

CHAPTER 11:14

WAR PENSIONS ACT

*Acts 35/1958, 38/1960, 10/1963, 10/1964, 39/1971 (s. 7), 39/1979 (s. 19), 24/1987 (s. 9), 6/2005 (s. 35).
R.G.Ns. 126/1963, 801/1963, 214/1964.*

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AN ACT to make other provision for the payment of pensions and allowances and the grant of other benefits to certain persons who, while rendering military service in His Majesty's Forces during certain wars, were disabled in consequence thereof, and to the widows and dependants of persons who were killed or died from wounds or injury received or disease or illness contracted while upon or in consequence of such military service; and to provide for certain other matters connected therewith.

[Date of commencement: 17th October, 1958.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the War Pensions Act [*Chapter 11:14*].

2 Interpretation

(1) In this Act—

“Board” means the Military Pensions Board established under section *three*;

“child”, in relation to a disabled or deceased member, means—

- (a) an unmarried, legitimate or legitimated son or daughter, including a posthumous child, a step-child or a child legally adopted, under the age of eighteen years;
- (b) any of the following persons who is declared by the Board to be a child of that member or deceased member for the purposes of this definition—
 - (i) any unmarried daughter until she attains the age of twenty-one years or marries, whichever is the earlier;
 - (ii) any son until he attains the age of twenty-one years, who is an apprentice, articled clerk or otherwise undergoing training and receiving only nominal wages or who is being educated at a secondary school, technical school, university or other institution;
 - (iii) any son or daughter who is incapable, through mental or physical infirmity, of earning a livelihood, if such infirmity arose before he or she attained the age of eighteen years;

“civil earnings”, in relation to a disabled or deceased member, means such amount, not being more than one thousand seven hundred and twenty dollars, as is fixed by the Board as the annual earnings of the member in his normal trade or occupation;

“deceased member” means a person who was a member and who—

- (a) was killed on military service; or
 - (b) died of wounds or injuries received on military service; or
 - (c) died of a disease attributable to military service;
- “degree of disablement” means the degree of disablement due to a disability determined in terms of section *twelve*;
- “dependant”, in relation to a deceased member, means any person, other than a child, parent, widow or divorced wife of that member, who was wholly or partly maintained by that member up to the time of his death and for a reasonable period before that date;
- “disabled member” means a member who is suffering from a disability;
- “disability” means ill-health, physical or mental unfitness, physical or mental incapacity or personal injury which—
- (a) has arisen out of and in the course of the discharge of military service or has been aggravated by and in the course of such service, if such disability is not due to the member’s own serious negligence or misconduct;
 - (b) under any of the repealed laws, has been deemed to be attributable to military service outside Zimbabwe:
- Provided that no increase in the degree of disablement subsequent to discharge from the Forces shall be regarded as attributable to such service unless in fact it was so attributable;
- “Forces” means the Defence Forces under the Defence Act [*Chapter 111 of 1939*] or the Defence Act, 1953 (No. 22 of 1953);
- “member” means any male person who under paragraph (b) of section 34 of the Pensions (Defence Forces) Regulations was recognized as a member for the purposes of those regulations and any male person who at any time during the period from the 2nd September, 1939, to the 9th September, 1954, served as a member of the Forces and was discharged before the 10th September, 1954, but does not—
- (a) subject to Part IV, include any European, Asiatic or Coloured person who served as a member of the Permanent Force under the Defence Act [*Chapter 111 of 1939*] or the Defence Act, 1953 (No. 22 of 1953); or
 - (b) include any African who served as a member of the Forces after the 26th June, 1947;
- “military service” means military, naval or air service during the period from the 2nd September, 1939, to the 9th September, 1954;
- “Minister” means the Minister of Finance or any other Minister to whom the President may, from time to time, assign the administration of this Act;
- “Pensions—Africans (Defence Forces) Regulations” means the Pensions—Africans (Defence Forces) Regulations, 1945 (Rhodesia Government Notice No. 183 of 1945);
- “Pensions (Defence Forces) Regulations” means the Pensions (Defence Forces) Regulations, 1944 (Rhodesia Government Notice No. 184 of 1944);
- “Pensions (Permanent Force Military Service) Regulations” means the Pensions (Permanent Force Military Service) Regulations, 1949 (Rhodesia Government Notice No. 1043 of 1949);
- “repealed laws” means the—
- (a) War Pensions Consolidation and Amendment Act [*Chapter 119 of 1939*];
 - (b) Rhodesian Units Pensions Act [Chapter 120 of 1939];
 - (c) Pensions (Defence Forces) Regulations;
 - (d) Pensions Africans (Defence Forces) Regulations;
 - (e) Pensions (Permanent Force Military Service) Regulations;
- “widow” means
- (a) a widow of a deceased member; or
 - (b) in relation to a deceased member who was an African or Asiatic and who left more than one widow, the widow to whom he had been married for the longest period;
- but does not, save as otherwise specially provided in this Act, include a widow who was separated, whether by order of court or otherwise from such member at the date of his death.
- (2) For the purposes of any award under this Act—
- (a) the rank of a disabled or deceased member shall be the rank held by that member on the date on which he sustained the wound or injury or was first removed from duty on account of the disease which caused his disability or death:
- Provided that if, after the date on which he was first removed from duty, the member underwent further military service and during and as a result of such service suffered a material aggravation of his disability, his rank shall be the rank which he held at the date on which he was later removed from duty on account of the disability;

- (b) where a member sustained two or more disabilities to which different ranks would apply under this Act, notwithstanding section *twelve*, an award shall be made in respect of each disability in accordance with the rank appropriate thereto:

Provided that, in any case where the aggregate of the degrees of disablement exceeds one hundred *per centum*, the degree of disablement in respect of the lower rank shall be reduced by the difference between one hundred *per centum* and such aggregate;

- (c) where the rank of a disabled or deceased member is not a military rank mentioned in this Act, his rank shall, for the purposes of this Act, be determined by the Board.

