

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 19 November 1970.

Words struck out by the Committee are shown in italics within bold round brackets; words inserted are shown in roman underlined with a double rule.

Hon. Mr Thomson

WAR PENSIONS AMENDMENT (NO. 2)

ANALYSIS

- Title
1. Short Title and commencement
 2. Interpretation
 3. Act divided into Parts
 4. Grounds for payment of pensions
 5. Children whose parents are not married
 6. Economic pensions
 7. Pensions for mercantile marine
 8. Pensions for Commonwealth mercantile marine
 9. Pensions for Emergency Reserve Corps
 10. New Part inserted

PART VA

WAR SERVICE PENSIONS

- 66A. 'Serviceman' defined
- 66B. War service pensions
- 66C. Appeal from decisions of War Pensions Board
- 66D. Residential qualifications for war service pension
- 66E. Rates of war service pension

- 66F. Age supplement where war service pensioner or wife has attained age of 65 years
- 66G. Apportionment of pensions in certain cases
- 66H. Forfeiture of pensions of inmates of institutions
- 66I. Review of pensions
- 66J. Continuation of payment after death of serviceman
- 66K. Continuation of payment after death of wife
- 66L. Election to receive war service pension in certain cases
11. Allowances for war veterans
12. War servicemen's dependants' allowances
13. Family maintenance allowances
14. Persons receiving superannuation benefit under Social Security Act not to receive certain pensions or allowances
15. Payment of pensions outside New Zealand
16. Amendments to Social Security Act 1964 Schedule

A BILL INTITULED

An Act to amend the War Pensions Act 1954

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

No. 119—2

Price 10c

1. Short Title and commencement—(1) This Act may be cited as the War Pensions Amendment Act (No. 2) 1970, and shall be read together with and deemed part of the War Pensions Act 1954* (hereinafter referred to as the principal Act).

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(2) Except as provided in subsection (2) of section 5 of this Act, this Act shall come into force on the 1st day of April 1971.

2. Interpretation—Section 2 of the principal Act is hereby amended by adding to subsection (1) the following definition: 10
 “‘War service pension’ means a pension granted under section 66B of this Act.”

3. Act divided into Parts—Section 3 of the principal Act is hereby amended—

(a) By inserting, after the words “Part I—Administration. 15
 (Sections 4 to 18.)”, the words “Part IA—War Pensions Medical Research Trust. (Sections 18A to 18s.)”:

(b) By inserting after the words “Part V—Emergency Reserve Corps Pensions. (Sections 65 and 66.)”, the 20
 words “Part VA—War Service Pensions. (Sections 66A to 66L.)”.

4. Grounds for payment of pensions—Section 19 of the principal Act is hereby amended by adding the following 25
 subsections:

“(3) Nothing in this section shall apply to a wife of a member of the forces who is in receipt of a disablement pension payable under this Part of this Act in respect of any period of service which commenced on or after the 3rd day of September 1939, unless the member or the wife of the 30
 member, as the case may be, is entitled to make an election under section 66L of this Act to receive a war service pension and has not made such an election.

“(4) Notwithstanding anything in subsection (3) of this section, if any person is, on the 1st day of April 1971, in 35
 receipt of a pension payable under subsection (1) of this section as the wife of a disabled person, and is not entitled

*1957 Reprint, Vol. 16, p. 475

Amendments: 1958, No. 45; 1960, No. 14; 1961, No. 7; 1962, No. 21; 1963, No. 125; 1964, No. 49; 1965, No. 27; 1966, No. 41; 1967, No. 5; 1968, No. 56; 1969, No. 48; 1970, No. 10

to make an election under section 66L of this Act, the pension may, so long as the person remains otherwise qualified, continue to be paid to that person."

5. Children whose parents are not married—(1) The principal Act is hereby further amended by repealing section 41, and substituting the following section:

"41. (1) Notwithstanding anything to the contrary in this Act, a pension shall not be payable in respect of any child whose parents were not married to each other at the time the child was conceived, or subsequently, if—

"(a) The child is a child of a member of the forces and was born more than 10 months after the date of commencement of the member's service as a member of the forces; or

"(b) The child is not actually residing in New Zealand: "Provided that a War Pensions Board may, in its discretion, grant a pension in any such case as aforesaid.

