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1964, No. 136

**An Act to consolidate and amend the Social Security Act 1938 and its amendments** [4 December 1964]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Social Security Act 1964.

(2) This Act shall come into force on the first day of April, nineteen hundred and sixty-five.

## PART I

## MONETARY BENEFITS

**2. Administration of this Part**—Subject to the control and direction of the Minister of Social Security, this Part of this Act shall be administered in the Social Security Department by the Social Security Commission.

Cf. 1938, No. 7, s. 9 (1); 1945, No. 11, s. 2 (3)

**3. Interpretation—**(1) In this Part of this Act and in the Schedules to this Act, unless the context otherwise requires,—

“Applicant”, in relation to any benefit, means a person by whom or on whose behalf an application is made for the benefit; and, where the context so requires, includes a beneficiary:

“Beneficiary” means a person who has been granted a benefit; and includes a person in respect of whom a benefit or part of a benefit has been granted:

Provided that, in relation to a family benefit, the term “beneficiary” means the child in respect of whom the benefit has been granted; and, for the purposes of this Act, the child shall be deemed to be entitled to receive the benefit, and any such benefit paid shall be deemed to have been received by the child and not by the person to whom it is actually paid:

“Benefit” means a monetary benefit under this Part of this Act:

“Child” means a child under the age of sixteen years; and includes a stepchild and an illegitimate child; and “father”, “mother”, and “parent” have corresponding meanings:

“Commission” means the Social Security Commission appointed under this Act:

“Commonwealth country” means a country that is a member of the Commonwealth of Nations; and includes every territory for whose international relations the Government of any such country is responsible:

“Department” means the Social Security Department:

“Friendly society” means any friendly society or branch thereof registered under the Friendly Societies Act 1909:

“Income”, in relation to an applicant for a benefit or in relation to any other person whose income is required to be determined for the purposes of this Part of this Act, includes (subject to the exceptions hereinafter set out) all money and the value of all benefits derived or received by that person from any source for his own use or advantage, but does not include—

(a) Any capital money received from any source:

(b) Any benefit received under this Part of this Act, or the value of any benefit under Part II of this Act, or the amount or value of any supplementary

assistance granted out of the Consolidated Revenue Account from money appropriated by Parliament under paragraph (d) of subsection (1) of section 124 of this Act:

(c) Any pension or allowance under the War Pensions Act 1954 (not being an economic pension or a war veteran's allowance) received by any person by reason of his own disablement:

(d) Any pension (not being a mother's allowance) received under Part II or Part IV or Part V of the War Pensions Act 1954 by the widow of a deceased member of the New Zealand or any other Commonwealth forces or of the Emergency Reserve Corps or of the New Zealand mercantile marine in respect of the death of that member:

(e) Any pension or other periodical allowance or any part thereof received by any person from the Government of any Commonwealth country (other than New Zealand) which the Commission determines is analogous to a pension or allowance specified in paragraph (c) or paragraph (d) of this definition:

(f) Any money received by way of funeral benefit from any friendly society:

(g) Any money paid in respect of any military decoration and received by the recipient of such decoration:

"Medical practitioner" means a medical practitioner registered under the Medical Practitioners Act 1950:

"Pay period" means a period of four complete weeks commencing on such date as the Commission from time to time determines:

"Social security income tax" means social security income tax under the Land and Income Tax Act 1954.

(2) For the purposes of this Part of this Act, a person shall be deemed not to have attained a given age until the commencement of the relevant anniversary of the day of his birth.

Cf. 1938, No. 7, s. 10; 1945, No. 11, s. 3; 1951, No. 54, s. 15; 1955, No. 9, s. 16 (1); 1958, No. 46, s. 24

#### *Administration*

**4. Social Security Department**—There shall be a Department of State, to be called the Social Security Department.

Cf. 1938, No. 7, s. 3 (1)

**5. Exercise of powers by Commission**—The powers conferred on the Social Security Commission by this Act shall be exercised under the general direction and control of the Minister of Social Security.

Cf. 1938, No. 7, s. 9 (2)

**6. Social Security Commission**—(1) For the purposes of this Act there shall be a permanent Commission to be called the Social Security Commission. The members of the Commission shall be the principal officers of the Department.

(2) The Commission shall consist of not fewer than two nor more than three Commissioners.

(3) One member of the Commission shall be appointed as the Chairman thereof, and one member shall be appointed as the Deputy Chairman thereof.

(4) The Chairman shall preside at all meetings of the Commission at which he is present.

(5) In the absence of the Chairman from any meeting, the Deputy Chairman shall preside.

(6) At any meeting of the Commission, the Chairman, or, as the case may be, the Deputy Chairman presiding, shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(7) The Chairman shall be the administrative head of the Department.

Cf. 1938, No. 7, s. 4

**7. Acting Commissioners**—(1) There may from time to time be appointed one or more Acting Commissioners for the purposes of this Act.

(2) An Acting Commissioner may act as a member of the Commission in the event of the non-appointment of a Commissioner or of any vacancy in the Commission, or when for any cause any member of the Commission is unable to act.

(3) The fact that any person for the time being holding office as an Acting Commissioner attends any meeting of the Commission or exercises any other function of a member of the Commission shall be conclusive evidence of his authority so to do.

Cf. 1938, No. 7, s. 5

**8. Commissioners, Acting Commissioners, and other officers to be appointed under State Services Act 1962**—The Commissioners, the Acting Commissioners, and such officers and

other employees of the Department as may be required shall be appointed under the provisions of the State Services Act 1962.

Cf. 1938, No. 7, ss. 3 (3), 4 (2)

**9. Meetings of Commission**—(1) The Commission shall sit at such times and places as it determines from time to time.

(2) At any meeting of the Commission two members shall form a quorum.

Cf. 1938, No. 7, s. 6

**10. Delegation of powers of Commission**—(1) With the written consent of the Minister of Social Security, the Commission may from time to time, either generally or particularly, delegate to any of its members or any officer of the Department such of its powers under this Act as the Commission determines.

(2) Subject to the provisions of this section and to any general or special directions given or conditions attached by the Commission, the person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

(5) Any delegation under this section may be at any time revoked by the Commission, in whole or in part, and no such delegation shall prevent the exercise of any power by the Commission.

(6) Any applicant or beneficiary affected by any decision made by any person in the exercise of any powers conferred on him by delegation under this section may, within three months after the communication of the decision to him, appeal therefrom to the Commission.

(7) The Commission shall review every decision appealed from as aforesaid, and may at any time, of its own motion, review any other decision made by any person in the exercise

of any powers conferred on him by delegation under this section, and in any such case the Commission may, in accordance with the provisions of this Act, confirm, vary, or revoke the decision.

Cf. 1947, No. 28, s. 2

**11. Powers of Commission of Inquiry**—(1) For the purpose of investigating any claim for a benefit under this Act, or otherwise for the purpose of enabling it to carry out its functions under this Act, the Commission shall have all the powers of a Commission appointed under the Commissions of Inquiry Act 1908, and all the provisions of that Act shall apply accordingly.

(2) The powers conferred on the Commission by this section may, with the authority of the Commission, be exercised for the purposes of this Act by any member of the Commission.

Cf. 1938, No. 7, s. 7

**12. Investigation of claims and grant of benefits**—(1) Every claim for a benefit shall be investigated by the Commission or by an officer of the Department acting with the authority of the Commission, and all benefits shall (subject to any delegation of its powers under section 10 of this Act) be granted by the Commission.

(2) It shall be the duty of every person to answer all questions put to him by the Commission or by any officer of the Department concerning any applicant for a benefit or concerning any statements contained in any application for a benefit.

(3) Every person commits an offence who demands or accepts from any applicant or from any other person any fee or other consideration for procuring or endeavouring to procure the grant of a benefit.

Cf. 1938, No. 7, s. 59

### *Superannuation Benefits*

**13. Superannuation benefits**—Subject to the provisions of this Part of this Act, every person who has attained the age of sixty-five years shall be entitled to receive a superannuation benefit under this Part of this Act.

Cf. 1938, No. 7, s. 11



**14. Residential qualifications for superannuation benefits—**

(1) No person shall be entitled to a superannuation benefit, unless he is ordinarily resident in New Zealand at the date of his application for a benefit, and unless—

(a) He was ordinarily resident in New Zealand on the fifteenth day of March, nineteen hundred and thirty-eight (being the date of the passing of the Pensions Amendment Act 1937) and also on the selected date (being a date not later than ten years before the date of his application for the benefit), and his absences from New Zealand since the selected date have not in the aggregate exceeded one year increased by six months for every year in excess of ten years which has elapsed since the selected date; or

(b) He was ordinarily resident in New Zealand on the selected date (being a date not later than twenty years before the date of his application for the benefit), and his absences from New Zealand since the selected date have not in the aggregate exceeded two years increased by six months for every year in excess of twenty years which has elapsed since the selected date.

(2) In determining for the purposes of subsection (1) of this section the period an applicant has been absent from New Zealand, no account shall be taken of—

(a) In the case of a totally blind person, any period of absence for the purpose of vocational training or of treatment in respect of his eyes:

(b) In the case of any applicant, any period of absence for the purpose of obtaining any special medical or surgical treatment or vocational training, if the Commission is satisfied that there were good and sufficient reasons for his leaving New Zealand to obtain that special treatment or training:

(c) In the case of a seaman, any period of absence while serving on board any ship registered or owned in New Zealand, and engaged in trading to and from New Zealand:

(d) In the case of any applicant, any period of absence while serving in any capacity as a member of any naval, military, or air force of any Commonwealth country or serving in connection with any war as a member of any organisation attached to any such force,—

if in each case mentioned in this subsection the Commission is

satisfied that during the absence of the applicant he remained ordinarily resident in New Zealand.

(3) For the purposes of subsection (1) of this section, the Commission may, in its discretion, deem any applicant to be resident in New Zealand during the whole or part of any period of absence that the applicant has engaged in missionary work outside New Zealand as a member of, or on behalf of, any religious body, or, as the case may be, during any period that she was absent from New Zealand with her husband while he was engaged in such missionary work, if the applicant was born in New Zealand or was ordinarily resident in New Zealand immediately before he left New Zealand to engage in such missionary work, or as the case may be, immediately before she left New Zealand with her husband or for the purpose of joining him.

(4) Unless otherwise expressly provided in the agreement, the provisions of subsection (3) of this section shall not be deemed to be modified by the provisions of any agreement entered into by the Government of New Zealand with the Government of any other country, whether before or after the commencement of this Act, providing for reciprocity in social security benefits between their respective countries or the provisions of any Act giving effect to any such agreement.

(5) In this section—

“Missionary work” includes the advancement of religion or education and the maintenance, care, or relief of orphans, or the aged, infirm, sick, or needy:

“Selected date” means date of birth or any date of arrival in New Zealand of any applicant which is selected by the Commission as the date from which a period of residence in New Zealand is to be calculated:

Provided that the Commission shall select a date which will be most advantageous to the applicant.

Cf. 1938, No. 7, s. 12; 1955, No. 1, s. 17; 1962, No. 102, s. 2

**15. Rates of superannuation benefits**—Subject to the provisions of this Part of this Act, the rate of the superannuation benefit payable to any beneficiary shall be the appropriate rate specified in the First Schedule to this Act.

Cf. 1938, No. 7, s. 13; 1960, No. 13, s. 15; 1964, No. 37, s. 4 (1)

*Age Benefits*

**16. Age benefits**—Subject to the provisions of this Part of this Act, every person who has attained the age of sixty years shall be entitled to receive an age benefit under this Part of this Act:

Provided that the Commission may in its discretion grant an age benefit to any unmarried female applicant who has attained the age of fifty-five years and by reason of physical or mental disability, or for any other good and sufficient reason, is unable to undertake regular employment.

Cf. 1938, No. 7, s. 14; 1955, No. 34, s. 2 (1)

**17. Residential qualifications for age benefits**—No person shall be entitled to an age benefit, unless he satisfies the residential qualifications prescribed in section 14 of this Act for a superannuation benefit.

Cf. 1938, No. 7, s. 15

**18. Rates of age benefits**—Subject to the provisions of this Part of this Act, the rate of the age benefit payable to any beneficiary shall be the appropriate rate specified in clause 1 of the Second Schedule to this Act.

Cf. 1938, No. 7, ss. 16, 17; 1954, No. 69, s. 5 (1) (b); 1964, No. 37, ss. 5 (1), 6 (1)

**19. Special income exemption where application for benefit deferred**—(1) Notwithstanding anything to the contrary in this Part of this Act, the Commission may, in its discretion, in computing pursuant to section 18 of this Act the rate of any age benefit payable to any person who has attained the age of sixty-five years and the rate of any age benefit payable to the wife or husband of any such person, take no account of any income of the beneficiary and his or her spouse (if any) up to, in the aggregate, the amount specified in clause 2 of the Second Schedule to this Act for every year of deferment.

(2) In this section the expression “year of deferment” means any period or periods (whether before or after the commencement of this Act) amounting to a year during which the beneficiary or, in the alternative, the husband or wife of the beneficiary after attaining the age of sixty years and before attaining the age of sixty-five years, and having satisfied the conditions as to residence for the grant of an age benefit, has not received any benefit:

Provided that for the purposes of this section, the Commission may, in its discretion, regard any short period during which any person has received any benefit as a period during which he has not received any benefit.

Cf. 1950, No. 49, s. 20; 1960, No. 13, s. 16 (2)

**20. Additional benefit for South African War veterans**—In addition to the age benefit computed in accordance with the foregoing provisions of this Part of this Act, there shall be payable a special allowance, at the rate specified in clause 3 of the Second Schedule to this Act, to any beneficiary who served in South Africa as a member of a New Zealand contingent in connection with the South African War, or who, being domiciled in New Zealand at the commencement of that war or having been born in New Zealand, served in South Africa in connection with that war as a member of any of Her Majesty's Forces other than a New Zealand contingent.

Cf. 1938, No. 7, s. 19; 1944, No. 31, s. 5; 1945, No. 11, s. 8 (1) (a); 1963, No. 47, s. 45; 1964, No. 37, s. 7 (1)

#### *Widows' Benefits*

**21. Widows' benefits**—(1) Subject to the provisions of this Part of this Act,—

- (a) Every widow who is the mother of one or more dependent children under sixteen years of age; and
- (b) Every widow (not being a widow to whom paragraph (a) of this subsection applies) who satisfies the following conditions, namely:
  - (i) That she has had one or more children; and
  - (ii) That the duration of her marriage (or, if she was married more than once, the aggregate of the periods of the duration of her marriages) was not less than fifteen years, or, in the alternative, that the aggregate of the periods of the duration of her marriage or marriages and any subsequent period during which she had the care and control of at least one of her children under sixteen years of age was not less than fifteen years; and
- (c) Every widow who, on the expiration of not less than five years after the date of her marriage, became a widow after she had attained the age of fifty years; and

(d) Every widow (not being a widow to whom paragraph (c) of this subsection applies) who satisfies all of the following conditions, namely:

- (i) That she is not less than fifty years of age;
- (ii) That she became a widow after she had attained the age of forty years;
- (iii) That the duration of her marriage (or, if she was married more than once, the aggregate of the periods of the duration of her marriages) was not less than ten years; and
- (iv) That not less than fifteen years has elapsed since the date of her marriage or, if she was married more than once, the date of her first marriage,—

shall be entitled to receive a widow's benefit under this Part of this Act.

(2) Except in any case to which paragraph (a) of subsection (1) of this section applies, no woman shall be entitled to receive a benefit under this section, unless—

- (a) Both she and her husband were ordinarily resident in New Zealand for not less than three years immediately preceding the date of the husband's death; or
- (b) Either she or her husband, being ordinarily resident in New Zealand at the date of the husband's death, has resided continuously in New Zealand for not less than five years.

(3) For the purposes of this section, the term "children" does not include—

- (a) An illegitimate child; or
- (b) Any child born out of New Zealand, unless at least one of the following conditions is satisfied, namely:
  - (i) The mother gave birth to the child while only temporarily absent from New Zealand; or
  - (ii) Both of his parents were ordinarily resident in New Zealand for the three years immediately preceding the date of the husband's death; or
  - (iii) One of his parents being ordinarily resident in New Zealand at the date of the husband's death, has resided continuously in New Zealand for not less than five years.

(4) For the purposes of this section, a child born in New Zealand when neither of his parents was ordinarily resident in New Zealand at the time shall be deemed to have been born out of New Zealand.

(5) For the purposes of paragraph (a) of subsection (1) of this section and of the Third Schedule to this Act, a child in respect of whom a family benefit is being paid under the

proviso to subsection (1) of section 32 of this Act shall be deemed to be under the age of sixteen years.

(6) Notwithstanding anything in subsection (3) of this section, the Commission may, in its discretion, for the purposes of this section, regard any child as being a child of the applicant and the applicant as being the mother of that child if that child is being maintained by the applicant and was at any time maintained by the husband of the applicant.

Cf. 1938, No. 7, s. 22; 1945, No. 11, s. 9 (c); 1952, No. 81, s. 15

**22. Benefits to wives of mental patients**—(1) Subject to the provisions of this Part of this Act, where the husband of a married woman is, and has been continuously for a period of at least six months immediately preceding the making of the application for a benefit, in an institution under the Mental Health Act 1911 as a patient (whether pursuant to a reception order or as a voluntary inpatient or otherwise), the Commission may, in its discretion, grant her a special benefit under section 21 of this Act as if she were a widow:

Provided that no married woman shall be granted a benefit under this section, unless she would have been entitled to a benefit under section 21 of this Act if her husband had died on the date six months after the date of his admission to an institution under the Mental Health Act 1911.