PART II

ADMINISTRATION

3 Establishment and constitution of Military Pensions Board

(1) There shall be established a board to be known as the Military Pensions Board which shall have the powers duties and functions conferred upon it by this Act.

(2) The Board shall consist of not less than three members who shall be appointed by the Minister and shall hold office during his pleasure.

(3) One of the members of the Board shall be appointed by the Minister to be chairman thereof and, in the absence of the chairman from any meeting of the Board, the members present shall appoint one of their number to be chairman for that meeting.

(4) On any question before the Board the chairman shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

(5) A majority by number of members shall form a quorum at any meeting of the Board.

(6) If a member of the Board is prevented by illness, absence from Zimbabwe or any other reason from exercising his functions on the Board, the Minister may appoint any other person to act for such member during his absence.

4 Procedure of Board

The Board shall make rules to regulate its procedure, which shall be as simple and informal as possible, and in any case not covered by the rules of procedure, the Board shall act in such manner and on such principles as it considers best fitted to do substantial justice and to effect and carry out the objects and provisions of this Act.

5 Powers of Board

(1) The Board shall determine the right of any person to an award under this Act, and the degree of disablement of any member.

(2) The Board may at any time review any award, whether made under this Act or under any of the repealed laws, where—

- (a) an award has, by error in interpretation or fact, been granted in excess of the amount which should have been granted; or
- (b) it has reason to believe that an award has been obtained by any improper means; or
- (c) an award has been granted in error.

(3) Any pension or allowance awarded to or in respect of any person under this Act may, in the discretion of the Board and for reasons considered by it to be sufficient, be administered under such conditions as the Board may determine, instead of being paid to the person to whom it was granted.

6 Special medical boards

(1) The Minister may from time to time constitute boards to be known as special medical boards.

(2) A special medical board shall consist of three medical practitioners appointed by the Minister.

(3) A member of a special medical board may, out of moneys appropriated for the purpose by Act of Parliament, be paid such fee as the Minister may, by notice in a statutory instrument, prescribe.

(4) Any person who is to be examined or whose case is to be considered by a special medical board shall have the right to nominate one of the medical practitioners appointed thereto and, if the medical practitioner nominated by him is so appointed, that person shall pay any expense in excess of the fee prescribed under subsection (3) involved in the attendance of such medical practitioner at any meeting of the board.

7 Appeal to Administrative Court

(1) Any claimant who is aggrieved by any decision of the Board may appeal against that decision to the Administrative Court.

(2) Any claimant desiring to appeal in terms of subsection (1) shall, within six months of the Board's decision having been communicated to him, forward a notice of appeal to the Administrative Court, and shall at the same time send a copy of such notice to the Board:

Provided that the Administrative Court may, on good cause shown, permit the giving of notice of appeal after the period of six months has expired.

8 Effect of decision of Administrative Court

If the Administrative Court varies a decision of the Board, the decision of the Administrative Court shall be deemed to be a decision of the Board and shall be final and without appeal.

9 Commutation of pensions

(1) Where the degree of disablement of any person who has been awarded a permanent disablement pension under this Act is ten *per centum* or less, the Board may, with the approval of the Minister and at the request of that person, commute such pension by a single cash payment calculated in accordance with the table set out in the First Schedule.

(2) Where a pension has been commuted in terms of subsection (1), the payment of any allowances awarded under this Act in respect of the wife or child of the pensioner concerned shall be discontinued and his right to such allowances shall be forfeited, and thereafter such pensioner shall be treated in all respects as if he had been granted free medical treatment in terms of subsection (1) of section *ten*.

PART III

DISABLEMENT PENSIONS AND OTHER BENEFITS

10 Disablement pensions

(1) A member shall be awarded a disablement pension in respect of one or more disabilities at such proportion of the rate set out in the Second Schedule as corresponds to his degree of disablement and according to whether such member is a European, Asiatic, Coloured person or African and the rank held by him:

Provided that the Board may, where in its opinion the degree of disablement of such member is less than five *per centum*, award such member free medical treatment in lieu of a disablement pension, and, if it does so, such member shall be entitled to the benefits mentioned in sections *fourteen*, *seventeen*, and *eighteen*.

(2) In every case where a disablement pension or free medical treatment in lieu of such pension is awarded, such award shall be made temporarily and as soon as the Board is satisfied that there is unlikely to be any further change in the degree of disablement a permanent award shall be made.

(3) A permanent award shall not, except as provided in subsection (2) of section *five*, be altered unless the Board, on application being made by the member, is satisfied that there has been a substantial increase in the degree of disablement attributable to the disability in respect of which such permanent award was made.

(4) If the Board is so satisfied as mentioned in subsection (3), it shall award such member a temporary disablement pension in respect of such substantial increase in the degree of disablement or award him an increased permanent disablement pension related to such increased degree of disablement, as the Board may think fit.

(5) For the purposes of this section, substantial increase in the degree of disablement of a member means—

- (a) in the case of a member whose original permanent degree of disablement was twenty *per centum* or less, a deterioration in his condition of not less than—
 - (i) five *per centum* of one hundred *per centum* disablement; or
 - (ii) one half of the original degree of disablement; whichever is the greater;
- (b) in any other case, a deterioration in his condition of not less than ten *per centum* of one hundred *per centum* disablement.

