

WAR PENSIONS BILL

EXPLANATORY NOTE

THIS Bill consolidates the War Pensions Act 1943 and its amendments, and also incorporates the War Pensions and Allowances (Mercantile Marine) Act 1940 and its amendments.

Although the provisions of the Bill have been rearranged and in some cases redrafted, only minor alterations have been made in the law. All important changes are referred to in the following notes on particular clauses.

The sources of the clauses in the Bill are shown in the marginal notes, and the comparative table at the end of this note shows where each repealed enactment appears in the Bill or, as the case may be, the reason for its omission.

Clause 2: Interpretation.—The definition of the term “dependant” has been amended so as to include the parents of a male member of the forces in every case, without proof of pre-service dependency. Also, except in the case of the wife or widow, children under sixteen, and parents (who are conclusively presumed to be dependants), the eligibility of dependants is to be based on the expectation of pecuniary benefit from the member, instead of actual dependency at some time within the twelve months preceding the commencement of his service.

PART I

ADMINISTRATION

This Part re-enacts Part I of the War Pensions Act 1943 with minor drafting alterations and the amendments noted below.

Clause 5 is a new clause providing for the appointment of a Deputy Secretary for War Pensions to act for the Secretary during his absence or when there is no Secretary in office.

Clause 11 incorporates the existing provisions of regulation 4 of the War Pensions Regulations 1945 relating to the appointment to Boards of members representing members of the forces. *Subclause (2)* is new; it enables the Minister to make temporary appointments if the Returned Services' Association fails for more than two months to make the required nominations.

Clause 15 extends section 12 of the 1943 Act so as to enable a War Pensions Board to delegate certain of its powers to any officer of the Department nominated by the Secretary, as well as to the Secretary himself, and also to enable a Board to delegate power to assess the rate of a disablement pension.

Clause 16 (4) incorporates the existing regulation 31 (3) of the War Pensions Regulations 1945, making the decision of an Appeal Board final, but the proviso is new, and enables a claimant whose appeal has been determined to have his case reconsidered if additional evidence becomes available.

PART II

WAR PENSIONS

This Part replaces Part II of the War Pensions Act 1943.

The clauses and Schedules have been rearranged and redrafted. All rates and amounts are set out in the Schedules and not in the text of the Bill. In a number of cases a War Pensions Board is enabled to act in its discretion, without having to obtain the approval of the Minister as at present; these cases relate to the granting of concessions under *clauses 23, 37, 40, 41, 48, 49, 51, 52, and 56.*

Grounds for Payment of Pensions

Clause 19: Paragraph (a) of subclause (1) has been extended so as to include overseas service not only in time of war but also in connection with United Nations emergencies and other emergencies. This will include the service now being rendered in Korea, Malaya, and Cyprus. The first proviso to *subclause (1)* has been amended to provide that pensions may be granted in the case of deserters if the Minister approves. *Subclause (2)* is new, and provides that the disablement or death of a member of the forces while on service overseas in time of war or emergency shall be deemed to be attributable to his service.

Pensions for Disabled Members of the Forces

Clause 21: The minimum percentages of the full pension for total disablement that are prescribed in the *Ninth* Schedule, for the disabilities mentioned in that Schedule, are only to apply while the member is a *bona fide* resident of New Zealand.

Clause 28: Paragraph (a) of subclause (1) has been amended so as to refer to the loss of any two limbs, instead of the present reference to both legs. The clause relates to an additional clothing allowance in this and other cases of complete or partial loss of limbs.

Pensions for Widows of Deceased Members

Clause 33 has been redrafted so as to provide that the pension of a widow who is a *bona fide* resident of New Zealand is to be at the maximum rate in all cases where a pension is payable to her under the Act. Under the present section 26 (1) this provision applies only where the husband died from a disablement for which he was receiving a pension or where he would have been entitled to a pension if the cause of his death had resulted only in his disablement.

Pensions for Children of Disabled and Deceased Members

Clause 43: The words "with the approval of the Minister" have been omitted from *subclauses (3), (4), and (5)*, which enable children's pensions to be continued in certain cases.

Pensions for Other Dependants

Clause 44, as to the rates of dependants' pensions, has been redrafted in a simpler form. Subsection (2) of section 34 of the 1943 Act has been omitted, as the pensions for dependants are no longer to be restricted to the value of the benefits received by them from the member within the year preceding the commencement of his service. Under *clause 44* the actual rates of pensions for widowed mothers will be in the discretion of the Board, as section 35 (3) of the 1943 Act, which provided for fixed minimum rates, has been omitted.

Increased Pensions for Members of Forces and Dependents

Clause 50, which provides for increased pensions where a member of the forces is undergoing any medical or curative treatment, has been amended by including a reference to surgical treatment also.

Extension of this Part to Cover Special Cases

Clause 55, as to service otherwise than as a member of the forces, is extended to cover service in connection with an emergency, as well as war service.

Clause 56, as to service as a member of other Commonwealth forces, is extended to cover service in connection with an emergency, as well as war service.

PART III

ECONOMIC PENSIONS

This Part re-enacts Part III of the War Pensions Act 1943, except section 53 of that Act, which appears in *Part II* of this Bill as *clause 47*.

There are no alterations in substance, although minor drafting amendments have been made and all rates of pensions have been transferred to the *Sixth* Schedule.

PART IV

MERCANTILE MARINE PENSIONS

This Part replaces the War Pensions and Allowances (Mercantile Marine) Act 1940 and its amendments.

This Part is limited to cases where the disablement or death of members of the mercantile marine is directly attributable to the Second World War, and accordingly the provisions relating to detention as a prisoner of war have been omitted as spent.

The provisions as to rates of pensions and certain other provisions have been omitted from this Part as the corresponding provisions of other Parts of the Bill are made applicable by *clause 62 (2)*.

PART V

EMERGENCY RESERVE CORPS PENSIONS

This Part replaces Part IV of the War Pensions Act 1943 as amended.

The provisions as to rates of pensions have been omitted from this Part as the corresponding provisions of other Parts of the Bill are made applicable by *clause 65 (2)*.

PART VI

WAR VETERANS' ALLOWANCES

This Part replaces Part V of the War Pensions Act 1943 as amended.

Sections 67 and 68 (2) of the 1943 Act have been omitted from this Part as they are covered by general provisions in Part VII.

Clause 69: The rates of allowances are transferred from the Act to the *Seventh* Schedule. In *clause 1 (c)* of that Schedule the allowable income of a married female veteran is increased from £130 per annum to £253 10s. per annum, to correct an anomaly.

Clause 75 is new. It provides that on the death of the wife of a married veteran his allowance may be continued at the full rate until the end of the next month, and is then to be reduced to the rate for an unmarried veteran.

PART VII

GENERAL PROVISIONS

Clause 76: As marriages in accordance with Maori custom have not been legal since 1 April 1952, this clause has been redrafted so as to give a War Pensions Board a discretion as to whether such marriages entered into before that date are to be recognized for the purposes of the Act.

Clause 77 is new. It gives a Board discretionary power to regard as a man's wife or widow a woman who has lived with him as his wife without being legally married to him. It is the present practice to grant relief in such cases where the circumstances require it.

Clause 95 is a new clause enabling the Governor-General in Council to extend Part IV (Mercantile Marine Pensions) and Part V (Emergency Reserve Corps Pensions) to any future war.

TABLE OF CORRESPONDING SECTIONS OF ENACTMENTS
REPEALED

THE WAR PENSIONS AND ALLOWANCES (MERCANTILE MARINE) ACT 1940, No. 24

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title	5 (c)	.. 44
2 (1), (3), (4)	.. 2 (1)	6 ..	.. 22, 30 (2), 36 (2), 44
2 (2)	.. 2 (1), 41	7 ..	.. Spent
3 ..	.. 62	8 ..	.. 84
4 (a)	.. 32, 36 (1)	9 ..	.. Spent
4 (b)	.. 44	10 ..	.. 64
5 (a)	.. 20	11 ..	.. 95
5 (b)	.. 30 (1), 36 (1)	Schedules	.. Repealed

THE WAR PENSIONS AND ALLOWANCES (MERCANTILE MARINE) AMENDMENT ACT 1943, No. 21

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title	3 ..	.. 63
2 ..	.. Repealed	Schedules	.. Repealed

THE WAR PENSIONS ACT 1943, No. 22

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title	11 ..	.. 14
2 ..	.. 2	12 ..	.. 15
3 ..	.. 3	13 ..	.. 16 (1)-(3)
4 ..	.. 4	14 ..	.. 17
5 ..	.. 6	15 ..	.. 18
6 ..	.. 10	16 ..	.. ..
7 ..	.. 7	17 ..	.. 19 (1)
8 ..	.. 8	18 (1) (a)	.. 32
9 ..	.. 9	18 (1) (b)	.. 36 (1)
10 ..	.. 13	18 (1) (c)	.. 44
10A	.. 12	18 (2) (a)	.. 36 (1)

THE WAR PENSIONS ACT 1943, No. 22—*continued*

Section of Act	Clause of Bill	Section of Act	Clause of Bill
18 (2) (b)	.. 44	50 ..	.. 59
19 (1) (a)	.. 20	51 ..	.. 60
19 (1) (b)	.. 30 (1)	52 ..	.. 61
19 (1) (c)	.. 36 (1)	53 ..	.. 47
19 (1) (d)	.. 44	54 ..	.. 2 (1)
19 (2) (a)	.. 20	55 ..	.. 65
19 (2) (b)	.. 36 (1)	56 (1) (a)	.. 32 (1), 36 (1)
19 (2) (c)	.. 44	56 (1) (b)	.. 44
19 (3)	.. 2 (2)	56 (2) (a)	.. 36 (1)
19 (4)	.. 23 (1) (a), (2)	56 (2) (b)	.. 44
19 (5)	.. 23 (1) (c), (2)	57 (a), (b)	.. 20
20 (1)	.. 21 (1)	57 (c)	.. 30 (1)
20 (2)	.. 21 (2)	57 (d)	.. 36 (1)
20 (3)	.. 23 (1) (b), (2)	57 (e)	.. 44
21 ..	.. 22, 30 (2), 36 (2), 44	58 ..	.. 22, 30 (2), 36 (2), 44
22 ..	.. 24	59 ..	.. 66
23 ..	.. 25	60 ..	.. 67
24 ..	.. 26	61 ..	.. 68
25 ..	.. 19 (1)	62 ..	.. 69
26 (1)	.. 33	63 ..	.. 71
26 (2)	.. 34	64 ..	.. ..
27 ..	.. 31	65 ..	.. 72
28 35	66 73
29 (1)	67 84
29 (2)	.. 37	68 (1), (3)	.. 74
30 39	68 (2)	.. 83
31 40	69
32 (1)	70 (1)	.. 80
32 (2)	.. Repealed	70 (2)	.. 78
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33 43	73 84
34 (1), (2)	.. 44	74 86
34 (3)	.. 45	75 87
35 (1), (2)	.. 2 (1)	76 88
35 (3)	.. 44	77 91
36 51	78 92
37 46, 53	79 93
38 ..	.. 54	80 ..	.. 90
39 (1)	.. 27	81 ..	.. 94
39 (2)	.. 50	82 ..	.. 96
40 ..	.. 29	83 ..	.. 97
41 ..	.. 28		
42 ..	.. 48	Schedule of Act	Schedule of Bill
43 ..	.. 49	I ..	.. IV, V
44 ..	.. 76	II ..	.. I, V
45 ..	.. 52	III ..	.. I, III, V
46 ..	.. 55	IV ..	.. IX
47 ..	.. 56	V ..	.. X
48 ..	.. 57		
49 ..	.. 58		

THE WAR PENSIONS AMENDMENT ACT 1945, NO. 12

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title	3 (3)	.. ..
2 ..	.. 69	3 (4)	.. 74 (1)
3 (1)	.. Spent	4 ..	.. 87 (1)
3 (2)	.. 71 (1)		

THE WAR PENSIONS AMENDMENT ACT 1946, NO. 17

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title	4 (2)	.. 30 (1), 36 (1)
2 (1)	.. Repealed	5 ..	.. 97 (4)
2 (2)	.. 32, 36 (1), 44	6 ..	.. 38
2 (3)	.. 20, 44	7 ..	.. 87 (1)
3 ..	.. Repealed	Schedules	.. Repealed
4 (1)	.. 36 (1)		

