

# REPATRIATION ACTS AMENDMENT ACT 1975

No. 35 of 1975

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

1. This Act may be cited as the *Repatriation Acts Amendment Act* 1975.<sup>1</sup> Short title.
2. This Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup> Commence-  
ment.

## PART II—AMENDMENTS OF THE REPATRIATION ACT 1920-1974

3. (1) The *Repatriation Act* 1920-1974<sup>2</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 Act* 1920-1975.
4. Section 83 of the Principal Act is amended— Interpret-  
ation.
  - (a) by omitting paragraph (d) of the definition of “Income” in sub-section (1) and substituting the following paragraph:—  
“(d) a payment under Part V, VI, VIA, VIB, VII or VIIA of the *Social Services Act* 1947-1975 or a payment (other than a training allowance under sub-section (1) of section 135D) under Part VIII of that Act;” and
  - (b) by omitting paragraph (ka) of that definition.
5. Section 86 of the Principal Act is amended— Restrictions  
as to dual  
pensions.
  - (a) by omitting from sub-paragraph (i) of paragraph (a) of sub-section (1) the word “or”; and
  - (b) by inserting in paragraph (a) of sub-section (1) the following sub-paragraph:—  
“(ia) a service pension under this Division and a service pension under Division 5A; or”.

Variation of rate of service pension according to means.

**6. Section 87 of the Principal Act is amended—**

- (a) by omitting from paragraph (b) of sub-section (1A) the words “seventy-five” and substituting the figures “70”;
- (b) by omitting from sub-section (3A) the words “Subject to sub-section (3B), in” and substituting the word “In”;
- (c) by omitting from sub-section (3A) the word “one-quarter” and substituting the word “one-half”;
- (d) by omitting paragraph (c) of sub-section (3A) and substituting the following paragraph:—
  - “(c) a payment, other than a payment referred to in paragraph (a) or (b), that is a payment in respect of incapacity or death resulting from employment in connexion with a war or warlike operations in which the Sovereign has been engaged;” and
- (e) by omitting sub-section (3B).

Transitional benefit for the aged blind.

**7. Section 98AAA of the Principal Act is repealed.**

**8. After Division 5 of Part III of the Principal Act the following Division is inserted:—**

*“Division 5A—Extension of Application of Provisions of Division 5 to certain Members of the Forces of a Commonwealth Country*

Extension of application of Division 5 to members of Forces of a Commonwealth country.

“98C. (1) Subject to this Division, the provisions of Division 5 extend to and in relation to—

- (a) a male or female member of the Forces of a Commonwealth country within the meaning of this Division;
- (b) the wife, as defined in sub-section (1) of section 83, of such a male member; and
- (c) a child, as defined in sub-section (1) of section 83, of such a male or female member.

“(2) For the purposes of the extension of the provisions of Division 5 as provided in sub-section (1)—

- (a) a reference in that Division to a member of the Forces or to a member shall be read as a reference to a member of the Forces of a Commonwealth country within the meaning of this Division; and
- (b) a reference in that Division to service in a theatre of war shall be read as a reference to service in a theatre of war within the meaning of this Division.

“98D. (1) In this Division, ‘member of the Forces of a Commonwealth country’ means a person who— Interpretation.

- (a) has served in a theatre of war as a member of the naval, military or air forces, or a member of the nursing or auxiliary services or of the women’s branch of the naval, military or air forces, of a country (other than Australia) that is, or was during that person’s service, a part of the dominions of the Crown; and
- (b) has, at any time, been continuously resident in Australia for a period of not less than 10 years.

“(2) For the purposes of this Division, a reference to service in a theatre of war in relation to a person shall be read as a reference to service by that person in connexion with a war or war-like operations in which the Naval, Military or Air Forces of Australia were engaged, being—

- (a) service outside the country to which the forces in which the person served belonged; or
- (b) service within that country in respect of which the person has been awarded, or is entitled to the award of, a campaign medal.

“(3) Where—

- (a) a person has had more than 1 period of residence in Australia;
- (b) the longest of those periods is less than 10 years but is not less than 5 years; and
- (c) the aggregate of those periods exceeds 10 years,

the period specified in paragraph (b) of the definition of ‘member of the forces of a Commonwealth country’ in sub-section (1) shall, in relation to that person, be deemed to be reduced by the excess.

