



Papua New Guinea (Members of the Forces Benefits) Regulations 1961

Statutory Rules 1961 No. 73 as amended

made under the

*Papua New Guinea (Members of the Forces Benefits)
Act 1957*

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Regulation 1

Part I Preliminary**1 Name of Regulations** [see Note 1]

These Regulations are the *Papua New Guinea (Members of the Forces Benefits) Regulations 1961*.

3 Interpretation

- (1) In these Regulations, unless the contrary intention appears:

child means a child under the age of sixteen years of a member, being his son, daughter, step-son, step-daughter, adopted child or ex-nuptial child but does not include an ex-nuptial child born more than nine months after the end of his war service unless he has adopted the child or unless he has married the mother of the child.

deceased member means a member whose death was due to war service.

dependant, in relation to a member, means:

- (a) a widow of the member; or
- (b) if the member has died, a child of the member.

indexation day means:

- (a) for a rate of pension specified in item 2 of Table A — 1 January; or
- (b) in any other case:
 - (i) 20 March; and
 - (ii) 20 September.

member means a member of the Forces.

partially incapacitated, for a member, means that the member:

- (a) is suffering from an incapacity of a kind for which the Commonwealth is liable under section 5 of the Act; and
- (b) is not totally incapacitated.

pensioner means a person to whom a pension or allowance is payable under the Act or these Regulations.

Regulation 3

the Act means the *Papua New Guinea (Members of the Forces Benefits) Act 1957*.

totally incapacitated, in relation to a member, means:

- (a) that the member has been blinded as a result of war service; or
- (b) that the member:
 - (i) is totally incapacitated as a result of war service, that is to say, his incapacity from injury or disease that has been accepted as related to his relevant war service is of such a nature as, of itself alone, to render him incapable of undertaking remunerative work for periods aggregating more than 8 hours per week; and
 - (ii) is, by reason of incapacity from that injury or disease alone, prevented from continuing to undertake remunerative work that he was undertaking and is, by reason thereof, suffering a loss of salary or wages, or of earnings on his own account, that he would not be suffering if he were free of that incapacity.

wife means a wife whether by custom or otherwise and includes wives of a polygamous union where those unions are in accordance with recognized custom and where the marriage was contracted before or during the period of service of the member or within fifteen years after his discharge from the Forces.

- (2) For the purposes of the definition of *totally incapacitated* in subregulation (1), a member who is incapacitated from injury or disease that has been accepted as related to his relevant war service shall not be taken to be suffering a loss of salary or wages, or of earnings on his own account, by reason of that incapacity if:
 - (a) he has ceased to engage in remunerative work for reasons other than his incapacity from that injury or disease; or
 - (b) he is incapacitated, or prevented, from engaging in remunerative work for some other reason.

Regulation 4

4 Prescribed authority

For the purposes of paragraph 9 (4) (a) of the Act and for the purposes of these Regulations, the Repatriation Commission is the prescribed authority.

Part II Pensions

Division 1 Claims for Pensions

5 Who may claim pension

A claim for a pension may be made:

- (a) by a member, in respect of his own incapacity;
- (b) by a dependant of a member, in respect of the death of the member; or
- (c) by a person authorized by the member or the dependant in that behalf.

6 Application for pension

- (1) A person who claims a pension shall lodge with the prescribed authority a claim in the form approved by the prescribed authority.
- (2) An application for a pension made in writing otherwise than in accordance with the form approved by the prescribed authority may, if the prescribed authority so determines, be accepted as a claim for the purposes of these Regulations if the claimant subsequently lodges a claim in accordance with the approved form.