"(2) For the purposes of subsection (1) of this section, a child's parents shall be deemed to be married to each other notwithstanding that their marriage to each other is void unless, at the time of the conception of the child or at the time of the marriage (whichever was later), both parties knew that the marriage was void."

(2) This section shall be deemed to have come into force on the 1st day of January 1970.

6. Economic pensions—Section 58 of the principal Act is hereby amended by adding the following subsections:

"(3) Nothing in this section shall apply to any person who is in receipt of a pension on account of the disablement or death of a member of the forces in respect of any period of service which commenced on or after the 3rd day of September 1939, unless that person is entitled to make an election under section 66L of this Act to receive a war service pension and has not made such an election.

"(4) Notwithstanding anything in subsection (3) of this section, if any person is, on the 1st day of April 1971, in receipt of an economic pension payable under subsection (1) of this section and is not entitled to make an election under section 66L of this Act, the economic pension may, so long as the person remains otherwise qualified, continue to be paid to that person."

7. Pensions for mercantile marine—Section 62 of the principal Act is hereby amended by adding the following subsections:

“(3) Nothing in this section shall apply to the wife of a member of the mercantile marine who is in receipt of a pension payable under subsection (1) of this section in respect of any period of employment or engagement with the mercantile marine which commenced on or after the 3rd day of September 1939, unless the member or the wife of the member, as the case may be, is entitled to make an election under section 66L of this Act to receive a war service pension and has not made such an election. 5 10

“(4) Notwithstanding anything in subsection (3) of this section, if any person is, on the 1st day of April 1971, in receipt of a pension under subsection (1) of this section as the wife of a disabled person, and is not entitled to make an election under section 66L of this Act, the pension may, as long as the person remains otherwise qualified, continue to be paid to that person.” 15

8. Pensions for Commonwealth mercantile marine—Section 63 of the principal Act is hereby amended by adding the following subsections:

“(5) Nothing in this section shall apply to the wife of any person who is in receipt of a pension payable under subsection (1) of this section in respect of any period of employment or engagement with the mercantile marine of any country of the Commonwealth (other than New Zealand) which commenced on or after the 3rd day of September 1939, unless the member or the wife of the member, as the case may be, is entitled to make an election under section 66L of this Act to receive a war service pension and has not made such an election. 25 30

“(6) Notwithstanding anything in subsection (5) of this section, if any person is, on the 1st day of April 1971, in receipt of a pension under subsection (1) of this section as the wife of a disabled person, and is not entitled to make an election under section 66L of this Act, the pension may, as long as the person remains otherwise qualified, continue to be paid to that person.” 35

9. Pensions for Emergency Reserve Corps—(1) Section 65 of the principal Act is hereby amended by omitting from subsection (2) the words “(except Parts IV and VI)”, and substituting the words “(except Parts IV, VA, and VI)”.

5 (2) The said section 65 is hereby further amended by adding the following subsections:

“(3) Nothing in this section shall apply to the wife of a member of the Emergency Reserve Corps who is in receipt of a pension under subsection (1) of this section in respect of
10 any period of service with the Emergency Reserve Corps which commenced on or after the 3rd day of September 1939, unless the wife of the member is entitled to make an election under section 66L of this Act to receive a war service pension and has not made such an election.

15 “(4) Notwithstanding anything in subsection (3) of this section, if the wife of any member of the Emergency Reserve Corps is, on the 1st day of April 1971, in receipt of a pension in respect of his disablement, and is not entitled to make an election under section 66L of this Act, the pension may, so
20 long as she remains otherwise qualified, continue to be paid to the wife.”

