

New Zealand.



ANALYSIS.

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| <p style="text-align: center;">Title.</p> <ol style="list-style-type: none"> 1. Short Title and commencement. 2. Interpretation. 3. Provision for payment of family allowances towards maintenance of children. 4. How average weekly income computed for purposes of Act. 5. Extension of benefits in respect of certain children. 6. Save in exceptional cases, allowances to be paid to wife of applicant. 7. Conditions precedent to grant of allowances under this Act. 8. Restriction on right to receive allowances under this Act. 9. Recovery of moneys paid in error or in excess. | <ol style="list-style-type: none"> 10. Moneys to be expended exclusively towards maintenance of dependent children. 11. Protection of allowances payable under this Act. 12. Exemptions from stamp duty. 13. Obligation to make true answers to inquiries made for purposes of Act. 14. Offences. 15. General penalty for offences. 16. Proceedings in respect of offences. 17. Minister may delegate powers to Commissioner. 18. Moneys required for purposes of Act to be paid out of Consolidated Fund. 19. Regulations. |
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1926, No. 30.

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| Title | <p>AN ACT to make Provision for the Grant of Allowances towards the Maintenance of Children by Parents with Limited Incomes.</p> <p style="text-align: right;"><i>[9th September, 1926.]</i></p> <p>BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—</p> |
| Short Title and commencement. | <p>1. This Act may be cited as the Family Allowances Act, 1926, and shall come into force on the first day of April, nineteen hundred and twenty-seven.</p> |
| Interpretation | <p>2. In this Act, unless the context otherwise requires,—</p> <p>“Average weekly income” means the average weekly income of a family ascertained in accordance with the provisions of section four hereof:</p> <p>“Child,” in relation to an applicant for an allowance under this Act, means a child under the age of fifteen years, being a son, daughter, stepson, or stepdaughter of the applicant, and includes a child legally adopted by the applicant or by his wife, but does not include—</p> <ol style="list-style-type: none"> (a.) An illegitimate child; or (b.) Any child who is not in fact maintained as a member of the family of the applicant; or (c.) Any child in respect of whom a pension out of public moneys is payable under the Pensions Act, 1926, or the War Pensions Act, 1915, or other enactment: |

“ Commissioner ” means the Commissioner of Pensions under the Pensions Act, 1926 :

“ Family,” in relation to an applicant for an allowance under this Act, includes the applicant and his wife (if living with him) and their children :

“ Income ” means the total income of a family from all sources :

“ Minister ” means the Minister for the time being administering the Pensions Act, 1926.

3. Subject to the provisions of this Act, an allowance under this Act shall, on application in the prescribed form made to the Commissioner by any person being the father of three or more children, be payable at the rate of two shillings a week for every child of the applicant in excess of two, but so that the average weekly income from all sources of the family of the applicant, including any allowance payable under this Act, shall not exceed four pounds together with two shillings for each child of the applicant in excess of two.

Provision for payment of family allowances towards maintenance of children.

4. (1.) When application for an allowance in respect of children is made under this Act the Commissioner shall compute the average weekly income of the family, and for that purpose shall take into account—

How average weekly income computed for purposes of Act.

(a.) All money or money's worth received within the period of one year immediately preceding the date of the application from all sources by any member of the family for his own use or benefit or for the use or benefit of any member of the family, exclusive of any payment by way of sick allowance or funeral benefit received from a registered friendly society :

(b.) Interest at the rate of five per centum per annum (or such higher rate as may actually be received) on the value of the beneficial interest of any member of the family in any real or personal property (other than property on which the family resides, or furniture and personal effects in the possession of the family).

(2.) Notwithstanding anything in the foregoing provisions of this section, the Commissioner may, in any special case, in computing the average weekly income of the family, take into consideration any increase of income which any member of the family may be entitled to receive in the ensuing year, or any decrease of income to be suffered by any member of the family in that year.

(3.) In any case where the income of the applicant is derived otherwise than from salary or wages, the Commissioner shall deduct from the income calculated in accordance with the foregoing provisions of this section an amount equal to the amount which in his opinion has been expended by the applicant in the production of that income.

5. (1.) In any case where the Minister is satisfied that a child in respect of whom an allowance has been paid under this Act is by reason of any physical or mental defect totally incapacitated from earning a living, an allowance in respect of such child may continue to be paid for such period as the Minister thinks fit, notwithstanding that such child may have attained the age of fifteen years.

Extension of benefits in respect of certain children.

(2.) Where in the opinion of the Minister the circumstances of any case render it desirable so to do, he may in respect of any child not being a member of the applicant's family, but maintained by him as if it

were a member of his family, account such child to be a member of the family of the applicant in determining whether an allowance under this Act is payable in respect of that child or of any other child.

Save in exceptional cases, allowances to be paid to wife of applicant.

6. (1.) Save in exceptional cases, to be determined by the Commissioner, all allowances under this Act shall be paid to the wife of the applicant in respect of whose children such allowances are payable.

(2.) If the wife of any applicant is not living with him, or if for any other reason the Commissioner is of opinion that payment should be made to the applicant personally, the allowance may be paid to the applicant.

(3.) In any other special case the Commissioner may pay any allowance under this Act to any reputable person, who shall apply the same for the benefit of the child or children in respect of whom such allowance is payable in such manner as the Commissioner may approve or direct.

Conditions precedent to grant of allowances under this Act.

