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**Repatriation Legislation Amendment Act 1982**

**No. 100 of 1982**

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**Repatriation Legislation Amendment Act 1982**

**No. 100 of 1982**

**An Act relating to repatriation and related matters**

[*Assented to 28 October 1982*]

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

**PART I—PRELIMINARY**

**Short title**

**1.** This Act may be cited as the *Repatriation Legislation Amendment Act* 1982.

**Commencement**

**2.** **(1)** Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

**(2)** Sections 86 and 87 shall be deemed to have come into operation immediately after the commencement of section 4 of the *Seamen’s War Pensions and Allowances Act* 1952.

**(3)** Section 3 and sub-section 19 (1) shall be deemed to have come into operation on 17 August 1982.

**(4)** Sub-sections 19 (2), (4) and (5) and 22 (1) and section 49 shall come, or shall be deemed to have come, into operation on 11 November 1982.

**(5)** Sub-section 23 (2) shall come into operation on 1 February 1983.

**(6)** Sub-sections 4 (2) and 9 (2), section 12, sub-sections 19 (3), 20 (2), 21 (2), 22 (2) and 23 (3) and sections 24 and 63 shall come into operation on 1 March 1983.

**PART II—AMENDMENTS OF THE REPATRIATION ACT 1920**

**Principal Act**

**3.** The *Repatriation Act* 19201 is in this Part referred to as the Principal Act.

**Interpretation**

**4.** **(1)** Section 6 of the Principal Act is amended—

(a) by omitting “another” from the definition of “adopted” in sub-section (1) and substituting “a foreign”; and

(b) by inserting after the definition of “Department” in sub-section (1) the following definition:

“‘foreign country’ means a country other than Australia, and includes—

(a) a state, province or other territory that is one of 2 or more territories that together form part of a country other than Australia; and

(b) a place that is a territory, dependency or colony (however described) of a country other than Australia;”.

**(2)** Section 6 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(4) For the purposes of the application of Table A in Schedule 3, a person who is receiving a rehabilitation allowance under Part VIII of the *Social Security Act* 1947 and who, immediately before becoming eligible to receive that allowance, was eligible to receive an invalid pension or a widow’s pension under that Act shall be taken to be in receipt of an invalid pension or a widow’s pension, as the case requires, under that Act.”.

**Acting Commissioners**

**5.** Section 8c of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-section:

“(4) The Minister may—

(a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed under this section; and

(b) at any time, terminate such an appointment.”.

**Boards to consult and co-operate with Commission**

**6.** Section 15 of the Principal Act is amended by omitting sub-paragraph (2) (b) (i) and substituting the following sub-paragraph:

“(i) reasons given by that Tribunal for its decisions; or”.

**7.** Sections 16 and 17 of the Principal Act are repealed and the following sections are substituted:

**Removal of Commissioner from office**

“16. (1) The Governor-General may remove a Commissioner from office on an address praying for his removal on the ground of proved misbehaviour or physical or mental incapacity being presented to the Governor-General by each House of the Parliament in the same session of the Parliament.

“(2) The Minister may suspend a Commissioner from office on the ground of misbehaviour or physical or mental incapacity.

“(3) Where the Minister suspends a Commissioner from office, the Minister shall cause a statement of the ground of the suspension to be laid before each House of the Parliament within 7 sitting days of that House after the suspension.

“(4) Where such a statement has been laid before a House of the Parliament, that House may, within 15 sitting days of that House after the day on which the statement has been laid before it, by resolution, declare that the Commissioner should be removed from office and, if each House so passes such a resolution, the Governor-General shall remove the Commissioner from office.

“(5) If, at the expiration of 15 sitting days of a House of the Parliament after the day on which the statement has been laid before that House, that House has not passed such a resolution, the suspension terminates.

“(6) The suspension of a Commissioner from office under this section does not affect any entitlement of the Commissioner to be paid remuneration and allowances.

“(7) If—

(a) a Commissioner becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

(b) a Commissioner engages, except with the approval of the Minister, in paid employment outside the duties of his office;

(c) a Commissioner is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or 28 days in any 12 months; or

(d) a Commissioner fails, without reasonable excuse, to comply with his obligations under section 17 or 17aaa,

the Governor-General shall remove that Commissioner from office.

“**(8)** The Governor-General may, with the consent of a Commissioner who is an eligible employee for the purposes of the *Superannuation Act* 1976, retire the Commissioner from office on the ground of physical or mental incapacity.

**“(9)** A Commissioner shall not be suspended, removed or retired from office except as provided by this section.

**Disclosure of interests of Commissioners in relation to claims for pensions, &c.**

“17. (1) Where—

(a) the Commission—

(i) is considering, or is to consider—

(a) a claim or application for pension; or

(b) an appeal in relation to a claim or application for pension;

(ii) is reviewing, or is to review—

(a) a pension;

(b) a decision in relation to a pension; or

(c) a decision in relation to a claim or application for pension; or

(iii) is reconsidering, or is to reconsider, a claim or application for pension; and

(b) a Commissioner has or acquires any interest, pecuniary or otherwise, that could conflict with the proper performance of his functions in relation to the matter,

the Commissioner—

(c) shall disclose the interest to the claimant, applicant or person receiving the pension, as the case requires, and to the Minister; and

(d) except with consent of the claimant, applicant or person receiving the pension, as the case requires, and of the Minister, shall not take part in the consideration, review or reconsideration of the claim, application, appeal, pension or decision, as the case requires.

“(2) Where the Minister becomes aware that—

(a) the Commission—

(i) is considering, or is to consider—

(a) a claim or application for pension; or

(b) an appeal in relation to a claim or application for pension;

(ii) is reviewing, or is to review—

(a) a pension;

(b) a decision in relation to a pension; or

(c) a decision in relation to a claim or application for pension; or

(iii) is reconsidering, or is to reconsider, a decision in relation to a claim or application for pension; and

(b) a Commissioner has, in relation to the matter, such an interest as is mentioned in sub-section (1),

then—

(c) if the Minister considers that the Commissioner should not take part, or should not continue to take part, in the consideration, review or reconsideration of the claim, application, appeal, pension or decision, as the case requires—he shall give a direction to the Commissioner accordingly; or

(d) in any other case—he shall cause the interest of the Commissioner to be disclosed to the claimant, applicant or person receiving the pension, as the case requires.

“(3) In this section—

(a) a reference to the Commission reviewing a decision includes a reference to the Commission considering whether to review the decision; and

(b) a reference to the Commission reconsidering a claim or application for pension includes a reference to the Commission considering whether to reconsider the claim or application.

“(4) In this section—

‘Commissioner’ includes an Acting Commissioner;

‘decision’ includes a determination and an assessment;

‘pension’ means pension, allowance or other benefit under this Act, the *Interim Forces Benefits Act* 1947, the *Repatriation* (*Far East Strategic Reserve*) *Act* 1956, the *Repatriation* (*Special Overseas Service*) *Act* 1962, the *Seamen’s War Pensions and Allowances Act* 1940 or the *Papua New Guinea* (*Members of the Forces Benefits*) *Act* 1957.

**Disclosure of interests of Commissioners in other matters**

“17aaa. (1) A Commissioner who has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Commission (not being a matter to which section 17 applies) shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

“(2) A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Commission and the Commissioner shall not, unless the Minister or the Commission otherwise determines—

(a) be present during any deliberation of the Commission with respect to that matter; or

(b) take part in any decision of the Commission with respect to that matter.

“(3) For the purpose of the making of a determination by the Commission under sub-section (2) in relation to a Commissioner who has made a disclosure under sub-section (1), a Commissioner who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not—

(a) be present during any deliberation of the Commission for the purpose of making the determination; or

(b) take part in the making by the Commission of the determination.

“(4) In this section, ‘Commissioner’ includes an Acting Commissioner.

**Removal of member of Board from office**

“17aab. (1) The Governor-General may remove a member of a Board from office on the ground of proved misbehaviour or physical or mental incapacity.

“(2) The Commission may suspend a member of a Board from office on the ground of misbehaviour or physical or mental incapacity.

“(3) Where the Commission suspends a member of a Board from office, the Commission shall, within 7 days after the suspension, provide the Minister with a statement of the ground of the suspension.

“(4) Where such a statement has been provided to the Minister, the Governor-General may, on the recommendation of the Minister—

(a) remove the member of the Board from office;

(b) direct that the suspension of the member of the Board continue for such further period as the Governor-General specifies; or

(c) direct that the suspension of the member of the Board terminate.

“(5) The suspension of a member of a Board from office under this section does not affect any entitlement of the member to be paid remuneration and allowances.

“(6) If—

(a) a member of a Board becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

(b) a member of a Board, being a member of a Board who has been appointed as a full-time member—

(i) engages, except with the approval of the Minister, in paid employment outside the duties of his office; or

(ii) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or 28 days in any 12 months;

(c) a member of a Board, being a member of a Board who has been appointed as a part-time member, is absent, except on leave of absence granted by the Minister, from 3 consecutive meetings of the Board; or

(d) a member of a Board fails, without reasonable excuse, to comply with his obligations under section 17aac,

the Governor-General shall remove that member from office.

“(7) The Governor-General may, with the consent of a member of a Board who is an eligible employee for the purposes of the *Superannuation Act* 1976, retire the member from office on the ground of physical or mental incapacity.

“(8) A member of a Board shall not be suspended, removed or retired from office except as provided by this section.

“(9) In this section, ‘member of a Board’ does not include an acting member of a Board.

**Disclosure of interests of members of Boards**

“17aac. (1) Where a member of a Board that is considering, or is to consider, a claim or application for pension has or acquires any interest, pecuniary or otherwise, that could conflict with the proper performance of his functions in relation to the claim or application—

(a) he shall disclose the interest to the claimant or applicant, as the case requires, and to the Commission; and

(b) except with the consent of the claimant or applicant, as the case requires, and of the Commission, he shall not take part in the consideration of the claim or application.

“(2) Where the Minister becomes aware that a member of a Board that is considering, or is to consider, a claim or application for pension has, in relation to the claim or application, such an interest as is mentioned in sub-section (1)—

(a) if the Minister considers that the member should not take part, or should not continue to take part, in the consideration of the claim or application—he shall give a direction to the member accordingly; or

(b) in any other case—he shall cause the interest of the member to be disclosed to the claimant or applicant, as the case requires, and to the Commission.