(2) In determining for the purposes of subsection (1) of this section whether any person is or has been continuously in an institution, the Commission may, in its discretion, disregard any period or part of any period during which that person is or has been on leave or absent from the institution.

(3) Where a benefit granted under this section or under the corresponding provisions of any former enactment has been cancelled for any reason whatsoever, then, where application is subsequently made by the beneficiary for a benefit under this section, the six months' qualification period specified in subsection (1) of this section shall not be required if the application is made at any time within twelve months after the cancellation.

Cf. 1938, No. 7, s. 22 (2) (b); 1948, No. 78, s. 18 (1); 1961, No. 6, s. 2

**23. Benefits to deserted wives**—Subject to the provisions of this Part of this Act, where the Commission is satisfied that any married woman has been deserted by her husband and that she has taken proceedings against her husband for a

maintenance order under the Destitute Persons Act 1910, the Commission may, in its discretion, grant her a widow's benefit as if she were a widow:

Provided that no married woman shall be entitled to a benefit under this section unless she would have been entitled to a benefit under section 21 of this Act if her husband had died on the date he deserted her.

Cf. 1938, No. 7, s. 22 (2) (a); 1948, No. 78, s. 18 (1)

**24. Rates of widows' benefits—**(1) Subject to the provisions of this Part of this Act, the rate of the widow's benefit payable to any beneficiary shall be the appropriate rate specified in the Third Schedule to this Act.

(2) In determining the rate of benefit payable to any applicant to whom section 22 of this Act applies, any income (including any pension or allowance under the War Pensions Act 1954) derived by the husband of the applicant shall be taken into account as if it were income derived by the applicant.

(3) Where a beneficiary who is in receipt of a widow's benefit has one or more children dependent upon her and supported by her to the satisfaction of the Commission, the Commission may, in its discretion, increase the rate of the widow's benefit by a mother's allowance at a rate not exceeding the appropriate rate specified in clause 3 of the Third Schedule to this Act.

Cf. 1938, No. 7, ss. 23, 24; 1946, No. 22, s. 2 (1); 1961, No. 6, s. 3 (1); 1964, No. 37, ss. 8, 9

**25. Special provisions as to benefits to deserted wives—**

(1) In this section the term "benefit" means a widow's benefit granted under section 23 of this Act, and the term "beneficiary" means an applicant for such a benefit or a person to whom such a benefit has been granted.

(2) Where at any time after the date of the commencement of and before the date of the termination of a benefit any amount is received by the beneficiary from her husband (whether under a maintenance order or otherwise) in respect of the maintenance of the beneficiary or of any child or children of the beneficiary, the Commission may, in its discretion, determine that the whole or any part of the amount so received shall be regarded as an instalment of the benefit in excess of the amount to which the beneficiary is by law entitled, and in any such case the provisions of subsection (1) of section 86 of this Act shall apply accordingly.

(3) Where any money is payable under a maintenance order to the Registrar of any Magistrate's Court in respect of the maintenance of any beneficiary or of any child or children of a beneficiary, the Commission shall give notice to the Registrar of the granting of the benefit to the beneficiary, and in any such case all money (including arrears) received under the order by the Registrar of that or any other Magistrate's Court after the receipt of the notice shall, without further authority than this section, be paid into the Consolidated Revenue Account.

(4) Upon the termination of any benefit in respect of which a notice has been given as aforesaid, the Commission shall give notice of the termination to the Registrar of the Magistrate's Court to whom the money payable under the order is for the time being payable, and in any such case no money received under the order after the date of the receipt of the notice of termination shall be paid into the Consolidated Revenue Account unless it was due and payable before the date of termination of the benefit.

(5) Where any money received or payable under any maintenance order is payable into the Consolidated Revenue Account as aforesaid, the Commission shall, for the purposes of the Destitute Persons Act 1910 or any other enactment, be deemed to be the person to whom and for whose benefit the money is payable in pursuance of the order, and may take any proceedings accordingly.

(6) So long as any money payable under a maintenance order is required by this section to be paid into the Consolidated Revenue Account, any money received under that order by the Registrar of any Magistrate's Court after the date of receipt of notice of termination of the benefit as prescribed in subsection (4) of this section may, in the discretion of the Registrar, be apportioned between the wife, in respect of maintenance accrued and unpaid since the date of the termination of the benefit, and the Commission, in respect of maintenance accrued and unpaid up to the date of the termination of the benefit:

Provided that the wife or the Commission or the Registrar of the Court may at any time apply to a Magistrate for an order apportioning any such money or, in the case of an application by the wife or the Commission, for an order varying an apportionment already made by the Registrar; and on any such application the Magistrate may make such order as he thinks fit apportioning the money paid or payable



under the maintenance order, or give such directions as he considers necessary or desirable to the Registrar in respect of the disposal of any money received by him under the order.

(7) Any officer of the Department, without special appointment,—

(a) May, as if he were a duly appointed maintenance officer, institute or appear personally or by agent in any proceedings under the Destitute Persons Act 1910 for or in relation to a maintenance order in respect of the maintenance of any beneficiary or of any child of a beneficiary:

(b) May, on behalf of the Commission, appear personally or by agent in any such proceedings, whether or not any maintenance officer has instituted or appears in the proceedings.

(8) Where any money payable under a maintenance order is payable into the Consolidated Revenue Account pursuant to this section, either the beneficiary or the Commission, acting for and on behalf of the beneficiary, may—

(a) Institute and prosecute proceedings under Part VI of the Destitute Persons Act 1910 for the enforcement of the order:

(b) So long as a benefit continues to be payable to the beneficiary under this section, institute and prosecute proceedings under section 39 of the Destitute Persons Act 1910 for an order cancelling, varying, or suspending the maintenance order.

(9) While any money payable under a maintenance order is payable into the Consolidated Revenue Account, the Commission shall be served with a copy of any proceedings instituted by any person under the Destitute Persons Act 1910 in relation to the order, and the Commission or any officer of the Department, without special appointment, shall be entitled to appear and be heard in any such proceedings.

(10) All money paid into the Consolidated Revenue Account under this section by or on behalf of the husband of any beneficiary shall from time to time, without further appropriation than this section, be applied as follows:

(a) In payment of the legal and other expenses incidental to the recovery of the money;

(b) In reimbursing the Consolidated Revenue Account for the amount of every benefit or instalment of a benefit paid to the beneficiary; and

(c) In payment of the balance to the beneficiary.

(11) Nothing in this section shall so operate as to take away or restrict any liability imposed by the Destitute Persons Act 1910 on any person for the maintenance of any other person, or to affect the power of a Magistrate to make any maintenance order under that Act.

Cf. 1943, No. 19, s. 13; 1950, No. 49, s. 21

**26. Continuation of benefit to deserted wife after divorce—**Where the marriage of any woman who is in receipt of a benefit under section 23 of this Act is dissolved by divorce, the Commission may, in its discretion and subject to such conditions as it thinks fit, continue the benefit as if the marriage had not been dissolved; and in any such case the provisions of section 25 of this Act shall, with the necessary modifications, continue to apply as if the marriage were still subsisting.

Cf. 1938, No. 7, s. 22 (2A); 1954, No. 69, s. 15

**27. Continuation of benefit when benefit ceases to be payable in respect of children—**(1) Where a widow's benefit has been computed by reference to any child or children, the benefit shall cease to be payable at the end of the pay period in which, by reason of death or otherwise, there ceases to be any child in respect of whom the benefit is payable.

(2) Any beneficiary whose benefit has been terminated in accordance with subsection (1) of this section shall thereupon be entitled, if not less than fifteen years had then elapsed since the date of her marriage, to receive a widow's benefit computed as provided for a widow without a child or children under the age of sixteen years.

Cf. 1938, No. 7, s. 25; 1943, No. 19, s. 14

### *Orphans' Benefits*

**28. Orphans' benefits—**(1) Subject to the provisions of this Part of this Act, every child under the age of sixteen years shall be entitled to be granted an orphan's benefit under this Part of this Act if the following conditions are satisfied, namely:

- (a) That both of his parents are dead; and
- (b) That he was born in New Zealand, or that his last surviving parent was ordinarily resident in New Zealand for not less than three years immediately preceding the date of that parent's death:

Provided that, if, by reason of any physical or mental defect, a child is totally incapacitated from earning a living, or for the purpose of assisting in the further education of a child over the age of sixteen years, the Commission may, in its discretion, as if the child had not attained that age, grant or continue a benefit under this section for such period or periods as it thinks fit expiring not later than the last day of the pay period that occurs nearest to the thirty-first day of December in the year in which the child attains the age of eighteen years.

(2) An application for a benefit under this section in respect of any child may be made by any person for the time being having the care and control of the child.

(3) For the purposes of the foregoing provisions of this section, the term "child" does not include an illegitimate child.

Cf. 1938, No. 7, ss. 26 (1)–(3), 66 (1)

**29. Rates of orphans' benefits**—The rate of the orphan's benefit payable in respect of any orphan shall in each case be fixed by the Commission, but shall not in any case exceed the appropriate rate specified in the Fourth Schedule to this Act.

Cf. 1938, No. 7, s. 27; 1960, No. 13, s. 16; 1964, No. 37, s. 10 (1)

**30. Period for which orphan's benefit payable**—(1) Subject to the provisions of section 28 of this Act, every orphan's benefit shall cease to be payable at the end of the pay period in which the child attains the age of sixteen years.

(2) Where a child in respect of whom an orphan's benefit is payable dies, the benefit shall continue until the end of the pay period in which the child dies, and the amount (if any) unpaid on the date of the death of the child may be paid to the person to whom the orphan's benefit was payable at that date, or to such other person as the Commission determines.

Cf. 1938, No. 7, s. 26 (4), (4A); 1948, No. 78, s. 19

**31. Orphan's benefit to be used for benefit of child**—Every orphan's benefit shall, as the Commission determines, be paid to the person having the care and control of the child, or to some other reputable person, and shall be applied towards the maintenance or education of the child or otherwise for his benefit.

Cf. 1938, No. 7, s. 26 (5)

*Family Benefits*

**32. Family benefits**—(1) Subject to the provisions of this Part of this Act, on the application of the father or mother of the child or the person to whom the benefit would be payable under section 37 of this Act a family benefit under this Part of this Act shall be granted in respect of each child under the age of sixteen years:

Provided that, if, by reason of any physical or mental defect, a child is totally incapacitated from earning a living, or for the purpose of assisting in the further education of a child over the age of sixteen years, the Commission may, in its discretion, as if the child had not attained that age, grant or continue a family benefit for such period or periods as it determines, expiring not later than the last day of the pay period that occurs nearest to the thirty-first day of December in the year in which the child attains the age of eighteen years.

(2) For the purposes of this section the term “child” does not include—

(a) Any child who is not in fact maintained as a member of the family of the applicant; or

(b) Any child in respect of whom any other benefit is payable; or

(c) Any child in respect of whom a pension or allowance is for the time being payable under the War Pensions Act 1954 (other than a pension or allowance in respect of his own disablement),—

and “father” and “mother” have corresponding meanings.

(3) Notwithstanding anything in the foregoing provisions of this section, the Commission may, in its discretion, regard as a member of the family of an applicant for a family benefit, any child who, though not a member of the applicant’s family, is maintained as a member of that family.

Cf. 1938, No. 7, ss. 28, 62 (a), 66 (1); 1941, No. 4, s. 21; 1945, No. 11, s. 29 (a), (b); 1946, No. 22, s. 3; 1962, No. 22, s. 14

**33. Residential qualifications for family benefit**—A family benefit shall not be payable in respect of any child, unless at least one of the following conditions is satisfied, namely:

(a) The child was born in New Zealand:

(b) The mother gave birth to the child while only temporarily absent from New Zealand:

(c) The Commission is satisfied that the child is likely to remain permanently in New Zealand:

(d) The child has resided continuously in New Zealand for not less than twelve months.

Cf. 1938, No. 7, s. 29 (1)

**34. Rate of family benefits**—Subject to the provisions of this Part of this Act, the rate of the family benefit payable to any beneficiary shall be the appropriate rate specified in the Fifth Schedule of this Act.

Cf. 1938, No. 7, s. 30; 1945, No. 11, s. 13; 1958, No. 46, s. 10

**35. Period for which family benefit payable**—(1) A family benefit in respect of a child shall commence on the first day of the pay period in which the child is born:

Provided that, in any case where application for the benefit is received by the Commission after the expiration of three months from the date of birth of the child, the benefit shall commence on such day as the Commission determines.

(2) Subject to the provisions of section 32 of this Act, a family benefit in respect of a child shall cease to be payable at the end of the pay period in which the child attains the age of sixteen years.

(3) Where a child in respect of whom a family benefit is payable dies, the benefit in respect of that child shall continue until the end of the pay period in which the child dies, and the amount (if any) unpaid on the date of the death of the child may be paid to the person to whom the family benefit was payable on that date or to such other person as the Commission determines.

Cf. 1945, No. 11, s. 15; 1946, No. 22, s. 5

**36. Family benefit may be paid for year in advance**—(1) Notwithstanding anything to the contrary in this Part of this Act, the Commission may, in its discretion, pay in a lump sum a family benefit or portion of a family benefit in advance for a period not exceeding fifty-two weeks in respect of—

(a) The first child of a marriage, provided application for such payment is made within three months from the date of the birth of the child; or

(b) A child who has commenced his first year of post-primary education, provided application for such payment is made within three months from the date on which the child commenced to receive that education.

(2) For the purposes of paragraph (a) of subsection (1) of this section, the Commission, in determining whether any child is the first child of the marriage, shall disregard any previous child of the marriage who lived for a period not exceeding thirty-one days and in respect of whom payment of a family benefit in advance was not made under the provisions of this section or section 20 of the Social Security Amendment Act 1958.

Cf. 1958, No. 46, s. 20; 1959, No. 80, s. 2

**37. Person to whom family benefit payable**—(1) Unless the Commission otherwise determines, the family benefit shall be payable to the mother of the child or children (whether application for the benefit has been made by the mother or the father).

(2) The Commission may, in its discretion, determine that the family benefit shall be paid to the father of the child or to any person having the care and control of the child or to any other reputable person for the benefit of the child.

Cf. 1938, No. 7, s. 31

**38. Family benefit to be expended for maintenance of children**—All money received by way of family benefit shall be used towards the maintenance or education of the child or children in respect of whom the benefit is paid, and the Commission may refuse to grant a benefit or may terminate the benefit unless the Commission is satisfied the benefit will be or has been properly applied.

Cf. 1938, No. 7, s. 32

**39. Payment of family benefit not to restrict right to maintenance, compensation, or damages**—(1) The payment of a family benefit shall not operate so as to take away or restrict any liability imposed by the Destitute Persons Act 1910 on any person for the maintenance of any other person, or so as to affect the power of a Magistrate to make any maintenance order under that Act.

(2) In any proceedings under the Deaths by Accidents Compensation Act 1952 or the Workers' Compensation Act 1956 for damages or compensation in respect of the death of any person, no account shall be taken, in assessing the damages or compensation payable by or to any person, of any family benefit payable under this Part of this Act.

Cf. 1938, No. 7, s. 29 (3), (4); 1945, No. 45, s. 57; 1952, No. 81, s. 16

*Invalids' Benefits*

**40. Invalids' benefits**—Subject to the provisions of this Part of this Act, every person who has attained the age of sixteen years and who is not qualified to receive an age benefit shall be entitled to an invalid's benefit under this Part of this Act, if he—

- (a) Is totally blind; or
- (b) Is permanently incapacitated for work as the result of an accident or by reason of illness or of any congenital defect:

Provided that no person shall be entitled to a benefit under this section if his incapacity for work or total blindness was self-induced or was brought about by the applicant with a view to qualifying for a benefit under this Part of this Act.

Cf. 1938, No. 7, s. 33 (1), (2) (c)

**41. Residential qualifications for invalids' benefits**—(1) No person shall be entitled to an invalid's benefit, unless he is ordinarily resident in New Zealand at the date of his application for a benefit, and unless—

- (a) In the case of an applicant—
  - (i) Who was ordinarily resident in New Zealand on the fourth day of September, nineteen hundred and thirty-six (being the date of the passing of the Pensions Amendment Act 1936); or
  - (ii) Who was born blind in New Zealand or became blind while ordinarily resident in New Zealand; or
  - (iii) Who was born in New Zealand with the condition to which his incapacity for work is attributable or whose incapacity for work is attributable to an accident happening in New Zealand or an illness contracted in New Zealand—

he was ordinarily resident in New Zealand on the selected date, being a date not later than ten years before the date of his application for the benefit, and his absences from New Zealand since the selected date have not in the aggregate exceeded one year increased by six months for every year in excess of ten years which has elapsed since the selected date; or

(b) In the case of any other applicant, he was ordinarily resident in New Zealand on the selected date, being a date not later than twenty years before the date of his application for the benefit, and his absences from New Zealand since the selected date have not in the aggregate exceeded two years increased by six months for every year in excess of twenty years which has elapsed since the selected date.

(2) In determining for the purposes of subsection (1) of this section the period an applicant has been absent from New Zealand, no account shall be taken of—

(a) In the case of a totally blind person, any period of absence for the purpose of vocational training or of treatment in respect of his eyes:

(b) In the case of any applicant, any period of absence for the purpose of obtaining any special medical or surgical treatment if the Commission is satisfied that there were good and sufficient reasons for his leaving New Zealand to obtain that special treatment:

(c) In the case of a seaman, any period of absence while serving on board any ship registered or owned in New Zealand, and engaged in trading to and from New Zealand:

(d) In the case of any applicant, any period of absence while serving in any capacity as a member of any naval, military, or air force of any Commonwealth country or serving in connection with any war as a member of any organisation attached to any such force,—

if in each case mentioned in this subsection the Commission is satisfied that during the absence of the applicant he remained ordinarily resident in New Zealand.

