

New Zealand



ANALYSIS

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1940, No. 9

AN ACT to extend the Operation of the War Pensions Act, 1915, and its Amendments. Title.

[1st August, 1940

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the War Pensions Extension Act, 1940. Short Title.

PART I.

GENERAL PROVISIONS.

2. (1) In this Act, unless the context otherwise requires,— Interpretation.

“Member of the Forces” means a member of the New Zealand Army, or of the New Zealand Naval Forces, or of the Royal New Zealand Air Force:

The expression “the present war” means the war with the German Reich that commenced on the third day of September, nineteen hundred and thirty-nine, and includes any war in which His Majesty may be at any time engaged with any State that is for the time being allied to the German Reich in connection with the said war:

The expression “the last war” means the war with Germany that commenced on the fourth day of August, nineteen hundred and fourteen.

(2) Except as provided in the last preceding subsection or as the context may otherwise require, words and expressions used in this Act have the same meanings respectively as in the War Pensions Act, 1915, and its amendments.

See Reprint
of Statutes,
Vol. VI, p. 796

(3) Unless in any case the context otherwise requires, references in any other Act to pensions under the War Pensions Act, 1915, or to war veterans' allowances, or to persons in receipt of any such pension or allowance, shall, as the case may require, be deemed to include a reference to a pension or a

like allowance granted under this Act, or a reference to a person in receipt of any such pension or allowance.

Co-ordination of ranks in Air Force with Army and Naval ranks.

3. For the purposes of this Act the several ranks of the Royal New Zealand Air Force specified in the first column of the Schedule hereto shall be deemed to correspond and be equivalent to the several Army and Navy ranks and ratings set opposite thereto respectively in the second column of that Schedule.

Step-child or adopted child not entitled to pensions in respect of both natural father and legal father.

See Reprint of Statutes, Vol. VI, p. 796

4. Notwithstanding anything to the contrary in the War Pensions Act, 1915, in its application to pensions under this Act, no child (being a step-child or an adopted child of a member of the Forces) shall be entitled to a pension under Part II or Part III of this Act in respect of the death or disablement of that member for any period while he is in receipt of a pension under the War Pensions Act, 1915, or this Act as the child of any other member of the Forces.

Regulations.

5. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as in his opinion are necessary for the purposes of this Act.

(2) All regulations made under the authority of this section shall be laid before Parliament within fourteen days after the making thereof if Parliament is then in session, and if not, shall be laid before Parliament within fourteen days after the commencement of the next ensuing session.

PART II.

PENSIONS AND ALLOWANCES IN RESPECT OF OVERSEAS SERVICE IN THE PRESENT WAR.

Pensions and allowances to be granted in accordance with the War Pensions Act, 1915, in respect of overseas service in the present war.
Ibid., p. 796

6. (1) Subject to the provisions of this Part of this Act, pensions and allowances in accordance with the War Pensions Act, 1915, and any amendments thereof (whether passed before or after the passing of this Act), shall be payable in respect of the death or disablement of any member of the Forces in the following cases, namely:—

(a) In any case where the death or disablement of the member occurs while he is on service overseas in the present war; and

(b) In any case where the War Pensions Board is satisfied either that the death or disablement of the member is attributable to his service overseas as a member of the Forces in the present war or that the condition which has resulted in his death or disablement has been aggravated by his service overseas as a member of the Forces in the present war.

(2) Pensions in respect of the death or disablement of any person, not being a member of the Forces within the meaning of this Act, may be paid under this Part of this Act in connection with the present war if, in like circumstances, pensions would, pursuant to any of the provisions of the War Pensions Act, 1915, or its amendments, be payable in connection with the last war in respect of the death or disablement of any person not being a member of the Forces within the meaning of that Act.

(3) Save as expressly provided in the following provisions of this Part of this Act, all the provisions of the War Pensions Act, 1915, and of the War Veterans' Allowances Act, 1935 (including the penal provisions of those Acts), shall, so far as applicable and with any necessary modifications, apply with respect to pensions and allowances payable under this Part of this Act. 1935, No. 4

7. Pensions payable under the last preceding section to or in respect of nurses, being members of the Forces within the meaning of this Act, shall be payable in all respects as if they were payable in accordance with section twenty-two of the War Pensions Act, 1915, and the rates of pensions for the time being prescribed under that section for or in respect of members of the New Zealand Army Nursing Service shall be deemed to be the rates prescribed for or in respect of nurses, being members of the Forces as aforesaid. Special provisions as to nurses who are members of the Forces.