THE WAR PENSIONS AND ALLOWANCES (MERCANTILE MARINE) AMENDMENT ACT 1946, NO. 18

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title	2 (3)	.. Repeals
2 (1)	.. Repealed	Schedules	.. Repealed
2 (2)	.. 32, 36 (1)		

THE WAR PENSIONS AMENDMENT ACT 1947, NO. 26

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title	7 ..	.. Repealed
2 ..	.. Repealed	8 ..	.. 83
3 ..	.. 44	9 ..	.. Repealed
4, 5	.. Repealed	Schedule	.. Repealed
6 ..	.. 48		

THE STATUTES AMENDMENT ACT 1947, NO. 60

Section of Act	Clause of Bill	Section of Act	Clause of Bill
70 ..	.. Introductory	72 ..	.. 8 (1), (4)
71 ..	.. 6 (1), (4)	73 ..	.. Revocation

THE FINANCE ACT (NO. 2) 1948, NO. 78

Section of Act	Clause of Bill	Section of Act	Clause of Bill
25 ..	.. Introductory	26 (2)	.. 74 (2)
26 (1)	.. 35	27 ..	.. 86 (3)

THE WAR PENSIONS AMENDMENT ACT 1949, NO. 25

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title	8 (a), (b)	.. 20
2 ..	.. 20, 36 (1)	8 (c), (d)	.. Repealed
3 ..	.. Repealed	9 ..	.. Repealed
4 ..	.. ..	Schedule	.. First and Fifth Schedules
5 ..	.. 43 (1), (2), (3)		
6, 7	.. Repealed		

THE WAR PENSIONS AND ALLOWANCES (MERCANTILE MARINE) AMENDMENT ACT
1949, No. 26

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title	3 ..	.. 2 (1),
2 ..	.. Repealed	Schedule	.. Repealed

THE WAR PENSIONS AMENDMENT ACT 1950, No. 47

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title	9 ..	.. Repealed
2-7	.. Repealed	10 ..	.. 79
8 ..	.. 69	Schedule	.. Repealed

THE WAR PENSIONS AMENDMENT ACT 1951, No. 23

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title	13 ..	.. 56
2 ..	.. 20, 30 (1), 32, 36 (1)	14 ..	.. 59 (2)
3 ..	.. 30 (1), 36 (1)	15 ..	.. 68 (1), (2)
4 ..	.. 23 (1) (a), (b), (2)	16 ..	.. 69 (2)
5 ..	.. 40	17 ..	.. 72 (2)
6 ..	.. 51 (2)	18 ..	.. 69 (3)
7 ..	.. 29 (1)	19 (1)	.. 82
8 ..	.. 28	19 (2), (3)	.. 97 (3)
9 ..	.. 60	20 ..	.. 70
10 ..	.. 30 (1)	21 ..	.. 81
11 ..	.. 69 (1)	Schedule	.. First, Third, Fourth, Fifth Schedules
12 ..	.. 23 (1) (c), (2)		

THE WAR PENSIONS AND ALLOWANCES (MERCANTILE MARINE) AMENDMENT ACT
1951, No. 24

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title	3 ..	.. 82
2 ..	.. 20, 32, 36 (1)	Schedule	.. 20, 32, 36 (1)

THE FEES AND TRAVELLING ALLOWANCES ACT 1951, No. 79

Part of Act	Clause of Bill
Part Second Schedule	.. 12

THE FINANCE ACT (No. 2) 1952, No. 81

Section of Act	Clause of Bill
17 67

Hon. Mr Macdonald

WAR PENSIONS

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A BILL INTITULED

AN ACT to consolidate and amend the law relating to war pensions and allowances. Title.

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 Act 1954.

Short Title.
1943, No. 22,
s. 1

Interpretation.
1940, No. 24,
s. 2
1943, No. 22,
ss. 2, 19 (3),
35 (1), (2), 54
1949, No. 26,
s. 3

1938, No. 7;
reprinted 1948,
Vol. II, p. 1251

Serial No.
1941/194

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

“Appeal Board” means a War Pensions Appeal Board established under this Act:

“Board” means, as the context may require, a War Pensions Board or a War Pensions Appeal Board established under this Act: 5

“Child”, in relation to any member of the forces, means a child under the age of sixteen years; and includes a step-child, an adopted child, and an illegitimate child: 10

“Department” means the Social Security Department established under the Social Security Act 1938:

“Dependant”, in relation to any male member of the forces, means— 15

(a) The wife or widow of the member:

(b) Any child of the member:

(c) The father or mother of the member:

(d) Any other member of his family who, 20

in the opinion of the Board, might reasonably have expected to enjoy some actual pecuniary benefit if he had not suffered disablement or death;

and, in relation to a female member of the forces, means— 25

(a) Any child of the member actually dependent on her:

(b) Any other member of her family who, in the opinion of the Board, might reasonably have expected to enjoy some actual pecuniary benefit if she had not suffered disablement or death: 30

“Member of the Emergency Reserve Corps” means any person who was at any time a member of the Emergency Reserve Corps established under the Emergency Reserve Corps Regulations 1941: 35

“Member of the family”, in relation to a member of the forces, means the wife, widow, husband, father, or mother, or a son, daughter, grand-father, grandmother, step-father, step-mother, grandson, grand-daughter, step-son, step-daughter, brother, sister, half-brother, half-sister, or mother-in-law of the member:

“Member of the forces” means any person who is or has at any time been a member of any of Her Majesty’s forces established in New Zealand, whether before or after the commencement of this Act:

“Member of the Mercantile Marine” means any person who is or has at any time been the master or any other officer or the pilot or any member of the crew of—

(a) Any ship that is for the time being on New Zealand articles; or

(b) Any ship that is engaged in trading exclusively in New Zealand waters but is not on articles; or

(c) Any ship that is for the time being owned and operated by the New Zealand Government or by any Harbour Board:

“Minister” means the Minister of Defence:

“Secretary” means the Secretary for War Pensions; and includes any person for the time being authorized to exercise or perform any of the powers, duties, or functions of the Secretary.

(2) Terms defined in this section in relation to a member of the forces have corresponding meanings, with any necessary modifications, when used in this Act in relation to persons other than members of the forces.

3. The following provisions of this Act are divided into Parts as follows:

- PART I—Administration. (Sections 4 to 18.)
- PART II—War Pensions. (Sections 19 to 56.)
- PART III—Economic Pensions. (Sections 57 to 61.)
- PART IV—Mercantile Marine Pensions. (Sections 62 to 64.)
- PART V—Emergency Reserve Corps Pensions. (Sections 65 and 66.)
- PART VI—War Veterans’ Allowances. (Sections 67 to 75.)
- PART VII—General Provisions. (Sections 76 to 97.)

Act divided into Parts.
1943, No. 22,
s. 3

PART I

ADMINISTRATION

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Secretary for
War Pensions.
1943, No. 22,
s. 4

See Reprint
of Statutes,
Vol. VII,
p. 522

Deputy
Secretary for
War Pensions.
See Reprint
of Statutes,
Vol. VII,
p. 522

War Pensions
Boards.
1943, No. 22,
s. 5
1947, No. 60,
s. 71

4. (1) For the purposes of this Act there shall be appointed under the Public Service Act 1912 an officer of the Department to be known as the Secretary for War Pensions. 5

(2) The Secretary, acting under the general direction and control of the Minister, shall be charged with the administration of this Act. 10

5. (1) There may from time to time be appointed under the Public Service Act 1912 an officer of the Department to be known as the Deputy Secretary for War Pensions, who, subject to the control of the Secretary, shall have and may exercise all the powers, duties, and functions of the Secretary. 15

(2) On the occurrence from any cause of a vacancy in the office of Secretary (whether by reason of death, resignation, or otherwise), and in case of the absence from duty of the Secretary (from whatsoever cause arising), and so long as any such vacancy or absence continues, the Deputy Secretary shall have and may exercise all the powers, duties, and functions of the Secretary. 20

(3) The fact that the Deputy Secretary exercises any power, duty, or function of the Secretary shall be conclusive evidence of his authority to do so. 25

6. (1) For the purposes of this Act there shall be such number of War Pensions Boards as the Minister thinks fit. 30

(2) A War Pensions Board shall consist of not less than three and not more than four members, who shall be appointed by the Minister and shall hold office during his pleasure:

Provided that no member of a Board shall hold office for a continuous period of more than three years without reappointment. 35

(3) Not less than one member of each Board shall be a registered medical practitioner and one member of each Board shall be appointed as a representative of the members of the forces on the nomination of the New Zealand Returned Services' Association (Incorporated). 40

(4) Each Board shall be distinguished by such distinctive name as the Minister thinks fit.

(5) At any meeting of a Board two members shall form a quorum.

5 7. (1) One of the members of each War Pensions Board shall be appointed by the Minister to be Chairman thereof and shall hold office as Chairman during the pleasure of the Minister.

Chairman of
War Pensions
Board.
1943, No. 22,
s. 7

10 (2) In the absence of the Chairman from any meeting of a Board the members present may appoint one of their number (whether the deputy of the Chairman or any other member or any deputy member) to be the Chairman for the purposes of that meeting.

15 (3) On any question before a Board the Chairman shall have a deliberative vote and in the event of an equality of votes shall also have a casting vote:

Provided that at least two members shall concur in every decision of a Board.

20 8. (1) For the purposes of this Act there shall be such number of War Pensions Appeal Boards as the Minister thinks fit.

War Pensions
Appeal Boards.
1943, No. 22,
s. 8

(2) A War Pensions Appeal Board shall consist of three members, who shall be appointed by the Minister and shall hold office during his pleasure:

1947, No. 60,
s. 72

25 Provided that no member of an Appeal Board shall hold office for a continuous period of more than three years without reappointment.

30 (3) Two members of each Appeal Board shall be registered medical practitioners and one of those members shall be appointed as a representative of the members of the forces on the nomination of the New Zealand Returned Services' Association (Incorporated).

(4) Each Appeal Board shall be distinguished by such distinctive name as the Minister thinks fit.

35 (5) All members of an Appeal Board shall be present at the hearing of any appeal under this Act from any decision of a War Pensions Board.

40 9. One of the members of each Appeal Board shall be appointed by the Minister to be the Chairman thereof and shall hold office as Chairman during the pleasure of the Minister.

Chairman of
Appeal Board.
1943, No. 22,
s. 9

Deputy
members.
1943, No. 22,
s. 6

10. (1) The Minister may from time to time appoint a person to be the deputy of any member of any War Pensions Board or Appeal Board.

(2) Any person appointed as deputy of a member appointed as the representative of the members of the forces shall be nominated in the same manner as that member, and the deputy of a member being a registered medical practitioner shall also be a registered medical practitioner. 5

(3) The deputy of any member shall have authority to act as a member of the Board in the event of the absence from any meeting of the Board of the member whose deputy he is, and, subject to subsection *two* of section *seven* of this Act shall in that event have all the powers of that member. 10 15

Appointments
on nomination
of N.Z.R.S.A.
(Inc.).
Serial No.
1945/159, r. 4

11. (1) For the purpose of appointing any member of any War Pensions Board or Appeal Board who is required by this Act to be nominated by the New Zealand Returned Services' Association (Incorporated), the Minister may require that Association to submit more than one but not more than three nominations, and on receipt of those nominations the Minister may appoint such one of the persons so nominated as he thinks fit. 20

(2) In the event of the Association failing for more than two months to submit to the Minister the names of the required number of nominees, the Minister may temporarily appoint such person as he thinks fit (whether nominated by the Association or not) to act as a member of the Board until the vacancy is filled in accordance with subsection *one* of this section. 25 30

Remuneration
and travelling
expenses.
1943, No. 22,
s. 10A
1951, No. 79,
s. 10 (1)
1951, No. 79

12. There shall be paid to the members of any War Pensions Board or of any Appeal Board remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if every such Board were a statutory Board within the meaning of that Act. 35

Application of
Commissions of
Inquiry Act
1908.
1943, No. 22,
s. 10
See Reprint
of Statutes,
Vol. I, p. 1036

13. For the purpose of carrying out their several functions under this Act, the Secretary, the War Pensions Boards, and the Appeal Boards shall be deemed to be Commissions appointed under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act and of any regulations made under this Act, all the provisions of that Act shall apply accordingly. 40

Procedure in Respect of Claims for Pensions

14. (1) All claims for or in respect of pensions or allowances under this Act shall be made in writing to the Secretary.