(6) Where a permanent disablement pension has been awarded to a member in respect of one or more disabilities and thereafter a further disability becomes apparent, an award may, subject to subsection (2) of section *twelve*, be made in respect of such further disability as if it were such member's only disability.

(7) A temporary disablement pension awarded under this section shall be subject to review from time to time until a permanent award is made or until the award ceases.

11 Date of accrual of disablement pension

When a disablement pension is awarded under this Act, such pension shall be paid—

- (a) in the case of a member whose disability became apparent before he was discharged from the Forces, with effect from the day immediately following the date of such discharge;
- (b) in any other case, from the date of application by the member for such pension or such earlier date, being a date after his discharge from the Forces, as the Board may determine.

12 Degree of disablement

(1) The degree of disablement shall be the measure of disablement, expressed by way of a percentage, one hundred *per centum* representing total disablement, which, in the opinion of the Board, a member has suffered as the result of a disability by a comparison of his condition as disabled with the condition of a normal healthy person of the same age, without taking into account his earning capacity in his disabled condition in his own or any other specific trade or occupation.

(2) In the case of a member having sustained two or more disabilities, the degree of disablement shall be determined by reference to the combined disabilities and shall in no case exceed one hundred *per centum*.

(3) Where any member who has applied for any benefit under this Act is of the opinion that the degree of disablement has been inadequately assessed, he may apply to the Board in writing for his case to be referred for decision to a special medical board, and the Board may comply with such application or refuse such application.

(4) The opinion of a special medical board as to the degree of disablement of any member whose case has been referred to it shall be final and any award of benefits in terms of this Act shall be amended accordingly as from such date and for such period as may be determined by such special medical board.

13 Additional pensions

(1) If the Board is satisfied that the civil earnings of a member, other than a member whose pension has been reduced in terms of section *sixteen*, exceeded the aggregate of his annual rate of pension and his average earnings, it may award him an additional pension not exceeding the amount of such excess.

(2) The average annual earnings of a member referred to in subsection (1) shall be his actual annual rate of earnings or such amount as the Board, having regard to his reduced earning capacity owing to his disability, considers fairly to represent his earning capacity during a period of one year.

(3) An additional pension awarded in terms of subsection (1) shall be paid for such period and subject to such conditions as the Board may determine and shall cease in the event of the member's disablement pension being reduced in terms of section *sixteen*.

14 Entitlement to medical treatment

A member shall be provided, without charge to himself, with medical treatment for his disability by a Government medical officer and in a Government hospital or institution:

Provided that the Board may in special cases authorize the payment from public funds of any fees or expenses incurred in connection with the treatment of the disability by any other medical practitioner and at any other hospital or institution.

15 Medical examination

(1) The Board may at any time, by letter sent by registered post to the registered address of a member who is in receipt of a temporary disablement pension, require him to present himself at a specified place, date and time for medical examination.

(2) If the member fails to submit himself to such medical examination or to furnish a satisfactory explanation for such failure to the Board within a period of six weeks from the date of the posting of the letter in terms of subsection (1), his pension shall be suspended as from the termination of the said period of six weeks or such later date as the Board may determine.

(3) If a member whose pension has been suspended in terms of subsection (2) is subsequently medically examined and the Board is satisfied that he is still suffering from the disability for which he was originally awarded a temporary disablement pension, the pension shall be restored—

- (a) where there is no change in his degree of disablement, at the rate at which it was being paid on the date of suspension and with effect from that date;
- (b) where there is a reduction in his degree of disablement, at the rate appropriate to such reduced degree of disablement with effect from the date of suspension or, if the Board is satisfied that the member had good reason for failing to attend for medical examination and so directs, at the rate at which it was being paid on the date of suspension, from the date of suspension until such date later than that date as the Board may determine and thereafter at the reduced rate appropriate to such reduced degree of disablement;
- (c) where there is an increase in his degree of disablement, at the rate at which it was being paid on the date of suspension and with effect from that date until the date on which the member was so medically examined and thereafter at the increased rate appropriate to such increased degree of disablement or, if the Board is satisfied that the member had good reason for failing to attend for medical examination and so directs, the pension shall be paid at the increased rate with effect from such date earlier than the date on which he was so examined, as the Board may determine.

(4) For the purposes of this section, the registered address of a member shall be the address notified in writing by him to such person as the Board may direct as being his permanent address or any change in this address likewise notified.

16 Medical treatment

(1) A member who is in receipt of a disablement pension or has been awarded free medical treatment in lieu of such pension may at any time be required by the Board to undergo medical or other treatment of a reasonable nature in respect of his disability.

(2) If a member referred to in subsection (1) refuses to undergo such medical or other treatment, the Board may—

- (a) in the case of a member who is in receipt of a temporary disablement pension, additional pension or allowance, reduce such pension or allowance by such amount, not exceeding fifty *per centum* thereof, as the Board may determine;

- (b) in the case of a member who is in receipt of a permanent disablement pension, reduce the amount of any temporary increase in pension or allowance payable by reason of an increase in the degree of disablement by such amount, not exceeding fifty *per centum* thereof, as the Board may determine;
- (c) in the case of a member who has been temporarily granted free medical treatment in lieu of a disablement pension, withdraw the grant of such free medical treatment.

(3) Any member who is dissatisfied with any action taken by the Board under subsection (2) may apply to the Board in writing to refer to a special medical board the question whether the medical or other treatment he is required by the Board to undergo in terms of subsection (1) is of a reasonable nature and the Board may comply with such application or refuse such application.