(3) For the purposes of this section, the term “selected date” means the date of birth or any date of arrival in New Zealand of any applicant which is selected by the Commission as the date from which a period of residence in New Zealand is to be calculated:

Provided that the Commission shall select a date which will be most advantageous to the applicant.

Cf. 1938, No. 7, s. 33 (2), (3); 1945, No. 11, s. 17; 1955, No. 9, s. 19

**42. Rates of invalids' benefits**—Subject to the provisions of this Part of this Act, the rate of the invalid's benefit



payable to any beneficiary shall be the appropriate rate specified in clause 1 of the Sixth Schedule to this Act.

Cf. 1938, No. 7, s. 34; 1945, No. 11, s. 18; 1958, No. 46, s. 12; 1960, No. 13, s. 16 (1); 1964, No. 37, s. 11 (1)

**43. Subsidy on earnings of blind beneficiaries**—In addition to the benefit computed as provided in section 42 of this Act, there shall be payable to every person who for the time being is in receipt of an invalid's benefit in respect of his total blindness and who is employed in any occupation an additional allowance equal to twenty-five per cent of his average earnings for the year:

Provided that an allowance shall not be granted under this section of such an amount that the total amount from all sources, including any benefit (other than a family benefit) and the value of any benefits in kind, received by the beneficiary for his own use in any year shall exceed the appropriate amount specified in clause 2 of the Sixth Schedule to this Act.

Cf. 1938, No. 7, s. 35; 1964, No. 37, s. 12 (1)

**44. Medical examination of invalids**—The Commission may, in its discretion, require any applicant for an invalid's benefit or any person in receipt of an invalid's benefit to submit himself for examination by a medical practitioner, to be nominated by the Commission for the purpose, who shall certify whether or not in his opinion the applicant or beneficiary is permanently incapacitated for work or is totally blind, and shall state the grounds upon which his opinion is founded.

Cf. 1938, No. 7, s. 38

**45. Right of appeal on medical grounds**—If any claim for an invalid's benefit is declined on medical grounds or any such benefit is cancelled on medical grounds, the applicant or beneficiary shall, at any time within three months after the decision of the Commission has been communicated to him, have a right of appeal to a Board of three medical practitioners, to be appointed for that purpose by the Commission. On any such appeal the Commission shall be bound by the decision of the Appeal Board.

Cf. 1938, No. 7, s. 38

**46. Refusal to undertake vocational training**—Where any person who is in receipt of an invalid's benefit is capable of being trained in any occupation, the Commission may, in its discretion, suspend payment of the benefit, in whole or in part, if the beneficiary refuses without sufficient cause to undertake such training when called upon to do so.

Cf. 1938, No. 7, s. 37

#### *Miners' Benefits*

**47. Miners' benefits**—(1) Subject to the provisions of this Part of this Act, every person shall be entitled to receive a miner's benefit under this Part of this Act if the Commission is satisfied that he contracted miner's phthisis or any other occupational disease or heart disease while engaged as a miner in New Zealand, and that—

- (a) In the case of a person suffering from miner's phthisis, he has been thereby permanently and seriously incapacitated for work; or
- (b) In the case of a person suffering from any other occupational disease or from heart disease, he has been thereby permanently and totally incapacitated for work:

Provided that no person shall be entitled to receive a miner's benefit under this section for any disease for any period in respect of which he is paid compensation under the Workers' Compensation Act 1956 in respect of that disease.

(2) For the purposes of this section the term "miner's phthisis" means pneumoconiosis or tuberculosis of the lungs.

Cf. 1938, No. 7, s. 39

**48. Residential qualifications for miners' benefits**—No person shall be entitled to a miner's benefit, unless he satisfies the following conditions, namely:

- (a) That he has been employed in New Zealand as a miner for not less than a total period of two and a half years:
- (b) That he has resided continuously in New Zealand for not less than five years immediately preceding the date of his application for the benefit:

Provided that continuous residence in New Zealand shall not be deemed to have been interrupted by any absences therefrom not exceeding six months in the aggregate.

Cf. 1938, No. 7, s. 40

**49. Rates of miners' benefits**—Subject to the provisions of this Part of this Act, the rate of the miner's benefit payable to any beneficiary shall be the appropriate rate specified in clause 1 of the Seventh Schedule to this Act.

Cf. 1938, No. 7, s. 41; 1945, No. 11, s. 21; 1964, No. 37, s. 13 (1)

**50. Medical examination of applicants for miners' benefits**—(1) Every application for a miner's benefit shall be accompanied by the certificate of a medical practitioner to the effect that the applicant is suffering from miner's phthisis or from some other occupational disease or heart disease, and that he is thereby permanently incapacitated for work, either totally or to an extent indicated in the certificate.

(2) The Commission may, at any time, require any applicant for a miner's benefit or any person who is in receipt of a miner's benefit to submit himself for examination by a medical practitioner, to be nominated by the Commission for the purpose, who shall certify whether or not in his opinion the applicant or beneficiary is suffering from miner's phthisis or from any other disease as aforesaid so as to be thereby permanently incapacitated for work, and if so, the extent of the incapacity.

(3) If on examination under this section the Commission determines that a beneficiary is no longer incapacitated for work by reason of any such disease as aforesaid, the benefit shall cease to be payable.

Cf. 1938, No. 7, s. 42 (1)–(3)

**51. Right of appeal on medical grounds**—If any claim for a miner's benefit is declined on medical grounds or any such benefit is cancelled on medical grounds, the applicant or the beneficiary shall, at any time within three months after the decision of the Commission has been communicated to him, have a right of appeal to a Board of three medical practitioners, to be appointed for that purpose by the Commission. On any such appeal, the Commission shall be bound by the decision of the Appeal Board.

Cf. 1938, No. 7, s. 42 (4)

**52. Funeral grant on death of miner**—(1) On the death of any person in receipt of a miner's benefit, there shall be payable, on application being made within twelve months after the date of death of the deceased, an amount to be fixed by the Commission as the reasonable expenses of his funeral.

(2) Payment under this section may be made to the widow (if any) of the deceased, or to any person by whom the funeral expenses were incurred, or to any person entitled to receive payment in respect of the funeral.

Cf. 1938, No. 7, s. 43

**53. Miners' widows' benefits**—(1) If any person while in receipt of a miner's benefit dies leaving a widow, his widow shall be entitled during widowhood to a miner's widow's benefit under this section at the rate specified in clause 2 of the Seventh Schedule to this Act.

(2) Where application for a benefit under this section is received by the Commission within three months after the date of death of the husband of the applicant, the benefit shall commence on the day following the date of death of the husband, and in any other case the benefit shall commence on the first day of the pay period in which the application for the benefit is received by the Commission.

Cf. 1938, No. 7, s. 44; 1960, No. 13, s. 8; 1964, No. 37, s. 14 (1)

#### *Sickness Benefits*

**54. Sickness benefits**—(1) Subject to the provisions of this Part of this Act, every person over the age of sixteen years who has resided continuously in New Zealand for not less than twelve months at any time shall be entitled to receive a sickness benefit under this Part of this Act if the Commission is satisfied that he is temporarily incapacitated for work through sickness or accident, and that by reason thereof he has suffered a loss of salary, wages, or other earnings.

(2) For the purposes of this section any payment made by a person to any other person who acts as his substitute during any period of incapacity as aforesaid may be regarded by the Commission as a loss of earnings suffered by the first-mentioned person.

(3) A married woman shall be entitled to receive a benefit under this section only if the Commission is satisfied that her husband is unable to maintain her.

Cf. 1938, No. 7, s. 45

**55. Rates of sickness benefits**—(1) Subject to the provisions of this Part of this Act, the rate of the sickness benefit payable to any beneficiary shall be the appropriate rate specified in clause 1 of the Eighth Schedule to this Act:

Provided that the rate of the sickness benefit shall not in any case exceed the amount by which the weekly earnings of the applicant have been reduced by reason of his incapacity:

Provided also that in computing the rate of the sickness benefit the Commission may, in its discretion, take no account of any money received by way of holiday pay in respect of statutory holidays and in respect of a period of annual holidays not exceeding three weeks in any year.

(2) Where no payment is made under this section in respect of the wife of a beneficiary, the Commission may, in its discretion, increase the rate of the sickness benefit payable to the beneficiary by an amount not exceeding the amount specified in clause 2 of the Eighth Schedule to this Act in respect of any person who for the time being has the care of the home of the beneficiary.

Cf. 1938, No. 7, s. 46; 1945, No. 11, s. 23; 1958, No. 46, s. 19; 1960, No. 13, s. 16 (1); 1961, No. 6, s. 6 (3); 1964, No. 37, s. 15 (1)

**56. Medical examination of applicants for sickness benefits—**(1) Every application for a sickness benefit shall be supported by the certificate of a medical practitioner certifying that the applicant is incapacitated for work, and containing such other particulars as the Commission may require.

(2) The Commission may at any time require any applicant for a sickness benefit or any person who is in receipt of a sickness benefit to submit himself for examination by a medical practitioner to be nominated by the Commission for the purpose.

Cf. 1938, No. 7, s. 48

**57. Period for which sickness benefit payable—**(1) A sickness benefit shall not be payable in respect of the first seven days of any period of incapacity:

Provided that the Commission may, in its discretion, determine that the benefit shall be payable for the whole or any part of that period.

(2) Subject to subsection (1) of this section, a sickness benefit shall commence on such day as the Commission, in its discretion, determines, whether before or after the date on which application for the benefit is received by the Commission.

(3) Except as provided in the foregoing provisions of this section, a sickness benefit shall be payable so long as the incapacity lasts, unless the beneficiary becomes entitled to receive some other benefit.

Cf. 1938, No. 7, s. 49; 1945, No. 11, s. 24

### *Unemployment Benefits*

**58. Unemployment benefits—**(1) Subject to the provisions of this Part of this Act, every person who is over the age of sixteen years and is not qualified to receive an age benefit shall be entitled to an unemployment benefit under this Part of this Act, if the Commission is satisfied that he—

(a) Is unemployed; and

(b) Is capable of undertaking and is willing to undertake suitable work; and

(c) Has taken reasonable steps to obtain suitable work; and

(d) Has resided continuously in New Zealand for not less than twelve months at any time.

(2) A married woman shall be entitled to receive a benefit under this section only if the Commission is satisfied that her husband is unable to maintain her.

Cf. 1938, No. 7, s. 51

**59. Rates of unemployment benefits—**(1) The rate of the unemployment benefit payable to any beneficiary shall in each case be fixed by the Commission, in its discretion, having regard to any income received by the beneficiary and his wife or her husband (if any), but shall not in any case exceed the appropriate rate specified in clause 1 of the Ninth Schedule to this Act.

(2) Where no payment is made under this section in respect of the wife of a beneficiary, the Commission may, in its discretion, increase the rate of the unemployment benefit payable to the beneficiary by an amount not exceeding the amount specified in clause 2 of the Ninth Schedule to this Act in respect of any person who for the time being has the care of the home of the beneficiary.

Cf. 1938, No. 7, ss. 52, 53; 1945, No. 11, ss. 25, 26; 1964, No. 37, s. 16 (1)

**60. Period for which unemployment benefit payable—**(1) An unemployment benefit shall not be payable in respect of the first seven days of any period of unemployment:

Provided that the Commission may, in its discretion, determine that the benefit shall be payable for the whole or any part of that period.

(2) Subject to subsection (1) of this section, an unemployment benefit shall commence on such day as the Commission, in its discretion, determines, whether before or after the date on which application for the benefit is received by the Commission.

(3) The Commission may, in its discretion, postpone for such period, not exceeding six weeks, as it determines the commencement of an unemployment benefit, or, as the case may require, terminate any such benefit already granted, where the Commission is satisfied that—

- (a) The applicant has voluntarily become unemployed without a good and sufficient reason; or
- (b) The applicant has lost his employment by reason of any misconduct as a worker; or
- (c) The applicant or beneficiary has refused or failed, without a good and sufficient reason, to accept any offer of suitable employment.

(4) Except as provided in the foregoing provisions of this section, an unemployment benefit shall be payable so long as the beneficiary satisfies the conditions prescribed by section 58 of this Act, unless he becomes entitled to receive some other benefit.

(5) If any person while in receipt of an unemployment benefit becomes temporarily incapacitated for work through sickness or accident, he may be granted a sickness benefit instead of the unemployment benefit, and in any such case the sickness benefit shall be computed as if the unemployment benefit theretofore payable were earnings of the beneficiary.

Cf. 1938, No. 7, s. 54; 1945, No. 11, s. 27

### *Emergency Benefits*

**61. Commission may grant emergency benefit in cases of hardship**—(1) The Commission may, in its discretion, grant an emergency benefit under this Part of this Act on account of hardship to any person who satisfies the following conditions, namely:

- (a) That by reason of age, or of physical or mental disability, or of domestic circumstances, or for any other reason, he is unable to earn a sufficient livelihood for himself and his dependants (if any); and

(b) That he is not qualified to be granted any benefit (other than a family benefit):

Provided that the Commission may at any time, in its discretion, grant an emergency benefit instead of or in substitution for an invalid's benefit, a sickness benefit, or an unemployment benefit:

Provided also that, where the Commission is of the opinion that a person applying for or in receipt of an invalid's benefit, a sickness benefit, or an unemployment benefit should undergo a course of training in any occupation, or should submit himself for examination at any medical or psychological clinic, or should receive any medical or other treatment, or should undergo any course of training for the improvement of his physical or mental capacities, or should do any work required of him, or should take more adequate steps to secure suitable employment, the Commission may, in its discretion, grant an emergency benefit instead of or in substitution for an invalid's benefit, a sickness benefit, or an unemployment benefit; and in any such case the grant or continuance of the emergency benefit may be made subject to the condition that he shall comply with the requirements of the Commission in respect of any such matters.

(2) The rate of the emergency benefit shall, in each case, be in the discretion of the Commission, but, except in any case where the beneficiary is receiving medical or other treatment, shall not exceed the rate to which the beneficiary would be entitled if he were qualified to receive such other benefit as in the opinion of the Commission is analogous to the emergency benefit.

(3) Every emergency benefit shall commence on such date and shall be continued for such period as the Commission in each case determines.

Cf. 1938, No. 7, s. 58; 1948, No. 78, s. 21

#### *Miscellaneous Provisions as to Monetary Benefits*

**62. Grant or renewal of benefit after death of applicant—**Where any applicant for a benefit or for the renewal of a benefit dies before the completion of the investigation of his application, the Commission may, in its discretion, grant or renew the benefit as if the applicant had not died, and in such a case the provisions of section 85 of this Act shall apply as if the applicant had been in receipt of the benefit at the time of his death.

Cf. 1940, No. 5, s. 7



**63. Conjugal status for benefit purposes**—For the purposes of determining any application for any benefit, the Commission may, in its discretion,—

- (a) Regard as an unmarried person any married applicant who is living apart from his wife or her husband, as the case may be:
- (b) Regard as husband and wife any man and woman who, not being legally married, are in the opinion of the Commission living together on a domestic basis as husband and wife.

Cf. 1945, No. 11, s. 32 (1)

**64. Mode of ascertaining annual income for benefit purposes**—(1) Where in relation to the rate of any benefit reference is made in this Part of this Act or in any Schedule to this Act to the annual income of the beneficiary or of any other person, that reference shall, unless the context otherwise requires, be deemed to be a reference to the estimated income of the person concerned for the period of fifty-two weeks commencing on the date on which the benefit, if granted or renewed, as the case may be, will commence.

(2) Except as provided in subsection (3) of this section, the estimated income for the said period shall be deemed to be an amount equal to the income received by the person concerned for a period of fifty-two weeks ending on such day preceding the date on which the benefit, if granted or renewed, will commence as the Commission determines.

(3) From the income computed in accordance with subsection (2) of this section there may be deducted any items by which the Commission is satisfied the income is likely to be reduced, and there may be added to the income so computed any items by which the Commission is satisfied the income is likely to be increased, and the amount so ascertained shall be deemed to be the estimated income for the period in respect of which the computation is made.

Cf. 1938, No. 7, s. 61; 1958, No. 46, s. 26 (1); 1960, No. 13, s. 16 (1)

**65. Adjustment of anomalies due to receipt of income subject to social security income tax**—Notwithstanding anything to the contrary in this Part of this Act, where any person whose income is required to be taken into account for the purpose of computing the rate of any benefit has paid or is liable to pay social security income tax on the whole or any part of his income, the Commission, in computing the income

of that person, may, to such extent as may be necessary for the adjustment of any anomaly, deduct from his income the whole or any part of the amount of the tax so paid or payable, and the net amount so ascertained shall be deemed to be his income.

Cf. 1943, No. 19, s. 25

**66. Exemption of income from friendly or like society—**  
(1) Notwithstanding anything to the contrary in this Part of this Act, where an applicant for an age benefit, a widow's benefit, an invalid's benefit, or a sickness benefit, or the husband or the wife of any such applicant, is in receipt of a sick benefit from a friendly society or a like benefit from any other source, the Commission, in computing pursuant to this Part of this Act the rate of any such benefit, shall take no account of any income up to, in the aggregate, the amount specified in the Tenth Schedule to this Act received by way of sick benefit from a friendly society or by way of like benefit from any other source.

