

Hon. Mr. Allen.

WAR PENSIONS.

ANALYSIS.

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A BILL INTITULED

AN ACT to provide Pensions on the Death or Disablement of Members of the New Zealand Expeditionary Forces and Others whose Death or Disablement results from their Employment in Connection with the Present War. 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, 1915.

2. In this Act, if not inconsistent with the context,—

“Child” means a dependant under the age of sixteen years being a son, daughter, step-son, step-daughter, illegitimate child, or adopted child of a member of the Forces:

“Dependants” means the wife and children of a member of the Forces, and includes any other member of his family who was in fact wholly or in part dependent upon his earnings immediately prior to the date upon which he became a member of the Forces:

“Disablement” means total or partial disablement due to wounds or injuries received or disease contracted by a member of the Forces in his employment as such member:

“Member of the family” means wife, child, father, mother, grandfather, grandmother, step-father, step-mother, grand-

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son, granddaughter, brother, sister, half-brother, half-sister, or mother-in-law :

“Member of the Forces” means a member of the New Zealand Naval Forces or of any Expeditionary Force raised in New Zealand serving beyond New Zealand in the present war : 5

“Minister” means the Minister of Defence.

Pensions payable on death or disablement of members of Naval or Expeditionary Forces.

3. (1.) On the death or disablement of a member of the Forces whose death or disablement results or has resulted from his employment as such member at any time subsequent to his departure from New Zealand, pensions shall, subject to this Act, be payable out of the Consolidated Fund, without further appropriation than this Act, to the dependants of the member in the case of his death or to the member and his dependants in the case of his disablement. 10

(2.) The right to a pension in respect of the death of a member of the Forces shall extend to the wife and children of a member who dies of wounds or injuries received or disease contracted in his employment as such member if such death occurs within seven years after the receipt of the wound or injury or the commencement of the disease. Such pension shall be in lieu of the pension receivable by the wife and children respectively in respect of the disablement of the member. 15 20

War Pensions Board constituted.

4. (1.) There shall be a War Pensions Board (hereinafter referred to as the Board), consisting of three persons, to be appointed by the Minister (of whom one shall be a registered medical practitioner), who shall hold office for a term of three years, but may from time to time be reappointed. 25

(2.) One member shall be appointed by the Minister to be the Chairman of the Board.

Functions of Board.

(3.) The Board shall—

(a.) Determine whether the death or disablement of a member of the Forces in fact resulted from his employment as such member, and, in the case of disablement, the nature and extent thereof ; 30

(b.) Determine the extent to which persons alleged to be dependent upon a member of the Forces were in fact so dependent ; 35

(c.) Determine the rates of pensions to be paid to members of the Forces and their dependants ; and

(d.) Have such other duties as may be prescribed by regulations : Provided that any determination of the Board shall be subject to the approval of the Minister. 40

(4.) Every determination of the Board shall be expressed by resolution passed at a meeting at which all the members of the Board are present. The determination of two members of the Board shall be deemed to be the determination of the Board. 45

(5.) The Board shall have all the powers conferred on Commissions under the Commissions of Inquiry Act, 1908.

(6.) When considering a claim by a member for a pension in respect of his disablement the Board shall take into consideration evidence (if any) of the wilful misconduct of the member during his period of service. 50

Secretary and other officers.

(7.) For the purposes of the Board there shall be appointed a Secretary and such staff as the Public Service Commissioner deems necessary.

Maximum rates of pensions in case of death of member of Forces.

5. (1.) In the case of the death of a member of the Forces the rates of pensions shall not exceed— 55

(a.) To the wife the appropriate rate specified in the second column of the *First* Schedule hereto;

(b.) To each child the rate specified in the third column of the said Schedule;

6 (c.) To the dependants other than the wife and children the amount of benefit in fact paid to them by the member during the year preceding the date upon which he became a member of the Forces.

10 (2.) In the case of the total disablement of a member of the Forces the rates of pension shall not exceed—

Maximum rates of pensions in case of disablement of member.

(a.) To the member of the Forces the appropriate rate specified in the second column of the *Second* Schedule hereto:

15 Provided that in any case where the services of an attendant are required the rate specified in the said second column may be increased by not more than one-third thereof:

(b.) To the wife the appropriate rate specified in the third column of the said Schedule:

20 (c.) To each child the rate specified in the fourth column of the said Schedule:

(d.) To the dependants other than the wife and children, the amount of benefit in fact paid to them by the member during the year preceding the date upon which he became a member of the Forces.

25 (3.) In the case of the partial disablement of a member of the Forces the rates of pension payable to the member and his dependants shall be such less rates than those specified in the *Second* Schedule hereto as are in each case determined by the Board, having regard to the nature and probable duration of the disablement.