7 Investigation of claims

- (1) Upon receipt of a claim for a pension, the prescribed authority shall investigate the claim and shall ascertain from the claimant, the dependant or any other person, such information as may be necessary to enable it to determine, and shall thereupon determine:
 - (a) whether the incapacity or death of a member, in respect of which the pension is claimed:
 - (i) has resulted from any occurrence that happened during the period of his service in the Defence Forces during the war; or

Regulation 8

- (ii) has arisen out of or is attributable to that service;
 - (b) whether a person who has claimed to be a dependant is a dependant, and the nature and extent of the dependency; and
 - (c) subject to these Regulations, the rate of pension payable to the claimant.
- (2) When a determination has been made under the last preceding subregulation, the prescribed authority shall thereupon inform the claimant that his claim for pension:
- (a) has been allowed;
 - (b) has been rejected; or
 - (c) has been allowed subject to a condition or conditions; as the case may be.

8 Acceptance of claim subject to condition

Where a claim has been allowed subject to a condition or conditions, the prescribed authority shall inform the claimant of the nature of that condition or those conditions.

Division 2 Rates of Pensions

9 Rates of pension — general

- (1) For subsection 5 (1) of the Act, the fortnightly rate of a pension payable to a person is as follows:
- (a) if a pension is payable for a deceased member — the rate specified for the person in Table A of Schedule 1 (indexed in accordance with this Part);
 - (b) if a pension is payable for a member who is totally incapacitated — the rate specified in Table B of Schedule 1 (indexed in accordance with this Part) (the ***total incapacity rate***);
 - (c) if a pension is payable for a member who is partially incapacitated:
 - (i) for a kind of incapacity mentioned in Schedule 2 — the percentage of the total incapacity rate mentioned in Schedule 2 for the kind of incapacity; or

Regulation 9B

- (ii) for another kind of incapacity — the percentage of the total incapacity rate determined by the Minister under subregulation (2).
- (2) The Minister may determine a percentage for subparagraph (1) (c) (ii), having regard to:
 - (a) the nature of the member's incapacity; and
 - (b) the duration of the member's incapacity; and
 - (c) the percentages of the total incapacity rate for the kinds of partial incapacity mentioned in Schedule 2.

9A Rate where deceased member had more than 1 wife

- (1) This regulation applies if, by recognised custom, a deceased member had, at the time of his death, more than 1 wife.
- (2) Each of the wives is taken to be a widow of the member.
- (3) The rate of pension payable for each of the widows for a fortnight is the rate specified for a widow in Table A of Schedule 1 (indexed in accordance with this Part), divided by the number of eligible widows for the fortnight, rounded to the nearest multiple of \$0.10.
- (4) For subregulation (3), the number of eligible widows for a fortnight is the number of wives covered by subregulation (1), less the number of widows (if any) to whom a pension has ceased to be payable under subregulation 13 (1).

9B Rate if instalment period straddles indexation day

- (1) This regulation applies if a pension is payable for a person for a period (the *instalment period*) beginning before an indexation day and ending on or after the indexation day.
- (2) The rate of pension payable to the person for the instalment period is:

$$\text{old rate} \times \left(\frac{\text{days}_{\text{before}}}{\text{days}_{\text{period}}} \right) + \text{new rate} \times \left(\frac{\text{days}_{\text{after}}}{\text{days}_{\text{period}}} \right)$$

Regulation 9C

rounded to the nearest multiple of \$0.10, where:

old rate is the rate of pension payable to the person immediately before the indexation day.

days_{before} means the number of days in the instalment period before the indexation day.

days_{period} means the number of days in the instalment period.

new rate is the rate of pension payable to the person on and after the indexation day.

days_{after} means the number of days in the instalment period on and after the indexation day.

9C Indexation of pension rates

- (1) The rates of pension mentioned in Tables A and B of Schedule 1 are indexed on each indexation day for the rate.
- (2) This Part has effect on and after an indexation day as if the indexed rate were substituted for the rate in effect on the day before the indexation day.
- (3) For a rate other than the rate specified in item 2 of Table A, the indexed rate is:

$$\text{old rate} \times \text{pension MBR factor}$$

rounded up to the next multiple of \$0.10, where:

old rate is the rate of pension in effect on the day before the indexation day.

pension MBR factor is the pension MBR factor worked out under subsection 59LA (1) of the *Veterans' Entitlements Act 1986*.

