

DRAFT

[CONFIDENTIAL]

1920.

A BILL

FOR

AN ACT

To amend the *War Gratuity Act 1920*.

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

1.—(1.) This Act may be cited as the *War Gratuity Act (No. 2)* 1920. Short title and citation.

(2.) The *War Gratuity Act 1920* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *War Gratuity Acts 1920*.

2. Section two of the Principal Act is amended—

Definitions.

(a) by inserting in the definition of "Dependants", after the word "Forces" (first occurring), the words "or an Imperial Reservist";

(b) by adding at the end of that definition the words "or, in the case of a dependant of an Imperial Reservist, was so wholly or partly dependent at any time after or within twelve months before the date of the embarkation of the Imperial Reservist (or the first of them, if more than one)"; and

(c) by adding at the end of the definition of "Member of the Forces" the following paragraph:—

"or (c) a person who is or was a member of the Naval and Military Expeditionary Force to New Guinea;"

[C.32]—60/18.5.1920.—F.4482.—M

3. Section

3. Section three of the Principal Act is amended by inserting in paragraph (e) (i) of sub-section (1.) thereof after the word "oversea," the words "or joined an Australian Expeditionary Force abroad on or before that date,".

Rate of war
gratuity.

4. Section four of the Principal Act is amended— 5

(a) by adding, at the end of sub-section (2.), the following proviso :—

"Provided that in the case of a person specified in paragraph (b) or (e) (ii) of that sub-section, who died while on service, the rate of war gratuity payable shall be one shilling and sixpence per diem." ; and 10

(b) by omitting from sub-section (5.) the words "who was transferred from the Commonwealth Naval or Military Forces to", and inserting in their stead the words "who, after service in the Commonwealth Naval or Military Forces, served in" . 15

Qualifying
period of war
service.

5. Section five of the Principal Act is amended—

(a) by inserting after the words "member of the Forces" (wherever occurring) the words "or an Imperial Reservist" ; 20

(b) by inserting in paragraph (b) of sub-section (1.), after the word "three", the words " , not being a person who died while on service " ;

(c) by inserting, after paragraph (b) of sub-section (1.), the following paragraph :— 25

"(bb) in the case of a person specified in paragraph (b) of sub-section (1.) of section three, who died while on service—the period from the fourth day of August, One thousand nine hundred and fourteen, or the date of his appointment or enlistment (whichever is the later), up to the twenty-eighth day of June, One thousand nine hundred and nineteen ;" ; 30

(d) by inserting in paragraph (d) of sub-section (1.) after the word "nineteen", the words " , or, in the case of a person who joined an Australian Expeditionary Force abroad, the period from the date of his enlistment in or appointment to that Force, up to the twenty-eighth day of June, One thousand nine hundred and nineteen " . 35

(e) by inserting in paragraph (e) of sub-section (1.), after the word "three", the words " , not being a person who died while on service " ; 40

(f) by

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3.

(f) by inserting, after paragraph (e) of sub-section (1.), the following paragraph :—

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“(ee) in the case of a person specified in paragraph (e) (ii) of sub-section (1.) of section three, who died while on service—the period from the date upon which he reported in camp up to the twenty-eighth day of June, One thousand nine hundred and nineteen; and”;

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(a) by inserting in paragraph (a) of sub-section (3.), after the word “discharged”, the words “or died while on service”;

(h) by inserting in paragraph (a) of sub-section (3.), after the word “discharge”, the words “or death”;

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(i) by inserting in paragraph (c) of sub-section (3.), after the words “the member” (wherever occurring), the words “or Imperial Reservist, as the case may be,”;

(j) by omitting paragraph (e) of sub-section (3.); and

(k) by inserting in paragraph (a) of sub-section (4.), after the word “three”, the words “, not being a person who died while on service”.

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6. Section fifteen of the Principal Act is amended by omitting the words “or the *War Service Homes Act 1918-1919*”, and inserting in their stead the words “or in payment of moneys by that person to the War Service Homes Commissioner for the purposes of the *War Service Homes Act 1918-1919*.”

Acceptance of
bonds by
Repatriation
Department
or War Service
Homes
Commission.

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7. Section eighteen of the Principal Act is amended by inserting, after the words “to be”, the words “property or”.

Gratuity and
interest not
liable to
income tax.

8. Section twenty of the Principal Act is amended by adding at the end thereof the following words “, and in particular—

Regulations.