30 (4.) For the purposes of this section officers shall be deemed to become members of the Forces on the date of their first appointment thereto, and non-commissioned officers and men on the date of taking the oath of allegiance or of leaving New Zealand as members of the Forces, whichever first happens.

Commencement membership of Forces.

35 6. (1.) The claims of the wife and children to a pension shall have precedence over the claim of any other dependant; and where a wife or children are entitled to a pension the amount paid to any other dependant shall not exceed three-fourths of the pension prescribed for a wife; and where no wife or children are so entitled

40 the amount paid to any other dependant shall not exceed the amount of the pension prescribed for a wife.

Claims of wife and children to have precedence over claims of other dependants.

45 (2.) The aggregate of the several rates of pensions payable in respect of the death or disablement of any member of the Forces shall not, except where an increased pension is granted in respect of the services of an attendant and to the extent of such increase, exceed the rates specified in the fourth column of the *First* Schedule or the fifth column of the *Second* Schedule hereto, as the case may be.

Aggregate amount of pensions.

50 7. A pension to the wife of a deceased member of the Forces shall cease on her remarriage:

Pension to widow to cease on remarriage.

Provided that in any such case there may be paid to her on her remarriage a gratuity not exceeding *two* years' pension.

8. Notwithstanding anything in the foregoing provisions of this Act, the maximum rate of pension that may be paid to a child whose

Increased pensions to orphan children.

parents are dead at the date of granting that pension, or whose parents or surviving parent may die after that date, shall be double the appropriate rate specified with respect to such child in the *First* or *Second* Schedule hereto :

Provided that nothing in this section shall be deemed to authorize the grant of pensions in excess of the aggregate rates specified in those Schedules. 5

Pensions to female children and defective children.

9. A pension payable to any female child may, if the Board thinks fit, be continued until she attains the age of seventeen years; and a pension payable to any child suffering from any mental or 10 bodily infirmity may be continued for such period as the Board thinks fit.

Limitations as to grant of pensions.

10. (1.) A pension shall not be payable under this Act unless a claim therefor is made—

(a.) In the case of the death of a member of the Forces, by a 15 dependant within six months after the date of the notification of the death; and

(b.) In the case of the disablement of a member of the Forces, by the member or a dependant within six months after the termination of the appointment or the discharge of the 20 member; and

(c.) In the case of the death or disablement of a member of the Forces during the present war, but before the passing of this Act, by the member or a dependant within six months 25 after the passing of this Act :

Provided that the limit of time fixed by this section shall not apply in any case where the Minister is satisfied that through inadvertence or accident or other sufficient cause a claim for a pension was not made within the prescribed time, if it is made 30 within six months after the expiry of the prescribed time.

(2.) For the purposes of this section "notification" means notification by the Minister in the *Gazette*, or in such other manner as may be prescribed by regulations.

Pensions not payable except to persons resident in New Zealand.

11. Except as otherwise provided in section *nineteen* hereof, a pension shall not be payable under this Act to any person who is not 35 *bona fide* resident in New Zealand.

Mode of determining rates of pensions by Board.

12. (1.) In determining the rate of pension payable to any member of the Forces the Board shall take into consideration any payment by way of compensation, pension, or gratuity to which the member may be entitled under any Act or Imperial Act, but shall 40 not take into consideration any other property or income to which the member is entitled.

(2.) In determining the rate of pension payable to any dependant of a member, the Board shall take into consideration the property or income from all sources of the dependant. 45

Review of pensions in certain cases.

13. The Board may, in any case, review its determination in the event of the circumstances of a pensioner or of a claimant for a pension being altered, or for any other sufficient reason, and on any such review may, subject to the approval of the Minister, grant or withdraw any pension, or within the limits prescribed by this Act 50 increase or diminish the rate of any pension, or confirm its previous determination.

Date of commencement of pensions.

14. Pensions under this Act shall be payable as from the date of the death in the case of the death of a member of the Forces, and

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as from the date of the termination of the appointment or from the date of the discharge of the member in the case of disablement.

15. Subject to this Act, a pension shall be absolutely inalienable whether by way of sale, assignment, charge, execution, insolvency, or otherwise howsoever.

Protection of pensions against assignment, &c.

16. If any person in receipt of a pension under this Act is convicted of any offence punishable by imprisonment for three months or upwards and dishonouring him in the public estimation, the Board, with the consent of the Minister, may suspend the payment of the pension for such period as it thinks fit, or may withdraw the pension altogether.

Suspension or withdrawal of pensions for certain offences.

17. Every person is liable to a fine of *one hundred* pounds or to *twelve* months' imprisonment who—

Penalties.

- 15 (a.) Obtains any pension or instalment which is not payable ;
 (b.) Being a claimant for a pension, does not faithfully disclose particulars of his property or income ;
 (c.) Obtains payment of any pension or instalment by means of any false or misleading statement ; or
 20 (d.) Makes or presents to the Minister or Board, or to any officer doing duty in relation to this Act, any statement or document which is false in any important particular.