(2) If any question arises as to whether any income received or receivable is of a like nature to a sick benefit payable by a friendly society, it shall be determined by the Commission.

Cf. 1961, No. 6, s. 6 (1), (2)

**67. Exemption of income from domestic or nursing service—**Notwithstanding anything to the contrary in this Part of this Act, the Commission may, in its discretion, in computing for the purposes of this Part of this Act the income of any woman, take no account of her personal earnings up to the amount specified in the Eleventh Schedule to this Act from domestic or nursing service in any private home, or in a hospital, home for the care of the aged, or charitable institution approved by the Commission for the purposes of this section.

Cf. 1955, No. 34, s. 4

**68. Exemption of income from former home property—**Notwithstanding anything to the contrary in this Part of this Act, where any person has let his home or sold it on terms providing for the payment of the purchase money or any part thereof by instalments or by which the purchase money or any part thereof is secured by mortgage thereon, the Commission may, in its discretion, in computing the income of that person for the purposes of this Part of this Act, set off

against the rent or interest derived or received by him in respect of that letting or sale the whole or any part of—

- (a) Any rent payable by him in respect of the tenancy of another home:
- (b) Any interest payable by him on unpaid purchase money owing by him in respect of the purchase of another home:
- (c) Any interest payable by him on money advanced to him for the purchase of another home:
- (d) Any money payable by him in respect of his board, lodging, or maintenance, whether in a private home or in any public or private institution.

Cf. 1961, No. 6, s. 7

**69. Power to increase rates of benefits payable to parents of deceased members of the forces or mercantile marine—**

(1) Notwithstanding anything to the contrary in this Part of this Act, the Commission may, in its discretion, increase by an amount not exceeding the amount specified in the Twelfth Schedule to this Act the rate of any benefit payable to any beneficiary where the Commission is satisfied that he or she was one of the parents of—

- (a) A deceased member of any of Her Majesty's forces established in New Zealand whose death was attributable to his service as a member of any such force:
- (b) A deceased member of the New Zealand mercantile marine whose death was directly attributable to the Second World War:
- (c) A deceased member of any forces established in any Commonwealth country (other than New Zealand) who was domiciled in New Zealand at the commencement of any war in which Her Majesty's forces established in New Zealand were engaged and whose death was attributable to his service as a member of those first-mentioned forces:
- (d) A deceased member of the mercantile marine of any Commonwealth country (other than New Zealand) who was domiciled in New Zealand at the commencement of the Second World War and whose death was directly attributable to that war.

(2) For the purposes of this section, a beneficiary shall be deemed to have been one of the parents of any such deceased member if he was at the death of the member a parent or step-parent or adoptive parent of the member, or if in any

other case the member was maintained by the beneficiary or by the wife or husband of the beneficiary and the Commission is satisfied that the beneficiary should be regarded as being a parent of that member.

Cf. 1949, No. 38, s. 21

**70. Special provisions affecting rates of benefits payable to overseas pensioners—**(1) In this section the expression “overseas pension” means a pension or other periodical allowance granted elsewhere than in New Zealand.

(2) Notwithstanding anything to the contrary in this Part of this Act, if any overseas pension is payable to or in respect of any person who is in receipt of a benefit under this Part of this Act, or to or in respect of the wife or husband or child of any such person, the Commission may, in its discretion, reduce the rate of the benefit or benefits that would otherwise be payable under this Part of this Act by an amount not exceeding the rate of the overseas pension.

Cf. 1938, No. 7, s. 65; 1955, No. 34, s. 6; 1961, No. 6, s. 4 (2)

**71. Special provisions where compensation or damages recoverable by applicant—**(1) Notwithstanding anything to the contrary in this Part of this Act, where any person who has recovered or is entitled to recover compensation or damages from any other person in respect of any disability caused by accident or disease claims any benefit, the following provisions shall apply:

- (a) Where any compensation or damages have been recovered, the Commission may refuse to grant a benefit or may grant a reduced benefit for the period of disability in respect of which the compensation or damages have been paid or are deemed by the Commission to have been paid; and
- (b) Where any applicant for a benefit has a claim against any person to recover any compensation or damages, the Commission may grant a benefit subject to the condition that the whole or such part of the benefit as the Commission may require shall be repaid to the Commission out of any compensation or damages that may thereafter be recovered, and in any such case the amount of the benefit or that part thereof, as the case may be, shall constitute a charge on the compensation or damages and may be

recovered as a debt due to the Crown from the beneficiary or from any person liable for the payment of the compensation or damages.

(2) For the purposes of this section the expression "compensation or damages" includes any *ex gratia* payment made in settlement of or on account of a claim for compensation or damages.

Cf. 1938, No. 7, s. 74; 1949, No. 38, s. 19

**72. Limitation where applicant receiving another benefit or war pension**—Notwithstanding anything to the contrary in this Part of this Act,—

(a) No person shall be entitled to receive more than one benefit in his own right:

(b) No person who is granted a pension or allowance under the War Pensions Act 1954 or in respect of whom such a pension or allowance is payable, other than—

(i) A pension or allowance (not being an economic pension or a war veteran's allowance) granted to that person by reason of his own disablement; or

(ii) A pension (not being a mother's allowance) granted to that person as the widow of a deceased member of the New Zealand or any other Commonwealth forces or of the Emergency Reserve Corps or of the New Zealand mercantile marine; or

(iii) An allowance in respect of services rendered as an attendant on a disabled member of the New Zealand or any other Commonwealth forces or of the Emergency Reserve Corps of the New Zealand mercantile marine,—

shall be granted any benefit:

Provided that any person may be granted a superannuation benefit in addition to any pension or allowance under the War Pensions Act 1954, other than a pension as the wife of a disabled person or an economic pension or a war veteran's allowance (including any allowance under Part VI of that Act as the widow of a deceased war veteran) or a pension under section 51 or section 52 of that Act:

- (c) Where any part of a benefit is payable in respect of the wife of an applicant, that part shall not be paid for any period when a personal benefit is payable in respect of the wife or for any period when a pension or allowance is payable to or in respect of the wife under the War Pensions Act 1954 (other than a pension in respect of her own disablement or a pension under section 35 of that Act).

Cf. 1938, No. 7, ss. 60, 62 (b), (c), 63; 1945, No. 11, ss. 12, 29 (c), (d); 1951, No. 54, s. 17

**73. Limitation where applicant entitled to claim under Family Protection Act 1955 or Maori Affairs Act 1953—**

(1) Notwithstanding anything to the contrary in this Part of this Act, the Commission may, in its discretion, refuse to grant any benefit (other than a superannuation benefit, a miner's benefit, or a family benefit) or may grant any such benefit at a reduced rate or may cancel any such benefit already granted, in any case where any person, being a relative of the applicant, has died without, in the opinion of the Commission, making adequate provision under his will for the proper maintenance and support of the applicant, and the applicant has, in the opinion of the Commission, failed without good and sufficient reason to institute proceedings under the Family Protection Act 1955 or under Part XI of the Maori Affairs Act 1953 for a share in or further provision out of the estate of the relative, and to prosecute with all due diligence any proceedings so instituted by him or any such proceedings on an application under the Family Protection Act 1955 or under Part XI of the Maori Affairs Act 1953 made or deemed to have been made on his behalf.

(2) In any such proceedings the Commission shall be entitled to appear and show cause why provision or further provision, as the case may be, should be made for the applicant out of the relative's estate.

(3) In this section the term "relative" means a person out of whose estate the applicant is entitled to make a claim for provision under the Family Protection Act 1955 or Part XI of the Maori Affairs Act 1953.

Cf. 1950, No. 49, s. 18

**74. Limitation in certain other cases—**Notwithstanding anything to the contrary in this Part of this Act, the Commission may, in its discretion, refuse to grant any benefit or may

terminate any benefit already granted or may grant a benefit at a reduced rate in any case where the Commission is satisfied—

- (a) That the applicant, or the wife or husband of the applicant (or, in the case of a family benefit, the father or the mother of the child) or any person in respect of whom the benefit or any part of the benefit is or would be payable, is not ordinarily resident in New Zealand; or
- (b) That the applicant is not of good moral character and sober habits, or is living on a domestic basis as husband or wife with a person to whom he or she is not married; or
- (c) That the applicant has made default in the payment of any social security income tax payable by him; or
- (d) That the applicant has directly or indirectly deprived himself of any income or property which results in his qualifying for that or any other benefit or an increased rate of benefit.

Cf. 1938, No. 7, ss. 15 (1) (e), 22 (7), 33 (2) (d), 40 (d), 62 (d), 62A; 1963, No. 47, s. 54

**75. Benefit may be reduced in certain cases—**(1) Notwithstanding anything to the contrary in this Part of this Act, no benefit as of right shall be payable in respect of any period during which the beneficiary or any other person in respect of whom the benefit or any part thereof has been granted is an inmate of any public institution or any inebriates' home or reformatory home or is in receipt of a hospital benefit under Part II of this Act, but the Commission may, in its discretion, pay the whole or such part as it determines of the benefit to or for the benefit of the beneficiary or his wife or her husband or any dependent child or children.

(2) In any other case the Commission may, in its discretion, reduce the rate of any benefit payable thereunder (other than a superannuation benefit) if the maximum benefit is not necessary for the maintenance of the beneficiary and his dependants (if any).

Cf. 1938, No. 7, s. 72

**76. Forfeiture of instalments of benefit during detention in penal institution—**(1) Except as provided in subsection (2) of this section, no benefit shall be payable in respect of any

period during which the beneficiary is detained in a penal institution as defined in the Penal Institutions Act 1954 pursuant to a sentence of imprisonment or preventive detention or borstal training.

(2) Where any benefit is payable to a beneficiary to whom subsection (1) of this section relates, the Commission may, in its discretion, pay the whole or any part of the benefit to the wife of the beneficiary or to any responsible person for the benefit of the wife or of any dependent child or children of the beneficiary.

Cf. 1938, No. 7, s. 73; 1945, No. 11, s. 31

**77. Effect of absence of beneficiary from New Zealand—**

(1) No benefit shall be payable in respect of any period during which the beneficiary is absent from New Zealand:

Provided that the Commission may, in its discretion, pay the whole or any part of any benefit in respect of any period during which the beneficiary is temporarily absent from New Zealand.

(2) Notwithstanding anything to the contrary in subsection (1) of this section, the right of any beneficiary to receive a benefit shall not be affected in any of the following cases, namely:

- (a) In the case of a family benefit, by any period or periods a child in respect of whom the benefit is payable is absent from New Zealand for the purpose of furthering his education, provided the father and the mother, or as the case may be, the only parent of the child remain ordinarily resident in New Zealand:
- (b) In the case of a person who is in receipt of an invalid's benefit in respect of his blindness, by any period or periods of temporary absence from New Zealand, not exceeding two years in the aggregate, undertaken for purposes of vocational training or of treatment in respect of his eyes:
- (c) In the case of a person who is in receipt of a miner's benefit, by any period or periods of temporary absence from New Zealand not exceeding two years in the aggregate.

Cf. 1938, No. 7, s. 70 (1)–(3); 1948, No. 78, s. 22; 1961, No. 6, s. 4 (1)



**78. Effect of absence of beneficiary from New Zealand on residential qualification—**(1) If any person leaves New Zealand while in receipt of a benefit and returns to take up ordinary residence in New Zealand at any time within five years, he shall not, on a subsequent application for a benefit of the same class, be required to comply with the residential qualifications applicable in the case of an original application for a benefit of that class.

(2) For the purposes of this section the superannuation benefit and the age benefit shall be deemed to be benefits of the same class.

Cf. 1938, No. 7, s. 70 (4)

**79. Persons liable for social security income tax on earnings while employed overseas deemed to be resident in New Zealand—**(1) Where any person has been employed outside New Zealand and while so employed was liable for the payment of social security income tax on his earnings from that employment, then, for the purposes of satisfying the residential qualification for any benefit after the return to New Zealand of that person or the wife or any child of that person,—

(a) That person shall be deemed to have been resident in New Zealand during the period he was so employed outside New Zealand:

(b) If the wife or any child of that person was with him during that period or any part thereof, the wife or child shall be deemed to have been resident in New Zealand during that period or that part thereof, as the case may be:

(c) Any child of that person born out of New Zealand during that period shall be deemed to have been born in New Zealand.

(2) Nothing in subsection (1) of this section shall be construed to derogate from the provisions of section 77 of this Act (which relates to the effect of absence on the right to receive benefits).

Cf. 1947, No. 28, s. 19; 1948, No. 78, s. 23

**80. Periods for which benefits payable—**(1) Except as otherwise provided in this Part of this Act, every benefit shall commence on the first day of the pay period in which application for the benefit is received by the Commission or on the date on which the applicant becomes qualified to be granted the benefit (whichever is the later).

(2) Subject to any limitations imposed by this Part of this Act, every superannuation benefit, family benefit, and miner's benefit shall continue to be payable for such period as the Commission determines, and may from time to time be renewed for any further period. Every other benefit shall continue to be payable for such period (not exceeding fifty-two weeks in any case) as the Commission determines, but may from time to time be renewed for such further period as the Commission determines, not exceeding fifty-two weeks.

Cf. 1938, No. 7, s. 67 (1), (2); 1947, No. 28, s. 18; 1958, No. 46, s. 26 (1)

**81. Review of benefits**—(1) In the event of any change in the circumstances of a beneficiary or in the circumstances of the husband or wife of a beneficiary during the period for which the benefit has been granted, the Commission may, in its discretion, review the benefit and may thereupon terminate or suspend the benefit or may vary the amount thereof.

(2) Every beneficiary shall advise the Commission without delay of any material change in his own or his wife's or her husband's circumstances that may affect the rate of benefit payable.

(3) If the beneficiary fails so to advise the Commission, the Commission may, in its discretion, recover from the beneficiary the amount of any benefit paid in excess of the amount that would have been paid had the beneficiary so advised the Commission.

Cf. 1938, No. 7, s. 67 (3)

**82. Payment of benefits**—(1) Every benefit shall be payable as follows:

(a) In the case of a sickness benefit or an unemployment benefit, by weekly instalments:

(b) In the case of a family benefit, by such instalments as the Commission from time to time determines:

(c) In the case of any other benefit, by instalments at intervals of not more than four weeks.

(2) The amount of a four-weekly instalment of a benefit that is payable at an annual rate shall be ascertained by dividing the annual rate of the benefit by thirteen.

(3) Except as otherwise provided in this Part of this Act, every instalment of a benefit shall be payable to the beneficiary personally, unless the Commission, in its discretion, directs that it shall be payable to some other person on behalf of the beneficiary:

Provided that in any case where, by reason of the age or infirmity of the beneficiary or for any other sufficient cause, it is not convenient that payment be made to the beneficiary personally, payment may, in the discretion of the Commission, be made to any person duly authorised by the beneficiary to receive payment on his behalf.

(4) If any instalment of a benefit is not collected within such time as the Commission may allow in that behalf, being not more than one month after the end of the month in which authority to collect the instalment is given, the authority to collect the instalment shall be deemed to have lapsed and the amount of the benefit payable for that period forfeited; but, if the Commission is satisfied that there were good and sufficient reasons for the failure to collect the instalment within the prescribed time, the Commission may determine that the authority to collect the instalment has not lapsed, and entitlement to payment of benefit for that period shall thereupon be deemed to have been reinstated.

Cf. 1938, No. 7, s. 68; 1949, No. 38, s. 18; 1958, No. 46, s. 26 (1)

### **83. Apportionment of benefit between husband and wife—**

Where any married man is granted a benefit in respect of himself and his wife, the benefit shall, in the discretion of the Commission, be paid to the beneficiary personally or be allotted in such proportions as the Commission determines between the beneficiary and his wife.

**84. Benefits to be inalienable—**(1) Subject to the provisions of the Family Benefits (Home Ownership) Act 1964, no benefit shall be capable of being assigned or charged or of passing to any other person by operation of law:

Provided that nothing herein shall be construed to prevent the Commission from paying the whole or any part of the benefit, with or without the consent of the beneficiary,—

- (a) To any person for the use of the beneficiary or the satisfaction, to the extent thereof, of any of his just debts or liabilities:
- (b) To or for the benefit of the wife or husband of the beneficiary or any dependent child or children of the beneficiary.

(2) Every person commits an offence, and is liable on summary conviction to a fine not exceeding fifty pounds, who demands or accepts from any beneficiary any benefit order or any acknowledgment or undertaking that would constitute a

legal or an equitable assignment of or a charge upon any benefit if the benefit were capable of being legally assigned or charged.

(3) In this section the term "beneficiary", in relation to a family benefit, means the person to whom the benefit is payable.

Cf. 1938, No. 7, s. 69; 1945, No. 11, s. 30; 1958, No. 46, s. 27

**85. Termination of benefit on death of beneficiary—**(1) On the death of any beneficiary the following provisions shall apply:

- (a) In the case of a sickness benefit or an unemployment benefit, the benefit shall cease on the date of death of the beneficiary, or, if the Commission so determines, at the end of the week in which the beneficiary died:
- (b) In the case of a superannuation benefit, the benefit shall cease on the date of death of the beneficiary:
- (c) In any other case the benefit shall cease on the date of death of the beneficiary or such later date as the Commission determines, being not later than the end of the pay period in which the beneficiary died.

(2) Notwithstanding anything in paragraph (c) of subsection (1) of this section, where the beneficiary dies leaving a widow or widower or any dependent child or children, the Commission may, in its discretion,—

- (a) Continue an age benefit, or an emergency benefit which in the opinion of the Commission is analogous to an age benefit, to such date not later than three months after the date of death of the beneficiary, as the Commission thinks fit:
- (b) Continue a widow's benefit or an invalid's benefit, or an emergency benefit which in the opinion of the Commission is analogous to a widow's benefit or an invalid's benefit, to such date not later than the end of the pay period next after the pay period in which the beneficiary died, as the Commission thinks fit.

