



ARMY PENSIONS BILL, 1953.

EXPLANATORY MEMORANDUM.

PART I.

PRELIMINARY AND GENERAL.

The provisions of this Part (sections 1 and 2) do not call for comment.

PART II.

ALLOWANCES TO RELATIVES OF DECEASED PERSONS WITH PRE-TRUCE SERVICE.

This Part provides for the payment of an allowance to one relative, who may be the widow, a parent or a widowed or unmarried sister, of any deceased person who had pre-truce service and who was killed in the course of duty during the period 1st April, 1916, to 30th September, 1923, inclusive (subsequently referred to in this memorandum as "the 1916-1923 period") or who died from a wound received or a disability incurred during the 1916-1923 period and attributable to military service. Provided that the deceased person had pre-truce service, the proposed allowance will be payable, irrespective of whether the death resulted from, or the wound was received or the disability incurred during, pre-truce or post-truce service. The wound must, however, have been received or the disability incurred before the 1st October, 1923 (sections 3 and 4).

Furthermore, the allowance proposed in this Part will apply only where the deceased person,—

- (a) if he was wounded on military service during the 1916-1923 period, died within four years after the date on which he was wounded;
- (b) if he had pre-truce service only, died before the 11th July, 1925, from a disease attributable to such service;
- (c) if he had pre-truce and post-truce service and the case comes within the Army Pensions Act, 1927, died within four years after the date of his discharge from the Forces, but before the 1st October, 1927, from a disease attributable to service during the 1916-1923 period;
- (d) if he had pre-truce and post-truce service and the case comes within the Army Pensions Act, 1932, died before the 1st October, 1927, from a disease attributable to service during the 1916-1923 period (section 3).

The proposed rates of allowance (section 4), which will be payable as from dates not earlier than the 1st January, 1953 (section 7), are—

Widow, provided that she had not re-married on the 1st January, 1953, and while she remains unmarried - - - £250 a year.

Parent - - - - - £180 a year.

Sister who was unmarried or a widow on the 1st January, 1953, and while she remains unmarried or a widow, as the case may be. (This allowance is subject to certain conditions as to dependency on the deceased person at the date of his death.) - - - - - £125 a year.

Applications for allowances under this Part must, generally, be made within twelve months after the Bill becomes law (section 6). Only one allowance will be payable at any one time in respect of a deceased person (section 4). Where, however, a relative who has been awarded an allowance dies, any other eligible relative may, within twelve months, apply for and be granted an allowance which will be payable from a date not earlier than that following the death of the previous beneficiary (sections 5 and 6).

Where a person awarded an allowance under this Part as from the 1st January, 1953, was already on that date in receipt of an allowance (other than a special allowance) under the existing Army Pensions Acts, the latter allowance shall be deemed, as from the 1st January, 1953, to have ceased and to have been paid in respect of the new allowance (section 8).

Provision is made for the reference of applications for an allowance under this Part to the Military Service Registration Board and the Army Pensions Board (sections 9 and 10).

This Part does not apply in respect of the relatives of signatories of the Proclamation published on Easter Monday, 1916, who are covered by Part II of the Army Pensions Act, 1937, as proposed to be amended by section 13 of this Bill.

PART III.

INCREASES OF PENSIONS AND ALLOWANCES UNDER THE ACTS.

The Army Pensions (Increase) Act, 1949, provided for increases in certain pensions and allowances payable under the Army Pensions Acts. In some cases, these increases corresponded with the increases granted by the Pensions (Increase) Act, 1950, to other classes of State pensioners; in others, they were less. The purpose of this Part, taken in conjunction with the Schedules, is mainly, therefore, to increase the pensions and allowances payable under the Acts (other than special allowances, which are separately dealt with in Part V) on the basis of the Pensions (Increase) Act, 1950, account being taken of increases already granted by the Army Pensions (Increase) Act, 1949.