10. New Part inserted—(1) The principal Act is hereby further amended by inserting, after Part V, the following new Part:

25

“PART VA

“WAR SERVICE PENSIONS

“66A. ‘**Serviceman**’ defined—For the purposes of this Act, the term ‘serviceman’ means—

30 “(a) Any person who, having been a member of the forces within the meaning of this Act, has served overseas as such in connection with the Second World War or any subsequent war or emergency:

“(b) Any person who, having been a member of the forces of any country of the Commonwealth (other than
35 New Zealand), has served—

“(i) Outside that country of the Commonwealth;
or

40 “(ii) Within that country of the Commonwealth, and who, by the nature of his service, is or was entitled to the award of a campaign star in respect of his service against the enemy,—

in connection with the Second World War or any subsequent war or emergency in which members of the New Zealand forces have served as such:

“(c) Any person who, being a bona fide resident of New Zealand at the commencement of the Second World War, or any subsequent war or emergency in which members of the New Zealand forces have served as such, has served in that war or emergency as a member of the forces of any other country of the Commonwealth: 5 10

“(d) Any male person who, in respect of his employment or engagement as a member of the mercantile marine during the Second World War, has been granted a pension in respect of disablement under Part IV of this Act. 15

“66B. **War service pensions**—(1) Subject to the provisions of this Part of this Act, war service pensions shall be granted to or on account of—

“(a) Any serviceman who is in receipt of a pension under Part II of this Act at a rate of not less than 70 percent of the maximum rate of pension that would be payable in respect of total disablement: 20

“(b) Any serviceman who is in receipt of a pension under Part II of this Act at a rate of less than 70 percent of the maximum rate of pension that would be payable in respect of total disablement, and who satisfies a War Pensions Board that he is unable, by reason of physical or mental infirmity, to undertake permanent employment: 25

“(c) Any serviceman not in receipt of a pension under Part II of this Act who has not attained the age of 65 years and who satisfies a War Pensions Board that he is unable, by reason of physical or mental infirmity, to undertake permanent employment: 30 35

“(d) The wife of any such serviceman:

“(e) The wife of any member of the forces who is in receipt of a pension for total blindness under Part II, Part IV, or Part V of this Act, in respect of any period of service which commenced on or after the 3rd day of September 1939. 40

“(2) Where any serviceman has been in receipt of a pension granted under paragraph (c) of subsection (1) of this section and that pension has, under this Act, been cancelled for any reason, he may be granted a new pension under the said paragraph (c) if he applies for it within 5 years after the date of the cancellation of the previous pension, and if he is otherwise eligible, notwithstanding that he may have attained the age of 65 years.

“(3) Notwithstanding anything in subsection (1) of this section, no pension shall be payable under this Part of this Act—

- “(a) To or on account of any person who is in receipt of an economic pension under Part III of this Act; or
- “(b) To or on account of any person who is in receipt of a pension under Part II, Part IV, or Part V of this Act, as the wife of a disabled person; or
- “(c) To or on account of any person who is in receipt of an allowance under Part VI of this Act; or
- “(d) To or on account of the wife of a serviceman, if the wife is in receipt of a pension under this Part of this Act in her own right.

“(4) Except as provided in section 66c of this Act every decision of a War Pensions Board under this section shall be final.

“66c. **Appeal from decisions of War Pensions Board—**

(1) Whether or not any claimant for a war service pension is unable by reason of physical or mental infirmity to undertake permanent employment shall be a question of fact to be determined in the first instance by a War Pensions Board.

“(2) Within 6 months after the date on which any decision of a Board under subsection (1) of this section has been communicated to him, the claimant shall have a right of appeal to a War Pensions Appeal Board, and, in the event of an appeal, the decision of the Appeal Board shall be final.

“66d. **Residential qualifications for war service pension—**

(1) No serviceman shall be granted a war service pension unless—

- “(a) In the case of a serviceman who has served—
 - “(i) As a member of the New Zealand forces or mercantile marine; or
 - “(ii) As a member of the forces or mercantile marine of any country of the Commonwealth in any war or emergency in which members of the

New Zealand forces have served as such, and who was a bona fide resident of New Zealand at the commencement of the war or emergency—
he has resided continuously in New Zealand during the 5 years immediately preceding the date of his application for a pension or, if he has not so resided in New Zealand, that his absences from New Zealand during the 5 years immediately preceding the date of his application have not in the aggregate exceeded 6 months increased by 1 month for every year of his actual residence in New Zealand in excess of 5 years: 5 10