(3) The amount (if any) of any benefit unpaid at the date of death of the beneficiary and any benefit that may thereafter become payable under subsection (1) or subsection (2) of this section shall, in the discretion of the Commission, be payable—

- (a) To or for the benefit of the widow or widower or any dependent child or children of the deceased; or

(b) To the estate of the deceased.

(4) In this section the term "benefit" does not include an orphan's benefit or a family benefit; and "beneficiary" has a corresponding meaning.

Cf. 1938, No. 7, s. 75 (1) (a); 1949, No. 38, s. 20; 1954, No. 69, s. 16; 1958, No. 46, s. 26 (1); 1960, No. 13, s. 17

**86. Recovery of payments made in excess of authorised rates—**(1) If any benefit or instalment of a benefit is paid in excess of the amount to which the beneficiary is by law entitled, the amount so paid in excess may be recovered from the beneficiary as a debt due to the Crown at the suit of any member of the Commission, or the Commission may make any necessary adjustments in any instalments of the same or any other benefit thereafter becoming payable.

(2) If, in the opinion of the Commission, any payment in excess has been obtained by fraud, the Commission may recover from the beneficiary, by way of penalty, an amount not exceeding twice the amount so paid in excess. Nothing in this subsection shall relieve the beneficiary from any other liability in respect of any fraud committed by him. Any penalty under this subsection may be recovered by way of deduction from any instalments of the same or any other benefit thereafter becoming payable.

(3) If, in the opinion of the Commission, the husband or wife of any beneficiary makes any false statement to or otherwise misleads any officer engaged in the administration of this Part of this Act, in relation to his or her income or other personal circumstances, as a result of which the benefit or an instalment of benefit is paid in excess of the amount to which the beneficiary is by law entitled, the amount so paid in excess may be recovered from that husband or wife, as the case may be, as a debt due to the Crown at the suit of any member of the Commission, or the excess payment may be recovered by way of deduction from any instalments of any benefit thereafter becoming payable to that husband or that wife.

(4) If on the death of any beneficiary he is found to have been disqualified for any reason, including the receipt of any income or the possession of any property, from obtaining the benefit granted to him or from obtaining a benefit of the amount granted to him, an amount, to be assessed by the Commission, equal to the total amount paid to the beneficiary in excess of the amount (if any) to which he was by law

entitled shall constitute a debt owing to the Crown by the estate of the beneficiary, and may be recovered accordingly at the suit of any member of the Commission.

(5) If on the death of the wife or husband of any beneficiary it is found that for any reason, including the receipt of any income or the possession of any property by the deceased during her or his lifetime, the beneficiary has been granted a benefit to which he or she was not by law entitled or has been granted a benefit of an amount to which he or she was not by law entitled, an amount, to be assessed by the Commission, equal to the total amount paid to the beneficiary in excess of the amount (if any) to which he or she was by law entitled shall constitute a debt owing to the Crown by the estate of the wife or husband, and may be recovered accordingly at the suit of any member of the Commission.

(6) For the purpose of determining for the purposes of subsection (4) or subsection (5) of this section the total amount paid to a beneficiary by way of benefit in excess of the amount (if any) to which he or she was by law entitled, any property that was in the possession of the beneficiary or of the husband or wife of the beneficiary at his or her death shall, unless in proceedings for the recovery of that excess (but subject to any decision by a Magistrate's Court in any application under subsection (7) of this section) the contrary is proved, be deemed to have been in his or her possession on such date as the Commission determines, being not earlier than the date on which the benefit was first granted.

(7) Notice in writing of every assessment by the Commission under subsection (4) or subsection (5) of this section shall be served on the executor or administrator of the estate of the deceased beneficiary or, as the case may be, of the deceased husband or wife of the beneficiary, and the executor or administrator may, within one month after the service of the notice, apply to a Magistrate's Court to review the assessment and any decision of the Commission under subsection (6) of this section in relation to that assessment.

(8) The following provisions shall apply with respect to every such application:

- (a) The Court shall have jurisdiction with respect to the application irrespective of the amount of the assessment:
- (b) The application shall not be heard in open Court:
- (c) The Court may receive as evidence any statement, document, information, or matter that may in its opinion assist the Court to deal effectively with the

application, whether or not the same would be otherwise admissible in a Court of law:

(d) In determining the application, the Court shall accept any date determined by the Commission for the purposes of subsection (6) of this section as the date on which any property was in the possession of the deceased, unless the Court is satisfied from the evidence produced that some other date should be fixed.

(9) In determining any such application, the Court may either confirm or cancel the assessment or increase or reduce the amount thereof or make such order as it considers just and equitable in the circumstances.

(10) In this section the term "beneficiary", in relation to a family benefit, means the person to whom the benefit is paid.

Cf. 1938, No. 7, ss. 71, 75 (1) (b), (2)

## PART II

### MEDICAL AND HOSPITAL BENEFITS AND OTHER RELATED BENEFITS

**87. Administration of this Part**—Subject to the control and direction of the Minister of Health, this Part of this Act shall be administered in the Department of Health.

Cf. 1963, No. 47, s. 3

**88. Interpretation**—(1) In this Part of this Act, unless the context otherwise requires,—

"Department" means the Department of Health:

"Disciplinary Committee" means the Disciplinary Committee established under the Medical Practitioners Act 1950; and "Divisional Disciplinary Committee" means a Divisional Disciplinary Committee appointed under that Act:

"Drug Tariff" means every general direction by the Minister for the time being in force under subsection (1) of section 99 of this Act fixing the prices to be paid by the Department for pharmaceutical requirements supplied to persons entitled to claim pharmaceutical benefits and the terms and conditions on which those pharmaceutical requirements shall be supplied:

“General medical services” means all proper and necessary services of medical practitioners provided for persons who are entitled to any of the benefits provided for by this Part of this Act; but does not include services that are within any of the following classes:

(a) Specialist medical services:

(b) Medical services afforded in relation to maternity benefits under this Part of this Act:

(c) Medical services provided by any medical practitioner to his dependants or his partner or the dependants of his partner or to other persons from whom or in respect of whom he would not be entitled to recover any fees if neither this Act nor the Social Security Amendment Act 1941 had been passed:

(d) Medical services provided by any medical practitioner under an agreement made by him with a friendly society or branch registered under the Friendly Societies Act 1909:

(e) Such services as may, by regulations made pursuant to section 123 of this Act, be declared not to be general medical services for the purposes of this Part of this Act, either absolutely or in special circumstances to be defined in the regulations:

“Health district” or “district” means a health district constituted under the Health Act 1956:

“Hospital” means a hospital or other institution maintained by a Hospital Board under the Hospitals Act 1957 or a private hospital licensed under Part V of that Act; and includes any other institution or place in which sick or injured persons are received for treatment, or in which maternity patients are received for delivery, and which is for the time being recognised and approved by the Minister as a hospital for the purposes of this Part of this Act:

“Hospital patient” means a person for the time being maintained in a hospital for the purpose of receiving hospital treatment therein:

“Hospital treatment” means all medical and surgical treatment and nursing care and attendance afforded in any hospital to a hospital patient; and includes the maintenance in the hospital of any such patient:

“Maternity benefits” means—

(a) In the case of a woman who is confined in a hospital, all necessary medical and nursing attendance, maintenance, and care at her confinement and in respect of her and her child for the



period of fourteen days succeeding the date of the birth of her child:

(b) In the case of a woman who is confined elsewhere than in a hospital, the services of a medical practitioner and of an approved midwife, or an approved maternity nurse, at her confinement and in respect of her and her child for the period of fourteen days succeeding the date of the birth of her child:

(c) The provision by a medical practitioner of all such ante-natal and post-natal advice and treatment as may in any case be required:

(d) In the case of a woman who suffers a miscarriage not earlier than seven days after having received any ante-natal advice or treatment from any medical practitioner or midwife, all such medical services as she may require in relation to the miscarriage, for a period of fourteen days:

“Medical benefits” means all proper and necessary services of medical practitioners, except such services as are by regulations made pursuant to section 123 of this Act excluded therefrom, either absolutely or in special circumstances to be defined in the regulations:

“Medical Officer of Health” means a Medical Officer of Health as defined in the Health Act 1956:

“Medical practitioner” means a medical practitioner registered under the Medical Practitioners Act 1950:

“Minister” means the Minister of Health:

“Obstetric specialist” means a medical practitioner who is recognised by the Minister as an obstetric specialist in accordance with the provisions of section 113 of this Act; and includes every medical practitioner who immediately before the commencement of Part I of the Social Security Amendment Act 1963 was recognised as an obstetric specialist under the provisions of section 14 of the Social Security Amendment Act 1939:

“Pharmaceutical benefits” means the right of every person entitled to claim such benefits to be supplied by a person approved by the Minister for the purpose, in accordance with the provisions of section 100 of this Act, with all such pharmaceutical requirements to which the Drug Tariff applies as are ordered for that person or for any member of his family by any medical practitioner in the course of providing any

medical benefits or other benefits in accordance with this Part of this Act:

“Pharmaceutical requirements” means medicines, drugs, appliances, and materials:

“Specialist medical services” means medical services that involve the application of special skill and experience of a degree or kind that general medical practitioners as a class cannot reasonably be expected to possess.

(2) For the purposes of this Part of this Act, two or more contiguous boroughs shall together be deemed to be one borough:

Provided that, where the Minister is satisfied that no medical practitioner resides or has a surgery in any borough that is contiguous to another borough, he may, by notice in the *Gazette*, declare the first-mentioned borough to be a separate borough for the purposes of this Act, and the borough shall be deemed to be a separate borough accordingly.

(3) If any question arises as to whether any service provided by a medical practitioner is within the scope of medical benefits or is included in the expression “general medical services”, or as to whether any amount, and if so what amount, is payable by the Department, it shall be decided by the Minister after consultation with the appropriate Committee appointed under section 121 of this Act or after considering the recommendation of the Disciplinary Committee, and the Minister’s decision thereon shall be final and conclusive.

(4) The decision of the Minister that any person is or is not a hospital patient or that any treatment afforded in or at a hospital is or is not hospital treatment for the purposes of this Part of this Act shall be final and conclusive.

(5) Where any general medical services or pharmaceutical requirements are provided or supplied by any medical practitioner acting as the agent or employee of any other medical practitioner, they shall for the purposes of this Part of this Act be deemed to be provided or supplied by the last-mentioned medical practitioner.

Cf. 1963, No. 47, s. 4; 1964, No. 37, s. 17

**89. Classes of benefits to be provided**—Benefits of the following classes shall be provided in accordance with this Part of this Act, namely:

(a) Medical benefits:

(b) Pharmaceutical benefits:

- (c) Hospital benefits:
  - (d) Maternity benefits:
  - (e) Supplementary benefits provided in accordance with regulations made pursuant to section 116 of this Act.
- Cf. 1963, No. 47, s. 5 (1)

**90. Services to be provided in New Zealand**—No benefit, fee, or other payment shall be payable under this Part of this Act in respect of the receipt of services or goods by any person who was not within New Zealand at the time of that receipt.

Cf. 1963, No. 47, s. 5 (2)

**91. Qualifications of persons entitled to claim benefits**—

(1) Except as provided in section 90 and in section 92 of this Act, every person who is over sixteen years of age and is ordinarily resident in New Zealand shall be entitled to claim for himself and for every member of his family under sixteen years of age the several benefits provided for by this Part of this Act.

(2) For the purposes of this Part of this Act, a child under sixteen years of age shall be deemed to be a member of the family of the person who for the time being has the care and control of that child.

(3) If any question arises as to whether or not any person is ordinarily resident in New Zealand for the purposes of subsection (1) of this section, that question shall be referred to and be decided by the Minister.

(4) Where the Minister is satisfied that persons ordinarily resident in New Zealand are or will be, while in any other country or territory, entitled (whether by agreement with the Government of that country or territory or otherwise) to claim benefits that substantially correspond to benefits provided for by this Part of this Act or to any of those benefits, he may, by notice in the *Gazette*, declare that persons ordinarily resident in that country or territory, not being the master or an officer or any other member of the crew of any ship, shall be entitled while in New Zealand to claim the several benefits provided for by this Part of this Act or any one or more of those benefits specified in the notice, and those persons shall be entitled accordingly to claim the benefit or benefits specified in the notice as if they were ordinarily resident in New Zealand.

Cf. 1963, No. 47, s. 6; 1964, No. 37, s. 18

**92. Right to benefits restricted in cases where person receiving medical or other treatment is entitled to claim compensation or damages—**(1) To the extent to which in respect of any injury or disease any person has recovered or is or has been entitled to recover any compensation under the Workers' Compensation Act 1956 on account of any matter, or has recovered or is or has been entitled to recover special damages in respect of any matter, he shall not be entitled to any benefit under this Part of this Act (other than a pharmaceutical benefit) in respect of the same matter:

Provided that in any such case the Minister may authorise the making of a provisional payment by the Department in respect of any treatment actually given or services actually rendered or goods actually supplied. Any such payment may be recovered at any time from the person to whom it was made as a debt due to the Crown.

(2) No payment made under subsection (1) of this section shall restrict the right of the person concerned to recover the full amount of compensation or damages, and the amount paid under that subsection shall constitute a charge on any compensation or damages recovered or that may thereafter be recovered in respect of any of the matters mentioned in that subsection.

(3) Any such charge may be recovered as a debt due to the Crown from the person to whom any such compensation or damages have been paid or from any person liable for the payment of any such compensation or damages.

(4) For the purposes of this section—

(a) The terms "compensation" and "damages" include, unless the Minister in any particular case otherwise directs, any *ex gratia* payment made in settlement of or on account of a claim for compensation or damages, as the case may be:

(b) If a claim for compensation or damages is settled without apportioning the sum or sums paid in settlement—

(i) In the case of a claim under the Workers' Compensation Act 1956, between compensation in respect of matters for which a benefit, other than a pharmaceutical benefit, would have been payable if this section had not been enacted and compensation in respect of other matters; or

(ii) In any other case, between special damages in respect of the matters first-mentioned in subparagraph (i) of this paragraph and general damages—

and any dispute arises with respect to that apportionment, the Minister may direct how the sum or sums shall be apportioned, and his decision thereon shall be final and conclusive:

(c) A person shall be deemed to be entitled to compensation or damages when—

(i) A judgment to that effect has been entered in his favour or a binding agreement has been concluded by him or on his behalf with the person or the agent of the person who is liable to pay the compensation or damages under the terms of that agreement; or

(ii) The Minister is satisfied that that person has or has had good grounds to claim compensation or damages in respect of a matter referred to in subsection (1) of this section and unreasonably fails or refuses or has unreasonably failed or refused to take the necessary steps to institute, prosecute, or enforce such a claim:

(d) The extent to which a hospital patient has recovered or is entitled to recover compensation or special damages shall be computed by applying the sum recovered or to be received in respect of hospital treatment to the satisfaction of the charges incurred in respect of such treatment over such period as may be appropriate, commencing on the date of the patient's admission to the hospital concerned:

(e) Any compensation or special damages paid to or on account of any person in respect of any hospital treatment for which a benefit, other than a pharmaceutical benefit, would have been payable if this section had not been enacted shall be deemed to have been paid firstly in or towards the satisfaction of the charges of the hospital and secondly in or towards the satisfaction of any other expenses incurred by that person in respect of such treatment.

(5) Any payment of a benefit, other than a pharmaceutical benefit, in a case which is found, whether before or after that payment, to be a case to which this section applies shall be deemed to be a provisional payment under this section, except to the extent that the Minister is satisfied that no compensation or damages, as the case may be, can be recovered in respect of the same matter by the person to whom or on whose behalf the payment was made.

(6) Nothing in this section or in section 101 of this Act shall affect the rights conferred on a Hospital Board by section 79 of the Hospitals Act 1957 or the rights conferred on any person by the Workers' Compensation Act 1956.

Cf. 1963, No. 47, s. 7

### *Medical Benefits*

**93. Fees for general medical services—**(1) Subject to the provisions of this Part of this Act, every medical practitioner who provides any general medical services for any patient shall be entitled to receive from the Department the following fees:

- (a) For every occasion on which any such services are provided at the medical practitioner's surgery or place of residence, a reasonable fee not exceeding seven shillings and sixpence:
- (b) For every occasion on which any such services are provided within a borough elsewhere than at the surgery or place of residence of the medical practitioner, where that surgery or place of residence is situated within the borough, a reasonable fee not exceeding seven shillings and sixpence:
- (c) For every other occasion on which any such services are provided, a reasonable fee not exceeding seven shillings and sixpence, together with such mileage fees as may be payable by the Department under section 94 of this Act.

(2) Where a medical practitioner in response to a call attends any person elsewhere than at the surgery or place of residence of the medical practitioner and that person has died before the arrival of the medical practitioner or rejects the services of the medical practitioner, then, for the purposes of this section and of section 94 of this Act, that person shall be deemed to be a patient of the medical practitioner and the medical practitioner shall be deemed to have provided general medical services for that person.

(3) Except as provided in this section, no payment shall be made by the Department under this section in respect of medical services provided for any person who is for the time being entitled to medical services under special arrangements made by the Minister in accordance with section 117 of this Act.