“(3) In this section—

‘decision’ includes a determination and an assessment;

‘pension’ means pension, allowance or other benefit under this Act, the *Interim Forces Benefits Act* 1947, the *Repatriation* (*Far East Strategic Reserve*) *Act* 1956 or the *Repatriation* (*Special Overseas Service*) *Act* 1962.”.

**Repeal of sections 17ac, 18 and 19**

**8.** Sections 17ac, 18 and 19 of the Principal Act are repealed.

**Interpretation**

**9.** **(1)** Section 23 of the Principal Act is amended—

(a) by omitting “whose death or incapacity has resulted from any occurrence that happened during his war service” from the definition of “Dependant”;

(b) by omitting “at any time after such an occurrence that resulted in the member’s death” from paragraph (f) of the definition of “Dependant” and substituting “at any time after the termination of the war service of the member”; and

(c) by omitting “or 5b” from the definition of “Service pension” and substituting “, 5b, 5c or 5d”.

**(2)** Section 23 of the Principal Act is amended by omitting the definition of “Child” and substituting the following definition:

“‘Child’, in relation to a member of the Forces, means a son (including an ex-nuptial son), step-son or adopted son, or a daughter (including an ex-nuptial daughter), step-daughter or adopted daughter, of the member—

(a) who has not attained the age of 16 years; or

(b) who—

(i) has attained the age of 16 years; and

(ii) is receiving full-time education at a school, college or university,

but does not include—

(c) a person who is receiving an invalid pension under Part III of the *Social Security Act* 1947; or

(d) a person who is receiving a rehabilitation allowance under Part VIII of the *Social Security Act* 1947 and who, immediately before becoming eligible to receive that allowance, was eligible to receive an invalid pension under Part III of that Act;”.

**Pensions upon death or incapacity**

**10.** Section 24 of the Principal Act is amended—

(a) by omitting paragraph (1) (a) and substituting the following paragraph:

“(a) of any person to whom paragraph (a) or (b) of the definition of ‘Member of the Forces’ applies whose death or incapacity results or has resulted from any occurrence that happened during his war service;”;

(b) by inserting after paragraph (1) (b) the following word and paragraph:

“; or (c) of any member of the Forces whose death or incapacity has arisen out of or is attributable to his war service,”;

(c) by inserting before paragraph (b) of the proviso to sub-section (1) the following paragraph:

“(a) the incapacity or death of the member—

(i) does not arise from intentionally self-inflicted injuries; and

(ii) does not arise from, or from any occurrence that happened during the commission of, any serious breach of discipline by the member;”; and

(d) by omitting from sub-paragraph (c) (i) of the proviso to sub-section (1) “a country other than the Commonwealth” and substituting “a foreign country”.

**Variation of rate of pension**

**11.** **(1)** Section 35aaa of the Principal Act is amended by omitting “6 State” from the definition of “index number” in sub-section (1) and substituting “8”.

**(2)** The amendment made by sub-section (1) applies in relation to the quarter ending on 30 June 1982 and to all subsequent quarters.

**Change of status of child to be notified**

**12.** Section 40aa of the Principal Act is amended by omitting from paragraph (2) (b) *“Social Services Act* 1947” and substituting *“Social Security Act* 1947 or, being eligible to receive a pension of that kind, becomes eligible to receive a rehabilitation allowance under Part VIII of that Act”.

**Maximum pension payable to widowed mother**

**13.** Section 41 of the Principal Act is amended—

(a) by omitting from sub-section (1) “two or more members of the Forces whose deaths result or have resulted from occurrences that happened during their respective periods of war service” and substituting “2 or more relevant members of the Forces”; and

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

“(3) A reference in sub-section (1) to a relevant member of the Forces is a reference to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies by reason of his death.”.

**Pensions to certain dependent females**

**14.** Section 42 of the Principal Act is amended by omitting from sub-section (1) “at the time of the occurrence during his war service of an event that resulted in the incapacity or death of a member of the Forces (including a member of the Forces within the meaning of section 100 or section 107b)” and substituting “at any time during the war service of a member of the Forces in relation to whom sub-section 24 (1) or (2) applies by reason of his incapacity or death”.

**Pension to divorced wife of member**

**15.** Section 44 of the Principal Act is amended—

(a) by omitting “(including a member of the Forces within the meaning of section 100 or section 107b)” and substituting “in relation to whom sub-section 24 (1) or (2) applies by reason of his incapacity or death”; and

(b) by omitting “at the time of the occurrence during the member’s war service of an event that resulted in his incapacity or death” and substituting “at any time during the war service of the member”.

**Pension payable to dependants on death of a member after termination of war service**

**16.** Section 45 of the Principal Act is amended by omitting sub-sections (1) and (2) and substituting the following sub-sections:

“(1) Where—

(a) a member of the Forces has died, or dies, after the termination of his war service;

(b) the member is a member of the Forces in relation to whom sub-section 24 (1) or (2) applies otherwise than by reason of his death; and

(c) a pension—

(i) was being paid, or was payable, to a dependant of the member under this Division immediately before the death of the member; or

(ii) would have been payable to a dependant of the member under this Division immediately before the death of the member if—

(a) in a case where a claim for pension had been lodged by the dependant, but had not been determined, before the death of the member—it had been so determined;

(b) in a case where a claim for pension had not been lodged by the dependant before the death of the member—a claim for pension had been lodged by the dependant, and had been determined, before the death of the member; or

(c) in a case where the dependant is a posthumous child of the member—the dependant had been born, and a claim for pension had been lodged by him, and had been determined, before the death of the member,

the dependant is entitled to receive that pension.

“(2) Where—

(a) a member of the Forces has died or dies;

(b) the member is a member of the Forces in relation to whom sub-section 24 (1) or (2) applies otherwise than by reason of his death; and

(c) the member has left or leaves—

(i) a widow who married him at any time on or after 2 October 1931 and before 12 December 1950; or

(ii) a child born to him during that period,

the widow and any such child shall, subject to this Act, be entitled to receive such pensions (if any) as could have been granted to them under this Division if, prior to the death of the member, they had been dependants of the member and had applied for the pension.”.

**Pensions to dependants of certain deceased members**

**17.** Section 46 of the Principal Act is amended—

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

“(1) Where—

(a) a member of the Forces has died, or dies, after the termination of his war service;

(b) the member is a member of the Forces in relation to whom sub-section 24 (1) or (2) applies otherwise than by reason of his death; and

(c) the member was, immediately before his death, in receipt of—

(i) a pension under Schedule 2; or

(ii) an amount in respect of a disability described in any of the first 8 items in column 1 of the table in paragraph 1 of Schedule 5,

the dependants of the member shall, subject to this Act, be entitled to receive, as from the death of the member, such pensions as would have been payable to them if the member had been a member of the Forces in relation to whom sub-section 24 (1) or (2) applies by reason of his death.”; and

(b) by omitting from paragraph (2) (a) “paragraph (1) (a) or (b)” and substituting “sub-paragraph (1) (c) (i) or (ii)”.

**18.** After section 46 of the Principal Act the following section is inserted:

**Pensions payable to orphans of certain deceased members**

“46a. (1) Where—

(a) a member of the Forces who has served in a theatre of war has died, or dies, after the termination of his war service;

(b) the member is a member of the Forces in relation to whom sub-sections 24 (1) and (2) do not apply by reason of his death; and

(c) the member has left, or leaves, a child, then—

(d) if the child is not an ex-nuptial child and the wife or widow of the member is dead; or

(e) if paragraph (d) does not apply in relation to the child and the Commission is satisfied that the child is not being maintained by a parent, adoptive parent or step-parent of the child,

the child shall, subject to this Act, be entitled to receive such pension as would have been payable to the child if the member had been a member of the Forces in relation to whom sub-section 24 (1) or (2) applies by reason of his death.

“(2) The date of commencement of a pension payable by virtue of sub-section (1) shall not be earlier than 11 November 1982.”.

**Interpretation**

**19. (1)** Section 83 of the Principal Act is amended—

(a) by inserting after paragraph (d) of the definition of “Income” in sub-section (1) the following paragraph:

“(da) in the case of a person who pays, or is liable to pay, rent—a payment by way of rent subsidy made by the Commonwealth or a State or Territory, or by an authority of the Commonwealth or a State or Territory, to or on behalf of the person who pays, or is liable to pay, rent;”; and

(b) by inserting after the definition of “married person” in sub-section (1) the following definition:

“‘rent’ has the same meaning as in section 98a;”.

**(2)** Section 83 of the Principal Act is amended by omitting from sub-section (1) the definition of “Child” and substituting the following definition:

“‘Child’, in relation to a member of the Forces, means a son (including an ex-nuptial son), step-son, adopted son or foster-son, or a daughter (including an ex-nuptial daughter), step-daughter, adopted daughter or foster-daughter, or a ward, of the member—

(a) who has not attained the age of 16 years and of whom the member has the custody, care and control; or

(b) who—

(i) has attained the age of 16 years, but has not attained the age of 25 years;

(ii) is receiving full-time education at a school, college or university; and

(iii) is wholly or substantially dependent on the member, but does not include—

(c) a person who is receiving an invalid pension under Part III, or a benefit under Part IVaaa, of the *Social Security Act* 1947; or

(d) a person who is receiving a rehabilitation allowance under Part VIII of the *Social Security Act* 1947 and who, immediately before becoming eligible to receive that allowance, was eligible to receive an invalid pension under Part III, or a benefit under Part IVaaa, of that Act;”.

**(3)** Section 83 of the Principal Act is amended by omitting paragraph (d) of the definition of “Income” in sub-section (1) and substituting the following paragraph:

“(d) a payment under Part VI, VIa, VIb, VII, VIIa or VIIb of the *Social Security Act* 1947 or a payment (other than a payment of training allowance under section 135d of that Act) under Part VIII of that Act;”.

**(4)** Where—

(a) a person (in this sub-section referred to as the “relevant child”) was, immediately before 11 November 1982, a child, within the meaning of sub-section 83 (1) of the *Repatriation Act* 1920, of a member of the Forces;

(b) a benefit under Part IVaaaof the *Social Security Act* 1947 is granted on or after 11 November 1982, or was granted before 11 November 1982, to the relevant child pursuant to a claim lodged under that Act before 11 November 1982;

(c) a service pension has been payable to the member since before 11 November 1982;

(d) the relevant child has not ceased to receive the benefit (otherwise than by virtue of sub-section 135b (3) of the *Social Security Act* 1947); and

(e) the member has not ceased to receive the service pension,

the amendment made by sub-section (2) shall be disregarded for the purposes of determining whether the relevant child is a child, within the meaning of sub-section 83 (1) of the *Repatriation Act* 1920, of the member.