Claims to be sent to Secretary for consideration by Board. 1943, No. 22, s. 11

5 (2) Subject to any delegation of its powers under section *fifteen* of this Act, a War Pensions Board, as soon as practicable after the submission of any claim, shall consider the same and may either—

- 10 (a) Grant a pension or allowance in accordance with the provisions of this Act; or
 (b) Decline the claim on the ground that the claimant is not entitled to a pension or allowance under this Act.

Delegation of Powers of War Pensions Boards

15 15. (1) A War Pensions Board may from time to time, with the approval of the Minister, delegate to the Secretary, or to any officer of the Department nominated by the Secretary, such of its powers in relation to claims under this Act as it thinks fit:

Board may delegate powers with authority of Minister. 1943, No. 22, s. 12

20 Provided that no delegation under this section shall be construed to confer on the Secretary or any other officer of the Department the power to determine whether or not the disablement or death of a member of the forces occurred while on service overseas or is attributable to his service in New Zealand or overseas, or whether or not the condition that resulted in his disablement or death was aggravated by his service in New Zealand or overseas.

30 (2) Any such delegation may be at any time revoked by the Board in whole or in part, and no such delegation shall prevent the exercise by the Board of any of the powers conferred on it by this Act.

35 (3) Any such delegation may be made subject to such conditions and restrictions as the Board thinks fit, and may be made either generally or in relation to any particular claim or to claims of a particular class.

40 (4) The fact that the Secretary or any other officer of the Department, purporting to act pursuant to powers conferred on him by delegation under this section, exercises in respect of any claim any powers conferred on a Board by this Act shall be sufficient evidence of his authority so to do.

(5) Any decision made by the Secretary or any other officer in the exercise of any powers conferred on him by delegation under this section shall be provisional only, and shall, as soon as practicable after it is made, be referred to a Board, which may confirm the decision, or may, in accordance with the provisions of this Act, grant or refuse to grant a pension or allowance, or increase or reduce the rate of any pension or allowance, or terminate any pension or allowance. 5

Appeals

Appeals from
decisions of
War Pensions
Board.
1943, No. 22,
s. 13
Serial No.
1945/159,
r. 31 (3)

16. (1) Within six months after the date on which any decision of a War Pensions Board (whether made before or after the commencement of this Act) has been communicated to him, the claimant, by notice in writing posted or delivered to the Secretary, may appeal from the decision in so far as it consists of— 10 15

- (a) The rejection of any claim for a pension in respect of the disablement or death of a member of the forces on the ground that the disablement or death was not attributable to his service as a member of the forces or that the condition that resulted in his disablement or death was not aggravated by that service; or 20
- (b) The assessment of a pension granted to any member of the forces in so far as the assessment is based on medical grounds. 25

(2) On receipt of any such appeal the Secretary shall submit the appeal to a War Pensions Appeal Board, which may confirm the decision of the War Pensions Board or may, in accordance with the provisions of this Act, grant or refuse to grant a pension, or increase or reduce the rate of any pension, or terminate any pension. 30

(3) Any decision of an Appeal Board may be made retrospective if and to such extent as that Board thinks fit. 35

(4) The decision of an Appeal Board shall be final and conclusive:

Provided that, if at any time a claimant whose appeal has been determined satisfies the Secretary that by reason of additional evidence becoming available or for any other reason whatsoever it is desirable in the interests of justice that his claim should be reconsidered, the Secretary shall accept from him a fresh claim and any such claim 40

shall be submitted to a War Pensions Board and dealt with in all respects as if it were an original application for a pension.

Presumptions to Operate in Favour of Claimants for Pensions

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17. (1) Where any claim for a pension under this Act is made by or in respect of a member of the forces who, on attesting for service or at any time thereafter, was medically graded as fit for service with the forces, the medical grading shall, except as otherwise provided in this section, be accepted as conclusive proof of the absolute physical and mental fitness of the member at the time of that grading, subject only to any physical or mental conditions qualifying that absolute fitness that may be specifically recorded in the medical record made at the time of the medical grading:

Presumption that disablement or death attributable to service. 1943, No. 22, s. 14

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Provided that the foregoing provisions of this subsection shall not apply if the medical grading of the member has been altered by a competent authority within two months after he has been actually attached to the forces for service therein but before he has been subjected to any conditions that have in fact prejudicially affected his physical or mental fitness or to any conditions that may be regarded as having possibly or probably so affected his physical or mental fitness, and the member has been officially informed of the alteration of his grading within three months after he has been so attached to the forces for service therein.

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(2) The foregoing presumption in favour of the claimant based on the medical grading of the member shall not operate in any case where it is proved that the member failed to reveal to the medical examiners, after proper inquiry made of him, any material facts in relation to his physical or mental health or history, or where it is proved that by reason of any false statement, non-disclosure, or misrepresentation he was erroneously graded.

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(3) In any case in which the foregoing presumption in favour of the claimant does not for any reason apply or is not sufficient to establish his claim, the claimant shall be entitled to produce to a War Pensions Board or an

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Appeal Board, as the case may be, any evidence (whether strictly legal evidence or not) to show that the condition that resulted in the disablement or death of the member was possibly or probably attributable to or aggravated by his service with the forces, and if any reasonable evidence to that effect is produced there shall thereby be established a presumption that that condition was in fact attributable to or aggravated by the service of the member, and that presumption may be rebutted only by evidence that satisfies the Board that the condition was not so attributable or aggravated but was due entirely to other causes.

(4) Where any member of the forces has suffered the loss of, or the permanent loss of the use of, one of any paired organs of the body, and that loss is held to be attributable to his service, the subsequent loss or impairment of the efficiency of the other corresponding organ (from whatever cause arising) shall be conclusively presumed to be attributable to his service.

Rules to be Observed by Boards in Determining Claims

Boards not bound by rules of evidence, but must determine all claims in accordance with their merits.
1943, No. 22, s. 15

18. (1) In determining, in relation to any claim for a pension under this Act made by a member of the forces in respect of his disablement or made by any other person in respect of the disablement or death of a member, whether the disablement or death of the member was attributable to his service as a member or whether the condition that resulted in his disablement or death was aggravated by that service, a War Pensions Board or an Appeal Board, as the case may be, shall decide in accordance with substantial justice and the merits of the case, and shall not be bound by any technicalities or legal forms or rules of evidence.

(2) In the application of the general rule formulated in subsection *one* of this section the following particular rules shall apply—

(a) In no case shall there be on the claimant any onus of proving that the disablement or death on which the claim is based was in fact attributable to the service of the member or that the condition that resulted in the disablement or death of the member was aggravated by his service:

(b) The claimant shall be given the full benefit of the presumptions in his favour provided for in section *seventeen* of this Act:

5 (c) A War Pensions Board or an Appeal Board, as the case may be, shall be entitled to draw and shall draw from all the circumstances of the case, from evidence furnished, and from
10 medical opinions submitted to the Board, all reasonable inferences in favour of the claimant, and the claimant shall, in every case, be given the benefit of any doubt as to the existence of any fact, matter, cause, or circumstance that would be favourable to him.

PART II

15 WAR PENSIONS

Grounds for Payment of Pensions

19. (1) Subject to the provisions of this Act, pensions in respect of the disablement or death of any member of the forces (whether occurring before or after the commencement of this Act) shall be payable under this Part of this Act to the member and his dependants (in the case of his disablement) or to the dependants of the member (in the case of his death) in any of the following cases, namely:

General provisions as to grounds for payment of pensions. 1943, No. 22, ss. 17, 25

25 (a) In any case where the disablement or death of the member occurred while he was on service overseas as a member of the forces in connection with any war in which Her Majesty was then engaged, or in connection with any
30 emergency, whether arising out of the obligations undertaken by New Zealand in the Charter of the United Nations or otherwise:

(b) In any case where the disablement or death of the member is attributable to his service in
35 New Zealand or overseas:

(c) In any case where the condition that resulted in the disablement or death of the member was aggravated by his service in New Zealand or overseas:

Provided that, except with the approval of the Minister, no pension shall be payable under this Part of this Act in respect of the disablement or death of any member if, at the date of his disablement or death, he was a deserter from the forces or was absent without leave and was not in receipt of continuous pay as a member of the forces: 5

Provided also that where any claim for a pension is made by a member in respect of his disablement a War Pensions Board or an Appeal Board, as the case may be, may decline to grant a pension or may grant a pension at a reduced rate in any case where the Board is satisfied on reasonable evidence that the disablement of the member is attributable in whole or in part to his wilful misconduct during his period of service. 10 15

(2) In any case to which *paragraph (a)* of subsection *one* of this section applies, the disablement or death of the member, as the case may be, shall for the purposes of this Act be deemed to be attributable to his service as a member of the forces. 20

Pensions for Disabled Members of the Forces

20. Except as otherwise expressly provided in this Part of this Act, the rate of the pension payable to a member of the forces in respect of his total disablement shall not exceed the appropriate rate specified in the *First Schedule* to this Act. 25

Maximum rate of pensions for total disablement.

1940, No. 24, s. 5 (a)

1943, No. 22, ss. 19 (1) (a), (2) (a), 57 (a), (b)

1946, No. 17, s. 2, (3)

1949, No. 25, ss. 2, 8 (a), (b)

1951, No. 23, s. 2

1951, No. 24, s. 2

Rates of pensions for disablement resulting from certain major disabilities.

1943, No. 22, s. 20 (1), (2)

21. (1) Where the disablement of any member of the forces is due in whole or in part to any one of the disabilities specified in the *Ninth Schedule* to this Act, the rate of the pension payable to the member in respect of his disablement shall, if and so long as he is a *bona fide* resident of New Zealand, not be less than the appropriate percentage of the maximum rate of pension for total disablement specified in that Schedule. 30

(2) Where the disablement of the member is due, in whole or in part, to any two or more of the disabilities specified as aforesaid, the minimum rate of the pension payable to the member shall, if and so long as he is a *bona fide* resident of New Zealand, be ascertained by adding together the appropriate percentages in the *Ninth* Schedule to this Act in relation to those disabilities:

Provided that in no case shall a pension be payable by virtue of this subsection at a rate in excess of the maximum rate that would be payable to him in respect of his total disablement.

22. Subject to the provisions of section *twenty-one* of this Act, the rates of the pension payable to any member of the forces in respect of his partial disablement shall be such lower rates than those payable in respect of total disablement as may in each case be determined by a War Pensions Board, regard being had in every such case to the nature and extent of the disablement.

23. (1) This section applies to every case where a pension is payable to a member of the forces in respect of his total disablement and the member—

(a) Is suffering from total blindness; or

(b) Is suffering from two or more serious disabilities (whether specified in the *Ninth* Schedule to this Act or not); or

(c) Is totally disabled and is permanently bedridden or, if not permanently bedridden, is, in the opinion of a War Pensions Board, so restricted in his activities and pursuits that he is prevented from engaging in normal social and recreational activities.

(2) Notwithstanding anything in this Part of this Act, in any case to which this section applies a War Pensions Board may, in its discretion, increase the rate of the pension that would otherwise be payable to the member in respect of his disablement by not more than the appropriate rate specified in the *First* Schedule to this Act.

24. Any pension granted under this Part of this Act to a member of the forces in respect of his total or partial disablement shall be a temporary pension or a permanent pension according to whether the disablement of the member is of a temporary or a permanent character:

Rates of pensions in other cases of disablement.

1940, No. 24, s. 6

1943, No. 22, ss. 21, 58

Additional pension in certain cases of severe disablement.

1943, No. 22, ss. 19 (4), (5), 20 (3)

1951, No. 23, ss. 4, 12

Pensions may be temporary or permanent.