(4) Subsection (3) of this section shall not apply in any case where a medical practitioner provides any general medical services for any such person in good faith and in reliance on a statement by the patient or by some responsible person on his behalf to the effect that the patient is not a person entitled to medical services by virtue of any such special arrangements. Where any such statement is incorrect, the patient or any person responsible for his debts shall be liable to reimburse to the Crown any money paid to any medical practitioner under this Part of this Act in respect of services provided in reliance on that statement.

(5) Subsection (3) of this section shall not apply in any case where, in an emergency, a medical practitioner provides for any person such medical services as are in the best interests of the patient.

(6) Every payment made by the Department to a medical practitioner under this section shall be deemed to have been made on behalf of the patient in respect of whom the payment was made.

Cf. 1963, No. 47, s. 8; 1964, No. 37, s. 19

**94. Milage fees—**(1) Where any medical practitioner provides any general medical services in any case or cases to which paragraph (c) of subsection (1) of section 93 of this Act applies, he shall be entitled to receive from the Department milage fees in accordance with this section.

(2) Subject to the provisions of this Part of this Act, milage fees shall be computed in respect of every journey made by the medical practitioner to any place or places for the purpose of providing the services, and shall be computed at the rate of one shilling and threepence for every mile or part of a mile of the distance necessarily travelled by him in going from his surgery or place of residence to that place or those places and in returning to his surgery or place of residence.

(3) In any case where the Medical Officer of Health is satisfied that, by reason of the nature of the mode of transport that in his opinion it was reasonable to use, any milage fees computed as provided in the foregoing provisions of this section are inadequate, he may increase the milage fees to such extent as he considers necessary to make them adequate.

(4) Where in the opinion of the Medical Officer of Health arrangements could conveniently have been made that would have avoided the necessity of making the visit or visits in

respect of which any claim for mileage fees is made or would have reduced the amount of the claim, he may disallow the claim wholly or partly.

Cf. 1963, No. 47, s. 9

**95. Pharmaceutical requirements—**(1) Where any medical practitioner supplies for the treatment of any patient, before they can be conveniently obtained elsewhere, any pharmaceutical requirements to which the Drug Tariff applies, the medical practitioner shall be entitled to receive from the Department an amount computed in accordance with the Drug Tariff, but reduced by a discount of ten per cent thereof instead of the discount provided for by the Drug Tariff.

(2) Where any medical practitioner supplies for the treatment of any patient, before they can be conveniently obtained elsewhere, any pharmaceutical requirements to which the Drug Tariff does not apply, the medical practitioner may recover from the patient or from any person responsible for his debts an amount not exceeding the reasonable cost to the medical practitioner of those requirements.

Cf. 1963, No. 47, s. 10

**96. Refund system—**(1) Where any medical practitioner is entitled in accordance with section 93 or section 95 of this Act to receive from the Department any amount in respect of any general medical services provided or any pharmaceutical requirements supplied, he may, by notice in writing to the Director-General of Health, elect to recover any such amount from his patients, or from any persons responsible for their debts, and may at any time in like manner revoke that election. No medical practitioner who has made any such election shall be entitled to any payment from the Department in respect of any such services provided, or any such requirements supplied, during any period in which any such election remains in force.

(2) Where any person pays any amount to a medical practitioner in respect of any such general medical services or pharmaceutical requirements, that person or his agent or representative shall, subject to the provisions of this Part of this Act, be entitled to receive from the Department a refund of the amount so paid:

Provided that the total amount refunded in respect of any such services or requirements shall not exceed the amount that the medical practitioner would have been entitled to receive



from the Department in respect thereof if he had not recovered any amount in respect thereof under this section.

(3) It shall be the duty of every medical practitioner to whom any such amount is paid by any person to supply to that person such receipts, certificates, or other documents as that person may reasonably require to obtain from him for the purposes of a claim for a refund under this section.

Cf. 1963, No. 47, s. 11

**97. Specialist medical services—**(1) Where any medical practitioner provides for any person who is entitled to any of the benefits provided for in this Part of this Act any specialist medical services, the person by whom the fee in respect of those services is paid to the medical practitioner shall, subject to the provisions of this section, be entitled to receive from the Department a refund not exceeding seven shillings and sixpence for every occasion on which any such services have been provided.

(2) Nothing in this section shall apply with respect to any specialist medical services that are provided in connection with any benefits or supplementary benefits under this Part of this Act.

(3) Notwithstanding anything in subsection (1) of this section, payment of the sum referred to in that subsection may be made, at the option of the medical practitioner, direct to him instead of by way of refund to the person by whom the fee was paid.

Cf. 1963, No. 47, s. 12

**98. Recovery of fees from patients—**(1) No medical practitioner shall be entitled to recover any fees or charges for medical services as defined in subsection (8) of this section until the expiration of one month after an account signed by him and showing particulars of the services provided on each occasion for which a fee or charge is claimed and the amount claimed for each occasion has been delivered to the person chargeable:

Provided that any Judge or Magistrate may, on the *ex parte* application of any medical practitioner, authorise him to commence an action for the recovery of any fees or charges before the expiration of the period limited by this subsection on proof that there is reasonable cause for believing that the person chargeable is about to leave New Zealand or has done or is about to do any other act that would tend to prevent or delay the medical practitioner from obtaining payment.

(2) That delivery may be effected either by personal delivery of the account to the person chargeable or by forwarding it to him by post in a registered letter addressed to him at his place of residence or last known place of residence.

(3) Within one month after the delivery of an account in accordance with this section, the person chargeable may apply to the Divisional Disciplinary Committee for the district in which the medical practitioner resides for an examination of the account by the Committee and for its opinion as to what are reasonable fees or charges for the services for which the account is rendered.

(4) Every such application shall be in writing addressed to the Secretary of the Committee, and shall be accompanied by the account and supported by such other information as the Committee may require of the applicant.

(5) If the Court in which any action for the recovery of any fees or charges in respect of any medical services is pending is satisfied that an application has been made under this section for an examination of the account for those fees or charges, the Court shall not complete the hearing of the action until the opinion of the Committee is made known to the Court.

(6) The Court in which any action for the recovery of any fees or charges in respect of any medical services is pending may of its own motion or on the application of any party refer the account for the fees or charges for examination to the Divisional Disciplinary Committee for the district in which the medical practitioner resides, and in any such case the Court shall not complete the hearing of the action until the opinion of the Committee is made known to the Court.

(7) Where in any action for the recovery of fees or charges in respect of any medical services the opinion of the Divisional Disciplinary Committee on the account for the fees or charges has been made known to the Court, the Court shall not give judgment for any amount exceeding that which is expressed to be reasonable in the opinion of the Committee without first affording the Committee reasonable opportunity of appearing by counsel and adducing evidence and making representations on the matter.

(8) In this section—

“Medical practitioner” includes the personal representatives and assignees of a medical practitioner:

“Medical services” means any general medical services or pharmaceutical requirements or any specialist medical services that may be the subject of payments

from the Department in accordance with this Part of this Act, or, in the case of services or requirements provided before the commencement of this Act, in accordance with Part I of the Social Security Amendment Act 1963.

Cf. 1963, No. 47, s. 13

### *Pharmaceutical Benefits*

#### **99. Fixing of prices for pharmaceutical requirements—**

(1) The Minister may from time to time fix the prices to be paid by the Department for pharmaceutical requirements supplied to persons entitled to claim pharmaceutical benefits, and the terms and conditions subject to which such requirements shall be supplied.

(2) Any direction by the Minister under subsection (1) of this section may be a general direction relating to pharmaceutical requirements supplied to all persons entitled to claim pharmaceutical benefits, or may be a special direction relating to specified pharmaceutical requirements supplied to a specified person.

Cf. 1963, No. 47, s. 14

**100. Contracts for pharmaceutical requirements—**(1) Subject to the provisions of subsections (8) to (10) of section 122 of this Act, every proprietor of a pharmacy within the meaning of the Pharmacy Act 1939 who for the time being keeps in accordance with the requirements of that Act and the regulations thereunder an open shop or place of business for the compounding or dispensing of prescriptions shall be approved by the Minister for the purposes of this section, if he signifies to the Minister in the prescribed form and manner that he is willing to supply pharmaceutical requirements at the prices and in accordance with the terms and conditions fixed by the Minister.

(2) The Minister may also, for the purposes of the supply of pharmaceutical requirements, approve any person who is competent and willing to undertake the supply of the same in accordance with terms and conditions fixed by the Minister but is not entitled as of right to a contract under subsection (1) of this section.

Cf. 1963, No. 47, s. 15

### *Hospital Benefits*

#### **101. Hospital treatment afforded by Hospital Boards—**

(1) Except to the extent that, in respect of any injury or disease, a hospital patient has recovered or is or has been entitled to recover any compensation under the Workers' Compensation Act 1956 on account of any hospital treatment in a hospital maintained by a Hospital Board, or has recovered or is or has been entitled to recover special damages in respect of any such treatment, no Hospital Board shall demand or accept or be entitled to recover from the patient or any other person any payment for hospital treatment afforded to a hospital patient who is entitled to receive hospital benefits under this Part of this Act.

(2) Except as aforesaid, section 51 of the Destitute Persons Act 1910 shall not apply in respect of hospital treatment afforded in a hospital maintained by a Hospital Board to a hospital patient referred to in subsection (1) of this section.

(3) The provisions of subsection (4) of section 92 of this Act shall, with any necessary modifications, apply for the purposes of this section.

Cf. 1963, No. 47, s. 16

#### **102. Payments in respect of hospital treatment in private hospitals—**

(1) Where any person who is entitled to claim hospital benefits in accordance with this Part of this Act, or any member of the family of any such person, receives any hospital treatment in any private hospital, there shall be payable by the Department to the licensee or other person entitled to claim payment in respect of that treatment such amount in respect of that treatment as may be prescribed.

(2) Any amount paid under this section in respect of any hospital treatment received by any person shall be in full or partial satisfaction of any claim by the licensee or other person to whom the payment is made in respect of that treatment.

Cf. 1963, No. 47, s. 17

#### **103. Payments in respect of hospital treatment in institutions—**

(1) In respect of hospital treatment afforded in any institution or place recognised and approved by the Minister as a hospital for the purposes of this Part of this Act to persons who are entitled to claim hospital benefits in accordance with this Part of this Act, or to members of the families of any such persons, there shall be payable by the Department to the person entitled to claim payment in respect of that treatment such amounts as may be prescribed.

(2) Without limiting the provisions of subsection (1) of this section, it is hereby declared that an institution in respect of which a licence is for the time being in force under section 45 of the Mental Health Act 1911 may be recognised and approved by the Minister as a hospital for the purposes of this Part of this Act.

(3) Unless the Minister otherwise determines in any case or class of cases, any amount paid under this section in respect of the hospital treatment of any person shall be in full or partial satisfaction of any claim by the person to whom the payment is made in respect of that treatment.

Cf. 1963, No. 47, s. 18

**104. Hospital benefits not payable in respect of treatment in public mental institutions**—The foregoing provisions of this Part of this Act as to hospital benefits shall have no application with respect to treatment afforded in any public institution within the meaning of the Mental Health Act 1911.

Cf. 1963, No. 47, s. 19

**105. Hospital benefits not payable where maternity benefits payable**—Where any hospital treatment is afforded to any woman who has received or is entitled to claim maternity benefits, no hospital benefits shall be payable in respect of any such hospital treatment that is received by that woman at any time during the period for which payments are made to the licensee of any private hospital or to any other person in respect of maternity benefits afforded to that woman.

Cf. 1963, No. 47, s. 20

#### *Maternity Benefits*

**106. Rights to maternity benefits**—(1) Every woman who is entitled to the services of a medical practitioner in relation to any maternity benefits shall have the right to select the medical practitioner by whom such services shall be given:

Provided that the right of selection conferred by this subsection shall, in the case of a woman who is confined in a maternity hospital, be subject to the concurrence of the person or body for the time being having authority to control the admission of patients to that hospital.

(2) Maternity benefits may in special cases approved by the Minister be afforded in respect of a woman who suffers a miscarriage, notwithstanding that the condition prescribed

by paragraph (d) of the definition of the term "maternity benefits" in subsection (1) of section 88 of this Act has not been complied with.

(3) Any fees payable to a medical practitioner in respect of maternity benefits shall be in addition to any fees payable to him in respect of the medical benefits provided for in accordance with the foregoing provisions of this Part of this Act.

(4) All fees and other money payable in respect of maternity benefits shall be paid by the Department.

Cf. 1963, No. 47, s. 21

**107. Payment from National Provident Fund where maternity benefits received—**(1) Notwithstanding anything to the contrary in the National Provident Fund Act 1950, no payment shall be made out of the National Provident Fund in respect of the birth of any child if, in connection with the birth of the child, the mother received full maternity benefits as defined in paragraph (a) or paragraph (b) of the definition of the term "maternity benefits" in subsection (1) of section 88 of this Act.

(2) Where in connection with the birth of any child a woman entitled to claim maternity benefits has received partial benefits in accordance with the said paragraph (a) or the said paragraph (b), but has not received the full benefits to which she was entitled thereunder, any payment made from the National Provident Fund in respect of the birth of the child shall not exceed the actual cost incurred by or on account of the mother in respect of any additional services in the nature of maternity benefits received by her, or the amount that would have been payable by the Department in respect of those services if they had been afforded as maternity benefits, whichever is the less.

Cf. 1963, No. 47, s. 22

**108. Maternity benefits afforded by Hospital Boards—**(1) No Hospital Board shall demand or accept or be entitled to recover from the patient or any other person any payment for maternity benefits afforded to a woman who is entitled to receive such benefits under this Part of this Act.

(2) Section 51 of the Destitute Persons Act 1910 shall not apply in respect of maternity benefits afforded in a hospital maintained by a Hospital Board to a woman referred to in subsection (1) of this section.

Cf. 1963, No. 47, s. 23

**109. Payments in respect of maternity benefits afforded in private hospital—**(1) Where any woman who is entitled to claim maternity benefits in accordance with this Part of this Act is confined in a hospital, other than a hospital maintained by a Hospital Board or a State maternity hospital, there shall be payable by the Department to the licensee or other person entitled to claim payment in respect of the benefits afforded such fees as may be prescribed.

(2) Any amount paid under this section shall, in accordance with arrangements made between the Minister and the licensee of the hospital or other person entitled to claim payment, be in full or in partial satisfaction of any claim by the licensee or other person in respect of the maternity benefits afforded.

Cf. 1963, No. 47, s. 24

**110. Services of registered midwives and maternity nurses—**(1) The Minister may from time to time fix the fees to be paid by the Department in respect of the services of approved midwives and approved maternity nurses for services rendered by them in providing maternity benefits in accordance with this Part of this Act, and the terms and conditions subject to which such services shall be rendered.

(2) Every registered midwife and every registered maternity nurse shall be approved for the purposes of this Part of this Act who signifies to the Minister in the prescribed form and manner that she is willing to carry out the duties of a midwife or maternity nurse in consideration of the fees and on the terms and conditions fixed by the Minister.

Cf. 1963, No. 47, s. 25

**111. Fixing of fees—**(1) The amount of the fees to be paid by the Department for any medical services afforded in relation to maternity benefits shall be determined in accordance with a scale of fees to be fixed in accordance with this section.

(2) The scale of fees may be fixed by agreement between the Minister and any person or persons having the authority of the New Zealand Branch of the British Medical Association (hereinafter referred to as the Medical Association) to enter into such an agreement.

(3) In default of agreement, or in so far as any such agreement does not extend, the scale of fees shall be fixed by a tribunal to be appointed by the Minister, consisting of a

President and two assessors. The President of the tribunal shall be a Judge of the Supreme Court or, if in the opinion of the Minister of Justice a Judge of the Supreme Court is not available for the purpose, the President shall be some other suitable person whose appointment as President is agreed to by both the Minister and the Medical Association. One of the assessors shall be appointed on the recommendation of the Council of the Medical Association, and the other shall be selected by the Minister. A decision by any two members of the tribunal shall be deemed to be a decision of the tribunal.

(4) The scale of fees in force at the commencement of this Act shall be deemed to have been fixed under this section.

(5) Any scale of fees may at any time be altered by agreement between the Minister and appointed representatives of the Medical Association, and unless so altered shall, subject to the provisions of subsection (6) of this section, continue in force for a period of two years and thereafter until a new scale of fees comes into force.

(6) The Minister or the Medical Association may at any time give notice to the other that the scale of fees should be revised, and the scale shall thereupon be revised in accordance with the foregoing provisions of this section, and the revised scale shall come into force on the expiry of the period fixed for the duration of the former scale, unless an earlier or a later date is agreed to or is fixed by a tribunal appointed for the purposes of this section.

(7) In addition to fees for medical services, the scale of fees may fix mileage fees in respect of visits to patients, and may specify the circumstances and conditions in and subject to which mileage fees shall be payable by the Department.

Cf. 1963, No. 47, s. 26

**112. Payment of fees—**(1) Except as provided in subsection (3) or in subsection (4) of this section, every medical practitioner who renders any services for which fees are fixed in accordance with section 111 of this Act to any woman who is entitled to receive maternity benefits under this Part of this Act shall be entitled to receive from the Department fees calculated in accordance with the scale of fees for the time being in force. Payment of the fees calculated as aforesaid shall be accepted by the medical practitioner in full satisfaction of his claims in respect of the services for which the payment is made.



(2) Where any medical practitioner renders any medical services in respect of which fees are not fixed as aforesaid, he may charge a fee for those services, and may recover the fee from the patient or any other person liable for the payment of the fee; and nothing in this Part of this Act shall be construed to affect the liability of any such person to pay for those services. The authority conferred by this subsection shall include authority to charge and recover reasonable mileage fees in respect of visits to patients for travelling distances for which mileage fees are not made payable by the Department.