**(5)** In sub-section (4)—

“member of the Forces” means a member of the Forces within the meaning of Division 5 of Part III of the *Repatriation Act* 1920 (including that Division as extended by another Division of that Part or by another Act), and includes a member of the Forces of a Commonwealth country within the meaning of Division 5a of that Part, a member of the Forces of an allied country within the meaning of Division 5b of that Part, an Australian mariner within the meaning of Division 5c of that Part and a Commonwealth mariner or allied mariner within the meaning of Division 5d of that Part;

“service pension” means a pension under Division 5 of Part III of the *Repatriation Act* 1920 (including that Division as extended by another Division of that Part or by another Act).

**Restrictions as to dual pensions**

**20. (1)** Section 86 of the Principal Act is amended—

(a) by omitting from sub-section (1) “or 5b” and substituting “, 5b, 5c or 5d”; and

(b) by omitting from sub-section (3) “a country other than Australia” and substituting “a foreign country”.

**(2)** Section 86 of the Principal Act is amended—

(a) by omitting paragraph (1) (b) and substituting the following paragraph:

“(b) a person is not entitled to receive at the same time a service pension and a pension or allowance under Part III, IV or IVaaaof the *Social Security Act* 1947 or a payment (other

than a payment of training allowance under section 135d of that Act) under Part VIII of that Act; and”; and (b) by omitting sub-section (2).

**Variation of rate of service pension according to income**

**21.** **(1)** Section 87 of the Principal Act is amended by omitting from sub-section (3a) “the amount of any of the following payments shall be reduced by 60 per cent” and substituting “the following payments shall be disregarded”.

**(2)** Section 87 of the Principal Act is amended by inserting after sub-section (3) the following sub-section:

“(3aaa) For the purposes of sub-section (3)—

(a) a person who is receiving a rehabilitation allowance under Part VIII of the *Social Security Act* 1947 and who, immediately before becoming eligible to receive that allowance, was eligible to receive an invalid pension under Part III of that Act shall be taken to be in receipt of an invalid pension under Part III of that Act; and

(b) a payment of an amount of rehabilitation allowance under Part VIII of the *Social Security Act* 1947 received by a person shall, if the person was, immediately before becoming eligible to receive that allowance, eligible to receive an invalid pension under Part III of that Act, be taken to be a payment under Part III of that Act received by the person.”.

**(3)** The amendment made by sub-section (1), in so far as it affects instalments of pension, applies in relation to an instalment of pension falling due on 11 November 1982 and to all subsequent instalments.

**Receipt of income to be notified**

**22.** **(1)** Section 96 of the Principal Act is amended—

(a) by omitting from sub-section (1) “$20” and substituting “$30”; and

(b) by omitting from sub-section (2) “$34.50” and substituting “$50”.

**(2)** Section 96 of the Principal Act is amended by omitting from paragraph (6) (ca) *“Social Services Act* 1947” and substituting “Part III of the *Social Security Act* 1947 or, being eligible to receive such an invalid pension, becoming eligible to receive a rehabilitation allowance under Part VIII of that Act”.

**Supplementary assistance**

**23.** **(1)** Section 98aof the Principal Act is amended by omitting from paragraph (3a) (b) “$416” and substituting “$520”.

**(2)** Section 98a of the Principal Act is amended by inserting after sub-section (3) the following sub-sections:

“(3aa) An allowance under this section is not payable to a person during any period during which the person is in receipt of an incentive allowance under section 26 of the *Social Security Act* 1947.

“(3ab) An allowance under this section is not payable to the husband or wife of a person, being a husband or wife who is living with the person in their matrimonial home, during any period during which the person is in receipt of an incentive allowance under section 26 of the *Social Security Act* 1947.”.

**(3)** Section 98a is amended—

(a) by omitting “or” from sub-paragraph (3c) (b) (iii);

(b) by adding at the end of paragraph (3c) (b) the following word and sub-paragraph:

“; or (v) a rehabilitation allowance under Part VIII of the *Social Security Act* 1947 the amount of which is calculated by reference to an allowance under section 30a or 112a of that Act,”; and

(c) by omitting sub-section (9) and substituting the following sub-section:

“(9) Where the husband or wife of a person in receipt of an allowance under this section—

(a) is granted an age pension or an invalid pension under Part III of the *Social Security Act* 1947 or an allowance under section 9 of the *Tuberculosis Act* 1948; or

(b) is granted a rehabilitation allowance under Part VIII of the *Social Security Act* 1947 and, immediately before becoming eligible to receive that allowance, was eligible to receive an invalid pension under Part III of that Act,

that last-mentioned person shall, within 14 days after becoming aware of the grant of the pension or allowance, give a notification in writing of the grant to the Secretary at any address of the Department. Penalty: $40.”.

**(4)** The amendment made by sub-section (1), in so far as it affects instalments of supplementary assistance allowance, applies in relation to an instalment of supplementary assistance allowance falling due on 11 November 1982 and to all subsequent instalments.

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

**24**. Section 98b of the Principal Act is amended—

(a) by omitting paragraph (2) (b) and substituting the following paragraph:

“(b) a person—

(i) who is in receipt of a pension under Part III of the *Social Security Act* 1947 and is a married person for the purposes of that Part; or

(ii) who—

(a) is in receipt of a rehabilitation allowance under Part VIII of the *Social Security Act* 1947;

(b) immediately before becoming eligible to receive that allowance, was eligible to receive an invalid pension under Part III of that Act; and

(c) is a married person for the purposes of Part III of that Act,”; and

(b) by omitting from sub-section (3) “sub-section 135d (1)” and substituting “sub-section 135b (3)”.

**Interpretation**

**25.** Section 98d of the Principal Act is amended—

(a) by omitting from paragraph (1) (a) “a country (other than Australia)” and substituting “a foreign country”;

(b) by inserting in paragraph (2) (a) “foreign” after “outside the”; and

(c) by inserting in paragraph (2) (b) “foreign” after “within that”.

**Certain persons not members of the Forces of a Commonwealth country**

**26.** Section 98e of the Principal Act is amended by omitting “a country (other than Australia)” and substituting “a foreign country”.

**Interpretation**

**27.** Section 98h of the Principal Act is amended—

(a) by inserting “foreign” before “country” (wherever occurring) in the definition of “government-in-exile” in sub-section (1);

(b) by inserting “foreign” after “raised by a” in paragraph (a) of the definition of “member of the Forces of an allied country” in sub-section (1);

(c) by inserting “foreign” after “not being a” in paragraph (a) of the definition of “member of the Forces of an allied country” in sub-section (1);

(d) by inserting “foreign” after “in the forces of a” in paragraph (c) of the definition of “member of the Forces of an allied country” in sub-section (1);

(e) by inserting in sub-section (2) “foreign” after “raised by a”; and

(f) by inserting in paragraph (2) (b) “foreign” after “with respect to the”.

**Certain persons not members of the Forces of an allied country**

**28.** Section 98j of the Principal Act is amended by omitting “a country (other than Australia)” and substituting “a foreign country”.

**29.** After Division 5c of Part III of the Principal Act the following Division is inserted:

***“Division 5d*—*Extension of Application of Provisions of Division 5* *to certain Commonwealth and Allied Mariners***

**Date of commencement of service pension**

“98n. The date of commencement of a service pension payable under Division 5, as extended by this Division, shall not be earlier than 3 February 1983.

**Extension of application of Division 5 to Commonwealth mariners**

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

(a) a Commonwealth mariner;

(b) the wife, as defined in sub-section 83 (1), of a Commonwealth mariner; and

(c) a child, as defined in sub-section 83 (1), of a Commonwealth mariner.

“(2) For the purposes of the extension of the provisions of Division 5 as provided in sub-section (1), a reference in that Division to a member of the Forces or to a member is a reference to a Commonwealth mariner.

“(3) For the purposes of the extension of the provisions of Division 5 as provided in sub-section (1), a Commonwealth mariner shall be deemed to have served in a theatre of war within the meaning of that Division.

**Commonwealth mariners**

“98q. (1) In this Division, ‘Commonwealth mariner’ means a person who—

(a) was, during the war—

(i) a master, officer or seaman employed under agreement in sea-going service on a ship that was—

(a) registered in a foreign country that is, or was at any time during the course of that employment, a part of the dominions of the Crown; and

(b) engaged in trading;

(ii) an apprentice employed under indenture in sea-going service on a ship that was—

(a) registered in a foreign country that is, or was at any time during the course of that employment, a part of the dominions of the Crown; and

(b) engaged in trading;

(iii) a master, officer, seaman or apprentice employed in a lighthouse tender or pilot ship of a foreign country that is, or was at any time during the course of that employment, a part of the dominions of the Crown;

(iv) a pilot employed by a foreign country that is, or was at any time during the course of that employment, a part of the dominions of the Crown; or

(v) a master, officer, seaman or apprentice employed in sea-going service on a ship that was—

(a) operated by, or on behalf of, a foreign country that is, or was at any time during the course of that employment, a part of the dominions of the Crown; and

(b) a hospital ship, troop transport, supply ship, tug, cable ship, salvage ship, dredge, fishing vessel or fisheries investigation vessel;

(b) was, at any time during the course of that employment during the war—

(i) detained by the enemy; or

(ii) in an area—

(a) service in which, if he had been a member of the Defence Force at that time, would have entitled him to the award of a campaign medal; and

(b) at a time when danger from hostile forces of the enemy was incurred by him; and

(c) has, at any time, been continuously resident in Australia for a period of not less than 10 years,

but does not include—

(d) an Australian mariner within the meaning of Division 5c; or

(e) a person who has, at any time, been employed—

(i) on a ship that—

(a) operated to, or was operating from, a port in a foreign country that was, at that time, at war with Australia;

(b) was engaged in trading with a foreign country that was, at that time, at war with Australia; or

(c) was engaged in providing assistance or support to the enemy or to a foreign country that was, at that time, at war with Australia; or

(ii) by a foreign country that was, at that time, at war with Australia.

“(2) 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 (c) of the definition of ‘Commonwealth mariner’ in sub-section (1) shall, in relation to that person, be deemed to be reduced by the excess.

“(3) In this section, ‘the enemy’ and ‘the war’ have the same respective meanings as in Division 6.