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(a) for conferring upon the prescribed authority powers in relation to the summoning of witnesses, the taking of evidence on oath, and the production of documents, and

(b) for providing penalties, not exceeding Fifty pounds, for any failure to comply with any requirement made by a prescribed authority in the exercise of any such powers.”



1920.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

WAR GRATUITY BILL (No. 2) 1920.

MEMORANDUM SHOWING THE ALTERATIONS PROPOSED TO
TO BE MADE IN THE PRINCIPAL ACT.*(Circulated by the Acting Treasurer, the Right Honorable Sir Joseph Cook.)*

The words printed in erased type are words proposed to be omitted from the Principal Act.

The words printed in black type are words proposed to be added to the Principal Act.

DEFINITIONS.

Section 2 of the Principal Act, as proposed to be amended by Clause 2 of the Bill, will read as follows:—

2. In this Act, unless the contrary intention appears—

“Dependants” means the wife or widow and children (including ex-nuptial children) of any person who is or was a member of the Forces, or an Imperial Reservist, and any person who is or was wholly or partly dependent for his support upon the earnings of that person either during his membership of the Forces, or after or within twelve months before such membership or, in the case of a dependant of an Imperial Reservist, was so wholly or partly dependent at any time after or within twelve months before the date of the embarkation of the Imperial Reservist (or the first of them, if more than one);

“Imperial Reservist” means a person, other than a member of the Naval Forces, who is or was a member of the Imperial Reserve Forces called up for active service since the fourth day of August, One thousand nine hundred and fourteen, and who at that date was *bonâ fide* resident in Australia;

“Member of the Forces” means—

- (a) a member of the Naval Forces ; or
- (b) a member of the Military Forces enlisted for the duration of the war, or appointed without limitation of time, for active service outside Australia since the fourth day of August, One thousand nine hundred and fourteen, and includes a member of the Army Medical Corps Nursing Service who was since that date accepted or appointed by the Director-General of Medical Services for service outside Australia ; or
- (c) a person who is or was a member of the Naval and Military Expeditionary Force to New Guinea ;

“Member of the Auxiliary Service” means a member of the Royal Australian Naval Brigade, Royal Australian Naval Brigade Staff, or Royal Australian Naval Radio Service, and includes any person appointed for permanent naval duty on shore ;

“Member of the Military Forces” means a person who is or was a member of the Forces, other than a member of the Naval Forces, and includes a person who was a member of the Force known as the Royal Australian Naval Bridging Train ;

“Member of the Naval Forces” means a person who is or was a member of the Naval Forces raised in pursuance of the *Naval Defence Act* 1910–1911 (not being a person appointed or enlisted for Home Service only, or appointed or enlisted after the tenth day of November, One thousand nine hundred and eighteen), and includes any person who held a rank or rating in the Imperial Naval Forces (whether Permanent, Reserve or Temporary), and who served in the Royal Australian Navy between the fourth day of August, One thousand nine hundred and fourteen, and the twenty-eighth day of June, One thousand nine hundred and nineteen ;

“War Gratuity” means a war gratuity under this Act.

PAYMENT OF WAR GRATUITY AUTHORIZED.

Section 3 of the Principal Act, as proposed to be amended by Clause 3 of the Bill, will read as follows :—

3.—(1.) Subject to this Act, the Minister may pay a war gratuity to—

- (a) a member of the Naval Forces (other than a member of the Auxiliary Service), who, as a member of the Naval Forces, served in a sea-going ship after the fourth day of August, One thousand nine hundred and fourteen, and before the eleventh day of November, One thousand nine hundred and eighteen ;
- (b) a member of the Naval Forces (other than a member of the Auxiliary Service), who did not serve in a sea-going ship between the fourth day of August, One thousand nine hundred and fourteen, and the eleventh day of November, One thousand nine hundred and eighteen ;
- (c) a person who is or was a member of the Naval and Military Expeditionary Force to New Guinea ;
- (d) any other member of the Naval Forces who served in a sea-going ship during the war with Germany, and who, during that service, was borne for pay on the books of one of His Majesty’s Australian ships ;

- (e) a member of the Military Forces who—
- (i) embarked from Australia on or before the tenth day of November, One thousand nine hundred and eighteen, for service oversea, or joined an Australian Expeditionary Force abroad on or before that date, or
 - (ii) did not embark from Australia for service oversea, or embarked from Australia after the tenth day of November, One thousand nine hundred and eighteen for that service ;
- (f) any person who is or was an Imperial Reservist, and who embarked from Australia on or before the tenth day of November, One thousand nine hundred and eighteen, for service oversea.
- (2.) For the purposes of this section a person who embarked from one port in Australia and landed at another port in Australia, and did not leave Australia for service oversea, shall be deemed not to have embarked from Australia.