1943, No. 22, s. 22

Provided that where, in the opinion of a War Pensions Board, any permanent disablement has not reached its final condition a temporary pension may be granted in respect thereof, and the temporary pension so granted shall, subject to its review in accordance with section *twenty-six* of this Act, continue in force until a permanent pension is granted. 5

Rate of pension to be determined by reference to nature of disablement. 1943, No. 22, s. 23

25. (1) Except as provided in subsection *two* of this section, no account shall be taken of the income or property of the claimant or of any other person in considering a claim by any member of the forces for a pension in respect of his disablement, but the claim shall be determined solely by reference to the nature and extent of the disablement. 10

(2) In any case where the disablement of the member is attributable solely to his service in New Zealand or is attributable solely to his service out of New Zealand otherwise than in connection with any war, a War Pensions Board may, in its discretion, in determining the rate of any pension payable to the member in respect of his disablement, take into account any amount paid or payable to him by any person as compensation or damages. In any case where the disablement of a member is attributable solely to his service in New Zealand or elsewhere otherwise than in connection with any war, the Board may, in its discretion, also take into account, in determining the rate of his pension, any amount paid or payable to him by way of pension, retiring allowance, compensation, or otherwise out of any public moneys or out of any Government superannuation fund. 15 20 25 30

Review of pensions. 1943, No. 22, s. 24

26. (1) Except in any case to which subsection *two* of section *twenty-five* of this Act applies, a permanent pension granted under this Part of this Act to any member of the forces shall not thereafter be reduced unless it is conclusively established, beyond any possibility of doubt, that the disablement in respect of which it was granted has in fact proved to be temporary, either to the full extent thereof or in one or more of its essential characteristics. 35 40

(2) Subject to subsection *one* of this section, any pension granted under this Part of this Act to any member of the forces may from time to time and at any time be reviewed by a War Pensions Board. On the review of
 5 any pension in accordance with this subsection the Board, having regard to any change that may have taken place in relation to his disablement in the physical or mental condition of the member since the pension was granted or was last reviewed, as the case may be, may terminate
 10 the pension or, within the limits prescribed by this Act, may increase or reduce the rate thereof.

27. If a War Pensions Board is satisfied, on the advice of not less than two medical practitioners having special experience in like cases, that any member of the forces
 15 who is in receipt of or is entitled to a pension under this Part of this Act should, in his own interests, undergo medical or curative treatment, whether in a hospital or elsewhere, it may reduce by not more than one-half thereof the amount of the pension to which the member
 20 would be otherwise entitled if and so long as the member, without good and sufficient cause, refuses or wilfully fails to undergo such treatment.

28. (1) In addition to the amount of pension payable to any member of the forces in accordance with the foregoing provisions of this Part of this Act, a special allowance for wear and tear on the clothing or footwear of the member at not more than the appropriate rate specified in the *First Schedule* to this Act may be paid as follows:
 25 in the *First Schedule* to this Act may be paid as follows:

- 30 (a) To any member who has suffered the loss in whole or in part of two limbs:
 (b) To any member who has suffered the loss in whole or in part of a leg:
 (c) To any member who has suffered the loss in whole or in part of an arm:
 35 (d) To any member who is obliged to use any mechanical or other appliance (other than an artificial leg or artificial arm).

(2) Any allowance granted under this section shall be included in and deemed part of the pension of the
 40 member.

Disabled member may be required to undergo medical treatment.
 1943, No. 22, s. 39 (1)

Clothing allowance in case of loss of limbs, etc.
 1943, No. 22, s. 41
 1951, No. 23, s. 8

Allowance for services of attendant in certain cases. 1943, No. 22, s. 40
1951, No. 23, s. 7

29. (1) If, with respect to any member of the forces who is in receipt of a pension under this Part of this Act in respect of his total disablement, a War Pensions Board is satisfied that the services of an attendant are indispensable it may, in its discretion, grant an allowance in respect of the services of an attendant at a rate not exceeding the appropriate rate specified in the *Second* Schedule to this Act. 5

(2) In special cases a War Pensions Board may, in its discretion, extend the provisions of subsection *one* of this section to apply to the case of any member who is in receipt of a pension in respect of his partial disablement. 10

(3) Any allowance under this section may be paid, in whole or in part, to the attendant or may be paid to the member in respect of the additional expenses incurred by him. Any allowance paid to a member under this section shall not be deemed to form part of his pension. 15

Pensions for Wives of Disabled Members

Maximum rates of pensions for wives of disabled members of forces.

1940, No. 24, ss. 5 (b), 6
1943, No. 22, ss. 19 (1) (b), 21, 57 (c), 58
1946, No. 17, s. 4 (2)
1951, No. 23, s. 3

30. (1) The rate of the pension payable to the wife of a member of the forces in respect of his total disablement shall not exceed the appropriate rate specified in the *Third* Schedule to this Act. 20

(2) The rate of pension payable to the wife of a member of the forces in respect of his partial disablement shall be such lower rate than that payable in respect of total disablement as may in each case be determined by a War Pensions Board, regard being had in every such case to the nature and probable duration of the disablement. 25

Economic position of disabled member to be considered in determining rate of pension for wife. 1943, No. 22, s. 27

31. (1) In determining a claim for a pension under this Part of this Act made by the wife of a member of the forces in respect of his total or partial disablement, regard shall be had to the property, income, and general economic circumstances of the member, except in the case of a member who is in receipt of a pension for total blindness. 30 35

(2) Except as provided in subsection *one* of this section, no account shall be taken of the income or property of the claimant or of any other person in determining any such claim. 40

(3) Any pension to which this section applies (not being a pension granted in respect of the total blindness of a member) may be at any time reviewed by a War Pensions Board in the event of any change in the economic circumstances of the member, and, on the review of any pension in accordance with this section, the Board may terminate the pension or, within the limits prescribed by this Act, may increase or reduce the rate thereof.

10 *Pensions for Widows of Deceased Members*

15 **32.** (1) Except as provided in subsection *two* of this section, the rate of the pension payable to the widow of a deceased member of the forces in respect of his death shall not exceed the appropriate rate specified in the *Fourth* Schedule to this Act.

(2) Where the widow has a child or children of the member dependent upon her a War Pensions Board may, in its discretion, increase the pension otherwise payable to the widow by a mother's allowance at a rate not exceeding the appropriate rate specified in the said *Fourth* Schedule.

(3) A mother's allowance payable in respect of any child—

25 (a) Shall commence on such day as the Board determines, being not earlier than the first day of the month in which the child is born:

(b) In the event of the death of the child, continue to such day as a War Pensions Board determines, being not later than the last day of the month in which the child dies.

30 **33.** Except as otherwise provided in this Act, the rate of the pension payable to the widow of a deceased member of the forces in respect of his death shall, if and so long as she is a *bona fide* resident of New Zealand, be the maximum appropriate rate prescribed in the *Fourth* Schedule to this Act.

34. Notwithstanding anything to the contrary in this Act, the widow of a member of the forces shall not be entitled to a pension in respect of his death if—

40 (a) The death of the member occurred within one year after the date of the marriage; and

Maximum rates of widows' pensions.
1940, No. 24, s. 4 (a)
1943, No. 22, ss. 18 (1) (a), 56 (1) (a)
1946, No. 17, s. 2 (2)
1946, No. 18, s. 2 (2)
1951, No. 23, s. 2
1951, No. 24, s. 2

Rate of pension for widow who is a *bona fide* resident of New Zealand.
1943, No. 22, s. 26 (1)

Widow not entitled to pension in certain cases.
1943, No. 22, s. 26 (2)

(b) At the date of the marriage the member had not, in the opinion of a War Pensions Board, a reasonable expectation of surviving for at least one year thereafter.

Pensions to widows to cease on remarriage.
1943, No. 22, s. 28
1948, No. 78 s. 26 (1)

35. (1) A pension payable to the widow of a member of the forces shall cease on her remarriage. 5

(2) Notwithstanding anything to the contrary in subsection *one* of this section, on the remarriage of a widow while in receipt of a pension under this Part of this Act a War Pensions Board may, in its discretion, continue the pension at such rate, not exceeding the maximum rate of pension payable to a widow, and for such period, not exceeding two years, as the Board thinks fit. Any such pension may at any time be reviewed by a War Pensions Board. 10 15

(3) In any case to which subsection *two* of this section applies the Board may, in its discretion, instead of continuing the pension, pay to the widow a lump sum gratuity not exceeding two years' pension.

(4) For the purposes of this Act and any other enactment a pension payable to a woman under subsection *two* of this section shall be deemed to be a pension payable to the widow of a member of the forces. 20

Pensions for Children of Disabled and Deceased Members

Maximum rates of children's pensions.
1940, No. 24, ss. 4 (a), 5 (b), 6
1943, No. 22, ss. 18 (1) (b), (2) (a), 19 (1) (c), (2) (b), 21, 56 (1) (a), (2) (a), 57 (d), 58
1946, No. 17, ss. 2 (2), 4 (1), (2)
1946, No. 18, s. 2 (2)
1949, No. 25, s. 2
1951, No. 23, ss. 2, 3
1951, No. 24, s. 2

36. (1) Except as otherwise expressly provided in this Part of this Act, the rate of the pension payable to or on behalf of each child in respect of the total disablement or death of a member of the forces shall not exceed the appropriate rate specified in the *Fifth* Schedule to this Act. 25 30

(2) In the case of the partial disablement of a member the rate shall be such lower rate than that payable in respect of total disablement as may in each case be determined by a War Pensions Board, regard being had in every such case to the nature and extent of the disablement. 35

37. Notwithstanding anything to the contrary in this Act, a War Pensions Board may, in its discretion, refuse to grant a pension to or on behalf of a child of a member of the forces in any case where the mother of the child would, as the widow of the member, be debarred by section *thirty-four* of this Act from obtaining a pension in respect of his death.

Child not entitled to pension in certain cases. 1943, No. 22, s. 29 (2)

38. Notwithstanding anything to the contrary in this Act, a War Pensions Board, in its discretion, may refuse to grant or may terminate any pension in respect of any child where a family benefit in respect of that child is or may become payable under the Social Security Act 1938.

Board may terminate pension where family benefit payable. 1946, No. 17, s. 6
1938, No. 7; reprinted, 1948, Vol. II, p. 1251

39. (1) In determining a claim for a pension under this Part of this Act made by or on behalf of any child of a member of the forces in respect of his total or partial disablement, regard shall be had to the property, income, and general economic circumstances of the member, except in the case of a member who is in receipt of a pension for total blindness.

Economic position of disabled member to be considered in determining rate of pension for children. 1943, No. 22, s. 30

(2) Except as provided in subsection *one* of this section, no account shall be taken of the income or property of the claimant or of any other person in determining any such claim.

(3) Any pension to which this section applies (not being a pension granted in respect of the total blindness of a member) may be at any time reviewed by a War Pensions Board in the event of any change in the economic circumstances of the member, and, on the review of any pension in accordance with this section, the Board may terminate the pension, or, within the limits prescribed by this Act, may increase or reduce the rate thereof.

40. Notwithstanding anything to the contrary in this Part of this Act,—

Increased pensions for children in certain cases. 1943, No. 22, s. 31
1951, No. 23, s. 5

(a) The rate of the pension payable to or on behalf of a child whose parents are dead shall be a rate not exceeding the appropriate rate specified in the *Fifth* Schedule to this Act:

(b) The rate of the pension payable to or on behalf of a child of a deceased member of the forces where the child is not under the control of its mother shall be such rate not exceeding the appropriate rate specified in the *Fifth* Schedule to this Act as a War Pensions Board, in its discretion, may determine. 5

Illegitimate children.

1940, No. 24, s. 2 (2)

1943, No. 22, s. 32 (1), (3), (4)

1949, No. 25, s. 4

1949, No. 26, s. 3

41. Notwithstanding anything to the contrary in this Act, a pension shall not be payable in respect of— 10

(a) Any illegitimate child of a member of the forces born more than ten months after the date of commencement of his service as a member of the forces; or

(b) Any illegitimate child who is not actually residing in New Zealand: 15

Provided that a War Pensions Board may, in its discretion, grant a pension in any such case as aforesaid.

Child not to receive pension in respect of more than one parent.

1943, No. 22, s. 32 (5)

42. Notwithstanding anything to the contrary in this Act, a pension in respect of the disablement or death of any member of the forces shall not be payable to or on behalf of any child of the member for any period for which a pension under this Act is payable to or on behalf of the same child in respect of the disablement or death of any other person. 20

Duration of pensions for children.

1943, No. 22, s. 33

1949, No. 25, s. 5

43. (1) A pension granted to or on behalf of a child of a member of the forces in respect of his disablement or death shall commence on such day as the Board determines, being not earlier than the first day of the month in which the child is born. 25

(2) Save as provided in this section, a pension granted to or on behalf of a child of a member of the forces in respect of his disablement or death shall not continue after the end of the month in which the child has attained the age of sixteen years. 30

(3) A pension granted to or on behalf of any female child of a member of the forces may be continued until the end of the month in which she attains the age of seventeen years. 35

(4) A pension granted to or on behalf of any child suffering from any mental or physical infirmity may be continued for any period while the infirmity continues. 40

(5) A War Pensions Board may, for the purpose of assisting in the further education of any child, continue for such period as it thinks fit a pension granted to or on behalf of that child.