**Extension of application of Division 5 to allied mariners**

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

(a) an allied mariner;

(b) the wife, as defined in sub-section 83 (1), of an allied mariner; and

(c) a child, as defined in sub-section 83 (1), of an allied mariner.

“(2) For the purposes of the extension of the provisions of Division 5 as provided in sub-section (1), a reference in that Division to a member of the Forces or to a member is a reference to an allied mariner.

“(3) For the purposes of the extension of the provisions of Division 5 as provided in sub-section (1), an allied mariner shall be deemed to have served in a theatre of war within the meaning of that Division.

**Allied mariners**

“98s. (1) In this Division, ‘allied mariner’ means a person who—

(a) was, during the war—

(i) a master, officer or seaman employed under agreement in sea-going service on a ship that was engaged in trading;

(ii) an apprentice employed under indenture in sea-going service on a ship that was engaged in trading;

(iii) a master, officer, seaman or apprentice employed in a lighthouse tender or pilot ship;

(iv) employed as a pilot; or

(v) a master, officer, seaman or apprentice employed in sea-going service on a ship that was—

(a) operated by, or on behalf of, a foreign country; and

(b) a hospital ship, troop transport, supply ship, tug, cable ship, salvage ship, dredge, fishing vessel or fisheries investigation vessel;

(b) was, at any time during the course of that employment during the war, on a ship that was—

(i) operating from a port in Australia or a foreign country that was, at that time, at war with the enemy;

(ii) engaged in trading with Australia or a foreign country that was, at that time, at war with the enemy; or

(iii) engaged in providing assistance or support to—

(a) the Defence Force, or the forces, or any part of the forces, of a foreign country that was, at that time, at war with the enemy; or

(b) Australia or a foreign country that was, at that time, at war with the enemy;

(c) was, at any time during the course of that employment during the war—

(i) detained by the enemy; or

(ii) in an area—

(a) service in which, if he had been a member of the Defence Force at that time, would have entitled him to the award of a campaign medal; and

(b) at a time when danger from hostile forces of the enemy was incurred by him; and

(d) has, at any time, been continuously resident in Australia for a period of not less than 10 years,

but does not include—

(e) an Australian mariner within the meaning of Division 5c;

(f) a Commonwealth mariner within the meaning of this Division; or

(g) a person who has, at any time, been employed—

(i) on a ship that—

(a) operated to, or was operating from, a port in a foreign country that was, at that time, at war with Australia;

(b) was engaged in trading with a foreign country that was, at that time, at war with Australia; or

(c) was engaged in providing assistance or support to the enemy or to a foreign country that was, at that time, at war with Australia; or

(ii) by a foreign country that was, at that time, at war with Australia.

“(2) 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 (d) of the definition of ‘allied mariner’ in sub-section (1) shall, in relation to that person, be deemed to be reduced by the excess.

“(3) In this section, ‘the enemy’ and ‘the war’ have the same respective meanings as in Division 6.”.

**Extension of application of Act to certain male members of the Forces**

**30.** Section 99 of the Principal Act is amended—

(a) by omitting from paragraph (2) (a) “and”; and

(b) by adding at the end of sub-section (2) the following paragraphs:

“(c) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies by reason of his death shall be read as a reference to a member of the

Forces within the meaning of section 100 in relation to whom sub-section 101 (1) or (2) applies by reason of his death;

“(d) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies by reason of his incapacity or death shall be read as a reference to a member of the Forces within the meaning of section 100 in relation to whom sub-section 101 (1) or (2) applies by reason of his incapacity or death;

“(e) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies otherwise than by reason of his death shall be read as a reference to a member of the Forces within the meaning of section 100 in relation to whom sub-section 101 (1) or (2) applies otherwise than by reason of his death; and

“(f) any reference in Division 1 to a member of the Forces in relation to whom sub-sections 24 (1) and (2) do not apply by reason of his death shall be read as a reference to a member of the Forces within the meaning of section 100 in relation to whom sub-sections 101 (1) and (2) do not apply by reason of his death.”.

**Interpretation**

**31.** Section 100 of the Principal Act is amended—

(a) by omitting “active service by” from the definition of “Active Service” and substituting “war service of;

(b) by inserting “or a Board” after “the Commission” in sub-paragraph (d) (iv) of the definition of “Active Service”;

(c) by omitting the definitions of “enlisted”, “enlistment” and “member of the Forces” and substituting the following definitions:

“‘eligible civilian’ means a male person who, during the war, was—

(a) a British subject; and

(b) a resident of the Territory of Papua or the Territory of New Guinea,

but does not include—

(c) a person to whom paragraph (a), (b) or (c) of the definition of ‘member of the Forces’ applies; or

(d) an indigenous inhabitant of the Territory of Papua or the Territory of New Guinea;

“‘enlisted’ includes appointed to, or called up for continuous service with, the Defence Force;

“‘enlistment’—

(a) in relation to a person who, during the war, was a member of the Defence Force—includes appointment to, or call up for continuous service with, the Defence Force;

(b) in relation to a person who, during the war, was appointed for continuous service with a body, contingent or detachment of the Defence Force—means appointment for continuous service with the body, contingent or detachment;

(c) in relation to a person who, during the war, was employed by the Commonwealth on a special mission outside Australia—means the commencement of his employment on the special mission; and

(d) in relation to an eligible civilian who, during the war, was detained by the enemy—means the commencement of his detention;

“‘member of the Forces’ means—

(a) a male person who, during the war, was a member of the Defence Force and whose war service commenced prior to 1 July 1947;

(b) a male person who, during the war, was appointed for continuous service with a body, contingent or detachment of the Defence Force and whose war service commenced prior to 1 July 1947;

(c) a male person who, during the war, was employed by the Commonwealth on a special mission outside Australia;

(d) an eligible civilian who, during the invasion of the Territories of Papua and New Guinea during the war, was killed as a result of action by the enemy; or

(e) an eligible civilian who, during the war, was detained by the enemy;

“‘special mission’ means a mission that, in the opinion of the Commission or a Board, was of special assistance to the Commonwealth in the prosecution of the war;

“‘the enemy’ means the forces, or any part of the forces, of a State at war with His Majesty during the war;”; and

(d) by omitting the definition of “war service” and substituting the following definition:

“‘war service’—

(a) in relation to a person who, during the war, was a member of the Defence Force—means the continuous service, during the war, of the person as a member of the Defence Force;

(b) in relation to a person who, during the war, was appointed for continuous service with a body, contingent or detachment of the Defence Force—means the continuous service, during the war, of the person with the body, contingent or detachment;

(c) in relation to a person who, during the war, was employed by the Commonwealth on a special mission outside Australia—means the employment of the person on the special mission; and

(d) in relation to an eligible civilian who, during the war, was detained by the enemy—means his detention by the enemy.”.

**Liability of Commonwealth to pay pensions to certain male members of the Forces**

**32.** Section 101 of the Principal Act is amended—

(a) by omitting from sub-paragraph (c) (i) of the proviso to sub-section (1) “a country other than the Commonwealth” and substituting “a foreign country”; and

(b) by inserting after sub-section (1) the following sub-section:

“(1aaa) The death of an eligible civilian who, during the invasion of the Territories of Papua and New Guinea during the war, was killed as a result of action by the enemy shall, for the purposes of paragraph (1) (b), be taken to be attributable to war service of the eligible civilian.”.

**Heading to Division 7 of Part III**

**33.** The heading to Division 7 of Part III of the Principal Act is amended by omitting *“Members of the Women’s Services”* and substituting *“certain Female Members of the Forces”.*

**Extension of application of Act to certain female members of the Forces**

**34.** Section 104 of the Principal Act is amended—

(a) by omitting from sub-section (1) “and ‘member of the Forces’ “ and substituting “‘eligible civilian’, ‘enlistment’, ‘member of the Forces’, ‘special mission’ and ‘war service’”;

(b) by omitting from paragraph (2) (a) “and”;

(c) by inserting after paragraph (2) (a) the following paragraph:

“(ab) any reference in those Divisions, sections or Schedules to an eligible civilian, enlistment or war service shall be read respectively as a reference to an eligible civilian, enlistment or war service within the meaning of section 105;”; and

(d) by adding at the end of sub-section (2) the following paragraphs:

“(c) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies by reason of his death shall be read as a reference to a member of the Forces within the meaning of section 105 in relation to whom sub-section 101 (1) or (2) applies by reason of her death;

“(d) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies by reason of his incapacity or death shall be read as a reference to a

member of the Forces within the meaning of section 105 in relation to whom sub-section 101 (1) or (2) applies by reason of her incapacity or death;

“(e) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies otherwise than by reason of his death shall be read as a reference to a member of the Forces within the meaning of section 105 in relation to whom sub-section 101 (1) or (2) applies otherwise than by reason of her death; and

“(f) any reference in Division 1 to a member of the Forces in relation to whom sub-sections 24 (1) and (2) do not apply by reason of his death shall be read as a reference to a member of the Forces within the meaning of section 105 in relation to whom sub-sections 101 (1) and (2) do not apply by reason of her death.”.

**Interpretation**

**35.** Section 105 of the Principal Act is amended by omitting the definition of “member of the Forces” and substituting the following definitions: “‘eligible civilian’ means a female person who, during the war, was—

(a) a British subject; and

(b) a resident of the Territory of Papua or the Territory of New Guinea,

but does not include—

(c) a person to whom paragraph (a) or (b) of the definition of ‘member of the Forces’ applies; or

(d) an indigenous inhabitant of the Territory of Papua or the Territory of New Guinea;

“‘enlistment’—

(a) in relation to a person who, during the war, was a member of the Defence Force—includes appointment to, or call up for continuous service with, the Defence Force;

(b) in relation to a person who, during the war, was appointed for continuous service with a body, contingent or detachment of the Defence Force—means appointment for continuous service with the body, contingent or detachment; and

(c) in relation to an eligible civilian who, during the war, was detained by the enemy—means the commencement of her detention;

“‘member of the Forces’ means—

(a) a female person who, during the war, was a member of the Defence Force and whose war service commenced prior to 1 July 1947;

(b) a female person who, during the war, was appointed for continuous service with a body, contingent or detachment of

the Defence Force and whose war service commenced prior to 1 July 1947;

(c) an eligible civilian who, during the invasion of the Territories of Papua and New Guinea during the war, was killed as a result of action by the enemy; or

(d) an eligible civilian who, during the war, was detained by the enemy;

“‘war service’—

(a) in relation to a person who, during the war, was a member of the Defence Force—means the continuous service, during the war, of the person as a member of the Defence Force;

(b) in relation to a person who, during the war, was appointed for continuous service with a body, contingent or detachment of the Defence Force—means the continuous service, during the war, of the person with the body, contingent or detachment; and

(c) in relation to an eligible civilian who, during the war, was detained by the enemy—means her detention by the enemy.”.