In addition, this Part provides (section 13) that the allowance of £100 a year at present payable to each sister of a signatory of the Proclamation published on Easter Monday, 1916, shall be increased to £250 a year. Furthermore, it provides in section 25 that the allowances payable under section 15 (2) of the Act of 1927 to the dependants of an officer or soldier of the Permanent Force shall be increased by 33½ per cent. where the officer or soldier was killed while serving in the forces (whether before or after the Bill becomes law) in the course of his duty as a member of the forces or in circumstances attributable to his service in the forces, and also where he receives (whether before or after the Bill becomes law) while serving in the forces a wound attributable to his service in the forces and dies solely from such wound, but

within four years after receiving such wound. The increase of 33½ per cent. mentioned will be calculated on the increased allowances provided for in section 27.

Sections 16, 24 and 28 (2) and the Fifth Schedule provide that married pensions (described in the Act of 1923 as further pensions) shall be increased in all cases by 25 per cent.

Section 37 maintains the ceiling of £450 a year (prescribed in the Army Pensions (Increase) Act, 1949) beyond which no increase in a disablement pension or in a combination of a disablement pension and a Defence Forces pension (i.e. a pension for service in the Permanent Force) may be granted.

The increases for which the Part provides will be operative with effect from the 1st January, 1953 (section 38).

PART IV.

AMENDMENT OF THE ACTS IN RELATION TO MARRIED PENSIONS AND WIDOWS' ALLOWANCES.

This Part applies in respect of persons with pre-truce service and in receipt of disability or wound pensions who are at present ineligible for married pensions because their marriages took place after the statutory dates prescribed in the Acts. It also applies in respect of the widows and children of deceased persons with pre-truce service who would, but for the present statutory conditions relating to the date of marriage, be eligible for widows' and children's allowances under the Acts.

Section 39 provides that a disability pensioner with pre-truce service and not previously in receipt of a married pension and not now qualified for such married pension by reason solely of the fact that he married after the present statutory date applicable to his case, may be granted such pension if his marriage took place before the 10th December, 1932, i.e. before the date of enactment of the Army Pensions Act, 1932.

Application must be made within twelve months after the Bill becomes law and a married pension, where granted, will commence as from the 1st January, 1953, or the date of award of the disability or wound pension, whichever is the later. A person who was granted a disability or wound pension before the 10th December, 1932, and whose wife died and who re-married before that date will not be eligible for a married pension.

Section 40 provides that where a widow of a deceased person with pre-truce service would, but for the fact that her marriage took place after the present statutory date applicable to the case, be eligible for a widow's allowance under the Acts, such allowance will be payable provided the marriage took place before the 10th December, 1932. Children's allowances under the Acts, where appropriate, will be payable on the same basis. Allowances will not, however, be payable to the widow of a deceased person whose wife died and who re-married before the 10th December, 1932.

An application under section 40 (which application must be made within twelve months after the Bill becomes law) will not be entertained unless—

- (i) an application had been previously duly made for a widow's allowance or gratuity in respect of the deceased person, or
- (ii) the deceased person was in receipt of a disability or wound pension at the date of his death.

In so far as (i) is concerned, if the previous application was rejected on the ground that the marriage had not taken place

before the present appropriate statutory date, the new application will be entertained. If the rejection was on other grounds, the new application will not be entertained. With regard to (ii) an application will be admissible for the first time from a widow whose husband died while in receipt of a disability or wound pension but without a married pension.

PART V.

AMENDMENT OF THE ACTS IN RELATION TO SPECIAL ALLOWANCES.