(4) The opinion of the special medical board as to whether the medical or other treatment the Board has required a member to undergo is reasonable shall be final, and if the special medical board is of the opinion that such treatment is not reasonable, any reduction of pension or allowance or withdrawal of free medical treatment, as the case may be, made by the Board shall be restored with effect from the date on which it was so reduced or withdrawn, as the case may be.

(5) Where a member referred to in subsection (1)—

- (a) is, owing to his misconduct, discharged from a hospital or institution in which he is undergoing treatment in accordance with the requirements of the Board; or
- (b) leaves such hospital or institution of his own accord before his treatment has been completed; or
- (c) fails to comply with the instructions of a medical practitioner regarding a course of treatment;

the Board may reduce or withdraw any temporary disablement pension, additional pension or allowance awarded to him or withdraw any temporary free medical treatment granted to him in lieu of a disablement pension.

17 Travelling expenses and subsistence allowances

(1) When a member is required by the Board to make a journey and in order to be medically examined or to undergo medical treatment or for any other purpose, he shall be entitled to travel at the expense of the State and he shall be provided with—

- (a) in the case of a European, a first class rail ticket;
- (b) in the case of an Asiatic or Coloured person, a second class rail ticket;
- (c) in the case of an African, a third class rail ticket;

or the equivalent cost of such rail ticket and, in addition, the cost of conveyance to the rail head at such rate as may be prescribed by the Minister by notice in a statutory instrument.

(2) In respect of a journey not performed by rail, the Board may authorize the payment of the cost of such journey or such lesser sum as, in the circumstances of the case it considers reasonable.

(3) Subject to subsections (4) and (5), when a member is required by the Board to make a journey for the purposes mentioned in subsection (1) he shall be entitled, during the period of necessary absence from his home, to a subsistence allowance at such rate as may be prescribed by the Minister by notice in a statutory instrument, the allowance for a portion of a day being calculated at the rate of one twenty-fourth of the prescribed daily rate for each hour or portion of an hour.

(4) A member shall not be entitled to any subsistence allowance under subsection (3)—

- (a) in respect of any period during which he is being maintained at a hospital or institution; or
- (b) if the period of his absence from home is less than four hours.

(5) If a member, owing to his own misconduct, is unfit to undergo a medical examination at the appointed time and place and in consequence thereof is required by the Board to undergo a further medical examination, he shall not be entitled to any subsistence allowance under subsection (3) in respect of any period during which he is necessarily absent from his home for the purpose of undergoing such further medical examination.

18 Temporary allowance

(1) If the board is satisfied that it is necessary for any member to undergo medical examination or treatment, whether in an institution or elsewhere, the Board may, subject to this section, award him a temporary allowance which shall be in addition to any other pension or allowance to which he may be entitled.

(2) A temporary allowance in terms of subsection (1) shall be at a rate determined by the Board and shall not exceed an amount equivalent to the additional pension which could have been awarded to him if he had had no earning capacity.

(3) No temporary allowance shall be awarded in terms of subsection (1) where the member suffers no loss of income by reason of submitting to the medical examination or undergoing the medical treatment.

(4) A temporary allowance awarded in terms of subsection (1) shall be paid for such period and subject to such conditions as the Board may determine.

19 Cost of maintaining member may be deducted from pension

Where a member is undergoing treatment in a hospital or institution in terms of section *fourteen* without cost to himself and is maintained in such hospital or institution for three months or more in any one year, any pension,

additional pension or temporary allowance payable to him under this Act shall be subject to such deductions in respect of the cost of maintaining him in such hospital or institution as the Board may determine.

20 Family allowance

(1) Subject to this section, a member shall be awarded an allowance in respect of his wife and each child of his, payable during the continuance of his pension, at such proportion of the appropriate annual rates specified in subsection (2) as corresponds to his degree of disablement:

Provided that no member shall be entitled to such allowance in respect of more than one wife.

(2) The annual rates for the purposes of subsection (1) shall be—

- (a) in respect of the wife of a member who is—
 - (i) a European, two hundred dollars;
 - (ii) an Asiatic or Coloured person, one hundred dollars;
 - (iii) an African, thirty-two dollars;
- (b) in respect of the first child of a member who is—
 - (i) a European, two hundred dollars;
 - (ii) an Asiatic or Coloured person, one hundred dollars;
 - (iii) an African, thirty-two dollars;
- (c) in respect of each additional child of a member who is—
 - (i) a European, one hundred and twenty dollars;
 - (ii) an Asiatic or Coloured person, sixty dollars;
 - (iii) an African, twenty dollars.

(3) Where a member marries after the date of the award of a disablement pension to him, the allowance awarded to him under subsection (1) in respect of his wife shall be paid—

- (a) if proof of his marriage is furnished to the Board within three months after the date thereof, as from the date of his marriage;
- (b) if proof of his marriage is not furnished to the Board within three months after the date thereof, as from the date on which such proof is furnished.

(4) Where a child of a member is born or adopted by him after the date of the award of a disablement pension to him, the allowance awarded to him under subsection (1) in respect thereof shall be paid—

- (a) if proof of the date of birth or adoption is furnished to the Board within three months after the date thereof, as from the date of birth or adoption of the child;
- (b) if proof of the date of birth or adoption is not furnished to the Board within three months after the date thereof, as from the date on which such proof is furnished.

(5) An allowance awarded to a member in respect of a child under subsection (1) shall cease upon the adoption of that child by some other person.