**Extension of application of Act to certain male members of the Forces**

**36.** Section 107a of the Principal Act is amended—

(a) by omitting from sub-paragraph (2) (b) (vii) “and”; and

(b) by adding at the end of sub-section (2) the following paragraphs:

“(d) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies by reason of his death shall be read as a reference to a member of the Forces within the meaning of section 107b in relation to whom sub-section 107c (1) or (3) applies, but in relation to whom sub-section 107c (2) does not apply, by reason of his death;

“(e) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies by reason of his incapacity or death shall be read as a reference to a member of the Forces within the meaning of section 107b in relation to whom sub-section 107c (1) or (3) applies, but in relation to whom sub-section 107c (2) does not apply, by reason of his incapacity or death;

“(f) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies otherwise than by reason of his death shall be read as a reference to a member of the Forces within the meaning of section 107b in relation to whom sub-section 107c (1) or (3) applies otherwise than by reason of his death, but in relation to whom sub-section 107c (2) does not apply, or applies only by reason of his death; and

“(g) any reference in Division 1 to a member of the Forces in relation to whom sub-sections 24 (1) and (2)do not apply by reason of his death shall be read as a reference to a member of the Forces within the meaning of section 107b in relation to whom sub-sections 107c (1) and (3) do not apply, or in relation to whom sub-section 107c (2)applies, by reason of his death.”.

**Interpretation**

**37.** Section 107b of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “member of the Forces” and substituting the following definition:

“‘member of the Forces’ means—

(a) a male member of the Defence Force; or

(b) a male person appointed for continuous service with a body, contingent or detachment of the Defence Force,

who served on war service;”; and

(b) by omitting paragraph (a) of the definition of “war service” in sub-section (1) and substituting the following paragraph:

“(a) a member of, attached to or appointed for continuous service with a body, contingent or detachment of the Defence Force that was allotted for duty in an operational area; or”.

**Liability of Commonwealth to pay pensions to certain male members of the Forces**

**38.** Section 107c of the Principal Act is amended—

(a) by omitting from paragraph (1) (a) “or” (last occurring);

(b) by omitting from paragraph (1) (b) “of a member of the Naval, Military or Air Forces of the Commonwealth” and substituting “of a member of, or of a person attached to or appointed for continuous service with, a body, contingent or detachment of the Defence Force”;

(c) by inserting after paragraph (1) (b) the following word and paragraph:

“; or (c) of a member of the Forces whose incapacity or death has arisen out of or is attributable to his war service,”;

(d) by omitting sub-section (2) and substituting the following sub-sections:

“(2) Subject to sub-section (2a), the Commonwealth is not liable under sub-section (1) if the incapacity or death of a member—

(a) was due to his serious default or wilful act;

(b) arose from intentionally self-inflicted injuries; or

(c) arose from, or from an occurrence that happened during the commission of, a serious breach of discipline by the member.

“(2a) Where the death of a member is, in the opinion of the Commision or a Board, due to venereal disease contracted during his

war service, sub-section (2) does not affect the liability of the Commonwealth to pay pensions to his widow and to his children, being persons specified in sub-paragraph 107a (2) (b) (iii).”;

(e) by inserting in sub-section (3) “or appointment” after “enlistment”; and

(f) by omitting from paragraph (6) (a) “a country other than the Commonwealth” and substituting “a foreign country”.

**Extension of application of Act to certain female members of the Forces**

**39.** Section 107e of the Principal Act is amended—

(a) by omitting from sub-paragraph (2) (b) (iii) “and”; and

(b) by adding at the end of sub-section (2) the following paragraphs:

“(d) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies by reason of his death shall be read as a reference to a member of the Forces within the meaning of section 107f in relation to whom sub-section 107c (1) or (3) applies, but in relation to whom sub-section 107c (2) does not apply, by reason of her death;

“(e) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies by reason of his incapacity or death shall be read as a reference to a member of the Forces within the meaning of section 107f in relation to whom sub-section 107c (1) or (3) applies, but in relation to whom sub-section 107c (2) does not apply, by reason of her incapacity or death;

“(f) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies otherwise than by reason of his death shall be read as a reference to a member of the Forces within the meaning of section 107f in relation to whom sub-section 107c (1) or (3) applies otherwise than by reason of her death, but in relation to whom sub-section 107c (2) does not apply, or applies only by reason of her death; and

“(g) any reference in Division 1 to a member of the Forces in relation to whom sub-sections 24 (1) and (2) do not apply by reason of his death shall be read as a reference to a member of the Forces within the meaning of section 107f in relation to whom sub-sections 107c (1) and (3) do not apply, or in relation to whom sub-section 107c (2) applies, by reason of her death.”.

**Interpretation**

**40.** Section 107f of the Principal Act is amended by omitting the definition of “member of the Forces” and substituting the following definition:

“‘member of the Forces’ means—

(a) a female member of the Defence Force; or

(b) a female person appointed for continuous service with a body, contingent or detachment of the Defence Force,

who served on war service.”.

**Extension of application of Act to members to whom this Division applies**

**41.** Section 107h of the Principal Act is amended—

(a) by omitting from sub-paragraph (2) (b) (iii) “and”; and

(b) by adding at the end of sub-section (2) the following paragraphs:

“(d) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies otherwise than by reason of his death shall be read as a reference to a member to whom this Division applies in relation to whom sub-section 107m (1), (3) or (3a) applies otherwise than by reason of his death, but in relation to whom sub-section 107m (4) does not apply, or applies only by reason of his death;

“(e) any reference in Division 1 to a member of the Forces in relation to whom sub-section 24 (1) or (2) applies by reason of his death shall be read as a reference to a member to whom this Division applies in relation to whom sub-section 107m (1), (3) or (3a) applies by reason of his death, but in relation to whom sub-section 107m (4) does not apply, or applies otherwise than by reason of his death; and

“(f) any reference in Division 1 to a member of the Forces in relation to whom sub-sections 24 (1) and (2) do not apply by reason of his death shall be read as a reference to a member to whom this Division applies in relation to whom sub-sections 107m (1), (3) and (3a) do not apply, or in relation to whom sub-section 107m (4) applies, by reason of his death.”.

**Interpretation**

**42.** (**1)** Section 107j of the Principal Act is amended—

(a) by omitting “, but does not include any period of service or travel before 2 November 1981” from the definition of “peacekeeping service” in sub-section (1); and

(b) by omitting from sub-section (3) “(not being a date earlier than 2 November 1981)”.

**(2)** The date of commencement of a pension, allowance or other benefit that, but for the amendments of the Principal Act made by sub-section (1), would not have been payable under the *Repatriation Act* 1920 shall not be earlier than the date on which this section comes into operation.

**Dual entitlement**

**43.** Section 107q of the Principal Act is amended—

(a) by omitting from paragraph (3) (a) “a country, other than Australia,” and substituting “a foreign country”; and

(b) by inserting in sub-section (3) “foreign” after “of Australia or a”.

**44.** Section 107vkof the Principal Act is repealed and the following section is substituted:

**Statements of decisions of the Tribunal, &c.**

“107vk.(1) Where, in a proceeding before the Tribunal, the Tribunal makes a decision, the Tribunal shall—

(a) prepare a written statement of the decision;

(b) either give reasons for the decision orally or include a statement of the reasons for the decision in the statement of the decision;

(c) file the statement of the decision with the records of the case; and

(d) serve a copy of the statement of the decision, either personally or by post, on the relevant persons.

“(2) Where, in a proceeding before the Tribunal, the Tribunal gives reasons for a decision orally, a relevant person may, within 28 days after the day on which a copy of the statement of the decision is served on the relevant person, request the Tribunal to furnish to the relevant person a written statement of the reasons for the decision and the Tribunal shall, within 28 days after receiving the request, serve such a statement, either personally or by post, on the relevant person.

“(3) A written statement of the reasons for a decision of the Tribunal shall include any findings on material questions of fact and shall refer to the evidence or other material on which those findings were based.

“(4) In this section, ‘relevant person’, in relation to a proceeding, means—

(a) the applicant or a person authorized by the applicant; or

(b) the Commission.”.

**Limits of retrospective operation**

**45.** Section 107vzgof the Principal Act is amended by inserting before sub-paragraph (3) (b) (i) the following sub-paragraph:

“(ia) assessing the rate of a pension;”.

**Term of appointment**

**46.** **(1)** Section 107vzkof the Principal Act is amended by omitting from sub-section (2) “full-time” (wherever occurring).

**(2)** Section 107vzkof the Principal Act as amended by sub-section (1) applies to and in relation to an appointment or re-appointment of a person as a

member of the Repatriation Review Tribunal made after the commencement of this section.

**Appeals to Federal Court of Australia from decisions of the Tribunal**

**47.** Section 107vzzhof the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) An appeal under sub-section (1), by an applicant or the Commission, from a decision of the Tribunal shall be instituted—

(a) not later than—

(i) where the Tribunal, under sub-section 107vk (2), serves a written statement of the reasons for the decision on the applicant, or a person authorized by the applicant, or on the Commission, as the case requires—the twenty-eighth day after the day on which the statement is so served; or

(ii) in any other case—the twenty-eighth day after the day on which a copy of the statement of the decision is served on the applicant, or a person authorized by the applicant, or on the Commission, as the case requires,

or within such further time as the Federal Court of Australia (whether before or after the expiration of that date) allows; and

(b) in such manner as is prescribed by Rules of Court made under the *Federal Court of Australia Act* 1976.”.

**Modification of Repatriation Regulations**

**48.** Section 123a of the Principal Act is amended by omitting from sub-section (1) “Regulation 66” and substituting “Paragraph 66 (1) (a)”.