- (4) For the rate specified in item 2 of Table A, the indexed rate is:

$$\text{old rate} \times \text{orphan pension factor}$$

rounded to the nearest multiple of \$0.10, where:

old rate is the rate of pension in effect on the day before the indexation day.

orphan pension factor is the factor worked out under subregulations (5) and (6).

- (5) Orphan pension factor is worked out using the following formula:

$$\frac{\text{current orphan pension rate}}{\text{previous orphan pension rate}}$$

rounded to the nearest multiple of \$0.10, where:

current orphan pension rate is the rate of pension under paragraph 30 (2) (a) of the *Veterans' Entitlements Act 1986* applicable on the indexation day.

previous orphan pension rate is the rate of pension under paragraph 30 (2) (a) of the *Veterans' Entitlements Act 1986* applicable on the day before the indexation day.

- (6) Orphan pension factor is worked out to 3 decimal places but, if the factor would, if it were worked out to 4 decimal places, end in a number that is greater than 4, the factor is to be increased by 0.001.

9D Rounding up of rates ending in 5 cents

If, before the rounding required by regulation 9A, 9B or 9C (other than subregulation 9C (3)), an indexed rate under any of those regulations would be a multiple of \$0.05 but not \$0.10, the indexed rate must be rounded up to the nearest multiple of \$0.10.

10 Date from which pension is payable

The prescribed authority may approve of payment of a pension from a date not more than three months before the date of lodgment of the claim for pension.

11 Payment by instalments

Pensions are payable in such instalments as the prescribed authority determines, and may be paid in advance.

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Division 3 Determination of Pensions

12 Cessation of pension payable to dependants of member

- (1) A pension payable to a person (other than a widow of a member) who is a dependant of a member and who, at the date of commencement of payment of the pension, is under the age of sixteen years, shall cease upon that person attaining the age of sixteen years.
- (2) A pension payable to a person who is a dependant of a member, not being a person who was a dependant of a deceased member, and who at the date of commencement of payment of the pension is of the age of sixteen years or over shall cease when that person, in the opinion of the prescribed authority, ceases to be a dependant.
- (3) A pension payable to a person who was a dependant of a deceased member shall cease when the prescribed authority is satisfied that that person would, if the deceased member were still alive, have ceased to be a dependant.

13 Cessation of pension payable to widow

- (1) Subject to the next succeeding subregulation, a pension payable to a widow of a member shall cease upon her re-marriage.
- (2) Where the prescribed authority determines that a widow of a deceased member who re-marries should not, by reason of that re-marriage, having regard to recognized custom and the circumstances of the particular case, be deemed to have ceased to be a dependant of that member, the prescribed authority may determine that the pension payable to that widow shall not cease, and payment of that pension shall be continued.

Part III Assistance and benefits

14 Interpretation

For the purposes of this Part:

attendant means a person who has been authorized by the prescribed authority to accompany a member who is travelling for the purpose of obtaining medical treatment;

decoration includes a medal and a bar to any decoration or medal; and

medical treatment means medicinal, surgical and all other forms of treatment with a view to restoring a person to physical or mental health or alleviating suffering, and includes the supply, renewal and repair of artificial replacements, surgical aids and appliances.

15 Medical treatment

The prescribed authority may provide medical treatment for a member in respect of an incapacity due to war service.

16 Travelling expenses

Where it is necessary for a member, who is eligible for medical treatment under this Part, to travel in order to obtain that medical treatment, the prescribed authority may grant the fares and travelling allowances for the forward and return journeys incurred by the member and, if it is necessary for the member to be accompanied by an attendant, the prescribed authority may grant the fares and travelling allowances for the forward and return journeys incurred by the attendant.