“(b) In any other case, he was resident in New Zealand on a date not later than 20 years before the date of his application for a pension and that his absences from New Zealand since the first-mentioned date have not in the aggregate exceeded 2 years increased by 6 months for every year in excess of 20 years which has elapsed since the first-mentioned date. 15

“(2) In determining, for the purposes of subsection (1) of this section, the period a serviceman has been absent from New Zealand no account shall be taken of— 20

“(a) Any period of absence while the serviceman was serving on board any ship registered or owned in New Zealand and engaged in trading to and from New Zealand, if he satisfies a War Pensions Board that during such absences his family or home was in New Zealand: 25

“(b) Any period of absence to which paragraph (a) of subsection (1) of this section applies while the serviceman was serving as a member of any forces established in any country of the Commonwealth: 30

“(c) Any period of absence to which paragraph (b) of subsection (1) of this section applies while the serviceman was serving as a member of any forces established in any country of the Commonwealth in connection with any war or emergency in which members of the New Zealand forces have served as such. 35

“(3) If any serviceman leaves New Zealand while in receipt of a pension under this Part of this Act, and returns to New Zealand within 5 years he shall not, on any subsequent application for a pension under this Part of this Act, be required to comply with the residential qualifications prescribed by subsection (1) of this section. 40 45

“66E. Rates of war service pension—(1) Except as otherwise expressly provided in this Part of this Act, the rate of the pension payable to any person under this Part of this Act shall be the appropriate rate specified in the Twelfth Schedule to this Act.

“(2) For the purpose of computing any pension under this section, a serviceman who is living apart from his wife or her husband, as the case may be, may, in the discretion of a War Pensions Board, be regarded as an unmarried person.

“(3) In determining for the purposes of this section the income of any person, a War Pensions Board shall take no account of any pension under this Act received by any person in respect of his own disablement, or of any pension (other than a mother’s allowance) under Part II, Part IV, or Part V of this Act received by any woman in respect of the death of her husband.

“(4) In respect of a claim for a pension under this Part of this Act made by the wife of a member of the forces who is in receipt of a pension for total blindness, no account shall be taken of the income or property of the claimant or of any other person in determining any such claim.

“66F. Age supplement where war service pensioner or wife has attained age of 65 years—In addition to the amount of pension payable to a serviceman, or to the wife of a serviceman, granted under paragraph (a), paragraph (b), paragraph (c), or paragraph (d) of subsection (1) of section 66B of this Act, a supplementary allowance shall be payable at the appropriate rate specified in the Twelfth Schedule to this Act, where the serviceman or the wife of any such person has attained the age of 65 years.

“66G. Apportionment of pensions in certain cases—(1) In any case where the rate of a pension under section 66E or section 66F of this Act is computed with reference to the wife of the serviceman, the pension so computed shall, as a War Pensions Board may determine, be paid to the serviceman personally or be allocated in such proportions as the Board determines between the serviceman and his wife.

“(2) Any allocation under this section may be made by a Board on the grant of the pension or at any time thereafter. In particular, if at any time the provisions of section 66H or section 87 of this Act become applicable to any person to or

in respect of whom a pension under this Part of this Act has been granted, an allocation, if not previously made, shall then be made so that only so much of the pension shall be forfeited as is deemed by the Board to be for the personal benefit of that person. 5

“(3) Nothing in this section shall be construed to affect the provisions of sections 66H and 87 of this Act.

“(4) Any allocation made under this section may be at any time varied by a War Pensions Board.

“**66H. Forfeiture of pensions of inmates of institutions**—A war service pension granted under this Part of this Act shall be forfeited in respect of any period during which the person to whom it has been granted is being maintained at the expense of the Government as an inmate of any institution: 10

“Provided that there may, in the discretion of a War Pensions Board, be paid to or on behalf of the serviceman, or his wife, or his or her dependants, or any of them, the whole of the pension or such part of it as the Board thinks fit. 15

“**66I. Review of pensions**—In the event of the circumstances of any serviceman to whom a pension has been granted under this Part of this Act being altered, or for any other sufficient reason, the War Pensions Board, from such date as it thinks fit, may terminate the pension, or, within the limits prescribed by the provisions of this Part of this Act, may increase or reduce the rate of the pension. 20 25