**Prescribed persons**

**49.** **(1)** Section 123abof the Principal Act is amended—

(a) by omitting from paragraph (2) (a) “$2,080” and substituting “$2,808”;

(b) by omitting from paragraph (2) (b) “$1,768” and substituting “$2,340”;

(c) by omitting sub-section (3) and substituting the following sub-section:

**“(3)** Where a person has the custody, care and control of a child or children, the prescribed rate of income applicable to the person by virtue of sub-section (2) shall be increased by $1,040 per annum in respect of each child.”; and

(d) by omitting from sub-section (6) the definition of “child” and substituting the following definition:

“‘child’, in relation to a person, means—

(a) a person who—

(i) has attained the age of 16 years; and

(ii) is in the custody, care and control of the first-mentioned person; or

(b) a person who—

(i) has attained the age of 16 years, but has not attained the age of 25 years;

(ii) is receiving full-time education at a school, college or university; and

(iii) is wholly or substantially dependent on the first-mentioned person,

but does not include—

(c) a person who is receiving an invalid pension under Part III, or a benefit under Part IVaaa, of the *Social Security Act* 1947; or

(d) a person who is receiving a rehabilitation allowance under Part VIII of the *Social Security Act* 1947 and who, immediately before becoming eligible to receive that allowance, was eligible to receive an invalid pension under Part III, or a benefit under Part IVaaa, of that Act;”.

**(2)** Where—

(a) a person (in this sub-section referred to as the “relevant child”) was, immediately before 11 November 1982, a child, within the meaning of section 123ab of the *Repatriation Act* 1920, of another person (in this sub-section referred to as the “relevant parent”);

(b) a benefit under Part IVaaa of the *Social Security Act* 1947 is granted on or after 11 November 1982, or was granted before 11 November 1982, to the relevant child pursuant to a claim lodged under that Act before 11 November 1982; and

(c) the relevant child has not ceased to receive the benefit (otherwise than by virtue of sub-section 135b (3) of the *Social Security Act* 1947),

the amendment made by paragraph (1) (d) shall be disregarded for the purposes of determining whether the relevant child is a child, within the meaning of section 123ab of the *Repatriation Act* 1920, of the relevant parent.

**Regulations**

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

(a) by omitting from paragraph (1) (a) “upon their discharge from service”;

(b) by inserting in sub-paragraph (1aa) (aa) (i) “of Part III” after “Division 5c”;

(c) by inserting in sub-paragraph (1aa) (aa) (ii) “, as defined in sub-section 83 (1),” after “the wives and children”;

(d) by omitting from sub-paragraph (1aa) (aa) (ii) “and” (last occurring); and

(e); by inserting after paragraph (1aa) (aa) the following paragraphs:

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

(i) Commonwealth mariners within the meaning of Division 5d of Part III; and

(ii) the wives and children, as defined in sub-section 83 (1), of such mariners;

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

(i) allied mariners within the meaning of Division 5d of Part III; and

(ii) the wives and children, as defined in sub-section 83 (1), of such mariners; and”.

**Schedule 2**

**51.** **(1)** Schedule 2 to the Principal Act is amended—

(a) by omitting “$42.05” and substituting “$46.60”; and

(b) by omitting “$84.10” and substituting “$93.20”.

**(2)** The amendments made by sub-section (1) apply in relation to an instalment of allowance falling due on 11 November 1982 and to all subsequent instalments.

**Schedule 3**

**52.** **(1)** Schedule 3 to the Principal Act is amended—

(a) by omitting from Table A “$60.00” (wherever occurring) and substituting “$66.40”; and

(b) by omitting from Table A “$30.00” and substituting “$33.20”.

**(2)** The amendments made by sub-section (1) apply in relation to an instalment of pension falling due on 11 November 1982 and to all subsequent instalments.

**Schedule 5**

**53.** **(1)** Schedule 5 to the Principal Act is amended—

(a) by omitting from column 2 of the table in paragraph 1 “56.10” and substituting “62.10”;

(b) by omitting from column 2 of the table in paragraph 1 “37.90” and substituting “42.00”;

(c) by omitting from column 2 of the table in paragraph 1 “32.60” (wherever occurring) and substituting “36.10”;

(d) by omitting from column 2 of the table in paragraph 1 “16.20” (wherever occurring) and substituting “17.90”;

(e) by omitting from column 2 of the table in paragraph 1 “8.60” (wherever occurring) and substituting “9.50”;

(f) by omitting from column 2 of the table in paragraph 1 “12.60” and substituting “13.90”;

(g) by omitting from column 3 of the table in paragraph 1 “84.10” and substituting “93.20”; and

(h) by omitting from column 3 of the table in paragraph 1 “42.05” (wherever occurring) and substituting “46.60”.

**(2)** The amendments made by sub-section (1) apply in relation to an instalment of allowance falling due on 11 November 1982 and to all subsequent instalments.

**Formal amendments**

**54.** The following provisions of the Principal Act are amended by omitting *“Social Services Act* 1947” (wherever occurring) and substituting *“Social Security Act* 1947”:

(a) sub-sections 25 (2), 52 (3), 83 (1) (definition of “Benevolent home”), 83 (1) (paragraph (e) of the definition of “Income”), 83 (3), 84 (1) and (2), 85 (1), (1aa) and (3a), 87 (1), (3) and (3a), 92 (5), 94 (3), 95 (1) (definition of “wife’s portion”), 98a (11) (sub-paragraph (a) (ix) and paragraph (c) of the definition of “Government rent”) and 98b (3),(5) and (6);

(b) paragraphs 35b (b), 85 (5) (a), 87 (1b) (c), 96 (6a) (d), 98b (1) (a) and (7a) (b) and 120b (3) (a) and (b);

(c) sub-paragraphs 98a (3c) (b) (ii) and (iii) and 98b (1) (b) (ii) and (2) (d) (iii);

(d) Table A in Schedule 3.

**PART III—AMENDMENTS OF THE SEAMEN’S WAR PENSIONS AND ALLOWANCES ACT 1940**

**Principal Act**

**55.** The *Seamen’s War Pensions and Allowances Act* 19402 is in this Part referred to as the Principal Act.

**Interpretation**

**56.** Section 3 of the Principal Act is amended by inserting after the definition of “fishing vessel” in sub-section (1) the following definition:

“‘foreign country’ means a country other than Australia, and includes—

(a) a state, province or other territory that is one of 2 or more territories that together form part of a country other than Australia; and

(b) a place that is a territory, dependency or colony (however described) of a country other than Australia;”.

**Pensions Committees to consult and co-operate with Commission**

**57.** Section 4aof the Principal Act is amended by omitting sub-paragraph (2) (b) (i) and substituting the following sub-paragraph:

“(i) reasons given by that Tribunal for its decisions in accordance with section 107vk of the *Repatriation Act* 1920 in its application by virtue of section 37 of this Act; or”.

**58.** After section 4b of the Principal Act the following sections are inserted:

**Removal of member of Pensions Committee from office**

“4c. (1) The Governor-General may remove a member of a Pensions Committee from office on the ground of proved misbehaviour or physical or mental incapacity.

“(2) The Commission may suspend a member of a Pensions Committee from office on the ground of misbehaviour or physical or mental incapacity.

“(3) Where the Commission suspends a member of a Pensions Committee from office, the Commission shall, within 7 days after the suspension, provide the Minister with a statement of the ground of the suspension.

“(4) Where such a statement has been provided to the Minister, the Governor-General may, on the recommendation of the Minister—

(a) remove the member of the Pensions Committee from office;

(b) direct that the suspension of the member of the Pensions Committee continue for such further period as the Governor-General specifies; or

(c) direct that the suspension of the member of the Pensions Committee terminate.

“(5) The suspension of a member of a Pensions Committee from office under this section does not affect any entitlement of the member to be paid remuneration and allowances.

“(6) If—

(a) a member of a Pensions Committee becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

(b) a member of a Pensions Committee, being a member of a Pensions Committee who has been appointed as a full-time member—

(i) engages, except with the approval of the Minister, in paid employment outside the duties of his office; or

(ii) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or 28 days in any 12 months;

(c) a member of a Pensions Committee, being a member of a Pensions Committee who has been appointed as a part-time member, is absent, except on leave of absence granted by the Minister, from 3 consecutive meetings of the Pensions Committee; or

(d) a member of a Pensions Committee fails, without reasonable excuse, to comply with his obligations under section 4d,

the Governor-General shall remove that member from office.

“(7) The Governor-General may, with the consent of a member of a Pensions Committee who is an eligible employee for the purposes of the *Superannuation Act* 1976, retire the member from office on the ground of physical or mental incapacity.

“(8) A member of a Pensions Committee shall not be suspended, removed or retired from office except as provided by this section.

**Disclosure of interests of members of Pensions Committees**

“4d. (1) Where a member of a Pensions Committee that is considering, or is to consider, a claim or application for pension has or acquires any interest, pecuniary or otherwise, that could conflict with the proper performance of his functions in relation to the claim or application—

(a) he shall disclose the interest to the claimant or applicant, as the case requires, and to the Commission; and

(b) except with the consent of the claimant or applicant, as the case requires, and of the Commission, he shall not take part in the consideration of the claim or application.

“(2) Where the Minister becomes aware that a member of a Pensions Committee that is considering, or is to consider, a claim or application for pension has, in relation to the claim or application, such an interest as is mentioned in sub-section (1)—

(a) if the Minister considers that the member should not take part, or should not continue to take part, in the consideration of the claim or application—he shall give a direction to the member accordingly; or

(b) in any other case—he shall cause the interest of the member to be disclosed to the claimant or applicant, as the case requires, and to the Commission.

“(3) In this section—

‘decision’ includes a determination and an assessment;

‘pension’ means pension, allowance or other benefit under this Act.”.

**59.** After section 17a of the Principal Act the following section is inserted:

**Pensions payable to orphans of certain deceased Australian mariners**

“17b. (1) Where—

(a) an Australian mariner who served in a theatre of war has died or dies otherwise than as a direct result of his having sustained a war injury;

(b) the Australian mariner has left or leaves a child; and

(c) the mother of the child is dead,

the child shall, subject to this Act, be entitled to receive such pension as would have been payable to the child if the Australian mariner’s death had been a direct result of his having sustained a war injury.

“(2) The date of commencement of a pension payable by virtue of sub-section (1) shall not be earlier than 11 November 1982.

“(3) A reference in sub-section (1) to war injury is a reference to—

(a) in relation to an Australian mariner not being a pilot—a war injury sustained in the course of his employment as an Australian mariner; or

(b) in the case of an Australian mariner being a pilot—a war injury sustained while on pilot duty.

