1966; No. 8, 1968; and No. 138, 1972.