5 (6) Notwithstanding anything to the contrary in the foregoing provisions of this Act, a pension may be granted to or on behalf of any child who has attained the age of sixteen years or more at any time when, if a pension had
10 been already granted, it could be continued in force pursuant to the foregoing provisions of this section.

(7) Notwithstanding anything to the contrary in section *eighty-five* of this Act, where a child to whom or on whose behalf a pension has been granted under this
15 Act dies, the pension shall continue to the end of the month in which the child dies, and the amount (if any) unpaid on the date of the death of the child shall be paid to the person to whom the pension was payable on that date, or, in the discretion of a War Pensions Board, to such other person as the Board thinks fit.

20 *Pensions for Other Dependants*

44. The rates of pension payable to any dependant of a disabled or deceased member of the forces (other than his wife, widow, or child) shall not exceed the maximum rate of pension prescribed for the wife or
25 widow, as the case may be, of a member of the same rank or rating.

Maximum rates of pensions for dependants other than wives and children.

1940, No. 24,
ss. 4 (b), 5 (c),
6

1943, No. 22,
ss. 18 (1) (c),
(2) (b),
19 (1) (d),
(2) (c), 21,
34 (1), (2),
35 (3),
56 (1) (b),
(2) (b),
57 (e), 58

1946, No. 17,
s. 2 (3)

1947, No. 26,
s. 3

45. A pension granted to any unmarried female dependant shall cease on her marriage.

Pensions to unmarried females to cease on marriage.

1943, No. 22,
s. 34 (3)

Economic position of dependant to be considered in determining rate of pension.
1943, No. 22, s. 37

46. (1) In determining the rate of pension payable to any dependant of a member of the forces, other than the wife or widow or a child of the member, a War Pensions Board shall, to such extent as in any case it deems proper and equitable, take into account the property and income from all sources of the claimant and any other relevant factors of economic significance. 5

(2) Any pension to which this section applies may be at any time reviewed by a War Pensions Board in the event of any change in the property or income or general economic circumstances of the dependant, and, on the review of any pension in accordance with this section, the Board may terminate the pension or, within the limits prescribed by this Act, may increase or reduce the rate thereof. 10 15

Miscellaneous Provisions as to Pensions for Dependants

Increased pensions to wife and children of member in receipt of economic pension.
1943, No. 22, s. 53

47. Notwithstanding anything to the contrary in this Part of this Act, where, pursuant to *Part III* of this Act, an economic pension is granted to any member of the forces who is in receipt of a pension under this Part of this Act in respect of his partial disablement, a War Pensions Board may, in its discretion, increase the rate of the pension payable under this Part of this Act to the wife or to any child or children of the member to a rate not exceeding the maximum rate of pension that could be granted to the claimant in respect of the total disablement of the member. 20 25

Pension to widow or child of deceased member whose death is not attributable to his service.
1943, No. 22, s. 42
1947, No. 26, s. 6

48. Where any member of the forces, while in receipt of a permanent pension under this Part of this Act at a rate not less than seventy per cent of the maximum rate of pension that would be payable in respect of his total disablement, has died, whether before or after the commencement of this Act, from any cause not attributable to his service as a member of the forces, a War Pensions Board may, in its discretion, grant a pension to or on behalf of the widow or any dependent child or dependent children of the member, in all respects as if the death of the member were attributable to his service. 30 35

49. (1) All pensions granted to the dependants of a member of the forces in respect of his disablement shall be terminated by the death of the member, but nothing herein shall affect the right of any such dependant to apply for and be granted a pension in accordance with this Act in respect of the death of the member.

Pensions to dependants in respect of disablement of member to cease on his death.
1943, No. 22, s. 43

(2) Notwithstanding anything to the contrary in subsection *one* of this section, a War Pensions Board may, in its discretion, continue for a period, expiring not later than the end of the month next after the month in which a member of the forces has died, any pension theretofore granted in respect of his disablement to or on behalf of any dependant of the member and current at the date of his death.

(3) If any pension, allowance, or benefit payable out of public money is granted to the dependant, to take effect during the aforesaid period, the amount of any pension paid or approved for payment under this section may, notwithstanding anything to the contrary in any other Act, be taken into account in determining the amount of that other pension, allowance, or benefit to be paid in respect of the same period.

Increased Pensions for Member of Forces and Dependants

50. If, for the purpose of undergoing any medical, surgical, or curative treatment, it is necessary, in the opinion of a War Pensions Board, that a partially disabled member of the forces should be obliged to live away from home or be absent from work for one or more days in any week, the Board may increase the rates of the pensions payable to that member and his dependants or any of them in respect of the period of that treatment, but so that the total amount payable shall not in any case exceed the amount that would be payable in the case of the total disablement of the member.

Increased pensions while member undergoing medical treatment.
1943, No. 22, s. 39 (2)

Pensions for Persons Other Than Dependants

51. (1) A War Pensions Board may, in its discretion, grant a pension under this Part of this Act in respect of the death of a member of the forces to any woman who satisfies the Board that she has the control and care of any child or children of that member in respect of whom a pension is payable.

Pensions for guardians of motherless children.
1943, No. 22, s. 36
1951, No. 23, s. 6

(2) The rate of a pension under this section shall not in any case exceed the maximum rate of pension payable to the wife of a member of the forces.

(3) A pension under this section shall, unless sooner terminated, cease as soon as the person in receipt thereof has not the control and care of any child of the member in respect of whom a pension is payable. 5

Pensions for other persons. 1943, No. 22, s. 45

52. (1) A War Pensions Board may, in its discretion, grant a pension under this Part of this Act in respect of the disablement or death of a member of the forces to any person, not being a dependant of that member within the meaning of this Act, if the claimant for a pension under this section satisfies the Board that he has suffered material loss of income or property by reason of the disablement or death of the member and that he has not adequate means of support. 10 15

(2) The rate of a pension granted under this section shall not in any case exceed the maximum rate of pension prescribed for the wife or widow, as the case may be, of a member of the same rank or rating. 20

Economic position of claimant to be considered in determining rate of pension. 1943, No. 22, s. 37

53. (1) In determining the rate of pension payable to any claimant for a pension under section *fifty-one* or section *fifty-two* of this Act, the Board shall, to such extent as in any case it deems proper and equitable, take into account the property and income from all sources of the claimant and any other relevant factors of economic significance. 25

(2) Any pension to which this section applies may be at any time reviewed by a War Pensions Board and on any such review the Board may terminate the pension, or, within the limits prescribed by this Act, may increase or reduce the rate thereof. 30

Extension of This Part to Cover Special Cases

Members of forces officially reported as missing. 1943, No. 22, s. 38

54. (1) Pensions under this Part of this Act shall be payable in respect of a member of the forces who is officially reported as missing in the same manner in all respects as if the member had died in the course of his service on the date on which he was reported missing. 35

(2) In the event of the member being subsequently reported as dead, a War Pensions Board shall make inquiries as to the cause of death and shall either confirm the payment of the pension or terminate the pension according to whether or not a pension is payable in accordance with the foregoing provisions of this Act. 40

(3) In the event of the member being subsequently reported as living, all pensions under this section, together with any economic pensions under *Part III* of this Act, shall be terminated and the amount there-
5 tofore paid by way of pension to any person may, with the approval of the Minister, be recovered from the accumulated pay of the member or be recovered from the recipient as a debt due to the Crown.

10 55. (1) A War Pensions Board, with the approval of the Minister, may grant a pension under this Part of this Act in respect of the disablement or death of any person who, being a *bona fide* resident of New Zealand at the commencement of his service, served overseas in connection with any war or emergency otherwise than as
15 a member of the forces, and in respect of his service was in receipt of pay from the New Zealand Government.

Service otherwise than as member of forces.
1943, No. 22, s. 46

(2) Pensions under this section shall be payable to persons of the same classes and in the same cases and manner in all respects as if they were pensions payable
20 to members of the forces or their dependants or other persons under the foregoing provisions of this Part of this Act.

(3) No pension shall be granted under this section at a rate in excess of the rate that would be payable in
25 accordance with the foregoing provisions of this Part of this Act in respect of the disablement or death of a member of the forces.

30 56. (1) Subject to the provisions of this section, a War Pensions Board may, in its discretion, grant a pension under this Part of this Act in respect of the disablement or death of any person who, being a *bona fide* resident of New Zealand at the commencement of his service, served in connection with any war or emergency as a member of any forces established in any
35 country of the Commonwealth (other than New Zealand) and whose death is attributable to or whose disablement is attributable to or has been aggravated by that service.

Service as member of other Commonwealth forces.
1943, No. 22, s. 47
1951, No. 23, s. 13

40 (2) Where any claimant for a pension under this section in respect of the disablement or death of a member of the forces of any country of the Commonwealth (other than New Zealand) is in receipt of a pension from the

Government of that country in respect of the member's disablement or death, a War Pensions Board may, in its discretion, accept the disablement or death as attributable to the member's service in those forces.

(3) No pension shall be payable under this section to or in respect of a member of any forces while the claimant or pensioner is not actually resident in New Zealand. 5

(4) No pension shall be granted under this section at such a rate that the aggregate rate of the pensions payable in respect of the disablement or death of the member (including any overseas pension) shall exceed the aggregate rate of the pensions that would have been payable if the member in respect of whose disablement or death the pension is granted had been a member of the New Zealand forces. 10 15

PART III

ECONOMIC PENSIONS

"Economic pension" defined.
1943, No. 22,
s. 48

57. For the purposes of this Part of this Act the expression "economic pension" means a supplementary pension granted on economic grounds to any person of a class specified in section *fifty-eight* of this Act. 20

Classes of persons entitled to claim economic pension.
1943, No. 22,
s. 49

58. (1) Claims for the grant of an economic pension under this Part of this Act may be made only by or on behalf of— 25

- (a) A member of the forces who is in receipt of a pension under *Part II* of this Act in respect of his disablement; or
- (b) The widow of a deceased member of the forces who is in receipt of a pension under *Part II* of this Act in respect of the death of the member; or 30
- (c) The widowed mother of a deceased member of the forces who is in receipt of a pension under *Part II* of this Act in respect of the death of the member; or 35
- (d) Any person who is in receipt of a pension under section *fifty-five* or section *fifty-six* of this Act in respect of his own disablement, or any widow who is in receipt of a pension under either of those sections in respect of the death 40

of her husband or son, as the case may be, or any person who is disqualified from receiving any such pension under section *fifty-six* of this Act by reason only that the pension received by him from an overseas Government is not less than the pension that would be payable under *Part II* of this Act to or in respect of a member of the New Zealand forces.

(2) For the purposes of this section the wife or widowed mother of a member of the forces who is officially reported as missing shall be deemed to be the widow or widowed mother, as the case may be, of a deceased member of the forces.

59. (1) The grant of an economic pension and the rate of any such pension shall, subject to section *sixty* of this Act, be in the discretion of a War Pensions Board.

(2) In considering a claim for an economic pension the Board shall take into account, to such extent as in the circumstances of the case it thinks proper and equitable, the ability of the claimant to obtain and retain suitable employment, the income and property of the claimant and his wife or her husband (if any), the cost of living, and such other factors of economic significance as are considered relevant:

Provided that the Board shall take no account of any income of the claimant and his wife or her husband (if any) up to the appropriate rate specified in the *Sixth* Schedule to this Act.

60. The rate of an economic pension granted under this Part of this Act shall not in any case exceed the appropriate rate specified in the *Sixth* Schedule to this Act.

61. (1) If a War Pensions Board is satisfied with respect to any claimant for an economic pension or with respect to any person in receipt of an economic pension—

(a) That he has voluntarily become unemployed without a good and sufficient reason; or

(b) That he has lost his employment by reason of any misconduct as a worker; or

Grant of economic pensions to be in discretion of War Pensions Board.

1943, No. 22, s. 50

1951, No. 23, s. 14

Maximum rates of economic pensions.

1943, No. 22, s. 51

1951, No. 23, s. 9

Special provisions where claimant refuses to accept suitable employment.

1943, No. 22, s. 52

(c) That he has refused or failed, without a good and sufficient reason, to accept any offer of suitable employment—

the Board may decline any claim for an economic pension under this Part of this Act, or it may grant an economic pension at a lower rate than it would grant in other circumstances, or it may reduce the rate of or may terminate an economic pension theretofore granted. 5

(2) Nothing in subsection *one* of this section shall apply with respect to the widowed mother of a deceased member of the forces or to the widow of a deceased member while she has the care and control of any child to or on behalf of whom any pension is payable under this Act. 10

(3) Nothing in this section shall be construed to affect the discretionary powers conferred on the Board by section *fifty-nine* of this Act. 15

PART IV

MERCANTILE MARINE PENSIONS

Pensions for members of mercantile marine and their dependants in respect of disablement or death resulting from Second World War.