“(4) An Australian mariner shall be taken, for the purposes of sub-section (1), to have served in a theatre of war if, and only if, he was, at any time during the course of his employment as an Australian mariner, on a ship, or in an area, at a time when danger from hostile forces of the enemy was incurred on that ship, or in that area, as the case may be, by the Australian mariner.”.

**Rates of pension on death or total incapacity**

**60.** **(1)** Section 18 of the Principal Act is amended—

(a) by omitting from paragraph (7) (a) “$27.60” and substituting “$33.20”; and

(b) by omitting from sub-section (8) “$55.20” and substituting “$66.40”.

**(2)** The amendments made by sub-section (1) apply in relation to an instalment of pension falling due on 11 November 1982 and to all subsequent instalments.

**Variation of rate of pension**

**61.** **(1)** Section 18aa of the Principal Act is amended by omitting “6 State” from the definition of “index number” in sub-section (1) and substituting “8”.

**(2)** The amendment made by sub-section (1) applies in relation to the quarter ending on 30 June 1982 and to all subsequent quarters.

**Persons entitled to payments under other laws**

**62.** Section 53a of the Principal Act is amended by omitting from paragraph (b) “a country other than Australia” and substituting “a foreign country”.

**Change of status of child to be notified**

**63.** Section 54a of the Principal Act is amended by omitting from paragraph (2) (b) *“Social Services Act* 1947” and substituting *“Social Security Act* 1947 or, being eligible to receive a pension of that kind, becomes eligible to receive a rehabilitation allowance under Part VIII of that Act”.

**Deduction from pensions and allowances of certain amounts**

**64.** Section 55a of the Principal Act is amended by omitting “the *Social Services Consolidation Act* 1947, or under that Act as amended,” (wherever occurring) from sub-section (2) and substituting “the *Social Security Act* 1947”.

**Schedule 2**

**65.** **(1**) Schedule 2 to the Principal Act is amended—

(a) by omitting from column 2 “42.05” (wherever occurring) and substituting “46.60”; and

(b) by omitting from column 2 “84.10” and substituting “93.20”.

**(2)** The amendments made by sub-section (1) apply in relation to an instalment of allowance falling due on 11 November 1982 and to all subsequent instalments.

**PART IV—AMENDMENTS OF THE INTERIM FORCES BENEFITS ACT 1947**

**Principal Act**

**66.** The *Interim Forces Benefits Act* 19473 is in this Part referred to as the Principal Act.

**Interpretation**

**67.** Section 3 of the Principal Act is amended—

(a) by omitting the definition of “member of the Interim Forces” and substituting the following definitions:

“‘enlistment’—

(a) in relation to a person who was a member of the Defence Force—includes appointment to, or call up for continuous service with, the Defence Force; and

(b) in relation to a person who was appointed for continuous service with a body, contingent or detachment of the Defence Force—means appointment for continuous service with the body, contingent or detachment;

“‘member of the Interim Forces’ means—

(a) a person who, after 30 June 1947 and before 1 July 1949, enlisted or re-engaged in, or was appointed or re-appointed to, the Defence Force for continuous service for a term not exceeding 2 years; or

(b) a person who, after 30 June 1947 and before 1 July 1949, was appointed for continuous service with a body, contingent or detachment of the Defence Force for a term not exceeding 2 years;”; and

(b) by adding at the end thereof the following definition:

“‘war service’, in relation to a person who was a member of the Interim Forces, means the service of the person as a member of the Interim Forces.”.

**Benefits of members of the Interim Forces**

**68.** Section 4 of the Principal Act is amended—

(a) by omitting “members of the Naval, Military or Air Forces of the Commonwealth, who enlist or re-engage in, or are appointed or re-appointed to, those Forces after 30 June 1947” and substituting “members of the Interim Forces”;

(b) by omitting “in any of those Forces” and substituting “as members of the Interim Forces”; and

(c) by omitting “their service after the date of that enlistment, re-engagement, appointment or re-appointment, as the case may be,” and substituting “their war service”.

**Extension of certain provisions of the Repatriation Act to male members of the Interim Forces**

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

(a) by inserting after paragraph (2) (b) the following paragraph:

“(ba) any reference in that Division or those sections or Schedules, or in any Act affecting that Division or those sections or Schedules, to enlistment or war service shall be read respectively as a reference to enlistment or war service within the meaning of this Act;”;

(b) by inserting after paragraph (2) (d) the following paragraph:

“(da) sub-sections 101 (1aaa) and (1aa) shall be deemed to be omitted; and”;

(c) by omitting from paragraph (2) (e) “and”; and

(d) by omitting paragraph (2) (f).

**Extension of certain provisions of the Repatriation Act to female members of the Interim Forces**

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

(a) by inserting after paragraph (2) (b) the following paragraph:

“(ba) any reference in that Division or those sections or Schedules, or in any Act affecting that Division or those sections or Schedules, to enlistment or war service shall be read respectively as a reference to enlistment or war service within the meaning of this Act;”;

(b) by inserting after paragraph (2) (d) the following paragraph:

“(da) sub-sections 101 (1aaa) and (1aa) shall be deemed to be omitted; and”;

(c) by omitting from paragraph (2) (e) “and”; and

(d) by omitting paragraph (2) (f)

**Application of Parts IIIa, IIIb and IIIc of the Repatriation Act**

**71.** Section 7aa of the Principal Act is amended by omitting paragraph (d) and substituting the following paragraph:

“(d) a reference to war service shall be read as a reference to war service within the meaning of this Act; and”.

**PART V—AMENDMENTS OF THE REPATRIATION (FAR EAST STRATEGIC RESERVE) ACT 1956**

**Principal Act**

**72.** The *Repatriation* (*Far East Strategic Reserve*) *Act* 19564 is in this Part referred to as the Principal Act.

**Interpretation**

**73.** Section 3 of the Principal Act is amended—

(a) by omitting “another” from the definition of “adopted” in sub-section (1) and substituting “a foreign”;

(b) by inserting after the definition of “dependant” in sub-section (1) the following definition:

“‘foreign country’ means a country other than Australia, and includes—

(a) a state, province or other territory that is one of 2 or more territories that together form part of a country other than Australia; and

(b) a place that is a territory, dependency or colony (however described) of a country other than Australia;”;

(c) by omitting paragraph (a) of the definition of “Malayan service” in sub-section (1) and substituting the following paragraph:

“(a) a member of, attached to or appointed for continuous service with a body, contingent or detachment of the Defence Force at a time when the body, contingent or detachment was allotted for duty in Malaya as part of, or in association with, the Australian Contingent, British Commonwealth Far East Strategic Reserve; or”; and

(d) by inserting after the definition of “member” in sub-section (1) the following definition:

“‘member of the Defence Force’ includes a person appointed for continuous service with a body, contingent or detachment of the Defence Force;”.

**Liability of the Commonwealth to pay pensions to members of the Forces**

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

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

“(1) Upon the incapacity or death—

(a) of a member of the Forces whose incapacity or death has resulted from an occurrence that happened during his Malayan service (including the contracting of a disease during that service); or

(b) of a member of the Forces whose incapacity or death has arisen out of or is attributable to his Malayan service,

the Commonwealth is, subject to this Act, liable to pay to the member, his dependants or both, as the case may be, pensions in accordance with Division 1 of Part III of the Repatriation Act as applied by section 7.”; and

(b) by omitting from paragraph (8) (a) “a country other than the Commonwealth” and substituting “a foreign country”.

**Extension of certain provisions of the Repatriation Act**

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

(a) by omitting from paragraph (2) (d) “and”; and

(b) by adding at the end of sub-section (2) the following paragraphs:

“(f) a reference in Division 1 of Part III of the Repatriation Act to a member of the Forces in relation to whom sub-section 24 (1) or (2) of that Act applies by reason of his death shall be read as a reference to a member of the Forces within the meaning of this Act in relation to whom sub-section 6 (1) of this Act applies, but in relation to whom sub-section 6 (2) of this Act does not apply, by reason of his death;

“(g) a reference in Division 1 of Part III of the Repatriation Act to a member of the Forces in relation to whom sub-section 24 (1) or (2) of that Act applies otherwise than by reason of his death shall be read as a reference to a member of the Forces within the meaning of this Act in relation to whom sub-section 6 (1) of this Act applies otherwise than by reason of his death, but in relation to whom sub-section 6 (2) of this Act does not apply, or applies only by reason of his death; and

“(h) a reference in Division 1 of Part III of the Repatriation Act to a member of the Forces in relation to whom sub-sections 24 (1) and (2) of that Act do not apply by reason of his death shall be read as a reference to a member of the Forces within the meaning of this Act in relation to whom sub-section 6 (1) of this Act does not apply, or in relation to whom sub-section 6 (2) of this Act applies, by reason of his death.”.

**Pensions payable to certain dependent females**

**76.** Section 8 of the Principal Act is amended—

(a) by omitting from paragraph (1) (a) “both at the time of the commencement of the Malayan service of a member of the Forces and at the time of the happening, during that service, of an occurrence (including the contracting of a disease) that resulted in his death or incapacity” and substituting “at any time during the Malayan service of a member of the Forces in relation to whom sub-section 6 (1) applies, but in relation to whom sub-section 6 (2) does not apply, by reason of his incapacity or death”; and

(b) by omitting from paragraph (1) (b) “those times” and substituting “that time”.

**Pension to divorced wife of member**

**77.** Section 9 of the Principal Act is amended by omitting “at the time of the happening during a member’s Malayan service of an occurrence (including the contracting of a disease) that resulted in his incapacity or death” and substituting “at any time during the Malayan service of a member of the Forces in relation to whom sub-section 6 (1) applies, but in relation to whom sub-section 6 (2) does not apply, by reason of his incapacity or death”.

**PART VI—AMENDMENTS OF THE REPATRIATION (SPECIAL OVERSEAS SERVICE) ACT 1962**

**Principal Act**

**78.** The *Repatriation* (*Special Overseas Service*) *Act* 19625 is in this Part referred to as the Principal Act.

**Interpretation**

**79.** Section 3 of the Principal Act is amended—

(a) by omitting “another” from the definition of “adopted” in sub-section (1) and substituting “a foreign”;

(b) by inserting after the definition of “Board” in sub-section (1) the following definition:

“‘foreign country’ means a country other than Australia, and includes—

(a) a state, province or other territory that is one of 2 or more territories that together form part of a country other than Australia; and

(b) a place that is a territory, dependency or colony (however described) of a country other than Australia;”;

(c) by inserting after the definition of “member” in sub-section (1) the following definition:

“‘member of the Defence Force’ includes a person appointed for continuous service with a body, contingent or detachment of the Defence Force;”;

(d) by omitting “the Naval, Military or Air Forces” from the definition of “special service” in sub-section (1) and substituting “the Defence Force”;

(e) by omitting from sub-section (1) the definition of “unit” and substituting the following definition:

“‘unit’, in relation to a member of the Defence Force, means the body, contingent or detachment of the Defence Force of which he is a member, to which he is attached or to which he has been appointed for continuous service, as the case requires.”; and

(f) by omitting “the Naval, Military or Air Forces” (first and last occurring) from sub-section (3) and substituting “the Defence Force”.