Section 41 makes the following provisions :—

- (1) It provides, as in the existing Acts, for the grant of special allowances by the Minister for Defence with the consent of the Minister for Finance, and in addition it enables the Minister for Finance to give a general consent from time to time and for a specified period;
- (2) It provides, as in the existing Acts, that where an application for a special allowance has been refused or where a special allowance has terminated or been terminated, no further application shall be entertained within a period of twelve months. In addition, however, it enables the Minister, notwithstanding that provision, in his absolute discretion to entertain a further application within twelve months if the applicant produces evidence satisfactory to the Minister that he complies with the statutory conditions for the grant of a special allowance;
- (3) It consolidates the provisions of the existing Acts as to the classes of person eligible for a special allowance, and adds, as an additional class, pensioners under the Connaught Rangers (Pensions) Acts;
- (4) As regards persons under seventy years of age, it increases the present appropriate annual sum of £78 to £104 and the present appropriate annual sum of £97 10s. 0d. to £130.

Section 42 provides for the review of special allowances and for the termination of special allowances or for their adjustment (by way of increase or reduction) as the circumstances may require as a result of review. Section 43 requires a person in receipt of a special allowance to notify the Minister for Defence of any improvement in such person's means since they were last investigated on behalf of the Minister and also of certain occurrences which would affect the amount of a special allowance. Failure to comply with the requirements of the section is made an offence, and overpayments made as a result of such failure will be recoverable. Section 44 provides for the payment of a gratuity under certain circumstances, to the next of-kin of a deceased person who had been in receipt of a special allowance and who died after the termination of the last award and before a new award had been made. The gratuity in such cases will equal the amount of the special allowance which would, at such person's death, have accrued due on foot of the new award.

PART VI.

MISCELLANEOUS.

Section 45 provides for a general consent, subject to certain conditions and limitations, by the Minister for Finance to the Minister for Defence to grant pensions, allowances and gratuities under the Army Pensions Acts.

Section 46 inserts, in effect, a new definition of a "married officer" which is necessary as a result of the consolidation of

officers' pay and the abolition of lodging, fuel and light allowance as from the 1st April, 1950.

Section 47 provides, for officers discharged on or after the date on which the Bill will become law, new tables of percentages of pay on which disablement pensions will be based.

Section 48 provides that where, after the Bill becomes law, an award of a gratuity under section 12 of the Act of 1927 is made or an award of a pension or gratuity under that section is refused in respect of a wound, an application for reconsideration of the claim may be entertained by the Minister, if he thinks fit to do so, within five years from the date of such award or refusal. Similarly, where a gratuity was awarded or a pension or gratuity was refused, before the Bill becomes law, under the said section 12 in respect of a wound received on or after the 3rd September, 1939, an appeal for reconsideration may be entertained if made within twelve months after the Bill becomes law.

Section 49 amends the Acts so as to extend the date by which applications from widows and other dependants of officers and soldiers of the forces alleged to have died from disease attributable to service during the emergency period or from a wound received on or after the 3rd September, 1939, may be entertained. If the person in respect of whom the application is made died before the Bill becomes law, the latest date for application will be a date not later than twelve months after the Bill becomes law and if the person dies after the Bill becomes law, not later than twelve months after the date of his death.

Section 50 provides that where a dependent relative of a deceased person to whom the provisions of Part VII of the Act of 1937 applies dies while in receipt of a special dependant's allowance, another eligible dependent relative may apply for and be granted an allowance.

Section 51 enables a person to apply for a special dependant's allowance if he had previously been refused one on the ground of means. The ceiling for annual means is now being raised, by section 32 of this Bill, from £40 to £60. Section 52 is a provision consequential on the raising of the ceiling from £40 to £60.

Sections 53 and 54 are technical provisions arising from the consolidation of officers' pay as from the 1st April, 1950.

Section 55 is designed to remove a legal doubt as to the power to treat a pension granted under section 12 of the Act of 1946 (i.e., in respect of tuberculosis aggravated, etc., by service during the emergency period) as being, for certain purposes, a pension "under the Acts".

Section 56 is intended to validate the grant of a pension made as a result of a construction of a provision in the Act of 1932, relating to a time limit, which construction was later held to be erroneous. The section also provides for the commencing date of any further pension granted in the particular case.

ROINN COSANTA,

Iúil, 1953.