1940, No. 24,
s. 3

1946, No. 18,
s. 2 (2)

62. (1) Subject to the provisions of this Act, pensions and allowances in respect of the disablement or death of any member of the mercantile marine shall be payable under this Part of this Act to the member and his dependants (in the case of his disablement) or to the dependants of the member (in the case of his death) in any of the following cases, namely: 20 25

(a) In any case where the disablement or death of the member occurred in the course of his employment or engagement as a member of the mercantile marine, and is directly attributable to the Second World War: 30

(b) In any case where the death of the member has occurred after the termination of his employment or engagement as a member of the mercantile marine, and is attributable to a disablement which occurred in the course of that employment or engagement and which is directly attributable to the Second World War: 35

Provided that no pension shall be payable under this Part of this Act in respect of the disablement or death of any member if in respect of the same disablement or of his death any pension is payable under *Part II* or *Part V* of this Act.

(2) Save as expressly provided in this Part of this Act, all the provisions of this Act (except Parts V and VI) shall, as far as they are applicable and with the necessary modifications, apply with respect to pensions and allowances under this Part of this Act as if members of the mercantile marine were members of the forces and, in any case to which section *sixty-three* of this Act applies, as if members of the mercantile marine of any other Commonwealth country were members of the forces of that country.

63. (1) Subject to the provisions of this section, a War Pensions Board may, in its discretion, grant a pension or allowance under this Part of this Act in respect of the disablement or death of any person who, being a *bona fide* resident of New Zealand at the commencement of his employment or engagement, served as a member of the mercantile marine of any country of the Commonwealth (other than New Zealand) in any of the following cases, namely:

- (a) In any case where the disablement or death of the person occurred in the course of his employment or engagement as a member of that mercantile marine, and is directly attributable to the Second World War:
- (b) In any case where the death of the person has occurred after the termination of his employment or engagement as a member of that mercantile marine, and is attributable to a disablement which occurred in the course of that employment or engagement and which is directly attributable to the Second World War.

(2) Where any claimant for a pension or allowance under this section in respect of the disablement or death of a member of the mercantile marine of any country of the Commonwealth (other than New Zealand) is in receipt of a pension or allowance from the Government of that country in respect of the member's disablement or death, a War Pensions Board may, in its discretion, accept the disablement or death as having occurred in

Service as
member of
other
Commonwealth
mercantile
marine.
1943, No. 21,
s. 3

the course of that employment or engagement or, as the case may be, accept the death as being attributable to a disablement which occurred in the course of that employment or engagement.

(3) No pension or allowance shall be payable under this section to or in respect of a member of any mercantile marine while the claimant or pensioner is not actually resident in New Zealand. 5

(4) No pension or allowance shall be granted under this section at such a rate that the aggregate rate of the pensions and allowances payable in respect of the disablement or death of the member (including any overseas pension or allowance) shall exceed the aggregate rate of the pensions and allowances that would have been payable if the member in respect of whose disablement or death the pension or allowance is granted had been a member of the New Zealand mercantile marine. 10 15

Compensation
or damages
not payable if
pension
payable.
1940, No. 24,
s. 10

64. No person shall be entitled to claim any compensation or damages in respect of the disablement or death of any member of the mercantile marine if in respect of that disablement or death he is entitled to claim a pension or allowance under this Part of this Act. 20

PART V

EMERGENCY RESERVE CORPS PENSIONS

Pensions for
members of
Emergency
Reserve Corps
and their
dependants in
respect of
disablement
or death
attributable to
their service.
1943, No. 22,
s. 55
1946, No. 17,
s. 4
1949, No. 25,
s. 8
1951, No. 23,
s. 10

65. (1) Subject to the provisions of this Act, pensions and allowances in respect of the disablement or death of any member of the Emergency Reserve Corps shall be payable under this Part of this Act to the member and his dependants (in the case of his disablement) or to the dependants of the member (in the case of his death) in any of the following cases, namely: 25 30

(a) In any case where the disablement or death of the member occurred in the course of his service as a member of the Emergency Reserve Corps, and is directly attributable to that service: 35

(b) In any case where the death of the member has occurred after the termination of his service as a member of the Emergency Reserve Corps, and is attributable to a disablement which occurred in the course of that service and which is directly attributable to that service: 40

5 Provided that no pension shall be payable under this Part of this Act in respect of the disablement or death of any member if in respect of the same disablement or his death any pension is payable under *Part II* or *Part IV* of this Act.

10 (2) Save as expressly provided in this Part of this Act, all the provisions of this Act (except *Parts IV* and *VI*) shall, as far as they are applicable and with the necessary modifications, apply with respect to pensions and allowances under this Part of this Act as if members of the Emergency Reserve Corps were members of the forces.

15 66. A War Pensions Board may, in determining the rate of any pension payable in respect of the disablement or death of any member of the Emergency Reserve Corps, take into account any amounts paid or payable to or on behalf of the claimant by any person as compensation or damages in respect of that disablement or death, or may terminate any pension or reduce the rate thereof on
20 account of the receipt of any such compensation or damages.

Compensation or damages may be taken into account in assessing rates of pensions. 1943, No. 22, s. 59

PART VI

WAR VETERANS' ALLOWANCES

25 67. For the purposes of this Part of this Act the term "veteran" means—

30 (a) Any male person who, having been a member of the forces within the meaning of this Act, has served as such with a unit in actual engagement with the enemy or who, by reason of the period of his overseas service and the arduous or dangerous nature of his service, is, in the opinion of a War Pensions Board, a proper person for the grant of a war veteran's allowance under this Part of this Act; or

35 (b) Any female person who, having been a member of the forces within the meaning of this Act, has served overseas as such in connection with any war or emergency:

"Veteran" defined. 1943, No. 22, s. 60 1952, No. 81, s. 17

Provided that for the purposes of this section a War Pensions Board may, in its discretion, regard as a member of the forces any person who, being a *bona fide* resident of New Zealand at the commencement of any 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

Allowances for war veterans and their dependants. 1943, No. 22, s. 61 1951, No. 23, s. 15

68. (1) Subject to the provisions of this Part of this Act, allowances shall be payable thereunder to or on account of— 10

(a) Any veteran who satisfies a War Pensions Board that he is unfit for permanent employment by reason of physical or mental infirmity, and that he has resided continuously in New Zealand during the five years immediately preceding the date of his claim for an allowance or, if he has not so resided in New Zealand, that his absences from New Zealand during the five years immediately preceding the date of his claim have not in the aggregate exceeded six months increased by one month for every year of his actual residence in New Zealand in excess of five years: 15 20

Provided that for the purposes of this paragraph residence in New Zealand shall not be deemed to be interrupted by absences therefrom while serving as a member of any forces established in any country of the Commonwealth: 25 30

Provided further that if any veteran leaves New Zealand while in receipt of an allowance under this Part of this Act, and returns to New Zealand within five years thereafter, he shall not on any subsequent application for an allowance be required to comply with the residential qualifications prescribed by this paragraph: 35

(b) The wife of any such veteran.

(2) Notwithstanding anything in subsection *one* of this section, no allowance shall be payable under this Part of this Act— 40

(a) To or on account of any person who is in receipt of an economic pension under *Part III* of this Act; or 4

(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

5 (c) On account of the wife of a veteran if the wife is in receipt of an allowance under this Part of this Act in her own right.

(3) Whether or not any claimant for an allowance under this Part of this Act is unfit for permanent employment by reason of mental or physical infirmity shall be
10 a question of fact to be determined in the first instance by a War Pensions Board.

(4) From every decision of a Board under subsection *three* of this section there shall be a right of appeal to a War Pensions Appeal Board, and, in the event of
15 appeal, the decision of the Appeal Board shall be final. Except as provided in this subsection, every decision of a War Pensions Board under this section shall be final.

69. (1) Except as otherwise expressly provided in this Part of this Act, the rate of the allowance payable
20 to any person under this Part of this Act shall be the appropriate rate specified in the *Seventh* Schedule to this Act.

(2) For the purpose of computing any allowance under this section, a veteran who is living apart from his
25 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
30 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.

70. Where any person in receipt of an allowance under this Part of this Act or the wife of any such person has attained the age of sixty-five years, a War Pensions Board may, in its discretion, grant a supplementary allowance at a rate not exceeding the appropriate rate
40 specified in the *Seventh* Schedule to this Act.

Rates of war veterans' allowances.

1943, No. 22, s. 62

1945, No. 12, s. 2

1950, No. 47, s. 8

1951, No. 23, ss. 11, 16, 18

Age supplement where war veteran or wife has attained age of sixty-five years.

1951, No. 23, s. 20

Apportionment
of allowances
in certain cases.
1943, No. 22,
s. 63
1945, No. 12,
s. 3 (2)

71. (1) In any case where the rate of an allowance under section *sixty-nine* or section *seventy* of this Act is computed with reference to the wife of the veteran, the allowance so computed shall, as a War Pensions Board may determine, be paid to the veteran personally or be allocated in such proportions as the Board determines between the veteran and his wife. 5

(2) Any allocation under this section may be made by a Board on the grant of the allowance or at any time thereafter. In particular, if at any time the provisions of section *seventy-two* or section *eighty-seven* of this Act become applicable to any person to or in respect of whom an allowance under this Part of this Act has been granted, an allocation, if not theretofore made, shall then be made so that only so much of the allowance shall be forfeited as is deemed by the Board to be for the personal benefit of that person. 10 15

(3) Nothing in this section shall be construed to affect the provisions of sections *seventy-two* and *eighty-seven* of this Act. 20

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

(5) A certificate under the hand of the Secretary shall be conclusive evidence of any allocation made under this section, or of the variation of any such allocation. 25

Forfeiture of
allowances to
inmates of
institutions.
1943, No. 22,
s. 65
1951, No. 23,
s. 17

72. An allowance granted under this Part of this Act shall be forfeited in respect of any period while the person to whom it has been granted is being maintained at the expense of the Government as an inmate of any institution: 30

Provided that there may, in the discretion of a War Pensions Board, be paid to or on behalf of the veteran or his or her dependants, or any of them, the whole of the allowance or such part thereof as the Board thinks fit.

Review of
allowances.
1943, No. 22,
s. 66

73. In the event of the circumstances of any veteran to whom an allowance has been granted under this Part of this Act being altered, or for any other sufficient reason, a War Pensions Board, from such date as it thinks fit, may terminate the allowance, or, within the limits prescribed by the foregoing provisions of this Part of this Act, may increase or reduce the rate thereof. 35 40

74. (1) Notwithstanding anything to the contrary in this Act, on the death of any veteran while in receipt of an allowance under this Part of this Act leaving a widow in respect of whom an allowance has been paid under this Part or leaving any child or children dependent upon him, a War Pensions Board may, in its discretion, continue the allowance at such rate, not exceeding the appropriate rate specified in the *Seventh* Schedule to this Act, and for such period, not exceeding two years, as the Board thinks fit.

Allowance or gratuity to widow or dependent child on death of war veteran.
1943, No. 22, s. 68 (1), (3)
1945, No. 12, s. 3 (4)
1948, No. 78, s. 26 (2)

(2) An allowance granted under this section may at any time be reviewed by a War Pensions Board.

(3) In any case to which this section applies the Board may, in its discretion, instead of continuing the allowance, pay to or on behalf of the widow or any dependent child or children of the veteran a lump sum gratuity not exceeding two years' allowance.

75. On the death of the wife of a veteran while the veteran is in receipt of an allowance under this Part of this Act as a married veteran, the allowance may, in the discretion of a War Pensions Board, be continued to such date, not later than the end of the month next after the month in which the wife died, and at such rate, not exceeding the maximum rate for a married veteran, as the Board thinks fit, and the rate of the allowance shall thereafter be reduced to the appropriate rate for an unmarried veteran.

Allowance to married veteran to be reduced after death of his wife.

PART VII

GENERAL PROVISIONS

76. Where application is made for a pension or allowance under this Act in respect of the disablement or death of a Maori, a Maori woman who has been married to him in accordance with Maori custom before the first day of April, nineteen hundred and fifty-two, may be deemed by a War Pensions Board to be his wife within the meaning of this Act, and the children of a marriage so recognized shall be deemed to be his legitimate children.