(6) The award and continuance of an allowance under this section in respect of—

- (a) a wife who is living apart from her husband; or
- (b) a child who is not maintained by the member;

shall be at the discretion of the Board.

21 Allowance in respect of nursing attendance

Where the degree of disablement of a member is one hundred *per centum* and the Board is satisfied that his disability necessitates the constant and continuous attendance of a nurse or other attendant, it may award such member, in addition to any other benefits to which he may be entitled under this Act, an allowance not exceeding the reasonable expenditure actually incurred in respect of such nurse or attendant.

22 Allowance for clothing

(1) Where the disability of a member is an amputation and he regularly wears an artificial limb, he may be awarded, in respect of wear and tear on clothing, an allowance at the rate of—

- (a) in the case of a European, thirty dollars per annum;
- (b) in the case of an Asiatic or Coloured person, fifteen dollars per annum;
- (c) in the case of an African, six dollars per annum.

(2) In any other case in which the Board is satisfied that as a result of the disability there is exceptional wear and tear of the member's clothing, the Board may award an allowance at a rate not exceeding—

- (a) in the case of a European, thirty dollars per annum;
- (b) in the case of an Asiatic or Coloured person, fifteen dollars per annum;
- (c) in the case of an African, six dollars per annum.

23 Reduction of pensions and allowances on account of awards by other states

Where any person, who under paragraph (b) of section 34 of the Pensions (Defence Forces) Regulations was recognized as a member for the purposes of those regulations, is awarded any pension or pension and allowance under this Act and receives any pension or allowance or pension and allowance in respect of the same disability from any state other than Zimbabwe, the annual rate of the pension or pension and allowance awarded under this

Act shall be reduced by the annual rate of the pension or allowance or pension and allowance which he from time to time receives from such other state.

PART IV

BENEFITS PAYABLE TO WIDOWS, CHILDREN AND DEPENDANTS

24 Widows' pensions

(1) A widow shall be awarded a pension at the rate prescribed in the Third Schedule according to whether her deceased husband was a European, Asiatic, Coloured person or African and the rank held by him.

(2) If the annual rate of the pension awarded under subsection (1) to a widow is less than two-thirds of the civil earnings of her deceased husband, and if such widow has in addition been awarded a pension under section *twenty-seven*, she shall, during the time that she is being paid such last-mentioned pension, be entitled to have the pension awarded to her under subsection (1) increased by an amount equal to the difference between the annual rate thereof and two-thirds of the civil earnings of her deceased husband.

25 Pension for separated or divorced wife entitled to maintenance

(1) A pension may be awarded to a woman who at the date of the death of a member is married to him and is separated from him and who, but for the separation, would have been eligible for a pension as a widow, if—

- (a) her husband was, immediately before the date of his death, contributing to her support; or
- (b) she was, immediately before the date of her husband's death, entitled under a separation or maintenance order to support from him; or
- (c) the separation was, in the opinion of the Board, caused by the husband's mental instability due to his disability.

(2) The pension awarded under subsection (1) shall be at the discretion of the Board, but shall not exceed the rate prescribed in the Third Schedule nor, in the circumstances mentioned in paragraphs (a) and (b) of subsection (1), shall it be at a rate which exceeds the annual rate of assistance which the wife was receiving or was entitled to receive from the deceased member immediately before the date of his death.

(3) This section shall apply to a divorced wife where an order of court requiring the deceased member to pay maintenance to her was in force immediately before the date of his death, but the annual rate of the pension which may be awarded in such a case shall not exceed the appropriate rate prescribed in the Third Schedule nor shall it exceed the annual rate of assistance which the deceased member was required in terms of such order to pay to her.

26 Certain pensions to cease on remarriage

(1) Any pension awarded under section *twenty-four* or *twenty-five* shall cease upon the remarriage of the woman to whom it was awarded and she shall be paid an amount equal to one year's pension at the rate at which such pension was being paid to her immediately before the date of her remarriage.

(2) Where, under subsection (1), a pension has ceased, the Board may—

- (a) on the death of the husband of the marriage which caused the cessation of the pension; or
- (b) on the dissolution of that marriage if it is shown to the satisfaction of the Board that the dissolution was not caused by her own misconduct;

restore the pension in whole or in part according to the circumstances of the woman concerned.

(3) Any pension awarded under section *twenty-four* or *twenty-five* shall cease if the woman to whom it was awarded cohabits with any man as his wife.

27 Pension in respect of child of deceased member

(1) Subject to this section, a pension shall be awarded in respect of the child of a deceased member, other than a child in respect of whom a pension has been awarded under section *twenty-eight*.

(2) A pension in terms of subsection (1) shall be at the rate prescribed in the Fourth Schedule and determined according to whether the deceased member was a European, Asiatic, Coloured person or African and shall be paid to the mother or guardian of the child unless the Board otherwise directs.

(3) Where the child of a deceased member by a previous marriage is not living with or being maintained by such member's widow, the Board may grant, in respect of that child, a pension at the rate which would have been applicable if the child had been the only child of the deceased member, but no such pension shall exceed the annual rate at which the deceased member was contributing towards the maintenance of that child at the date of the member's death.

(4) Where a widow is receiving a pension in terms of subsection (1) in respect of only one child and the child dies before attaining the age of eighteen years, the pension shall continue to be paid to the widow for a period of three months after the child's death or until the child would have attained the age of eighteen years, whichever is the shorter period.

(5) A pension awarded in terms of subsection (1) in respect of a child shall continue to be paid after the remarriage of the child's mother.