7. (1.) No allowance shall be payable under this Act unless—

(a.) The applicant and, in cases where the allowance is made payable to the wife, the wife of the applicant have been permanently resident in New Zealand for not less than one year; and

(b.) The children in respect of whom the allowance is payable have been resident in New Zealand for not less than one year, or have been born in New Zealand.

(2.) For the purposes of this section the permanent residence of any person in New Zealand shall not be deemed to have been interrupted by reason of the fact that, while remaining domiciled in New Zealand, he has been employed out of New Zealand.

Restriction on right to receive allowances under this Act.

8. (1.) Save with the direction in writing of the Minister, an allowance shall not be payable under this Act in respect of the children of any person who is—

(a.) An alien; or

(b.) An Asiatic, whether naturalized or not, or whether a British subject by birth or not.

(2.) The Commissioner may, by direction of the Minister, refuse to grant an allowance under this Act—

(a.) If the applicant or his wife is of notoriously bad character, or has been guilty of any offence or misconduct dishonouring him or her in the public estimation;

(b.) If the applicant or his wife has directly or indirectly deprived himself or herself of any property or income in order to obtain payment of an allowance or of an increased allowance under this Act, or to avoid the reduction of any such allowance.

Recovery of moneys paid in error or in excess.

9. (1.) Where any allowance under this Act has been paid in error or has been paid in excess of the amount provided for by this Act, the amount so paid in error or in excess may be recovered by the Commissioner as a debt due to the Crown; and if, in the opinion of the Court in which the proceedings are taken, such payment was obtained by fraud, the person concerned shall, in lieu of or in addition to any penalty to which he is liable under any other provision of this Act, be liable, in the discretion of the Court, to a fine equal to double the amount so paid in error or in excess.

(2.) In lieu of taking proceedings under the last preceding subsection with respect to the recovery of any moneys paid in excess

the Commissioner may make such adjustment as he thinks fit in any payments thereafter to be made in respect of the allowance.

10. All moneys paid by way of allowance under this Act shall be paid and received, and shall be expended, exclusively for the benefit of the child or children in respect of whom they are paid, and the Commissioner, with the approval of the Minister, may refuse to grant an allowance under this Act with respect to any child unless he is satisfied that the allowance is to be applied towards the maintenance or education of the child.

Moneys to be expended exclusively towards maintenance of dependent children.

11. In no case shall any allowance payable under this Act be in any way assigned or charged or pass to any person by operation of law.

Protection of allowances payable under this Act.

12. (1.) Every declaration required by regulations under this Act, or adduced in proof of any particulars required to be proved for the purposes of this Act, in the investigation of any application for an allowance or of any statement as to income or property, may be made before a Justice, solicitor, constable, Registrar of Pensions, Clerk of Court, or Postmaster, or before the Commissioner of Pensions.

Exemptions from stamp duty.

(2.) No stamp duty shall be payable on any statutory declaration, receipt, or other instrument made, given, or executed for the purposes of this Act.

13. It shall be the duty of every person, whether an applicant for an allowance under this Act or not, to make true answers to all questions concerning any application for an allowance or concerning any of the statements contained in any such application that may be put to him by the Minister or by any officer authorized in that behalf by the Minister.

Obligation to make true answers to inquiries made for purposes of Act.

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

Offences.

- (a.) Without right claims or receives any allowance under this Act knowing that the same is not payable; or
- (b.) Being a member of a family in respect of which an allowance is claimed, does not, when required so to do, faithfully disclose particulars of the property and income of that family; or
- (c.) Makes or presents to the Minister, or to any officer performing a duty in relation to this Act, any wilfully false statement, document, or representation, or uses any fraudulent device or other improper means with intent that he or any other person may obtain an allowance under this Act, whether or not he or such other person, as the case may be, is entitled to receive such allowance.

15. Every person who commits an offence under this Act or under any regulations thereunder for which no specific penalty is provided elsewhere than in this section is liable to a fine of ten pounds.

General penalty for offences.

16. (1.) All proceedings for offences against this Act shall be taken before a Magistrate alone, and may be so taken at any time not exceeding six months from the time when the facts first came to the knowledge of the Commissioner.

Proceedings in respect of offences.

(2.) In all such proceedings any Registrar of Pensions, or other person appointed by the Commissioner, may appear on behalf of the Commissioner, and the fact that any person so appears shall be sufficient evidence of his authority so to do.

Minister may
delegate powers to
Commissioner.

17. The Minister may from time to time, by writing under his hand, delegate to the Commissioner all or any of the powers or functions conferred on him by this Act.

Moneys required for
purposes of Act to
be paid out of
Consolidated Fund.

18. (1.) All moneys payable by way of allowance under this Act shall be payable out of the Consolidated Fund without further appropriation than this Act.

(2.) All expenses incurred in the administration of this Act (other than the payment of allowances) shall be payable out of moneys to be from time to time appropriated by Parliament for the purpose.

Regulations.

19. The Governor-General may from time to time, by Order in Council, make regulations prescribing all matters necessary to give effect to this Act, and in particular, but without in any way limiting the generality of the foregoing provisions of this section, may make regulations prescribing—

- (a.) The manner in which applications for an allowance shall be made and dealt with, and the mode of inquiry to be adopted in connection therewith :
 - (b.) The method of calculating the income of any family, and the value of the property of any member of a family :
 - (c.) The nature of the evidence that may be required in support of any application for an allowance :
 - (d.) The times at which and the manner in which payment of allowances under this Act may be made.
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