8. In the application for the purposes of this Part of this Act of section fourteen of the War Pensions Amendment Act, 1917, references to His Majesty's Imperial Naval or Military Forces or to His Majesty's Naval or Military Reserve Forces shall be extended to include references to the Royal Air Force or to the Royal Air Force Reserve, as the case may require. See Reprint of Statutes, Vol. VI, p. 805

Supplementary pensions to persons in receipt of pensions from His Majesty's Government in the United Kingdom.

Ibid., p. 818

Special provisions as to pensions granted under this Part of this Act in respect of death or disablement of persons who suffered disablement in last war.

9. (1) This section applies in every case where a claim for a pension under this Part of this Act is made in respect of the death or disablement of a member of the Forces who suffered any disablement as a member of the Forces in the last war.

(2) Where in any case to which this section applies a claim for a pension under this Part of this Act is made by any person (whether the member or any of his dependants) who is in receipt of a pension under the War Pensions Act, 1915, in respect of the disablement of the member in the last war, the aggregate of the rates of the pension in respect of the last war and the pension under this Part of this Act shall not exceed the rate of pension to which the claimant would be entitled under this Part if the grounds for the grant of both pensions were attributable exclusively to the present war.

Special provisions with respect to adopted children.

10. Notwithstanding the limitation of the War Pensions Act, 1915, in its application to adopted children, any child who is legally adopted by a member of the Forces before the date of his departure from New Zealand as a member of the Forces shall be deemed to be a child of that member for the purposes of this Part of this Act.

PART III.

PENSIONS IN RESPECT OF SERVICE IN NEW ZEALAND AND OF OVERSEAS SERVICE THAT IS NOT COVERED BY PART II HEREOF.

Pensions in respect of death or disablement of members of Forces, otherwise than from service overseas in present war.

11. (1) Subject to the provisions of this Part of this Act, pensions in accordance with the War Pensions Act, 1915, and its amendments (whether passed before or after the passing of this Act) shall be payable in respect of the death or disablement of any member of the Forces in the following cases, namely:—

(a) In any case where the death or disablement of the member is attributable to his service in New Zealand (whether in connection with the present war or not) or is attributable to his service beyond New Zealand otherwise than in connection with the present war; and

(b) In any case where the War Pensions Board is satisfied that the condition which has resulted in the death or disablement of the member has been aggravated by any service to which the last preceding paragraph relates.

(2) Save as expressly provided in the following provisions of this Part of this Act, all the provisions of the War Pensions Act, 1915 (including the penal provisions thereof), shall, so far as applicable and with any necessary modifications, apply with respect to pensions payable under this Part of this Act.

(3) Nothing in this Part of this Act shall be construed to confer on any person a right to receive a pension thereunder in respect of the death or of any disablement of a member of the Forces if in respect of the death or of that disablement a pension is payable under the War Pensions Act, 1915, or under Part II of this Act.

12. (1) This section applies in every case where a claim for a pension under this Part of this Act is made in respect of the death or disablement of a member of the Forces who suffered any disablement as a member of the Forces in the last war or in the present war.

Special provisions as to pensions granted under this Part in respect of death or disablement of persons who suffered disablement in present war or last war.

(2) Where in any case to which this section applies a claim for a pension under this Part of this Act is made by any person (whether the member or any of his dependants) who is in receipt of a pension under the War Pensions Act, 1915, in respect of the disablement of the member in the last war, or who is in receipt of a pension under Part II of this Act in respect of the disablement of the member in the present war, the aggregate of the rates of the existing pension or pensions and the pension under this Part of this Act shall not exceed the rate of the total pension to which the claimant would be entitled under this Part of this Act if his existing pension or existing pensions had been granted thereunder.

13. Notwithstanding the limitation of the War Pensions Act, 1915, in its application to adopted children, any child who is legally adopted by a member of the Forces before the date of his death or disablement shall be deemed to be a child of that member for the purposes of this Part of this Act.

Special provisions with respect to adopted children.

In computing pension payable under this Part, income in nature of pension or retiring-allowance may be taken into account.

Commencement of pensions under this Part.

Consequential repeal and savings.
1939, No. 38

14. In determining the rate of any pension under this Part of this Act the War Pensions Board may, in its discretion, take into consideration any amount paid by way of pension, retiring-allowance, compensation, or compassionate allowance out of any public moneys or out of any Government superannuation fund in respect of the death or disablement of the person in respect of whose death or disablement the claim for a pension is made.

15. The date from which all pensions granted under this Part of this Act shall commence shall be decided by the War Pensions Board.

16. (1) This Part of this Act is in substitution for Part II of the Finance Act (No. 2), 1939, and the said Part is hereby repealed accordingly.

(2) All pensions heretofore granted under the said Part and in force on the passing of this Act shall be deemed to have been granted under this Part of this Act.