17 Decoration allowance

A member who was awarded a decoration in respect of his service during the war shall be entitled to payment of a gratuity, annuity, allowance or addition to pension, as the case may be, at the like rate and in accordance with the like

Regulation 18

conditions as are prescribed from time to time by or under the *Veterans' Entitlements Act 1986* in respect of a person to whom that Act applies.

18 Education and training benefits

A person, whether or not under the age of sixteen years, who is a child of:

- (a) a deceased member;
- (b) a totally and permanently incapacitated member; or
- (c) a blind member;

is eligible for the grant of educational and training facilities.

19 Application for benefits etc

An application for benefit, advantage or assistance shall be made to the prescribed authority, in such form as the prescribed authority determines.

Part IV Miscellaneous

20 Appointment of trustee etc

- (1) Where the prescribed authority is satisfied that, having regard to the age, infirmity, ill-health or improvidence of a pensioner, it is expedient that payment of a pension, allowance or monetary benefit payable to the pensioner should be made to another person on behalf of, or as trustee of, the pensioner, or where a pensioner consents to payment of a pension or allowance payable to him being so made, the prescribed authority may, by instrument in writing:
 - (a) authorize payment of the pension or allowance to be made to another person on behalf of the pensioner; or
 - (b) appoint a person to be the trustee, or itself assume the office of trustee, of the pensioner in respect of the pension or allowance.
- (2) Where the prescribed authority has appointed a person to be the trustee, or has itself assumed the office of trustee, of a pensioner in respect of a pension or allowance, the pension or allowance:
 - (a) may be paid to the person so appointed, or the prescribed authority, as the case may be; and
 - (b) may, subject to the directions of the prescribed authority, be disbursed or accumulated by the person so appointed, or may be disbursed or accumulated by the prescribed authority, as the case may be, for the benefit of the pensioner, a dependant of the member or of a person who is or has been dependent on, the pensioner.
- (3) The prescribed authority may at any time, by instrument in writing, revoke an authorization or appointment, or an assumption of the office of trustee, under this regulation.

Regulation 21

21 Review of decisions

A person may apply to the Administrative Appeals Tribunal for review of the following decisions by the prescribed authority or Minister:

- (a) a decision under subregulation 7 (2) that a person's claim has been rejected or allowed subject to a condition;
- (b) a determination under subregulation 9 (2) of the percentage of the total incapacity rate payable to a member who is partially incapacitated;
- (c) a decision under regulation 12 or 13 that a pension is no longer payable to a person;
- (d) a decision under regulation 16 that travelling expenses, or travelling expenses of a particular amount or kind, not be provided to a member or an attendant;
- (e) a decision under regulation 17 that a member is not entitled to a gratuity, annuity, allowance or addition to a pension;
- (f) a decision under regulation 17 about the amount or rate of a gratuity, annuity, allowance or addition to a pension payable under that regulation;
- (g) a decision under regulation 18 that a person is not eligible for the grant of educational and training facilities.

Note A person who makes a reviewable decision must give a person affected by the reviewable decision notice of the person's review rights — see section 27A of the *Administrative Appeals Tribunal Act 1975*.

22 Signature to forms

- (1) Every form which, under these Regulations, is required to be signed by any person shall be signed by that person with his personal signature.
- (2) Where a person who is unable to sign his name in writing makes a mark as his signature to a form, the mark shall be deemed to be his personal signature, if it is identifiable as such, and is made in the presence of a witness who signs the form as such a witness.