(3) Except as provided in section 113 of this Act with respect to obstetric specialists, no medical practitioner shall demand or accept or be entitled to recover from the patient or any other person any fees in respect of services rendered or to be rendered by him for which he is or will be entitled to receive payment from the Department or any fees in consideration of his accepting her as a patient:

Provided that if any woman who is entitled to receive maternity benefits under this Part of this Act notifies the medical practitioner concerned (before he has undertaken to accept her as a patient for medical treatment in relation to maternity) that she does not wish to receive any medical treatment by way of maternity benefits, the medical practitioner shall not be entitled to make a claim for payment from the Department in respect of services afforded to her and may recover the amount of his fees from the patient or from any other person liable for the payment thereof.

(4) Any medical practitioner may at any time give notice in writing to the Minister that he is unwilling to afford medical services in relation to maternity benefits on the terms provided for in this section, and any medical practitioner who has given such a notice may recover any fees in respect of his professional services as if neither this Act nor the Social Security Amendment Act 1939 had been passed. Any notice given by a medical practitioner to the Minister in accordance with this subsection may at any time be in like manner withdrawn.

(5) The Minister shall from time to time give public notice in such manner as he considers sufficient of the name of any medical practitioner who, in accordance with subsection (4) of this section, has notified the Minister that he is unwilling to afford medical services in relation to maternity benefits or who has withdrawn any such notice.

Cf. 1963, No. 47, s. 27; 1964, No. 37, s. 20

**113. Obstetric specialists**—(1) No medical practitioner shall be recognised as an obstetric specialist, unless the Minister is satisfied that he possesses recognised academic qualifications in obstetrics, and that he has held or holds hospital or other public appointments affording special opportunities for acquiring special skill and experience in obstetrics.

(2) Every application by a medical practitioner for recognition as an obstetric specialist shall be referred by the Minister to the Director-General of Health and to the Council of the New Zealand Branch of the British Medical Association for report and recommendations, and the Minister shall take those reports and recommendations into consideration before granting or refusing the application.

(3) Any obstetric specialist may, in addition to the fees payable to him by the Department for medical services afforded by him in relation to maternity benefits, charge a fee for those services, and may recover the fee from any person liable for the payment of the same.

(4) The Minister shall from time to time give public notice in such manner as he considers sufficient of the names of medical practitioners who are duly recognised as obstetric specialists.

Cf. 1963, No. 47, s. 28

**114. State maternity hospitals**—(1) Except as is provided in subsection (2) of this section and in section 115 of this Act, the foregoing provisions of this Part of this Act as to maternity benefits shall have no application with respect to patients in any State maternity hospital, and no charge shall be made in respect of the confinement of any woman in any such hospital.

(2) If any woman who is not entitled under section 91 of this Act to claim maternity benefits receives treatment in a State maternity hospital, such reasonable charges as the Minister approves may be made in respect of that treatment.

Cf. 1963, No. 47, s. 29

**115. Maternity benefits in respect of State maternity hospital**—(1) Notwithstanding anything in section 114 of this Act, the Minister may from time to time, subject to such conditions as he considers necessary, approve the grant of maternity benefits to every woman to whom medical services are rendered in a specified State maternity hospital by a medical practitioner selected by her.

(2) Without limiting the general power to impose conditions conferred by subsection (1) of this section, the Minister may as a condition of his approval require that the medical practitioner by whom the services are rendered shall have entered into an agreement with the medical superintendent for the time being of the State maternity hospital, acting on behalf of the Crown, in terms approved by the Minister as to the conditions on which the medical practitioner is to be entitled to treat his patients in that hospital.

(3) Where any woman is entitled to maternity benefits pursuant to subsection (1) of this section, sections 111, 112, and 113 of this Act shall apply with respect to medical services rendered to her.

(4) The Minister may withdraw in whole or in part any approval given by him under subsection (1) of this section, and may from time to time modify, add to, or revoke any conditions imposed by him under that subsection.

Cf. 1963, No. 47, s. 30

### *Supplementary Benefits*

**116. Supplementary benefits**—(1) Without limiting the general power to make regulations conferred by section 132 of this Act, regulations may be made under that section prescribing such supplementary benefits as in the opinion of the Governor-General are necessary for the effective operation of the several classes of benefits expressly provided for by the foregoing provisions of this Part of this Act, or as in his opinion are necessary to maintain and promote the public health.

(2) Without limiting the provisions of subsection (1) of this section, that subsection shall be deemed to authorise the making of regulations to provide for treatment at hospitals for outpatients, for physiotherapy services, for radiological and laboratory services, for services in relation to the administration of anaesthetics, for the services of specialists and consultants, for dental services, for ambulance services, and for home-nursing services and domestic assistance.

(3) All fees and other money payable in respect of any benefits under this section shall be paid by the Department.

Cf. 1963, No. 47, s. 31

*Miscellaneous Provisions*

**117. Provisions in special circumstances**—(1) Notwithstanding anything to the contrary in this Part of this Act, the Minister may make such special arrangements as in the circumstances he considers advisable for the purpose of providing that adequate services instead of or in addition to all or any of the benefits provided for by this Part of this Act will be made available for the benefit of any persons or classes of persons.

(2) The Minister may from time to time as occasion requires in any particular case or class of cases make arrangements for such supplementary services or supplies as in his opinion are necessary for the effective operation of the several classes of benefits expressly provided for by the foregoing provisions of this Part of this Act or by regulations made pursuant to section 116 of this Act.

(3) All fees and other money payable in respect of any arrangements made under this section shall be paid by the Department.

Cf. 1963, No. 47, s. 32

**118. Miscellaneous purposes for which money may be expended by Department**—In addition to all other money payable by the Department in accordance with the provisions of this Part of this Act, such amounts as the Minister approves from time to time may be paid out of money appropriated by Parliament for any of the following purposes in relation to the provision of medical services and other related services in respect of which benefits are provided for by this Part of this Act, namely:

- (a) The purchase, leasing, or other acquisition of any land or buildings:
- (b) The erection, alteration, extension, improvement, repair, or maintenance of any buildings:
- (c) The purchase, acquisition, replacement, alteration, extension, improvement, repair, or maintenance of any plant, equipment, materials, or furniture:
- (d) The payment of remuneration, allowances, and expenses to medical practitioners, registered nurses, pharmaceutical chemists, dentists, technicians, clerical assistants, or other persons who provide any such medical services or other related services or who are employed in connection therewith:

- (e) The making of grants or loans to assist any medical practitioners, pharmaceutical chemists, dentists, or other persons who have undertaken to provide any such medical services or other related services or any supplies in connection therewith.

Cf. 1963, No. 47, s. 33

**119. Claims for payments and refunds—**(1) All claims for payments or refunds by the Department under this Part of this Act shall be made to the Medical Officer of Health of the district in which the medical practitioner resides, or to such other person as may be prescribed by regulations made pursuant to section 123 of this Act.

(2) Every such claim shall be made in such form and shall be accompanied by such certificates, receipts, or other documents as may be prescribed by regulations made pursuant to section 123 of this Act or required by the Medical Officer of Health.

Cf. 1963, No. 47, s. 34

**120. Payments under this Part—**All money payable by the Department under the provisions of this Part of this Act shall be paid out of money appropriated by Parliament for the purpose.

Cf. 1963, No. 47, s. 35

**121. Appointment of Committees—**(1) The Minister may from time to time appoint such Committees or other advisory bodies as he considers necessary for the purposes of advising him as to the fixing of the terms and conditions subject to which any of the benefits provided for by this Part of this Act will be made available, of hearing any complaints and disputes that may arise in relation to any such benefits, or for any other purpose in connection with the administration of this Part of this Act.

(2) Any Committee or other representative body for the time being constituted to promote or safeguard the interests of the members of any profession affected by the operation of this Part of this Act may be recognised by the Minister, and shall thereupon be deemed to be a Committee appointed by the Minister for the purposes of this Part of this Act.

(3) Where any Committee is appointed under this section with particular reference to the members of any profession, not less than half of the members of the Committee (exclusive of the Chairman) shall be appointed to represent members of that profession.

(4) References in this Part of this Act to the appropriate Committee shall, in their application to any case, be deemed to be references to such Committee as the Minister in that case determines.

(5) There shall be paid by the Department to the members of any Committee or advisory body appointed under this section and to the members of any special tribunal appointed for the purposes of section 122 of this Act remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the Committee, body, or tribunal were a statutory Board within the meaning of that Act.

Cf. 1963, No. 47, s. 36

**122. Termination of contracts—**(1) This section applies to contracts entered into for the purposes of this Part of this Act, other than contracts entered into pursuant to the powers conferred by section 117 of this Act, between the Minister and any pharmaceutical chemist, midwife, maternity nurse, or any other person, whereby any such person has, in accordance with the terms and conditions fixed by the Minister in that behalf, undertaken to render any professional or other services or to supply any pharmaceutical requirements in respect of any benefits provided for by this Part of this Act.

(2) If in respect of any contract to which this section applies the Minister has reason to believe that the person bound thereby to render any services has habitually or regularly failed to render any such services, or that he has been guilty of any grave misconduct in the performance of the duties required of him under the contract, or that for any reason the continuance of the contract would be gravely prejudicial to the efficiency of any of the benefits provided for by this Part of this Act, he may refer the matter for investigation by a special tribunal to be appointed for the purpose in accordance with subsection (3) of this section.

(3) Every tribunal appointed for the purposes of this section shall consist of—

- (a) A President thereof, who shall be either a Judge of the Supreme Court or a Stipendiary Magistrate; and
- (b) Not less than two other persons, who shall be members of the same profession or calling as the person to whose contract of service the investigation relates.

(4) Every tribunal appointed for the purposes of this section shall have all the powers of a Commission appointed under the Commissions of Inquiry Act 1908.

(5) On the completion of any investigation under this section in relation to any contract, it shall be the duty of the tribunal to recommend to the Minister that the contract be terminated or that it be not terminated, as the case may be. The tribunal may make such other recommendations (if any) as in the circumstances it thinks proper.

(6) For the purposes of subsection (5) of this section, a recommendation by a majority of the members of the tribunal shall be deemed to be a recommendation made by the tribunal.

(7) If the tribunal appointed under this section in respect of any contract recommends to the Minister that the contract be terminated, the Minister may by writing under his hand terminate the contract as from a date to be specified therein in that behalf.

(8) No person whose contract has been terminated in accordance with this section or the corresponding provisions of any former enactment, or who, in the case of a contract with a company, was at the time when the contract was so terminated a shareholder in, or a director, manager, or other principal officer of the company, and no company, any shareholder in which or any director or manager or other principal officer of which has had a contract so terminated, shall at any time thereafter be entitled as of right to enter into a new contract for any of the purposes of this Part of this Act.

(9) Where the Minister has referred any matter for investigation under this section, then, pending the completion of the investigation, no company of which the person whose contract is the subject of the investigation is a shareholder or a director or manager or other principal officer shall be entitled as of right to enter into a new contract for the purposes of this Part of this Act.

(10) Notwithstanding the provisions of any enactment or of any rule of law, any contract to which this section applies shall, for the purposes of this section, be deemed to remain

in full force and effect until it has been terminated pursuant to this section or by proper notice or by the death of the person bound to render services thereunder or, where the person bound is a company, by the dissolution of the company.

(11) Notwithstanding the foregoing provisions of this section, and without limiting the power to make regulations conferred by section 132 of this Act, regulations may be made under that section empowering the Minister to terminate any class of contract to which this section applies by not less than three months' notice, and in that event the Minister may so terminate contracts of that class without complying with the provisions of this section.

Cf. 1963, No. 47, s. 37

**123. Regulations**—Without limiting the power to make regulations conferred by section 132 of this Act, regulations may be made under that section for all or any of the following purposes:

- (a) Providing for the calculation of the payments to be made by the Department in respect of benefits provided for by this Part of this Act by reference to the individual patients or other persons receiving the benefits or in any other manner:
- (b) Prescribing, in relation to hospital benefits or maternity benefits, different rates of payments for different classes of patients or for different classes of hospitals as defined in the regulations or otherwise; and providing that the determination of the Minister as to the class in which any patient or hospital is included shall be final and conclusive:
- (c) Providing for benefits in respect of any class or classes of specialist medical services and for the payment by the Department in respect of any such services of fees to be determined in accordance with a scale of fees to be fixed under the provisions of section 111 of this Act as if it were a scale of fees under that section, and providing that such other provisions of that section as may be specified shall apply in respect of any such matters:
- (d) Providing for the official recognition of medical practitioners as specialists in any branch or branches of medicine or surgery, and for the determination of questions or disputes as to whether or not a particular service is a specialist medical service:



- (e) Authorising any medical practitioner to receive from the Department fees higher than those provided for by the foregoing provisions of this Part of this Act in respect of any general medical services or of any class thereof or to receive from the Department mileage fees computed at a rate higher than that specified in section 94 of this Act:
- (f) Preventing abuses against the provisions of this Part of this Act, including, but without limiting the generality of the foregoing provisions of this paragraph, regulations for all or any of the following purposes:
- (i) The investigation of complaints by Committees appointed or recognised under section 121 of this Act or by appropriate professional disciplinary bodies, and the making by such Committees or bodies of recommendations to the Minister thereon:
  - (ii) The imposition by the Minister, on the recommendation of or after consultation with such Committees or disciplinary bodies, of monetary penalties by deduction from payments in respect of current or future claims or otherwise:
  - (iii) Empowering the Minister, on the recommendation of or after consultation with such Committees or disciplinary bodies, to exclude persons from receiving benefits or payments provided for by or pursuant to this Part of this Act or by the regulations by reason of acts or omissions which, in the opinion of the Governor-General, amount to abuses:
  - (iv) The prevention of payment to any person of amounts in excess of amounts to which he is entitled pursuant to this Part of this Act or to the regulations:
  - (v) The prevention of payment to any one person of amounts in excess of any amounts which he can fully earn in relation to the number of services that he can properly perform:
  - (vi) The conduct of investigations into allegations of abuses, and the examination of documents, books, records, and other materials connected or suspected to be connected therewith:
- (g) The lapsing of claims, or the deduction from payments in respect of claims, lodged after such periods as may be prescribed:

- (h) Declaring specified services not to be general medical services for the purposes of this Part of this Act, either absolutely or in special circumstances defined in the regulations:
- (i) Declaring specified services to be excluded from the definition of the term "medical benefits" in subsection (1) of section 88 of this Act, either generally or in special circumstances defined in the regulations:
- (j) Prescribing offences against the regulations and prescribing penalties for such offences, not exceeding a fine of twenty pounds:
- (k) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Part of this Act and for the due administration thereof.

Cf. 1963, No. 47, s. 38

### PART III

#### GENERAL PROVISIONS

**124. Money payable out of Consolidated Revenue Account—**(1) There shall from time to time be paid out of the Consolidated Revenue Account, from money appropriated by Parliament for the purpose,—

- (a) All money required to be expended in providing benefits and making other payments under Part I or Part II of this Act:
- (b) All salaries and allowances of officers of the Social Security Department, and all other expenditure incurred in the administration of this Act:
- (c) Any money that may be appropriated by Parliament for educational or research purposes in relation to public health or social welfare:
- (d) Any money that may be appropriated by Parliament for the purpose of granting supplementary assistance under any welfare programme approved by the Minister of Social Security:
- (e) All other money that may be appropriated by Parliament for the purposes of this Act, or that may be appropriated for any purpose incidental or related to the purposes of this Act.

(2) Where—

- (a) Pursuant to paragraph (d) of subsection (1) of this section any payment is made out of the Consolidated Revenue Account to any person by way of supplementary assistance; and
- (b) The payment was obtained by fraud, or the husband or wife of that person has made any false statement to or otherwise misled any officer engaged in the administration of Part I of this Act, in relation to his or her income or other personal circumstances, as a result of which the payment was in excess of the amount (if any) that, in the opinion of the Social Security Commission, would otherwise have been paid,—

the provisions of sections 81 and 86 of this Act, as far as they are applicable and with any necessary modifications, shall apply as if the payment was made by way of benefit under Part I of this Act and as if the person to whom the payment was made was a beneficiary entitled to a benefit of such amount (if any) as, in the opinion of the Commission, would have been payable but for the fraud or, as the case may be, the false statement or if that officer had not been misled.

Cf. 1938, No. 7, s. 106; 1957, No. 93, s. 5 (3); 1958, No. 46, s. 28 (2); 1963, No. 46, s. 24

**125. Advances to beneficiaries and war pensioners for repair or maintenance of home—**(1) The Social Security Commission, may in its discretion, from time to time, out of the money appropriated for the purpose under paragraph (d) of subsection (1) of section 124 of this Act, make an advance of such amount, not exceeding two hundred pounds, and subject to such conditions as it thinks fit to any beneficiary who is the owner of an estate in fee simple in any premises occupied by him as a home or is the lessee under a lease which is perpetually renewable of any premises occupied by him as a home, for the purpose of carrying out essential repairs to and maintenance of the premises or of providing essential services to the premises.

(2) For the purposes of this section—

“Beneficiary” means any person who is in receipt of a benefit under Part I of this Act or of a pension or allowance under the War Pensions Act 1954 or the wife or husband of any such person:

“Lease” includes a residence-site licence under the Mining Act 1926; and “lessee” and “leasehold interest” have corresponding meanings.

(3) Any advance under this section shall be a charge upon the estate or interest of the beneficiary in the land, and may be registered against the land under the provisions of the Statutory Land Charges Registration Act 1928.