“**66J. Continuation of payment after death of serviceman**—
(1) Notwithstanding anything to the contrary in this Act, on the death of any serviceman while in receipt of a war service pension under this Part of this Act leaving a widow in respect of whom a war service pension has been paid under this Part, or leaving any child or children dependent on him, a War Pensions Board may, in its discretion, continue the pension at such rate, not exceeding the appropriate rate specified in the Twelfth Schedule to this Act, and until such date, being a date not later than 6 months after the date of death of the serviceman, as the Board may determine. 30 35

“(2) In any case to which this section applies the Board may, instead of continuing the pension, pay to or on behalf of the widow or any dependent child or children of the serviceman a lump sum gratuity not exceeding one-quarter of the yearly rate of war service pension, excluding any family maintenance allowance, to which the serviceman and his wife were entitled immediately before his death. 40

“66K. Continuation of payment after death of wife—(1)

Notwithstanding anything to the contrary in this Act, on the death of the wife of a serviceman while the serviceman is in receipt of a war service pension as a married serviceman, a
5 War Pensions Board may, in its discretion, continue the pension at the rate payable to a married serviceman until such date, being a date not later than 6 months after the date of death of the wife, as the Board may determine; and
10 in any such case the rate of the pension shall thereafter be reduced to the appropriate rate specified in the Twelfth Schedule to this Act for an unmarried pensioner.

“(2) In any case to which this section applies the Board may, instead of continuing the pension, pay to the serviceman a lump sum gratuity not exceeding one-quarter of the yearly
15 rate of war service pension, excluding any family maintenance allowance, to which the wife was entitled in respect of herself immediately before her death; and in any such case the pension shall be reduced to the appropriate rate specified in the Twelfth Schedule to this Act for an unmarried pensioner
20 from the day following the date of death of the wife.

“66L. Election to receive war service pension in certain cases—Any person who, at the commencement of this Part of this Act is in receipt of—

25 “(a) A pension payable to the wife of a member of the forces who is in receipt of a disablement pension in respect of total blindness under Part II, Part IV, or Part V of this Act; or

“(b) An economic pension payable under Part III of this Act; or

30 “(c) A war veteran’s allowance payable under Part VI of this Act—

and who qualifies for a war service pension under this Part of this Act, may, at any time before the 1st day of April 1972, elect to surrender that pension or allowance and receive
35 a war service pension instead.”

(2) The principal Act is hereby further amended by adding the Twelfth Schedule set out in the Schedule to this Act.

11. Allowances for war veterans—Section 68 of the principal Act is hereby amended by adding the following subsections:

40 “(5) Nothing in this section shall apply to any veteran in respect of service as a member of the forces, or as a member of the forces established in any country of the Commonwealth

(other than New Zealand), which commenced on or after the 3rd day of September 1939, unless he is entitled to make an election under section 66L of this Act to receive a war service pension and has not made such an election.

“(6) Notwithstanding anything in subsection (5) of this section, if any person is, on the 1st day of April 1971, in receipt of a war veterans allowance and is not entitled to make an election under section 66L of this Act the allowance may, so long as the person remains otherwise qualified, continue to be paid to that person.”

12. War servicemen’s dependants’ allowances—(1) Section 75A of the principal Act (as inserted by section 4 of the War Pensions Amendment Act 1963) is hereby amended by omitting from subparagraph (ii) of paragraph (b) of subsection (1) the word “Act”, and substituting the words “Act; and”.
 (2) The said section 75A (as so inserted) is hereby further amended by adding to subsection (1) the following paragraph:

“(c) To or on account of—

“(i) Any serviceman who is in receipt of a war service pension; and also

“(ii) The wife of any such serviceman in any case where the serviceman is entitled to receive a war service pension in respect of his wife.”

(3) The said section 75A (as so inserted) is hereby further amended by inserting in subsection (2), after the words “paragraph (b)”, the words “or paragraph (c)”.

(4) The said section 75A (as so inserted) is hereby further amended by inserting in subsection (3), after the words “paragraph (b)”, the words “or paragraph (c)”.