(6) For the purposes of this section, the child of a deceased member by a previous marriage, who is being maintained by the widow of such member, shall be deemed to be the child of such widow.

28 Pension for orphan child

(1) The Board may award, in respect of the child of a deceased member whose mother has died or who, in the interests of the child, is removed from the control of his mother, a pension at a rate not exceeding—

- (a) in the case of a European child, three hundred and twenty dollars per annum;
- (b) in the case of an Asiatic or Coloured child, one hundred and sixty dollars per annum;
- (c) in the case of an African child, fifty dollars per annum.

(2) For the purposes of this section, a widow who is maintaining the child of her deceased husband by a previous marriage shall be deemed to be the mother of that child.

29 Effect of adoption of child on certain persons

A pension awarded under section *twenty-seven* or *twenty-eight* shall not cease upon the adoption of the child in respect of whom it was awarded, but a pension awarded under section *twenty-eight* shall, upon such adoption, be reduced and paid at the rate which would have been applicable to him had the pension been awarded under section *twenty-seven*.

30 Pension for parents

(1) The parents of a deceased member may, on the ground that they were dependent upon such member and are wholly or partly incapable of self-support by reason of age or infirmity, be awarded, for such period and subject to such conditions as the Board may determine, a pension at a rate not exceeding—

- (a) in the case of a European parent, five hundred and twenty-six dollars per annum;
- (b) in the case of an Asiatic or Coloured parent, two hundred and sixty-two dollars per annum;
- (c) in the case of an African parent, forty-two dollars per annum:

Provided that the aggregate rate of the pensions awarded under this subsection to both the parents of a deceased member shall not exceed—

- (a) in the case of European parents, eight hundred and forty dollars per annum;
- (b) in the case of Asiatic or Coloured parents, four hundred and twenty dollars per annum;
- (c) in the case of African parents, eighty-four dollars per annum.

(2) In considering the application of a parent of a deceased member for a pension under subsection (1), the Board shall have regard to the age and infirmity of the parent, the standard of living and the reasonable expectations he would have had of receiving support from the deceased member had he not died.

31 Pension for dependants

(1) The Board may, in its discretion, award, on such conditions and for such period as it may determine, a pension to a dependant who—

- (a) is wholly or partly incapable of self-support and in need of support; or
- (b) at the date of the death of an African or Asiatic member was married to him but was not the wife to whom he had been married for the longest period.

(2) A pension awarded under subsection (1) shall not exceed the rate prescribed in the Fifth Schedule which is applicable to a dependant of a deceased member according to whether the deceased member was a European, Asiatic, Coloured person or African.

(3) Any pension awarded under subsection (1) to a female dependant shall cease on her marriage.

32 Reduction of pensions on account of pensions paid by other states

Where any widow, child or dependant of any person, who under paragraph (b) of section 34 of the Pensions (Defence Forces) Regulations was recognized as a member for the purposes of those regulations, is awarded a pension under the provisions of this Act and receives from any state other than Zimbabwe any pension awarded on the same grounds, the annual rate of the pension awarded under this Act shall be reduced by the annual rate of the pension which she or he from time to time receives from such other state.

PART V

CONFIRMATION OF PENSIONS PAID TO CERTAIN MEMBERS OF PERMANENT FORCE

33 Confirmation of certain pensions

(1) Every pension awarded under the Pensions (Defence Forces) Regulations in accordance with the Pensions (Permanent Force Military Service) Regulations before the 17th October, 1958, is hereby confirmed and shall be deemed to have been awarded under this Act, and every person to whom any such pension has been awarded shall be entitled to any other benefit by this Act conferred upon a member or the widow, child or dependant of a deceased member, as the case may be.

(2) Notwithstanding the repeal of the Pensions (Permanent Force Military Service) Regulations, any person who, but for such repeal, would have been entitled to a pension or other benefit thereunder shall retain that right:

Provided that any reference in those regulations to the Pensions (Defence Forces) Regulations shall be read and construed as a reference to this Act.

PART VI

APPLICATION OF PROVISIONS OF ACT TO CERTAIN PENSIONERS

34 Certain pensioners deemed to be members

(1) In this section—

“injury” means ill-health, physical or mental unfitness, physical or mental incapacity or personal injury which has arisen out of and in the course of active service in any armed forces performed before the 3rd September, 1939, or has been aggravated by and in the course of such service.

(2) With effect from the 1st July, 1957, every person whose name is mentioned in Part I, II or III of the Sixth Schedule shall, in respect of any injury (arising out of and in the course of the discharge of service in any armed forces before the 2nd September, 1939), be deemed to be a member and shall, subject to this section, be deemed to have been awarded a permanent disablement pension in accordance with this Act in respect of such injury at the rate prescribed in the Second Schedule for a European and according to his rank, and for that purpose his degree of disablement shall be the percentage of disablement on which the pension which was being paid to him immediately before that date was assessed.

(3) Any pension payable in terms of subsection (1) shall be additional to any other pension or benefit to which such person may be entitled under this Act.

(4) In the case of a person whose name is mentioned in Part II of the Sixth Schedule, the annual rate of the pension paid to him under this section shall be the same as the annual rate of the pension or pension and allowance which was being paid to him immediately before the 1st July, 1957, in respect of such injury.

(5) In the case of a person whose name is mentioned in Part III of the Sixth Schedule, the annual rate of the pension or of the pension and allowance paid to him under this section shall be reduced by the annual rate of the pension or pension and allowance which is, from time to time, being paid to him in respect of his injury, by any state other than Zimbabwe.

