

New Zealand.



ANALYSIS.

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1923, No. 13.

Title

AN ACT to amend the War Pensions Act, 1915.

[29th August, 1923.]

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

Short Title.

1. This Act may be cited as the War Pensions Amendment Act, 1923, and shall be read together with and deemed part of the War Pensions Act, 1915 (hereinafter referred to as the principal Act).

Definition of term
"economic pension"

2. (1.) In this Act the expression "economic pension" means a supplementary pension granted pursuant to this Act on economic grounds as hereinafter mentioned, and being in addition to any pension payable as of right in respect of the death or disablement of a member of the Forces.

(2.) In considering any application for an economic pension the Board may, to such extent as in any case it thinks proper and equitable, take into consideration the ability of the applicant to obtain and to retain suitable employment, the personal earnings and other income of the applicant (if any), any property of the applicant, the

cost of living, and such other factors of economic significance as the Board considers relevant.

3. (1.) The Board may, in its discretion, grant to any member of the Forces who is in receipt of a pension under the principal Act in respect of his total or partial disablement an economic pension not exceeding thirty shillings a week.

Economic pension may be granted to disabled members of Forces.

(2.) This section is in substitution for section four of the War Pensions Amendment Act, 1917, and that section is hereby accordingly repealed.

Repeals.

(3.) Section three of the Finance Act, 1920 (conferring on the War Pensions Board authority to grant additional pensions to totally disabled members of the Forces) is hereby repealed.

4. Where, pursuant to the authority conferred by the last preceding section, an economic pension is payable to any member of the Forces, the Board may grant a pension to his wife and children of an amount not exceeding the maximum pension that could be granted to them in respect of the total disablement of the member, or may increase the amount of any pension of which any such person is in receipt in respect of the disablement of the member, but not so as to exceed the maximum aforesaid :

Where economic pension granted to member, his wife and children may receive pension as for his total disablement.

Provided that nothing in this section shall authorize the grant of a pension to any person who would not be qualified to receive a pension under the principal Act in respect of the disablement of the member.

5. (1.) The Board may, in its discretion, grant to the widow of any member of the Forces who is in receipt of a pension under the principal Act in respect of his death an economic pension as follows :—

Economic pension may be granted to widow and children of deceased member of Forces.

(a.) In the case of a widow with one child, an economic pension not exceeding ten shillings a week :

(b.) In the case of a widow with two or more children, an economic pension not exceeding ten shillings a week, increased by two shillings and sixpence a week for every child in excess of one.

(2.) In addition to any pension under the principal Act, or to any economic pension under this Act, the Board may grant to any widow, with or without children, a further amount by way of pension not exceeding fifteen shillings a week, but so that the total weekly amount payable by way of pension to the widow and her children (if any) shall not exceed the total weekly amount of which they are in receipt by way of pension at the passing of this Act or the sum of four pounds a week (whichever amount is the greater).

(3.) This section is in substitution for section ten of the War Pensions Amendment Act, 1917, and that section is hereby accordingly repealed.

Repeal.

6. The Board may, in its discretion, grant to the widowed mother of a member of the Forces who is in receipt of a pension under the principal Act in respect of his death an economic pension as follows :—

Economic pension may be granted to widowed mother of deceased member of Forces.

(a.) Where the applicant was wholly dependent on the member, an economic pension not exceeding twenty shillings a week, but so that the total amount payable to the applicant by way of pension, together with her income from all other sources, shall not exceed two pounds ten shillings a week :

(b.) Where the applicant was partially dependent on the member, an economic pension not exceeding twenty shillings a week,

but so that the total amount payable to the applicant by way of pension, together with her income from all other sources, shall not exceed thirty-five shillings a week.

Pensions to children.

7. (1.) Save as provided in this section, a pension payable to a child of a member of the Forces in respect of his death or disablement shall not continue after the child has attained the age of sixteen years.

(2.) A pension payable to any female child of a member of the Forces may, if the Board thinks fit, be continued until she attains the age of seventeen years, and a pension payable to any child suffering from any mental or bodily infirmity may be continued for such period as the Board thinks fit.

(3.) A pension payable to any child may, if the Board thinks fit, be continued for such period as may be necessary to enable the child to complete its education.

Repeal

(4.) Section eleven of the principal Act is hereby repealed.

Additional allowances to members suffering certain disabilities.

8. There shall be payable out of the Consolidated Fund, without further appropriation than this section, to members of the Forces who have suffered amputation of a leg, wholly or in part, such allowances as the Board may, having regard to the circumstances of each particular case, determine, not exceeding,—

(a.) In the case of the amputation of a leg above the knee, eight pounds per annum :

(b.) In the case of the amputation of a leg below the knee, six pounds per annum.

Additional allowance by way of pension to member requiring services of attendant.

9. (1.) Section six of the principal Act, as amended by section five of the War Pensions Amendment Act, 1917, is hereby further amended by omitting the words "one pound," and substituting the words "three pounds."

(2.) Section five of the War Pensions Amendment Act, 1917, is hereby amended by repealing paragraph (a) thereof.

Constitution and functions of War Pensions Appeal Board.

10. (1.) There shall be a War Pensions Appeal Board (hereinafter referred to as the Appeal Board), consisting of three members, of whom two shall be registered medical practitioners. The members of the Board shall be appointed by the Minister of Defence, and shall hold office during his pleasure.