13. Family maintenance allowances—Section 75B of the principal Act (as inserted by section 3 (1) of the War Pensions Amendment Act 1968) is hereby amended by repealing paragraph (d) of subsection (1), and substituting the following paragraphs:

“(d) The wife of any such person in any case where she is in receipt of a pension under this Act; or

“(e) Any serviceman who is in receipt of a war service pension; or

“(f) The wife of any such serviceman in any case where the serviceman is qualified to receive a war service pension in respect of his wife—”.

14. Persons receiving superannuation benefit under Social Security Act not to receive certain pensions or allowances

Section 82 of the principal Act is hereby amended by inserting, after the words "economic pension", the words "or a war service pension".

15. Payment of pensions outside New Zealand—(1) Section 86 of the principal Act is hereby amended by inserting, after subsection (2), the following subsections:

10 "(2A) Any war service pension may, in the discretion of a War Pensions Board, be paid on the grounds of hardship to the claimant or to the person to or on account of whom the pension has been granted, notwithstanding that the claimant or the person to or on account of whom the pension has been granted, as the case may be, may be out of New Zealand.

15 "(2B) Nothing in this Act shall prevent a War Pensions Board, in its discretion, from granting on the grounds of hardship a supplementary pension equivalent to a war service pension to any person who is in receipt of a pension under Part II of this Act on account of the death of a member of
20 the forces in respect of any period of service which commenced on or after the 3rd day of September 1939, notwithstanding that the claimant for such supplementary pension or the person to whom such supplementary pension has been granted, as the case may be, may be out of New Zealand.

25 "(2C) Any war service pension may, in the discretion of a War Pensions Board, be paid in respect of any period during which the person to whom the pension has been granted is temporarily absent from New Zealand."

16. Amendments to Social Security Act 1964—Section 72 of the Social Security Act 1964 is hereby amended—

30 (a) By inserting in subparagraph (i) of paragraph (b), after the words "economic pension", the words "or a war service pension";

35 (b) By inserting in the proviso, after the words "economic pension", the words "or a war service pension".

Section 10 (2)

SCHEDULE

NEW TWELFTH SCHEDULE TO PRINCIPAL ACT

‘TWELFTH SCHEDULE

Sections 66E,
66F, 66J

RATES OF WAR SERVICE PENSIONS

1. Under section 66E—

- (a) To a married male serviceman who is qualified to receive a pension on account of his wife, in respect of himself and his wife **(\$1,300) \$1,404** a year, diminished by \$2 for every complete \$2 of the total annual income of the serviceman and his wife (exclusive of any pension under Part VA of this Act) in excess of **(\$572) \$676** a year.
- (b) To a married female ‘serviceman’ **(\$650) \$702** a year, diminished by \$2 for every complete \$2 of the total annual income of the ‘serviceman’ and her husband (exclusive of any pension under Part VA of this Act received by her) in excess of **(\$1,222) \$1,378** a year.
- (c) In any other case **(\$650) \$702** a year diminished by \$2 for every complete \$2 of the total annual income (exclusive of any allowance under Part VA of this Act) of the serviceman and his wife (if any) in excess of **(\$1,222) \$1,378** a year in the case of a married serviceman, and in excess of **(\$572) \$676** a year in the case of an unmarried serviceman.

2. Under section 66F—

Age supplement—

- (a) Where a married male serviceman and his wife have both attained the age of 65 years \$156 a year.
- (b) Where a married female ‘serviceman’ has attained the age of 65 years \$78 a year.
- (c) In any other case where the serviceman or the wife of a male serviceman has attained the age of 65 years \$78 a year.

SCHEDULE—*continued*

3. Under section 66J—

Continuation of pension where serviceman dies leaving widow or dependent child A rate not exceeding **(\$1,456)** \$1,560 a year, plus family maintenance allowance (if any).

4. General—

The rates specified in clause 1 of this Schedule shall be increased by \$65 a year in any case where the person claiming or in receipt of the allowance is an unmarried person:

Provided that a War Pensions Board may in its discretion refuse to increase any pension under this clause in any case where in the opinion of the Board the person claiming or in receipt of the pension is sharing household expenses with any other person."