RATE OF WAR GRATUITY.

Section 4 of the Principal Act, as proposed to be amended by Clause 4 of the Bill, will read as follows :—

4.—(1.) The rate of war gratuity payable in respect of the service of any person specified in paragraph (a), (c), (d) or (e) (i) of sub-section (1.) of the last preceding section shall be One shilling and sixpence per diem.

(2.) The rate of war gratuity payable in respect of the service of any person specified in paragraph (b) or (e) (ii) of sub-section (1.) of the last preceding section shall be One shilling per diem :

Provided that in the case of a person specified in paragraph (b) or (e) (ii) of that sub-section, who died while on service, the rate of war gratuity payable shall be One shilling and sixpence per diem.

(3.) The rate of war gratuity payable in respect of the service of any person specified in paragraph (f) of sub-section (1.) of the last preceding section shall be One shilling and sixpence per diem.

(4.) From the total amount payable in respect of the service of any person in pursuance of the last preceding sub-section there shall be deducted the amount of any war gratuity paid or payable by the Imperial Government to or in respect of the service of that person, or any bounty paid or payable by that Government upon the re-engagement of that person in the Imperial Forces.

(5.) From the total amount payable, in pursuance of this section, in respect of the service of any person who was transferred from the Commonwealth Naval or Military Forces to who, after service in the Commonwealth Naval or Military Forces, served in the Imperial Forces or the Indian Army, there shall be deducted the amount of any war gratuity paid or payable by the Imperial Government or the Indian Government to or in respect of the service of that person.

QUALIFYING PERIOD OF WAR SERVICE.

Section 5 of the Principal Act, as proposed to be amended by Clause 5 of the Bill, will read as follows :—

5.—(1.) Subject to this Act, the period in respect of which war gratuity is payable (in this section referred to as the "qualifying period of service") is as follows :—

- (a) in the case of a person specified in paragraph (a) or (d) of sub-section (1.) of section three—the period from the fourth day of August, One thousand nine hundred and fourteen, if he was serving in a sea-going

ship on that date, or, if he was not serving in a sea-going ship on that date, from the date thereafter upon which he first took up duty in a sea-going ship, up to the twenty-eighth day of June, One thousand nine hundred and nineteen ;

- (b) in the case of a person specified in paragraph (b) of sub-section (1.) of section three, not being a person who died while on service—the period from the fourth day of August, One thousand nine hundred and fourteen, or the date of his appointment or enlistment (whichever is the later), up to the twenty-eighth day of June, One thousand nine hundred and nineteen, or the date of his discharge (whichever is the earlier) ;
- (bb) in the case of a person specified in paragraph (b) of sub-section (1.) of section three, who died while on service—the period from the fourth day of August, One thousand nine hundred and fourteen, or the date of his appointment or enlistment (whichever is the later), up to the twenty-eighth day of June, One thousand nine hundred and nineteen ;
- (c) in the case of a person specified in paragraph (c) of sub-section (1.) of section three—the period from the date of his embarkation (or the first of them, if more than one) up to the twenty-eighth day of June, One thousand nine hundred and nineteen ;
- (d) in the case of a person specified in paragraph (e) (i) of sub-section (1.) of section three—the period from the date of his embarkation (or the first of them, if more than one) up to the twenty-eighth day of June, One thousand nine hundred and nineteen, or, in the case of a person who joined an Australian Expeditionary Force abroad, the period from the date of his enlistment in or appointment to that Force, up to the twenty-eighth day of June, One thousand nine hundred and nineteen ;
- (e) in the case of a person specified in paragraph (e) (ii) of sub-section (1.) of section three, not being a person who died while on service—the period from the date upon which he reported in camp up to the date of his discharge ;
- (ee) in the case of a person specified in paragraph (e) (ii) of sub-section (1.) of section three, who died while on service—the period from the date upon which he reported in camp up to the twenty-eighth day of June, One thousand nine hundred and nineteen ; and
- (f) in the case of a person specified in paragraph (f) of sub-section (1.) of section three—the period from the date of his embarkation (or the first of them, if more than one) up to the twenty-eighth day of June, One thousand nine hundred and nineteen.