“98E. Notwithstanding anything contained in this Division, a person is not a member of the forces of a Commonwealth country by reason of service in the forces of a country (other than Australia) unless that service would, if the person had been a member of the Naval, Military or Air Forces of Australia, have resulted in the person being a member of the Forces for the purposes of Division 5.” Person not member of forces of Commonwealth country.

9. Section 124 of the Principal Act is amended by omitting paragraph (a) of sub-section (1AA) and substituting the following paragraph:— Regulations.

“(a) the making of regulations with respect to—

- (i) members of the Forces of a Commonwealth country, within the meaning of Division 5A of Part III, and to the wives and children, as defined in sub-section (1) of section 83, of those members; and
- (ii) members of the Forces within the meaning of Division 10 of Part III, and to the dependants, within the meaning of that Division, of those members,

as if those members were members of the Forces within the meaning of this Part; and”.

Schedule 1. **10.** (1) Schedule 1 to the Principal Act is amended by omitting the table and substituting the following table:—

Column 1	Column 2	Column 3
Pension payable to Widowed Mother on Death of Member	Pension payable to Widow on Death of Member	Pension payable to Member on Total Incapacity
\$ Per fortnight	\$ Per fortnight	\$ Per fortnight
17	72	56

(2) Schedule 1 to the Principal Act is further amended by omitting from paragraph 6 the figures “\$89.10” and substituting the figures “\$96.10”.

Schedule 2. **11.** Schedule 2 to the Principal Act is amended by omitting the words—

“RATE FOR SPECIAL PENSIONS—\$128.20 PER FORT-NIGHT.”

and substituting the words—

“RATE FOR SPECIAL PENSIONS—\$136.20 PER FORT-NIGHT.”.

Schedule 5. **12.** Schedule 5 to the Principal Act is amended by omitting from column 2 of the table in paragraph 1 the figures “78.20” (wherever occurring) and substituting the figures “80.20”.

Application of certain amendments. **13.** (1) The amendments made by this Part, in so far as they affect instalments of pensions—

(a) shall be deemed to have come into operation on 8 May 1975; and

(b) apply in relation to an instalment of pension falling due on that date and to all subsequent instalments.

(2) The amendments made by this Part, in so far as they affect transitional benefits for the aged blind, shall be deemed to have come into operation on 8 May 1975.

Claims lodged on or before a certain date.

**14.** Where—

(a) before the expiration of the period of 3 months commencing on the day on which this Act receives the Royal Assent, a person lodges a claim for a service pension; and

(b) a service pension is granted to that person by virtue of the application in relation to that person of paragraph 28 (2AA) (b) of the *Social Services Act 1947-1975*,

the service pension shall be paid from—

- (c) where the person attained the age of 70 years on or before 8 May 1975—that date; or
- (d) in any other case—the day on which the person attained or attains that age.

### PART III—AMENDMENTS OF THE SEAMEN'S WAR PENSIONS AND ALLOWANCES ACT 1940-1974

15. (1) The *Seamen's War Pensions and Allowances Act* Citation. 1940-1974<sup>3</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 *Seamen's War Pensions and Allowances Act* 1940-1975.

16. Section 18 of the Principal Act is amended by omitting from sub-section (4A) the figures “\$89.10” and substituting the figures “\$96.10”. Rates of pension on death or total incapacity.

17. Schedule 1 to the Principal Act is repealed and the following Schedule 1. Schedule 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
\$	\$	\$
72.00	17.60	56.00

18. The amendments made by this Part, in so far as they affect instalments of pensions— Application of certain amendments.

- (a) shall be deemed to have come into operation on 8 May 1975; and
- (b) apply in relation to an instalment of pension falling due on that date and to all subsequent instalments.

#### NOTES

1. Act No. 35, 1975; assented to 19 May 1975.
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,

## NOTES—continued

- 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; No. 216, 1973 (as amended by No. 20, 1974); and Nos. 3, 24 and 90, 1974.
3. 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; Nos. 6 and 106, 1973; and Nos. 4, 25 and 90, 1974.