35 Certain persons deemed to be widows of deceased members

(1) Every person whose name is mentioned in Part IV, V or VI of the Sixth Schedule shall be deemed to be the widow of a deceased member and shall, with effect from the 1st July, 1957, subject to this section, be awarded a pension at the rate prescribed in the Third Schedule for a European and according to the rank of her deceased husband.

(2) The annual rate of the pension to be paid to the person mentioned in Part V of the Sixth Schedule, with effect from the 1st July, 1957, shall be the same as the annual rate of the pension which was being paid to her immediately before that date.

(3) The annual rate of the pension to be paid under this section to the person mentioned in Part VI of the Sixth Schedule shall be reduced by the annual rate of the pension which is, from time to time, being paid to her on account of her husband having been killed on active service, by any state other than Zimbabwe.

36 Increase in certain pensions

The annual rate of pension awarded in terms of subsection (4) of section *thirty-four* or subsection (2) of section *thirty-five* shall, with effect from the 1st January, 1960, be increased by an amount equal to five *per centum* thereof, calculated to the nearest integral multiple of two dollars.

37 Certain persons deemed to be dependants of deceased members

Every person whose name is mentioned in Part VII of the Sixth Schedule shall, with effect from the 1st July, 1957, be deemed to be the dependant of a deceased member, and the annual rate of the pension awarded to her under this Act shall not be less than the annual rate of the pension which was being paid to her immediately before that date by the State.

PART VII

GENERAL

38 Provision in regard to claims dealt with under certain repealed laws

(1) Where the claim of any person for a pension, allowance or other benefit has been dealt with under the Pensions (Defence Forces) Regulations or the Pensions—Africans (Defence Forces) Regulations, such claim shall be deemed to have been dealt with under this Act and any pension, allowance or other benefit awarded to such person under any of those regulations shall be deemed to have been awarded to him under this Act, with effect from the 1st July, 1957, or the date on which such award was made, whichever is the later date.

(2) Where any person mentioned in subsection (1) married more than five years after the date of his discharge from the Forces and before the 17th October, 1958, this Act shall apply in respect of the wife or any child or such marriage—

- (a) if proof of his marriage or the birth of the child, as the case may be, is, within six months after the 17th October, 1958, furnished to the Board, with effect from the 1st July, 1957, or the date of the marriage or the birth of the child, as the case may be, whichever is the later date;
- (b) if proof of his marriage or the birth of the child is not furnished to the Board within six months after the 17th October, 1958, with effect from the date on which such proof is so furnished.

39 Suspension or cancellation of award

The President may suspend or cancel, in whole or in part, any award made under this Act or deemed to have been made thereunder if he considers that the person to whom it was made is an unworthy person.

40 Awards not to be pledged or ceded

Subject to the Maintenance Act [*Chapter 5:09*] and to Part VI of the Children's Act [*Chapter 5:06*], no pension or other benefit awarded under this Act or any of the repealed laws shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated, nor shall the same be liable to be attached or subjected to any form of execution under a judgment or order of a court.

[Section amended by section 34 of Act 6 of 2005]

41 Benefits to be charged upon Consolidated Revenue Fund

Any pension or other benefit payable under this Act shall be charged upon and paid out of the Consolidated Revenue Fund.

PART VIII

INCREASE OF PENSIONS

42 Increase of pensions

(1) The rates of pension prescribed in the Second, Third and Fifth Schedules and payable before the 1st July 1962, shall, with effect from that date, be increased by an amount equal to one forty-second thereof, calculated to the nearest multiple of two dollars:

Provided that if the rate of pension so determined does not equal a multiple of twenty dollars, it shall be further increased to the next multiple of twenty dollars.

(2) The pension payable in terms of section *thirty* at less than the maximum rates mentioned in that section immediately before the 1st July, 1962, shall, with effect from that date, be increased by an amount equal to one forty-second thereof, calculated to the nearest ten cents.

(3) The maximum rates of the pensions referred to in section *thirty* and the pensions payable at such rates in terms of that section immediately before the 1st July, 1962, shall, with effect from that date, be increased by an amount equal to one forty-second thereof, calculated to the nearest multiple of two dollars:

Provided that if the rate of pension so determined does not equal a multiple of twenty dollars, it shall be further increased to the next multiple of twenty dollars.

(4) The annual rate of pension awarded in terms of subsection (4) of section *thirty-four* or subsection (2) of section *thirty-five* shall, with effect from the 1st July, 1962, be increased by an amount equal to one forty-second thereof, calculated to the nearest ten cents.

FIRST SCHEDULE (Section 9)

COMMUTATION OF PENSIONS

<i>Age of member at the date of commutation</i>	<i>Cash payment in commutation for each \$2 per annum of pension</i>
	\$
(a) 20 years or more but less than 25 years	31
(b) 25 years or more but less than 30 years	30
(c) 30 years or more but less than 35 years	29
(d) 35 years or more but less than 40 years	28
(e) 40 years or more but less than 45 years	26
(f) 45 years or more but less than 50 years	24
(g) 50 years or more but less than 55 years	22
(h) 55 years or more but less than 60 years	20
(i) 60 years or more but less than 65 years	17
(j) 65 years or more but less than 70 years	14
(k) 70 years or more but less than 75 years	12
(l) 75 years or more	10

SECOND SCHEDULE (Sections 10, 35 and 42)