(2.) Payment of the war gratuity shall be made for each day of the qualifying period of service of the member, upon or in respect of which the member earned and received from the Commonwealth the full pay of his rank.

(3.) For the purposes of the last preceding sub-section—

- (a) a member of the Forces or an Imperial Reservist who was discharged or died while on service on or before the twenty-eighth day of June, One thousand nine hundred and nineteen, and whose qualifying period of

service extends to the said twenty-eighth day of June, shall be deemed to have earned and received from the Commonwealth the full pay of his rank from the date of his discharge or death up to the said twenty-eighth day of June ;

- (b) a member of the Forces or an Imperial Reservist whose pay was forfeited for any period or periods each not exceeding twenty-eight days shall be deemed to have earned and received from the Commonwealth the full pay of his rank in respect of that period or each of those periods, as the case may be ;
- (c) where the prescribed authority is satisfied that, having regard to the meritorious services rendered by a member of the Forces or an Imperial Reservist whose pay was forfeited for any period exceeding twenty-eight days, it is inequitable, for the purposes of this section, that the member or Imperial Reservist, as the case may be, should receive no war gratuity in respect of that period, the prescribed authority may direct that the whole of that period, or such part thereof as it thinks fit, shall, for the purposes of this section, be deemed to be a period during which the member or Imperial Reservist, as the case may be, earned and received from the Commonwealth the full pay of his rank.

Provided that, in any case where a member of the Forces or an Imperial Reservist, whose pay was forfeited for any period, is deceased, he shall, for the purposes of this section, be deemed to have earned and received from the Commonwealth the full pay of his rank in respect of the whole period of the forfeiture ;

- (d) an Imperial Reservist, or a member of the Naval Forces, who was paid by the Imperial Government shall be deemed to have earned and received from the Commonwealth the full pay of his rank for each day upon or in respect of which he earned and received from the Imperial Government the full pay of his rank ; and
- (e) ~~the qualifying period of service of a member, who died while on service with the Forces, shall be deemed to have extended to the twenty-eighth day of June, One thousand nine hundred and nineteen.~~
- (4.) Notwithstanding anything contained in this section—
- (a) the maximum period in respect of which war gratuity may be paid to, or in respect of the service of, any person specified in paragraph (b) or (e) (ii) of sub-section (1.) of section three, not being a person who died while on service, shall not exceed one hundred and eighty-four days ; and
- (b) where any person is eligible for, or has received, a full year's Imperial gratuity for a portion of a year's service only, there shall be deducted from the total amount of the Australian gratuity payable to that person a proportion of the amount of such Imperial gratuity *pro rata* to the uncompleted portion of such year's service served in the Royal Australian Navy.

**ACCEPTANCE OF BONDS BY REPATRIATION DEPARTMENT OR
WAR SERVICE HOMES COMMISSION.**

Section 15 of the Principal Act, as proposed to be amended by Clause 6 of the Bill, will read as follows :—

15. Treasury Bonds issued in pursuance of section thirteen of this Act shall be accepted at their face value, plus interest accrued to date, in repayment of any moneys due by the person to whom they were issued under the *Australian Soldiers' Repatriation Act 1917-1918* or the *War Service Homes Act 1918-1919* or in payment of moneys by that person to the War Service Homes Commissioner for the purposes of the *War Service Homes Act 1918-1919*.

GRATUITY AND INTEREST NOT LIABLE TO INCOME TAX.

Section 18 of the Principal Act, as proposed to be amended by Clause 7 of the Bill, will read as follows :—

18. The amount of—

- (a) any war gratuity, or
- (b) any interest paid or payable to any person in pursuance of section thirteen of this Act,

shall not be liable to income tax under any law of the Commonwealth or a State, and shall not be deemed to be **property** or income for the purposes of the *Invalid and Old-age Pensions Act 1908-1919* or the *War Pensions Act 1914-1916*.

REGULATIONS.

Section 20 of the Principal Act, as proposed to be amended by Clause 8 of the Bill, will read as follows :—

20. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular—

- (a) for conferring upon the prescribed authority powers in relation to the summoning of witnesses, the taking of evidence on oath, and the production of documents, and
- (b) for providing penalties, not exceeding Fifty pounds, for any failure to comply with any requirement made by a prescribed authority in the exercise of any such powers.