**Liability of the Commonwealth to pay pensions to members of the Forces**

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

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

“(1) Upon the incapacity or death—

(a) of a member of the Forces whose incapacity or death has resulted from an occurrence that happened during a period of special service of the member (including the contracting of a disease during such a period); or

(b) of a member of the Forces whose incapacity or death has arisen out of or is attributable to special service of the member,

the Commonwealth is, subject to this Act, liable to pay to the member, his dependants or both, as the case may be, pensions in accordance with Division 1 of Part III of the Repatriation Act as applied by section 7.”; and

(b) by omitting from paragraph (9) (a) “a country other than the Commonwealth” and substituting “a foreign country”.

**Extension of certain provisions of the Repatriation Act**

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

(a) by omitting from paragraph (3) (ea) “and”; and

(b) by adding at the end of sub-section (3) the following paragraphs:

“(g) a reference in Division 1 of Part III of the Repatriation Act to a member of the Forces in relation to whom sub-section 24 (1) or (2) of that Act applies by reason of his death shall be read as a reference to a member of the Forces within the meaning of this Act in relation to whom sub-section 6 (1) of this Act applies, but in relation to whom sub-section 6 (3) of this Act does not apply, by reason of his death;

“(h) a reference in Division 1 of Part III of the Repatriation Act to a member of the Forces in relation to whom sub-section 24 (1) or (2) of that Act applies otherwise than by reason of his death shall be read as a reference to a member of the Forces within the meaning of this Act in relation to whom sub-section 6 (1) of this Act applies otherwise than by reason of his death, but in relation to whom sub-section 6 (3) of this Act does not apply, or applies only by reason of his death; and

“(j) a reference in Division 1 of Part III of the Repatriation Act to a member of the Forces in relation to whom sub-sections 24 (1) and (2) of that Act do not apply by reason of his death shall be read as a reference to a member of the Forces within the meaning of this Act in relation to whom sub-section 6 (1) of this Act does not apply, or in relation to whom sub-section 6 (3) of this Act applies, by reason of his death.”.

**82.** Section 7aof the Principal Act is repealed and the following section is substituted:

**Pensions in relation to service other than special service**

“7a. (1) Upon the incapacity or death—

(a) of a person whose incapacity or death has resulted from an occurrence that happened, otherwise than during a period of special service of the person but when the person was a member of the Defence Force and in an area outside Australia—

(i) as a result of action of hostile forces; or

(ii) while the person was engaged in warlike operations against hostile forces; or

(b) of a person whose incapacity or death has arisen out of or is attributable to—

(i) action by hostile forces; or

(ii) the engagement of the person in warlike operations against hostile forces,

otherwise than during a period of special service of the person but when the person was a member of the Defence Force and in an area outside Australia,

the incapacity or death of the person shall be deemed, for the purposes of section 6, to have resulted from an occurrence that happened during a period of special service of the person as a member of the Forces.

“(2) This section does not apply in relation to any occurrence, or to any act or thing, that happened before 18 December 1965.

“(3) In this section, ‘occurrence’, in relation to a person, includes the contracting of a disease by the person.”.

**Pensions payable to certain dependent females**

**83.** Section 8 of the Principal Act is amended—

(a) by omitting from paragraph (1) (a) “both at the time of the commencement of a period of special service of a member and at the time of the happening, during that period, of an occurrence (including the contracting of a disease) that resulted in the member’s incapacity or death” and substituting “at any time during a period of special service of a member of the Forces in relation to whom sub-section 6 (1) applies, but in relation to whom sub-section 6 (3) does not apply, by reason of his incapacity or death”; and

(b) by omitting from paragraph (1) (b) “those times” and substituting “that time”.

**Pension to divorced wife of member**

**84.** Section 9 of the Principal Act is amended by omitting “at the time of the happening during a member’s special service of an occurrence (including the contracting of a disease) that resulted in the incapacity or death of the member” and substituting “at any time during a period of special service of a member in relation to whom sub-section 6 (1) applies, but in relation to whom sub-section 6 (3) does not apply, by reason of his incapacity or death”.

**PART VII—CERTAIN PENSIONS PAYABLE IN RESPECT OF PULMONARY TUBERCULOSIS**

**Minimum rate of certain pensions payable in respect of pulmonary tuberculosis**

**85.** **(1)** This section applies to a pension payable to a member of the Forces in respect of incapacity caused by pulmonary tuberculosis, being a pension that has been so payable since before the commencement of Part VII of the *Repatriation Acts Amendment Act* 1978.

**(2)** The rate of a pension to which this section applies shall be not less than the rate specified in Column 3 of the table in Schedule 1 to the *Repatriation Act* 1920.

**(3)** Sub-section (2) applies in relation to an instalment of pension falling due on 6 January 1983 and to all subsequent instalments.

**(4)** In this section—

“member of the Forces” means a person who is a member of the Forces for the purposes of any of the Repatriation Acts;

“pension” means a pension payable under any of the Repatriation Acts, but does not include a service pension;

“Repatriation Acts” means the *Repatriation Act* 1920, the *Interim Forces Benefits Act* 1947, the *Repatriation* (*Far East Strategic Reserve*) *Act* 1956 and the *Repatriation* (*Special Overseas Service*) *Act* 1962;

“service pension” means a service pension payable under Division 5 of Part III of the *Repatriation Act* 1920, including that Division as extended by virtue of the *Repatriation* (*Special Overseas Service*) *Act* 1962.

**PART VIII—AMENDMENT OF SEAMEN’S WAR PENSIONS AND ALLOWANCES ACT 1952**

**Principal Act**

**86.** The *Seamen’s War Pensions and Allowances Act* 19526 is in this Part referred to as the Principal Act.

**Interpretation**

**87.** Section 4 of the Principal Act is amended by omitting from sub-section (2) “the fourteenth day of April, One thousand nine hundred and forty-three” and substituting “3 September 1939”.

**PART IX—APPLICATION OF CERTAIN AMENDMENTS**

**Application of amendments relating to certain extensions of Commonwealth liability**

**88.** **(1)** The amendments made by paragraphs 9 (1) (a) and (b) and 10 (a), (b) and (c), sections 13, 14, 15, 16, 17 and 30, paragraph 34 (d), section 36, paragraph 38 (c), sections 39 and 41, paragraph 74 (a), sections 75, 76 and 77, paragraph 80 (a) and sections 81, 82, 83 and 84 apply in relation to—

(a) the consideration or reconsideration, after the commencement of this section, of a claim or application for pension, whether the consideration or reconsideration commenced before or after the commencement of this section;

(b) the consideration, after the commencement of this section, of an appeal in relation to a claim or application for pension, whether the consideration commenced before or after the commencement of this section; and

(c) the review, after the commencement of this section, of—

(i) a pension;

(ii) a decision in relation to a pension; or

(iii) a decision in relation to a claim or application for pension,

whether the review commenced before or after the commencement of this section.

**(2)** In sub-section (1)—

“decision” includes a determination and an assessment;

“pension” means pension, allowance or other benefit under the *Repatriation Act* 1920, the *Interim Forces Benefits Act* 1947, the *Repatriation* (*Far East Strategic Reserve*) *Act* 1956, the *Repatriation*

(*Special Overseas Service*) *Act* 1962, the *Seamen’s War Pensions and Allowances Act* 1940 or the *Papua New Guinea* (*Members of the Forces Benefits*) *Act* 1957.

**Application of amendments relating to certain former “act of grace” payments**

**89. (1)** The date of commencement of a pension, allowance or other benefit that, but for the amendments made by section 31, paragraph 32 (b), section 33, paragraphs 34 (a) and (c), sections 35 and 37, paragraphs 38 (b) and (e), sections 40, 67 and 68, paragraphs 69 (a) and 70 (a), section 71 and paragraphs 73 (c) and (d) and 79 (c), (d), (e) and (f) or by any one or more of those provisions, would not have been payable under a Repatriation Act shall not be earlier than 11 November 1982.

**(2)** In sub-section (1), “Repatriation Act” means the *Repatriation Act* 1920, the *Interim Forces Benefits Act* 1947, the *Repatriation* (*Far East Strategic Reserve*) *Act* 1956 or the *Repatriation* (*Special Overseas Service*) *Act* 1962.

**NOTES**

1. No. 6, 1920, as amended. For previous amendments, see 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; No. 216, 1973 (as amended by No. 20, 1974); Nos. 3, 24 and 90, 1974; Nos. 35, 56 and 111, 1975; Nos. 27, 91 and 112, 1976; No. 56, 1977; Nos. 129 and 170, 1978; Nos. 18 and 124, 1979; No. 129, 1980; Nos. 41, 61 and 160, 1981; and No. 20, 1982.

2. No. 60, 1940, as amended. For previous amendments, see 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; Nos. 4, 25 and 90, 1974; Nos. 35 and 111, 1975; Nos. 27, 91 and 112, 1976; No. 56, 1977; No. 129, 1978; Nos. 18 and 124, 1979; No. 129, 1980; and No. 160, 1981.

3. No. 46, 1947, as amended. For previous amendments, see No. 79, 1950; No. 106, 1964; No. 93, 1966; No. 5, 1973; No. 90, 1974; No. 18, 1979; and No. 160, 1981.

4. No. 91, 1956, as amended. For previous amendments, see No. 90, 1962; No. 107, 1964; No. 93, 1966; No. 81, 1972; No. 4, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 90, 1974; No. 129, 1978; No. 18, 1979; and No. 160, 1981.

5. No. 89, 1962, as amended. For previous amendments, see No. 108, 1964; No. 110, 1965; No. 93, 1966; No. 78, 1968; No. 80, 1972; No. 3, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 90, 1974; No. 129, 1978; No. 18, 1979; and No. 160, 1981.

6. No. 17, 1952.