PENSIONS TO MEMBERS FOR ONE HUNDRED *PER CENTUM* DEGREE OF DISABLEMENT

1. European personnel—		<i>Rate of pension per annum</i>
	<i>Rank held by member</i>	\$
(a)	lieutenant-colonel or higher rank	1 680
(b)	major.....	1 470
(c)	captain.....	1 260
(d)	lieutenant or lower rank	1 050
2. Asiatic or Coloured personnel—		<i>Rate of pension per annum</i>
	<i>Rank held by member</i>	\$
	All ranks	526
3. African personnel—		<i>Rate of pension per annum</i>
	<i>Rank held by member</i>	\$
	All ranks	588

THIRD SCHEDULE (Sections 24, 25, 35 and 42)

PENSIONS TO WIDOWS

1. European personnel—		<i>Rate of pension per annum</i>
	<i>Rank held by member</i>	\$
(a)	lieutenant-colonel or higher rank	1 050
(b)	major.....	840
(c)	captain.....	736
(d)	lieutenant or lower rank	630
Provided that—		
(i)	for the period that the widow, other than a widow referred to in proviso (ii), of a deceased member who held the rank of warrant officer or lower rank is in receipt of an allowance for a child in terms of this Act, such widow shall receive a pension at the rate of eight hundred and forty dollars <i>per annum</i> ;	
(ii)	where the widow of a deceased member who held the rank of warrant officer or any lower rank is, in the opinion of the Board, incapable of self-support or from the date such widow attains the age of fifty years, the pension shall be increased to the rate of eight hundred and forty dollars <i>per annum</i> .	
2. Asiatic or Coloured personnel—		<i>Rate of pension per annum</i>
	<i>Rank held by deceased member</i>	\$
	All ranks	316
3. African personnel—		<i>Rate of pension per annum</i>
	<i>Rank held by deceased member</i>	\$
	All ranks	84

FOURTH SCHEDULE (Section 27)

PENSION FOR CHILD OF DECEASED MEMBER

1. European personnel—		<i>Rate of pension per annum</i>
		\$
(a)	one child	200
(b)	each additional child	120
2. Asiatic or Coloured personnel—		<i>Rate of pension per annum</i>
		\$
(a)	one child	100
(b)	each additional child	60
3. African personnel—		<i>Rate of pension per annum</i>
		\$
(a)	one child	32
(b)	each additional child	20

FIFTH SCHEDULE (Sections 31 and 42)

PENSIONS FOR DEPENDANTS OF DECEASED MEMBER

1. European personnel—

	<i>Rate of pension per annum</i>
	\$
(a) a dependant under the age of eighteen years	200
(b) any other dependant	526
2. Asiatic or Coloured personnel—	
	<i>Rate of pension per annum</i>
	\$
(a) a dependant under the age of eighteen years	100
(b) a dependant who was married to a deceased member but who was not the wife to whom he had been married for the longest period	316
(c) any other dependant	262
3. African personnel—	
	<i>Rate of pension per annum</i>
	\$
(a) a dependant under the age of eighteen years	32
(b) a dependant who was married to a deceased member but who was not the wife to whom he had been married for the longest period	84
(c) any other dependant	42

SIXTH SCHEDULE (Sections 34, 35 and 37)

CERTAIN PERSONS DEEMED TO BE MEMBERS

<p>ABERDEIN, John Young. AMOS, Samuel Herbert. ARNOTT, Noel. BEZUIDENHOUT, Andries Stephanus. BLAIR, Robert Simpson. BOTES, Anthonie Johannes. BROWN, Donald Mackenzie. CANN, Joseph John. COLEMAN, Nicholas. COLIN, Frederick Constant. CONNOR, James Patrick. DART, William Thomas. DAVIES, Eric Trevor DAVES, Stewart Gwynne. de BLANCHE, Esias Michael. ELLIS, Frank Cyril. EVANS, Llewellyn Leonard. GIBSON, William Henry. GRANT, John.</p>	<p>PART I</p> <p>HOPE, Thomas Charles. LAWRENCE, Valentine Alexander. LUCAS, Hector James. MARNIE, Frederick Evan MAURER, David. MELLISH, Ronald Arthur. MERRINGTON, Frederick Lionel. MURRAY, Michael Joseph. PARK, Peter Joseph. PEYTON, Richard Chinnery. REID, Thomas. RUDOLPH, Herman Conrad. SEAGRIEF, John James. STUART, John Alfred. TATE, Noah Thomas. WILLIAMS, Alan Rodney. WISENER, Peter. WOOLLACOTT, Nathaniel.</p>
<p>BEECHEY, Arthur Edmund. BEERNE, John Augustus.</p>	<p>PART II</p> <p>CREMER, John. VON BROEMBSSEN, Robert Herman.</p>
<p>ALEXANDER, Samuel. ALKER, Tom. BERGER, Charles Henry. BRUORTON, Harry Russell. GREENFIELD, Halton Alex. GROOM, Harold William.</p>	<p>PART III</p> <p>HALL, William. MESTON, Douglas Charles. NYMAN, Frank. ROELKE, Whitmore Charles Henry. SHIMMIN, James Roderick. TATHAM, Heathcote. WELENSKY, Benjamin.</p>
<p>BRAUER, Mrs. Jessie. DURRANT, Mrs. Margaret Ellen Utten.</p>	<p>PART IV</p> <p>HAMILTON, Mrs. Ann Gutrinda. MURRAY, Mrs. Rosamund.</p>
<p>BAKER, Mrs. Violet Irene.</p>	<p>PART V</p>
<p>HAYNES, Mrs. Mary Wales.</p>	<p>PART VI</p>
<p>MACQUEEN, Miss Catherine Campbell.</p>	<p>PART VII</p> <p>WHITE, Mrs. Mary.</p>