Schedule 1 General pension rates
(subregulations 9 (1) and 9A (3))

Table A Pensions payable for a deceased member

Item	Class of persons eligible for pension	Rate of pension payable per fortnight (\$)
1	Widow of member	340.10
2	Dependant of member under 16 years of age	67.50
3	Any other dependant of member	4.80

Table B Pensions payable for a member who is totally incapacitated

Item	Class of persons eligible for pension	Rate of pension payable per fortnight (\$)
1	Member	572.20

Schedule 2 Rate of pension in respect of a member who is partially incapacitated

(regulation 9 (b))

Description of Disability	Percentage
	%
Loss of two or more limbs	100
Loss of both eyes	100
Loss of one eye, together with loss of one leg, foot, hand or arm	100
Loss of both arms	100
Loss of both legs	100
Loss of both feet	100
Loss of both hands	100
Loss of hand and foot	100
Loss of all fingers and thumbs	100
Amputation of leg at hip, or arm at shoulder joint	80
Severe facial disfigurement	80
Total loss of speech	80
Loss of leg or foot	75
Loss of arm or hand	75
Total deafness	70
Loss of vision in one eye	50

Table of Instruments**Notes to the *Papua New Guinea (Members of the Forces Benefits) Regulations 1961*****Note 1**

The *Papua New Guinea (Members of the Forces Benefits) Regulations 1961* (in force under the *Papua New Guinea (Members of the Forces Benefits) Act 1957*) as shown in this compilation comprise Statutory Rules 1961 No. 73 amended as indicated in the Tables below.

Table of Instruments

Year and number	Date of notification in <i>Gazette</i> or FRLI registration	Date of commencement	Application, saving or transitional provisions
1961 No. 73	25 May 1961	25 May 1961	
1964 No. 112	28 Aug 1964	28 Aug 1964	R. 6
1970 No. 62	1 May 1970	1 May 1970	Rr. 2 (2) to (4) and 7
1975 No. 98	30 May 1975	30 May 1975	R. 3 (2) to (6)
1976 No. 209	28 Sept 1976	28 Sept 1976	R. 3
1977 No. 166	29 Sept 1977	29 Sept 1977	R. 2
1978 No. 56	28 Apr 1978	28 Apr 1978	R. 2
1980 No. 325	31 Oct 1980	31 Oct 1980	R. 2
1983 No. 250	31 Oct 1983	31 Oct 1983	R. 5
1985 No. 273	18 Oct 1985	18 Oct 1985	—
1986 No. 99	22 May 1986	22 May 1986	—
1986 No. 316	30 Oct 1986	31 Oct 1986	—
2010 No. 11	16 Feb 2010 (see F2010L00294)	17 Feb 2010	—

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part I	
R. 1	rs. 1975 No. 98; 2010 No. 11
R. 2	rep. 1986 No. 316
R. 3	am. 1970 No. 62; 1975 No. 98; 1985 No. 273; 1986 No. 99; 2010 No. 11
R. 4	rs. 1970 No. 62; 1975 No. 98 am. 1986 No. 99
Part II	
Division 1	
R. 5	am. 1985 No. 273
Division 2	
R. 9	am. 1964 No. 112; 1970 No. 62; 1975 No. 98; 1983 No. 250; 1985 No. 273 rs. 2010 No. 11
R.9A.....	ad. 1983 No. 250 am. 1986 No. 316 rs. 2010 No. 11
R. 9B.....	ad. 2010 No. 11
R. 9C.....	ad. 2010 No. 11
R. 9D.....	ad. 2010 No. 11
Division 3	
R. 12	am. 1985 No. 273
R. 13	am. 1975 No. 98
Part III	
R. 17	am. 1986 No. 99
R. 17A.....	ad. 1964 No. 112 am. 1970 No. 62 rep. 1976 No. 209
Part IV	
R. 21	am. 1970 No. 62 rep. 1975 No. 98 ad. 2010 No. 11
R. 22	am. 1964 No. 112
First Schedule.....	am. 1964 No. 112 rs. 1970 No. 62; 1976 No. 209 am. 1977 No. 166; 1978 No. 56; 1980 No. 325 rep. 1983 No. 250

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected

How affected

Schedule 1

Schedule 1 ad. 1983 No. 250
am. 1985 No. 273; 1986 No. 316
rs. 2010 No. 11

Heading to Second rep. 1983 No. 250
Schedule

Schedule 2

Heading to Schedule 2..... ad. 1983 No. 250