(4) For the purposes of the Statutory Land Charges Registration Act 1928, notice of any charge under this section and any certificate releasing any such charge may be signed by any member of the Commission.

(5) Except with the consent of the Commission, no dealing in connection with any estate or interest in the land or, as the case may be, of the leasehold interest in the land (other than a transmission on the death of the beneficiary) shall be registered while a charge under this section is registered against the land or, as the case may be, that leasehold interest.

Cf. 1938, No. 7, s. 106A; 1964, No. 37, s. 21

**126. Cost of repair and replacement of artificial limbs—**There shall from time to time be paid out of the Consolidated Revenue Account out of money appropriated by Parliament for the purpose such sums as may be necessary to defray the reasonable cost of the repair or renewal by the Disabled Servicemen’s Re-establishment League Incorporated, or by any other body or person specified from time to time by the Minister of Labour, by notice in the *Gazette*, of any artificial arm, hand, leg, or foot belonging to any person who is entitled to have that artificial limb repaired or renewed free of charge pursuant to the provisions of section 23A of the Workers’ Compensation Act 1956 (as inserted by section 2 of the Workers’ Compensation Amendment Act 1963).

Cf. 1938, No. 7, s. 106B; 1963, No. 47, s. 56

**127. Offences—**Every person commits an offence, and is liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months, who, for the purpose of obtaining any benefit under this Act, for himself or for any other person, or for the purpose of obtaining exemption from any obligation under this Act, for himself or for any other person, or for the purpose of obtaining any payment from the Consolidated Revenue Account, for himself or any other person, makes any

statement knowing it to be false in any material particular or wilfully misleads or attempts to mislead any officer concerned in the administration of this Act or any other person whomsoever.

Cf. 1938, No. 7, s. 136; 1943, No. 19, s. 31

**128. Proceedings for offences**—(1) Notwithstanding anything to the contrary in section 14 of the Summary Proceedings Act 1957, an information for any offence against this Act may be laid at any time within twelve months after the facts alleged in the information have been brought to the knowledge of any officer concerned in the administration of this Act.

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

Cf. 1938, No. 7, s. 137; 1957, No. 93, s. 5 (3)

**129. General penalty for offences**—Every person who commits an offence against this Act or any regulations made under this Act, for which no penalty is provided elsewhere than in this section, is liable on summary conviction to a fine not exceeding twenty pounds.

Cf. 1938, No. 7, s. 138

**130. Exemptions from stamp duty**—No stamp duty shall be payable on any instrument executed for any of the purposes of this Act.

Cf. 1938, No. 7, s. 139 (1); 1952, No. 22, s. 2 (2); 1953, No. 54, s. 7 (2)

**131. Declarations**—Any declaration required for the purposes of this Act may be made before any person authorised to receive declarations in accordance with section 9 of the Oaths and Declarations Act 1957 or before any other person authorised in that behalf by or in accordance with regulations made under this Act.

Cf. 1938, No. 7, s. 139 (2)

**132. Regulations**—The Governor-General may from time to time, by Order in Council, make regulations providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

Cf. 1938, No. 7, s. 140

**133. Annual reports**—(1) The Minister charged with the administration of any Part of this Act shall, as soon as practicable after the close of each financial year, cause to be prepared a report of the operations carried out under that Part during the financial year.

(2) Every such report shall be laid before Parliament within twenty-eight days after it has been received by the Minister concerned therewith if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session.

Cf. 1938, No. 7, s. 141; 1957, No. 93, s. 5 (3); 1963, No. 47, s. 39

**134. Consequential amendment**—The Third Schedule to the State Services Act 1962 is hereby amended by repealing the item relating to the Social Security Department, and substituting the following item:

“Social Security      Chairman.  
                                 Deputy Chairman.  
                                 Commissioner.”

**135. Repeals and savings**—(1) The enactments specified in the Thirteenth Schedule to this Act are hereby repealed.

(2) For all purposes whatsoever in respect of any social security contribution or social security charge which at the commencement of this Act has already been assessed or paid or is still assessable or payable in or for any year before the year commencing on the first day of April, nineteen hundred and fifty-eight, or deductible on or before or after that date from any salary or wages or other income for any period before that date, in accordance with any provision of the Social Security Act 1938 that was repealed before the commencement of this Act, that provision (whether a penal provision or not) and all regulations, orders, warrants, and other acts of authority originating under the Social Security Act 1938 shall, notwithstanding the repeal of that Act by this Act or of any provision thereof by any other enactment, be deemed to remain in full force and effect; and all proceedings under that Act, including proceedings for the recovery of any fine or penalty in respect of any offence committed, whether before or after the commencement of this Act, may be instituted or continued accordingly as if the Social Security Act 1938, or, as the case may be, the provision thereof, had not been repealed.

(3) All proceedings in respect of offences committed or alleged to have been committed against any enactment hereby repealed or against any provision of the Social Security Act 1938 that was repealed before the commencement of this Act may be instituted or continued as if this Act had not been passed.

(4) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of section 22 of the Social Security Amendment Act 1949 shall not affect the amendment made by that section.

(5) Nothing in subsection (1) of section 55 or in section 66 or in the Eighth Schedule or Tenth Schedule to this Act shall apply with respect to any sickness benefit that was in force on the thirteenth day of September, nineteen hundred and sixty-one (being the date of the passing of the Social Security Amendment Act 1961) and is in force at the date of the commencement of this Act, and any such benefit may be continued as if this Act and section 6 of the Social Security Amendment Act 1961 had not been passed.

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## SCHEDULES

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### FIRST SCHEDULE

Section 15

#### RATES OF SUPERANNUATION BENEFITS

1. In every case .. .. . £249 12s. a year.
2. The rate specified in clause 1 of this Schedule may, in the discretion of the Commission, be increased by £26 a year in any case where the beneficiary is an unmarried person:

Provided that the Commission may refuse to increase any benefit under this clause in any case where, in the opinion of the Commission, the beneficiary is sharing household expenses with any other person.

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Sections 18, 19, 20

## SECOND SCHEDULE

## RATES OF AGE BENEFITS

1. (a) To any unmarried beneficiary £275 12s. a year, diminished by £1 for every complete £1 of the annual income of the beneficiary in excess of £208 a year.
- (b) To a married beneficiary whose wife or husband is granted an age benefit or invalid's benefit in her or his own right £249 12s. a year, diminished by 10s. for every complete £1 of the total annual income of the beneficiary and his or her spouse in excess of £208 a year.
- (c) To a married male beneficiary whose wife is not granted a benefit in her own right £249 12s. a year, increased by £249 12s. a year in respect of his wife, the total rate to be diminished by £1 for every complete £1 of the total annual income of the beneficiary and his wife in excess of £208 a year.
- (d) To any other married beneficiary £249 12s. a year, diminished by £1 for every complete £1 of the total annual income of the beneficiary and the spouse of the beneficiary, including the amount of any benefit under Part I of this Act (other than an increase of benefit under section 69) granted to the spouse of the beneficiary in excess of £457 12s. a year:

Provided that the rate specified in paragraph (a) of this clause may, in the discretion of the Commission, be reduced by an amount not exceeding £26 a year in any case where the Commission is satisfied that the beneficiary is sharing household expenses with any other person:

Provided also that in computing for the purposes of this clause the income of any totally blind person the Commission shall take no account of the personal earnings of that person:

Provided further that in any case where a beneficiary is totally blind, the rate of the age benefit, together with any benefits and allowances payable to or in respect of the wife or husband of the beneficiary, shall not be less than the aggregate rate of the benefits and allowances that would have been payable to or in respect of the beneficiary and his or her spouse if the beneficiary had been eligible for an invalid's benefit.

2. Special income exemption where application for age benefit deferred £6 10s. a year in respect of each year of deferment.
3. Additional age benefit for South African War veterans, in every case £26 a year.



## THIRD SCHEDULE

Sections 21, 24

## RATES OF WIDOWS' BENEFITS

1. To a beneficiary without dependent children £275 12s. a year, diminished by £1 for every complete £1 of the annual income of the beneficiary in excess of £208 a year.
2. To a beneficiary with one or more dependent children £275 12s. a year, increased, in the discretion of the Commission, by a mother's allowance not exceeding the appropriate rate specified in clause 3 of this Schedule, and diminished by £1 for every complete £1 of the annual income of the beneficiary in excess of £312 a year.
3. Additional mother's allowance to a beneficiary with—
  - (a) One dependent child.. £184 12s. a year
  - (b) Two dependent children £210 12s. a year
  - (c) Three dependent children £236 12s. a year
  - (d) Four dependent children £262 12s. a year
  - (e) Five dependent children £288 12s. a year
  - (f) Six or more dependent children £314 12s. a year
4. The rates specified in clauses 1 and 2 of this Schedule may, in the discretion of the Commission, be reduced by an amount not exceeding £26 a year in any case where the Commission is satisfied that the beneficiary is sharing household expenses with any other person.

## FOURTH SCHEDULE

Section 29

## MAXIMUM RATE OF ORPHANS' BENEFITS

- In every case .. .. £137 16s. a year, diminished by £1 for every complete £1 of the annual income of the orphan in excess of £52 a year.

## FIFTH SCHEDULE

Section 34

## RATES OF FAMILY BENEFITS

- In respect of each child .. 15s. a week.

Sections 42, 43

## SIXTH SCHEDULE

## RATES OF INVALIDS' BENEFITS

1. (a) To an unmarried beneficiary under the age of 20 years £236 12s. a year, diminished by £1 for every complete £1 of the annual income of the beneficiary in excess of £208 a year.
- (b) To any other unmarried beneficiary £275 12s. a year, diminished by £1 for every complete £1 of the annual income of the beneficiary in excess of £208 a year.
- (c) To a married beneficiary whose wife or husband is granted an age benefit or invalid's benefit in her or his own right £249 12s. a year, diminished by 10s. for every complete £1 of the total annual income of the beneficiary and his or her spouse in excess of £208 a year.
- (d) To a married male beneficiary whose wife is not granted a benefit in her own right £249 12s. a year, increased by £249 12s. a year in respect of his wife, the total rate to be diminished by £1 for every complete £1 of the total annual income of the beneficiary and his wife in excess of £208 a year.
- (e) To any other married beneficiary £249 12s. a year, diminished by £1 for every complete £1 of the total annual income of the beneficiary and the spouse of the beneficiary, including the amount of any benefit under Part I of this Act (other than an increase under section 69 of this Act) granted to the spouse of the beneficiary, in excess of £457 12s. a year:

Provided that the rates specified in paragraphs (a) and (b) of this clause may, in the discretion of the Commission, be reduced by an amount not exceeding £26 a year in any case where the Commission is satisfied that the beneficiary is sharing household expenses with any other person:

Provided also that in computing for the purposes of this clause the income of any totally blind person, the Commission shall take no account of the personal earnings of that person.

2. Maximum amount from all sources where subsidy paid on earnings of blind invalid, in every case £613 12s. a year, increased, in the discretion of the Commission, by £26 a year where the beneficiary is an unmarried person.

Sections 49, 53

## SEVENTH SCHEDULE

## RATES OF MINERS' BENEFITS AND MINERS' WIDOWS' BENEFITS

1. (a) To a married miner .. £249 12s. a year, increased by £249 12s. a year in respect of his wife.
- (b) In any other case .. £275 12s. a year.
2. To a miner's widow .. £243 2s. a year.
3. The rates specified in paragraph (b) of clause 1 and clause 2 of this Schedule may, in the discretion of the Commission, be reduced by an amount not exceeding £26 a year in any case where the Commission is satisfied that the beneficiary is sharing household expenses with any other person.

## EIGHTH SCHEDULE

Section 55

## RATES OF SICKNESS BENEFITS

1. (a) To an unmarried beneficiary under the age of 20 years without dependants £4 1s. a week, diminished by 1s. for every complete 1s. of the weekly income of the beneficiary in excess of £4 a week.
- (b) To any other unmarried beneficiary £5 6s. a week, diminished by 1s. for every complete 1s. of the weekly income of the beneficiary in excess of £4 a week.
- (c) To a married male beneficiary £4 16s. a week, increased by £4 16s. a week in respect of his wife, the total rate to be diminished by 1s. for every complete 1s. of the total weekly income of the beneficiary and his wife in excess of £4 a week.
- (d) To a married female beneficiary £4 16s. a week, diminished by 1s. for every complete 1s. of the total weekly income of the beneficiary and her husband (including the amount of any benefit under Part I of this Act received by the husband) in excess of £8 16s. a week:

Provided that the rates specified in paragraphs (a) and (b) of this clause may, in the discretion of the Commission, be reduced by an amount not exceeding 10s. a week in any case where the Commission is satisfied that the beneficiary is sharing household expenses with any other person.

2. Maximum increase in respect of housekeeper £4 6s. a week.

## NINTH SCHEDULE

Section 59

## MAXIMUM RATES OF UNEMPLOYMENT BENEFITS

1. (a) To an unmarried beneficiary under the age of 20 years without dependants £4 1s. a week.
- (b) To any other unmarried beneficiary £5 6s. a week.
- (c) To a married male beneficiary £4 16s. a week, increased by £4 16s. a week in respect of his wife.
- (d) To a married female beneficiary £4 16s. a week:

Provided that the rates specified in paragraphs (a) and (b) of this clause may, in the discretion of the Commission, be reduced by an amount not exceeding 10s. a week in any case where the Commission is satisfied that the beneficiary is sharing household expenses with any other person.

2. Maximum increase in respect of a housekeeper £4 6s. a week.

## Section 66

## TENTH SCHEDULE

## SPECIAL INCOME EXEMPTION IN RESPECT OF SICK BENEFITS FROM FRIENDLY OR LIKE SOCIETY (AGE, INVALIDS', WIDOWS', AND SICKNESS BENEFITS ONLY)

Maximum rate .. .. 20s. a week in the case of a sickness benefit, and £52 a year in any other case.

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## Section 67

## ELEVENTH SCHEDULE

## SPECIAL INCOME EXEMPTION IN RESPECT OF EARNINGS FROM DOMESTIC AND NURSING SERVICE

Maximum rate .. .. 30s. a week in the case of a sickness benefit, and £78 a year in any other case.

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## Section 69

## TWELFTH SCHEDULE

## MAXIMUM INCREASE IN RATE OF BENEFIT PAYABLE TO PARENT OF DECEASED MEMBER OF FORCES OR MERCANTILE MARINE

Maximum rate .. .. 10s. a week.

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## Section 135 (1) THIRTEENTH SCHEDULE

## ENACTMENTS REPEALED

- 1938, No. 7—The Social Security Act 1938. (1957 Reprint, Vol. 14, p. 475.)
- 1939, No. 31—The Social Security Amendment Act 1939. (1957 Reprint, Vol. 14, p. 578.)
- 1940, No. 5—The Social Security Amendment Act 1940. (1957 Reprint, Vol. 14, p. 579.)
- 1940, No. 30—The Finance Act (No. 4) 1940: Part II. (1957 Reprint, Vol. 14, p. 580.)
- 1941, No. 4—The Finance Act 1941: Part II. (1957 Reprint, Vol. 14, p. 581.)
- 1943, No. 19—The Social Security Amendment Act 1943. (1957 Reprint, Vol. 14, p. 583.)
- 1944, No. 31—The Finance Act (No. 3) 1944: Section 5. (1957 Reprint, Vol. 14, p. 586.)
- 1945, No. 11—The Social Security Amendment Act 1945. (1957 Reprint, Vol. 14, p. 586.)
- 1945, No. 45—The Finance Act (No. 2) 1945: Section 57. (1957 Reprint, Vol. 14, p. 590.)

THIRTEENTH SCHEDULE—*continued*

- 1946, No. 22—The Social Security Amendment Act 1946. (1957 Reprint, Vol. 14, p. 590.)
- 1947, No. 28—The Social Security Amendment Act 1947. (1957 Reprint, Vol. 14, p. 593.)
- 1948, No. 78—The Finance Act (No. 2) 1948: Part III. (1957 Reprint, Vol. 14, p. 593.)
- 1949, No. 38—The Social Security Amendment Act 1949. (1957 Reprint, Vol. 14, p. 594.)
- 1950, No. 49—The Social Security Amendment Act 1950. (1957 Reprint, Vol. 14, p. 597.)
- 1951, No. 54—The Social Security Amendment Act 1951. (1957 Reprint, Vol. 14, p. 600.)
- 1952, No. 81—The Finance Act (No. 2) 1952: Part II. (1957 Reprint, Vol. 14, p. 602.)
- 1954, No. 69—The Social Security Amendment Act 1954. (1957 Reprint, Vol. 14, p. 604.)
- 1955, No. 9—The Social Security Amendment Act 1955. (1957 Reprint, Vol. 14, p. 606.)
- 1955, No. 34—The Social Security Amendment Act (No. 2) 1955. (1957 Reprint, Vol. 14, p. 608.)
- 1957, No. 92—The Social Security Amendment Act 1957. (1957 Reprint, Vol. 14, p. 609.)
- 1958, No. 46—The Social Security Amendment Act 1958.
- 1959, No. 80—The Social Security Amendment Act 1959.
- 1960, No. 13—The Social Security Amendment Act 1960.
- 1961, No. 6—The Social Security Amendment Act 1961.
- 1962, No. 22—The Social Security Amendment Act 1962.
- 1962, No. 102—The Social Security Amendment Act (No. 2) 1962.
- 1963, No. 46—The Public Revenues Amendment Act 1963: Section 24.
- 1963, No. 47—The Social Security Amendment Act 1963.
- 1964, No. 37—The Social Security Amendment Act 1964.

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This Act is administered in the Social Security Department.

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