(2.) One of the said members shall be appointed as representative of members of the Forces, on the nomination of the New Zealand Returned Soldiers' Association (Incorporated).

(3.) Any vacancy in the membership of the Appeal Board shall be filled in the manner in which the appointment to the vacant office was originally made.

(4.) There shall be a right of appeal to the Appeal Board from the decisions of the War Pensions Board (whether given before or after the passing of this Act) in so far as they consist of—

(a.) The rejection of any claim for a pension on the ground that the death or disablement of the member of the Forces in respect of whose death or disablement the claim is made was not due, directly or indirectly, to his employment as a member of the Forces, or, in the case of disablement, that the condition of disablement was not aggravated by such employment ; and

(b.) The assessment of a pension granted to any member of the Forces in so far as the assessment is based on medical grounds.

(5.) On any such appeal the Appeal Board may receive such evidence as it thinks fit, whether of a strictly legal nature or not.

(6.) On any appeal the Appeal Board may confirm the decision of the War Pensions Board, or may grant a pension, or increase or reduce the amount of any pension. Any decision of the Appeal Board may be made retrospective if and to such extent as that Board thinks fit.

(7.) The Governor-General may, by Order in Council, make regulations prescribing the procedure of the Appeal Board, and, in the absence of such regulations, or in so far as they do not extend, the Board may regulate its own procedure.

(8.) Section two of the Finance Act, 1920, is hereby repealed.

Repeal.

11. In determining, in terms of subsection one(b) of section three of the principal Act as appearing in section sixteen of the War Pensions Amendment Act, 1917, whether the death or disablement of any person is attributable to his employment as a member of the Forces, or whether the condition which resulted in his death or disablement has been aggravated by his employment as such member, the War Pensions Board or the War Pensions Appeal Board (as the case may be) shall be bound by the following rules, namely:—

Presumption of
attributability
of death or
disablement to
war service.

(a.) If such death or disablement has occurred within seven years after the date of discharge of the member of the Forces, and if reasonable evidence is produced to the Board that the physical or mental condition which has resulted in such death or disablement has probably been caused or aggravated by employment as a member of the Forces, there shall thereby be established a presumption that such condition was in fact so caused or aggravated.

(b.) Such presumption may be rebutted by evidence that satisfies the Board that the condition was not in fact caused or aggravated by such employment, but was due entirely to other causes.

12. (1.) Any person whose pension is withdrawn, reduced, or suspended by the Board, acting under the authority conferred on it by section sixteen or section nineteen of the principal Act, shall have the same right of appeal to a Stipendiary Magistrate as he would have had if the Board had refused to grant him a pension on any of the grounds specified in section fifteen of the War Pensions Amendment Act, 1916.

Right of appeal
against withdrawal
of pension.

(2.) In any such case the Magistrate shall have full power and authority to hear and determine the appeal, and the provisions of the said section fifteen of the War Pensions Amendment Act, 1916, shall, so far as applicable, apply.

13. Section three of the principal Act is hereby amended by omitting from subsection two the words "if such death occurs within seven years after the receipt of the wound or injury or the commencement of the disease."

Extension of right
of widow and
children to receive
pension in respect
of death of member
of Forces.

14. Section twenty-six of the principal Act is hereby amended by adding the following paragraph:—

Additional power to
make regulations.

"(h.) The procedure with respect to the provision of medical or curative treatment for members of the Forces in respect of disabilities attributable to their military service."

As to gratuity that may be given to the widow of a deceased member of the Forces (not being a dependant as defined by principal Act).

15. Section fifteen of the War Pensions Amendment Act, 1917, is hereby amended by omitting from the proviso to paragraph (cc) of the definition of the term "dependants" as therein set out the words "not exceeding twice the annual value of her pension," and substituting the words "not exceeding twice the amount of the annual pension which may be paid to the wife of a member of the Forces in respect of his total disablement."

Third Schedule to War Pensions Amendment Act, 1917, amended.

16. The Third Schedule to the War Pensions Amendment Act, 1917, is hereby amended as follows:—

- (a.) By omitting the percentage set opposite the reference to amputation of leg through hip-joint, and substituting "ninety per centum":
- (b.) By omitting the references to the following injuries, namely:—
 - (i.) Amputation of left arm through shoulder-joint:
 - (ii.) Amputation of left arm at or above elbow:
 - (iii.) Amputation of left arm below elbow:
 - (iv.) Amputation of left hand:
- (c.) By omitting the several percentages respectively set opposite the references to the injuries mentioned in the last preceding paragraph:
- (d.) By omitting the word "right" before the word "arm" in the following references, namely:—
 - (i.) Amputation of right arm through shoulder-joint:
 - (ii.) Amputation of right arm at or above elbow:
 - (iii.) Amputation of right arm below elbow:
- (e.) By omitting the word "right" before the word "hand" in the reference to amputation of the right hand:
- (f.) By omitting from the notes to the Schedule the words "arm or" wherever they occur.

Procedure for offences under the principal Act.

17. All proceedings for offences against the principal Act, whether in respect of offences heretofore or hereafter committed, shall be taken before a Magistrate alone, and may be so taken at any time not exceeding six months from the time when the facts first came to the knowledge of the Board.

Payment of pensions in advance.

18. Regulations under section twenty-six of the principal Act, prescribing the times at which pensions may be paid, may authorize the payment of pensions in advance, either generally or in particular cases, and subject in any case to such conditions as may be prescribed.