18. (1.) Pending the determination of the Board on the claim of any dependant of a member of the Forces who has died of wounds or injuries received or disease contracted in his employment as such member, the Minister may without further appropriation than this Act continue, for a period of twenty-six weeks from the date of the death, the payment of any voluntary allotment of pay to or on behalf of that dependant made by the member :

Minister may make certain payments to dependants pending grant of pension.

- 30 Provided that the amount of such payment shall not exceed—
 (a.) In the case of a Major, or of an officer of higher rank than a Major, fifty per centum of his rate of pay ; or
 (b.) In the case of a Captain, sixty per centum of his rate of pay ; or
 35 (c.) In the case of a Lieutenant or Second Lieutenant, seventy-five per centum of his rate of pay :

Provided also that payment for the first four weeks after the date of the death shall be at the full rate of the allotment.

40 (2.) All moneys paid before the passing of this Act by the Minister by way of allotment to or on behalf of the dependants of any member of the Forces who has died as aforesaid are hereby validated.

(3.) All payments made under this section to any dependant shall be regarded as payments on account of a pension to that dependant, and subsequent payments on account of the pension shall be adjusted in such manner as the Board directs.

45 19. (1.) The Board shall, on the recommendation of the Minister, consider the claim for a pension—

Pensions to nurses and other persons not members of Forces.

- 50 (a.) Of any nurse (being a member of the New Zealand Army Nursing Service), or of any other person (not being a member of the Forces within the meaning of this Act), who, while domiciled in New Zealand, has served beyond New Zealand in the present war, and in respect of his or her service was in receipt of pay from the New Zealand Government ; or

- (b.) Of any person being a member of the New Zealand Defence Forces or the New Zealand Naval Forces and temporarily attached to any other portion of His Majesty's Forces, who has served beyond New Zealand in the present war and in respect of his service was in receipt of pay from the Imperial Government; or 5
- (c.) Of any dependant of any person referred to in paragraph (a) or paragraph (b) hereof; and shall thereupon determine—

- (d.) Whether, having regard to the circumstances of the case, any pension should be paid; and 10
- (e.) The amount of the pension (if any) that should be paid.
- (2.) Pensions under this section shall be payable in the same manner in all respects as if they were pensions payable to members of the Forces or their dependants under the foregoing provisions of this Act: 15

Provided that pensions may be paid to any of the persons referred to in paragraph (a) or paragraph (b) of the *last preceding* subsection, notwithstanding that those persons may be out of New Zealand. 20

(3.) No pension payable under this section shall exceed such rates as may be prescribed by regulations under this Act.

(4.) For the purposes of this section the term "dependant" has, *mutatis mutandis*, the same meaning as in section *two* hereof.

Inquiry to be made in case of claims on behalf of illegitimate children.

20. (1.) In the case of illegitimate children pensions shall be granted only after a Magistrate has inquired into and determined the paternity of the child, and has reported thereon in writing to the Board. 25

(2.) The Governor in Council may by regulations confer jurisdiction upon Magistrates to make such inquiries and determination notwithstanding the death of the putative father, and for that purpose may modify the procedure under the Destitute Persons Act, 1910, so as to enable the powers hereby conferred upon Magistrates to be effectively exercised and to ensure that the paternity of the child is determined with certainty. 30 35

Regulations.

21. The Governor may, by Order in Council gazetted, make regulations, not inconsistent with this Act, prescribing all matters necessary for giving effect to this Act and, in particular, prescribing—

- (a.) The duties of the Secretary to the Board: 40
- (b.) The nature of the evidence that may be required in support of any claim: 45
- (c.) The mode of inquiry to be adopted in the case of claims for pensions under section *nineteen* hereof by persons out of New Zealand: 50
- (d.) The times at which and the instalments in which pensions or gratuities may be paid: 45
- (e.) The manner in which pensions or instalments due to children or other persons under disability may be dealt with: 50
- (f.) The payment of capitalized sums in lieu of pensions. 50

Part IX of Defence Act, 1909, not to apply in case of members of Forces to whom this Act applies.

22. Part IX of the Defence Act, 1909 (relating to Military Pensions), shall not apply to members of the Forces as defined by this Act or to the dependants of any such member, and a military or naval pension shall not be granted to any such member or dependant otherwise than under this Act. 55

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SCHEDULES.

Schedules.

FIRST SCHEDULE.

MAXIMUM RATES OF PENSION IN CASE OF DEATH.