Wives and children of Maoris.
1943, No. 22, s. 44

77. For the purposes of any claim for a pension or allowance under this Act, a War Pensions Board may, in its discretion, regard as the wife or widow of any male person any woman who, though not legally married to

De facto wives and widows.

him, is living or has lived with him as his wife on a permanent domestic basis and is or was wholly or partly dependent on him.

Money received for military decorations. 1943, No. 22, s. 70 (2)

78. In computing the rate of any pension or allowance under this Act, a War Pensions Board shall take no account of any moneys received in respect of any military decoration. 5

Personal earnings from domestic service in a private home. 1950, No. 47, s. 10

79. In computing the rate of any pension or allowance under this Act, a War Pensions Board may, in its discretion, take no account of the personal earnings of any woman from domestic service in a private home up to the appropriate rate specified in the *Eighth* Schedule to this Act. 10

Limitation of claims by persons entitled to two or more pensions for disablement of same person. 1943, No. 22, s. 70 (1)

80. Where a claim for a pension or allowance under this Act is made in respect of the disablement of any person by a claimant who is then in receipt of a pension or allowance granted in New Zealand under this or any other Act in respect of the disablement of the same person, the rate of the pension (if any) that may be granted to the claimant under this Act shall not exceed the difference between the aggregate of the rates of the pensions and allowances that have been already granted to the claimant and the aggregate of the rates of the maximum pensions and allowances that could be granted to the claimant under this Act if all the claims in respect of the disablement of that person had arisen in respect of one occasion only and a pension therefor had been payable in accordance with this Act. 15 20 25

Rates of pension where overseas pension payable. 1951, No. 23, s. 21
1938, No. 7; reprinted, 1948, Vol. II, p. 1251

81. (1) In this section—

“Analogous New Zealand pension” means a pension or other periodical allowance under this Act or under the Social Security Act 1938 that is deemed by a War Pensions Board to be analogous to an overseas pension: 30

“Overseas pension” means a pension or other periodical allowance granted elsewhere than in New Zealand. 35

(2) Notwithstanding anything to the contrary in this Act, where any person entitled to receive a pension or allowance under this Act or the wife or husband of any such person is for the time being in receipt of an overseas pension, a War Pensions Board may grant the pension or allowance at such rate as it thinks fit, but so that the 40

aggregate of the rates of that pension or allowance and of the overseas pension (or of so much thereof as is equivalent to the analogous New Zealand pension) shall not exceed the aggregate of the rates of pension or allowance that could be granted if he or she were in receipt of the analogous New Zealand pension.

82. No person shall be entitled, while in receipt of a superannuation benefit under the Social Security Act 1938, to receive under this Act a pension as the wife of a disabled person or an economic pension or a war veteran's allowance (including an allowance under section *seventy-four* of this Act).

Persons receiving superannuation benefit under Social Security Act not to receive certain war pensions and allowances.
1951, No. 23, s. 19
1951, No. 24, s. 3
1938, No. 7; reprinted 1948, Vol. II, p. 1251

83. Where any claimant for a pension or allowance under this Act dies before the completion by a War Pensions Board of its investigations, the Board shall continue its investigations and may grant a pension or allowance as if the claimant had not died, and in any such case the provisions of sections *seventy-four* and *eighty-five* of this Act shall apply as if the claimant had been in receipt of the pension or allowance at the time of his death.

Death of claimant for pension.
1943, No. 22, s. 68 (2)
1947, No. 26, s. 8

84. Except as may be otherwise provided in this Act, all pensions and allowances granted thereunder shall be payable as from a date to be fixed in that behalf by the Board.

Date of commencement of pensions.
1940, No. 24, s. 8
1943, No. 22, ss. 67, 73

85. On the death of any person in receipt of a pension or allowance under this Act, the pension or allowance shall be deemed to have been terminated on the date of death, and the amount (if any) then unpaid shall, in the discretion of a War Pensions Board, be payable to the estate of the deceased, or to or for the benefit of the widow or widower or of any dependent child or dependent children of the deceased, or to any person having for the time being the care and control of any such child.

Disposition of accrued pension unpaid at date of death.
1943, No. 22, s. 72

Payment of
pensions out of
New Zealand.
1943, No. 22,
s. 74
1948, No. 78,
s. 27

86. (1) Except as provided in this section no pension or allowance under this Act shall be paid in respect of any period during which the claimant or the pensioner is not for the time being in New Zealand.

(2) Pensions, allowances, and gratuities under *Part II, Part III, Part IV, or Part V* of this Act may be granted and paid to any member of the forces or of the mercantile marine or of the Emergency Reserve Corps, or to the father, mother, wife, or widow or any child of any such member, notwithstanding that the claimant or the person to whom the pension has been granted, as the case may be, may be out of New Zealand.

(3) Allowances under *Part VI* of this Act may, in the discretion of a War Pensions Board, be paid in respect of any period during which the person to whom the allowance has been granted is temporarily absent from New Zealand.

(4) For the purposes of this section, persons in respect of whose disablement or death pensions are granted under section *fifty-five* of this Act shall be deemed to be members of the forces.

Refusal or
forfeiture of
pension in
certain cases.
1943, No. 22,
s. 75
1945, No. 12,
s. 4
1946, No. 17,
s. 7

87. (1) Notwithstanding anything to the contrary in this Act, a War Pensions Board, in its discretion, may refuse to grant a pension or allowance, or may terminate any pension or allowance, or may forfeit, in whole or in part, any instalment or instalments of a pension or allowance, in any case where the claimant or pensioner is undergoing imprisonment or any form of detention in a penal institution, or, in the opinion of the Board, is of notoriously bad character or has been guilty of gross misconduct dishonouring him in the public estimation, or being a woman is living as the wife of a man to whom she is not married.

(2) Where any instalment of a pension or allowance that has been granted to any person is forfeited, in whole or in part, under subsection *one* of this section, there may, in the discretion of a War Pensions Board, be paid to or on behalf of his or her dependants, or any of them, the whole of the amount or such part thereof as the Board thinks fit.

Appeals to a
Magistrate.
1947, No. 22,
s. 76

88. (1) Every claimant for or person in receipt of a pension or allowance under this Act who is aggrieved by the refusal or termination of a pension or allowance or by the forfeiture of any instalment on any of the

grounds mentioned in subsection *one* of section *eighty-seven* of this Act may require the Board to submit the matter to a Stipendiary Magistrate for investigation, and thereupon the Board shall submit the matter accordingly.

5 (2) As soon as conveniently may be after the matter has been so submitted to him, the Magistrate shall make such inquiries as he thinks proper with respect to the character or conduct of the person concerned, and for
10 that purpose shall have the same powers to require the attendance of witnesses and the production of evidence, and to take evidence on oath, as if the matter were a proceeding under the Magistrates' Courts Act 1947.

1947, No. 16

(3) On the conclusion of his investigation the Magistrate shall report the result thereof to the Board,
15 and, if the Magistrate so recommends, the Board shall thereupon grant a pension or allowance, or restore any pension or allowance that has been terminated, or pay to the person entitled thereto any amount that has been
20 forfeited, under the foregoing provisions of this section.

(4) Every investigation by a Magistrate for the purposes of this section shall be conducted in private.

89. (1) No pension or allowance under this Act shall be capable of being assigned or charged or of passing to any other person by operation of law:

Pensions and allowances absolutely inalienable.

25 Provided that nothing herein shall be construed to prevent a War Pensions Board from authorizing, with or without the consent of the person to whom the pension or allowance was granted, the payment of the whole or any portion thereof to any other person for the benefit
30 of the person to whom it was granted or for the benefit of his wife or of any dependent child or dependent children.

1943, No. 22, s. 71

(2) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding
35 fifty pounds who demands or accepts any certificate or any acknowledgment or undertaking that would constitute a legal or equitable assignment of or charge upon any pension or allowance under this Act if the same were capable of being legally assigned or charged.

Recovery of
payments made
in error.
1943, No. 22,
s. 80

90. If any pension or allowance under this Act is granted to any person not entitled thereto or if any instalment of any such pension or allowance is paid to any person not entitled to receive the same or is paid in excess of the proper rate, any amount so paid in error may be recovered at the suit of the Secretary, as a debt due to the Crown by the person to whom it was so paid, or the Secretary may make any necessary adjustments in any instalment or instalments of that or any other pension or allowance thereafter becoming payable. 5 10

Pensions not
to be taken
into account
in assessing
compensation
or damages.
1943, No. 22,
s. 77

91. No account shall be taken of any pension or allowance payable under this Act in respect of the disablement or death of any person for the purpose of assessing the amount payable by or to any person, as compensation or damages, in respect of any accident that is or may be the basis of a claim for a pension or allowance under this Act. 15

Offences.
1943, No. 22,
s. 78

92. Every person commits an offence against this Act and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for twelve months who— 20

- (a) Makes any false statement to or otherwise misleads or attempts to mislead a War Pensions Board, or an Appeal Board, or the Secretary, or any other officer or person concerned in the administration of this Act; or 25
- (b) Whether or not he is a claimant for a pension or allowance under this Act, does not faithfully disclose all particulars properly required to be disclosed by him in relation to any claim; or 30
- (c) Accepts payment of any instalment of any pension or allowance under this Act to which he is not entitled. 35

Proceedings
for offences.
1943, No. 22,
s. 79
See Reprint
of Statutes,
Vol. II, p. 351

93. (1) Notwithstanding anything to the contrary in section fifty of the Justices of the Peace Act 1927, an information for any offence against this Act may be laid at any time within twelve months after the facts alleged in the information have been brought to the knowledge of the person by whom the proceedings are instituted. 40

(2) All proceedings for offences against this Act shall be taken before a Stipendiary Magistrate.

94. All money payable by way of pensions and allowances under this Act and all expenses incurred in the administration of this Act shall be payable out of moneys appropriated by Parliament for the purpose.

Money to be appropriated by Parliament. 1943, No. 22, s. 81

5 95. The Governor-General may, by Order in Council, upon or subject to such conditions as he thinks fit,—

Power to extend *Parts IV* and *V* to future wars.

10 (a) Extend the provisions of *Part IV* of this Act so as to apply to members or any class of members of the Mercantile Marine of New Zealand or any other country of the Commonwealth who suffer disablement or death arising out of any future war:

15 (b) Extend the provisions of *Part V* of this Act to apply to members or any class of members of any organization established by the Government of New Zealand for the purpose of assisting in the preparation and operation of plans for securing the public safety or the defence of New Zealand or the efficient prosecution of any war in which Her Majesty is at
20 any time engaged, or the maintenance of supplies and services essential to the life of the community.

25 96. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as in his opinion may be necessary or expedient for the purposes of this Act.

Regulations. 1943, No. 22, s. 82

30 (2) Without limiting the general power hereinbefore conferred, regulations may be made under this section for all or any of the following purposes:

(a) Prescribing procedure in respect of claims for pensions and allowances, appeals against the decisions of a War Pensions Board, and the payment of pensions and allowances:

35 (b) Prescribing fees for the medical examination of claimants and pensioners for the purposes of this Act:

40 (c) Providing for medical and surgical treatment of members of the New Zealand or any other Commonwealth forces, the mercantile marine of New Zealand or of any other country of the Commonwealth, and the Emergency Reserve Corps; and for the supply of necessary surgical and other appliances and
45 equipment for any such members:

- (d) Providing special accommodation for or grants towards the cost of providing special accommodation and furniture for any such members suffering from pulmonary tuberculosis:
- (e) Providing for funeral grants in respect of any such deceased members: 5
- (f) Providing for payment of travelling expenses and allowances in respect of any such members undergoing medical or surgical examination or treatment, and for the payment of compensation for wages lost as a result of any such examination or treatment, and, in respect of any such member who is unfit to travel, for the payment of the travelling expenses of his next-of-kin or other person nominated by him in visiting him in hospital: 10
- (g) Providing for travelling allowances and concessions in respect of any such disabled members and, in cases where the member is unfit to travel alone, in respect of an escort: 20
- (h) Contributing by way of grants and interest free loans towards the cost of purchasing motor vehicles for pensioners suffering from serious disabilities, and towards the cost of fitting special controls to any such vehicles: 25
- (i) Providing for educational bursaries for children of any such member.

(3) All regulations made under this section shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session. 30

97. (1) The enactments specified in the *Tenth* Schedule to this Act are hereby repealed. 35

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so 40

Repeals and savings.
1943, No. 22, s. 83
1946, No. 17, s. 5
1951, No. 23, s. 19 (2), (3)
Reprint of Statutes, Vol. VIII, p. 568

far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if
5 that provision had been in force when the document was made or the thing was done.

(3) Notwithstanding anything to the contrary in this Act, where, at the date of the passing of this Act, any person is, by virtue of the provisions of subsections two
10 and three of section nineteen of the War Pensions Amendment Act 1951, in receipt of a pension or allowance to which he would not otherwise be entitled or at a greater rate than that to which he would otherwise be entitled, a War Pensions Board may continue that pension or
15 allowance as if the said section nineteen had not been repealed by this section. 1951, No. 23

(4) Notwithstanding anything to the contrary in this Act, where, at the date of the passing of this Act, any pension in respect of any child is, by virtue of the pro-
20 visions of section five of the War Pensions Amendment Act 1946, payable at a rate in excess of that provided for in this Act, a War Pensions Board may continue that pension as if the said section five had not been repealed by this section. 1946, No. 17

 SCHEDULES

 Sections 20, 23,
28, 62, 65

FIRST SCHEDULE

MAXIMUM RATES OF PENSIONS FOR DISABLED MEMBERS

Part I—Members of Forces

1. Under section 20—
In every case, per week £4
2. Under section 23—
In certain cases of severe disablement (additional pension), per week £2 10s.
3. Under section 28—
Clothing allowance (additional pension) as follows—
 - (a) Loss of two limbs or parts, per annum .. £24
 - (b) Loss of leg or part, per annum .. £22
 - (c) Loss of arm or part, per annum .. £16
 - (d) Use of mechanical appliance, etc., per annum £16

Part II—Members of Mercantile Marine

4. Under section 62—
The same rates as those specified in Part I of this Schedule.

Part III—Members of Emergency Reserve Corps

5. Under section 65—
The same rates as those specified in Part I of this Schedule.
-

 Sections 29, 62,
65

SECOND SCHEDULE

MAXIMUM RATES OF ALLOWANCES FOR SERVICES OF ATTENDANTS FOR DISABLED MEMBERS

Part I—Members of Forces

1. Under section 29—
In every case, per week £7 5s.

Part II—Members of Mercantile Marine

2. Under section 62—
The same rate as that specified in Part I of this Schedule.

Part III—Members of Emergency Reserve Corps

3. Under section 65—
The same rate as that specified in Part I of this Schedule.

THIRD SCHEDULE

Sections 30, 62,
65

MAXIMUM RATES OF PENSION FOR WIFE OF TOTALLY DISABLED MEMBER

Part I—Members of Forces

1. Under section 30—
In every case, per week £3 7s. 6d.

Part II—Members of Mercantile Marine

2. Under section 62—
The same rate as that specified in Part I of this Schedule.

Part III—Members of Emergency Reserve Corps

3. Under section 65—
The same rate as that specified in Part I of this Schedule.

FOURTH SCHEDULE

Sections 32, 62,
65

MAXIMUM RATES OF PENSIONS FOR WIDOWS OF DECEASED MEMBERS

Part I—Members of Forces

1. Under section 32 (1)—
To the widow in every case, according to the rank or rating of the deceased member, as follows—
- (a) Captain (Army); Lieutenant (Navy); Flight Lieutenant (Air Force); and all ranks and ratings below, per week £3
 - (b) Major (Army); Lieutenant-Commander (Navy); Squadron Leader (Air Force), per week £3 7s.
 - (c) Lieutenant-Colonel (Army); Commander (Navy); Wing Commander (Air Force), per week £3 16s.
 - (d) Colonel (Army); Captain (Navy); Group Captain (Air Force), per week £3 18s.
 - (e) Brigadier, Brigadier-General, Major-General, Lieutenant-General (Army); Commodore, first or second class, Rear Admiral (Navy); Air Commodore, Air Vice-Marshal, Air Marshal (Air Force), per week £4
2. Under section 32 (2)—
Additional mother's allowance—
- (a) To a widow with one dependent child, per week £2 5s.
 - (b) To a widow with two or more dependent children, per week £2 15s.

FOURTH SCHEDULE—*continued*MAXIMUM RATES OF PENSIONS FOR WIDOWS OF DECEASED MEMBERS—*continued**Part II—Members of Mercantile Marine*

3. Under section 32 (1) as applied by section 62—
To the widow in every case, according to the rank or rating of the deceased, as follows—
- | | |
|--|--------|
| (a) Master and all ratings of a ship not over 5,000 tons, per week | £3 |
| (b) Master of a ship over 5,000 tons, per week | £3 7s. |
| (c) All other ratings of a ship over 5,000 tons, per week | £3 |
4. Under section 32 (2) as applied by section 62—
Additional mother's allowance—
- | | |
|--|---------|
| (a) To a widow with one dependent child, per week | £2 5s. |
| (b) To a widow with two or more dependent children, per week | £2 15s. |

Part III—Members of Emergency Reserve Corps

5. Under section 32 (1) as applied by section 65—
To the widow in every case, per week £3
6. Under section 32 (2) as applied by section 65—
Additional mother's allowance—
- | | |
|--|---------|
| (a) To a widow with one dependent child, per week | £2 5s. |
| (b) To a widow with two or more dependent children, per week | £2 15s. |

Sections 36, 40,
62, 65

FIFTH SCHEDULE

MAXIMUM RATES OF PENSIONS FOR CHILDREN OF DISABLED AND DECEASED MEMBERS

Part I—Members of Forces

1. Under section 36—
In ordinary cases, per week 10s.
2. Under section 40—
In certain cases where parents dead, or child not under control of its mother, per week £2

Part II—Members of Mercantile Marine

3. Under section 62—
The same rates as those specified in Part I of this Schedule.

Part III—Members of Emergency Reserve Corps

4. Under section 65—
The same rates as those specified in Part I of this Schedule.

SIXTH SCHEDULE

Sections 59, 60,
62, 65

MAXIMUM RATES OF ECONOMIC PENSIONS AND ALLOWABLE INCOME

Part I—Members of Forces

1. Under section 59—

Allowable income of claimant and husband or wife, per week £1 10s.

2. Under section 60—

Economic pension, as follows—

(a) To any member of the forces, per week £3 7s. 6d.

(b) To the widow of a deceased member of the forces, per week £3 7s. 6d.

(c) To the widowed mother of a deceased member of the forces—

(i) Where the claimant was wholly dependent on the member or was the mother of two or more sons, being deceased members of the forces, per week.. £3 7s. 6d.

(ii) In any other case, per week £2 7s. 6d.

(d) To any person in receipt of a pension under section 55 or section 56 in respect of his own disablement, per week.. £3 7s. 6d.

(e) To any widow in receipt of a pension under section 55 or section 56 in respect of the death of her husband or son
The rate of the pension that would be payable to her under paragraph (b) or paragraph (c) of this clause if her husband or son, as the case may be, had been a member of the forces.

(f) To any person who is disqualified from receiving a pension under section 56 by reason only that the pension received by him from an overseas Government is not less than the pension that would be payable under Part II of this Act in respect of a member of the New Zealand forces.
The difference between the rate of the pension paid to the claimant by an overseas Government and the aggregate rate of the pensions that would be payable to the claimant under Parts II and III of this Act if the person in respect of whose disablement or death the overseas pension is paid had been a member of the New Zealand forces.

Part II—Members of Mercantile Marine

3. Under section 62—

The same rates as those specified in Part I of this Schedule.

SIXTH SCHEDULE—*continued*MAXIMUM RATES OF ECONOMIC PENSIONS AND ALLOWABLE INCOME—*continued**Part III—Members of Emergency Reserve Corps*

4. Under section 65—

The same rates as those specified in Part I of this Schedule.

Sections 69, 70

SEVENTH SCHEDULE

RATES OF WAR VETERANS' ALLOWANCES

1. Under section 69—

- | | | |
|---|----|--|
| (a) To an unmarried veteran | .. | £175 10s. per annum, diminished by £1 for every complete £1 of the veteran's annual income (exclusive of any allowance under Part VI of this Act) in excess of £78 per annum. |
| (b) To a married male veteran, in respect of himself and his wife | | £351 per annum, diminished by £1 for every complete £1 of the total annual income of the veteran and his wife (exclusive of any allowance under Part VI of this Act) in excess of £78 per annum. |
| (c) To a married female veteran | .. | £175 10s. per annum, diminished by £1 for every complete £1 of the total annual income of the veteran and her husband (exclusive of any allowance under Part VI of this Act) in excess of £253 10s. per annum. |

2. Under section 70—

Age supplement—

- | | | |
|---|--|--|
| (a) Where the veteran and his wife have both attained the age of sixty-five years | | £78 per annum, diminished by £1 for every complete £1 of the total annual income of the veteran and his wife (exclusive of any allowance under Part VI of this Act). |
| (b) Where only the veteran or his wife has attained the age of sixty-five years | | £39 per annum, diminished by £1 for every complete £1 of the total annual income of the veteran and his wife or her husband (if any), (exclusive of any allowance under Part VI of this Act) in excess of £39 per annum. |

3. Under section 74—

Special allowance where veteran dies leaving widow or dependent child		Not exceeding £331 10s. per annum.
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EIGHTH SCHEDULE

Section 79

MAXIMUM ALLOWABLE EARNINGS OF WOMEN FROM DOMESTIC SERVICE

In every case £78 per annum.

NINTH SCHEDULE

Section 21

PENSIONS PAYABLE FOR SPECIFIC DISABILITIES

Nature of Disability	Percentage of Full Pension Payable in Cases of Total Disablement
	Per Cent
Total blindness	100
Loss of two limbs	100
Loss of limb and eye	100
Loss of both hands	100
Loss of all fingers and thumbs	100
Loss of both feet	100
Loss of hand and foot	100
Incurable insanity	100
Very severe facial disfigurement	100
Amputation of right arm through shoulder joint	100
Amputation of leg through hip joint	100
Amputation of leg through upper third of thigh (if without useful stump)	100
Amputation of left arm through shoulder joint	95
Amputation of leg through upper third of thigh (if with useful stump)	90
Permanent loss of speech	90
Amputation of arm at or above elbow	85
Amputation of leg through knee joint or middle or lower third of thigh	85
Total deafness	85
Severe facial disfigurement	80
Amputation of arm below elbow	75
Amputation of leg below knee	75
Amputation of right hand	75
Amputation of left hand	70
Loss of one eye	50
Loss of four fingers	50
Loss of three fingers	40
Loss of thumb	40
Loss of two fingers	25
Loss of index finger of either hand	20

NOTES TO SCHEDULE

1. In cases of left-handed persons, pensions in respect of injury to the left hand will be at the rate prescribed as for injury to the right hand and pensions in respect of injury to the right hand will be at the rate prescribed as for injury to the left hand.

2. For the purposes of this Schedule the expression "loss of" includes "permanent loss of the use of".

Section 97

TENTH SCHEDULE

ENACTMENTS REPEALED

- 1940, No. 24—
The War Pensions and Allowances (Mercantile Marine) Act 1940.
- 1943, No. 21—
The War Pensions and Allowances (Mercantile Marine) Amendment Act 1943.
- 1943, No. 22—
The War Pensions Act 1943.
- 1945, No. 12—
The War Pensions Amendment Act 1945.
- 1946, No. 17—
The War Pensions Amendment Act 1946.
- 1946, No. 18—
The War Pensions and Allowances (Mercantile Marine) Amendment Act 1946.
- 1947, No. 26—
The War Pensions Amendment Act 1947.
- 1947, No. 60—
The Statutes Amendment Act 1947: Sections 70 to 73.
- 1948, No. 78—
The Finance Act (No. 2) 1948: Part IV.
- 1949, No. 25—
The War Pensions Amendment Act 1949.
- 1949, No. 26—
The War Pensions and Allowances (Mercantile Marine) Amendment Act 1949.
- 1950, No. 47—
The War Pensions Amendment Act 1950.
- 1951, No. 23—
The War Pensions Amendment Act 1951.
- 1951, No. 24—
The War Pensions and Allowances (Mercantile Marine) Amendment Act 1951.
- 1951, No. 79—
The Fees and Travelling Allowances Act 1951: So much of the Second Schedule as relates to the War Pensions Act 1943.
- 1952, No. 81—
The Finance Act (No. 2) 1952: Section 17.