I. Rank or Rating.	II. To the Wife per Week.	III. To Each Child per Week.	IV. Maximum of Aggregate Pension per Week.
	£ s. d.	s. d.	£ s. d.
Private, Bombardier, Lance Corporal, Trooper, Gunner, Driver, Sapper, Trumpeter, Bugler	1 5 0	5 0	3 0 0
Able Seaman and equivalent ratings Corporal			
Farrier, Shoeing- smith, Saddler, or Fitter } If Bombardier, } Lance Corporal, } Gunner, or Pri- } vate	1 6 0	5 0	3 3 0
Lance Sergeant (not paid as such) ... Leading Seaman and equivalent ratings			
Sergeant, Farrier-corporal, Shoeing- smith Corporal, Saddler-corporal, Corporal - fitter, Farrier - sergeant, Saddler - sergeant, Armourer - ser- geant, Sergeant-fitter	1 7 0	5 0	3 6 0
Lance Sergeant (paid as such) ... Petty Officer and equivalent ratings Squadron, Battery, or Company Ser- geant-major, Quartermaster Ser- geant, Colour Sergeant, Staff Ser- geant, Pay-clerk	1 9 0	5 0	3 8 0
Chief Petty Officer and equivalent ratings Regimental Sergeant-major, Regi- mental Quartermaster Sergeant Warrant Officer and equivalent ranks (Navy)	1 10 0	5 0	3 9 0
2nd Lieutenant, Lieutenant (Army) Commissioned Warrant Officer and equivalent ranks; Sub-Lieutenant and equivalent ranks (Navy)	2 0 0	5 0	3 16 0
Captain (Army) ... Lieutenant under eight years' senior- ity and equivalent ranks (Navy)	2 5 0	5 0	4 3 0
Major ... Lieutenant of eight years' seniority and equivalent ranks (Navy)	2 12 0	5 0	4 12 0
Lieutenant-Colonel ... Captain under three years' seniority and equivalent ranks (Navy)	3 1 0	5 0	5 3 0
Colonel... Captain of three years' seniority and equivalent ranks; Commanders and equivalent ranks (Navy)	3 3 0	5 0	5 5 0
Brigadier-General, Major-General ... Commodores, first and second class; Rear-Admiral and other equivalent ranks	3 5 0	5 0	5 9 0

SECOND SCHEDULE.
MAXIMUM RATES OF PENSION IN CASE OF DISABLEMENT.

I. Rank or Rating.	II. To the Member per Week.	III. To the Wife per Week.	IV. To Each Child per Week.	V. Maximum of Aggregate Pension per Week.
	£ s. d.	£ s. d.	s. d.	£ s. d.
Private, Bombardier, Lance Corporal, Trooper, Gunner, Driver, Sapper, Trumpeter, Bugler	1 5 0	0 12 6	5 0	3 0 0
Able Seaman and equivalent ratings Corporal ...				
Farrier, Shoeing- (If Bombardier, smith, Saddler, Lance Corporal, or Fitter ... Gunner, or Private ...)	1 6 0	0 13 0	5 0	3 3 0
Lance Sergeant (not paid as such) ...				
Leading Seaman and equivalent ratings				
Sergeant, Farrier-corporal, Shoeing- smith Corporal, Saddler-corporal, Corporal-fitter, Farrier-sergeant, Saddler-sergeant, Armourer-ser- geant, Sergeant-fitter	1 7 0	0 13 6	5 0	3 6 0
Lance Sergeant (paid as such) ...				
Petty Officer and equivalent ratings Squadron, Battery, or Company Ser- geant-major, Quartermaster Ser- geant, Colour Sergeant, Staff Ser- geant, Pay-clerk	1 9 0	0 14 6	5 0	3 8 0
Chief Petty Officer and equivalent ratings				
Regimental Sergeant-major, Regi- mental Quartermaster Sergeant	1 10 0	0 15 0	5 0	3 9 0
Warrant Officer and equivalent ranks (Navy)				
2nd Lieutenant, Lieutenant (Army)				
Commissioned Warrant Officer and equivalent ranks; Sub-Lieutenant and equivalent ranks (Navy)	1 15 0	0 17 6	5 0	3 16 0
Captain (Army) ...				
Lieutenant under eight years' senior- ity and equivalent ranks (Navy) ...	2 0 0	1 0 0	5 0	4 3 0
Major ...				
Lieutenant of eight years' seniority and equivalent ranks (Navy) ...	2 7 0	1 3 6	5 0	4 12 0
Lieut.-Colonel ...				
Captain under three years' seniority and equivalent ranks (Navy) ...	2 16 0	1 8 0	5 0	5 3 0
Colonel ...				
Captain of three years' seniority and equivalent ranks; Commanders and equivalent ranks (Navy)	2 18 0	1 9 0	5 0	5 5 0
Brigadier-General, Major-General ...				
Commodores, first and second class; Rear-Admiral and other equivalent ranks	3 0 0	1 10 0	5 0	5 9 0