



ANALYSIS

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1971, No. 28

An Act to consolidate and amend certain enactments of the General Assembly relating to unclaimed money

[16 October 1971

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 Unclaimed Money Act 1971.

(2) This Act shall be deemed to have come into force on the 1st day of June 1971.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Commissioner” means the Commissioner of Inland Revenue as defined in the Inland Revenue Department Act 1952:

“Holder”, in relation to any unclaimed money, means a holder within the meaning of section 5 of this Act; and includes any person acting for or on behalf of the holder; and also includes the personal representative of the holder:

“Officer of the Department” means any person employed in the Inland Revenue Department:

“Owner”, in relation to any unclaimed money, means the person entitled to the unclaimed money; and includes any other person claiming under or on behalf of that person:

“Savings bank” means the Post Office Savings Bank, any trustee savings bank within the meaning of the Trustee Savings Banks Act 1948, any private savings bank within the meaning of the Private Savings Banks Act 1964, and any building society within the meaning of the Building Societies Act 1965 in respect of any savings bank deposit within the meaning of section 57 of that Act:

“Unclaimed money” means unclaimed money within the meaning of section 4 of this Act, being unclaimed money situated in New Zealand.

Cf. 1908, No. 201, s. 2

3. Unclaimed money to be paid to Crown—Subject to this Act, there shall be payable to the Crown all money which becomes unclaimed money after the commencement of this Act, except and so far as special provisions are made by or under any other Act.

4. Unclaimed money—(1) Subject to this section, unclaimed money shall consist of—

(a) Money, including the interest or any amount in the nature of interest thereon, deposited with any holder so as to bear interest for a fixed term, which has been in the possession of the holder for the period of 6 years immediately following the date of expiry of the term:

(b) Money, including the interest or any amount in the nature of interest thereon, deposited with any holder so as to bear interest—

(i) Without limitation of time; or

- (ii) For a fixed term where, on the expiry of the fixed term, the money, if it is not withdrawn by the customer, is to be treated as reinvested,—
where in either case the customer has not operated on the account for a period of 25 years, whether by deposit, or withdrawal, or instruction in writing:
- (c) Money deposited upon current account or otherwise with any holder and not bearing interest, where—
- (i) In any case where the holder is a savings bank, the customer has not operated on the account for a period of 25 years, whether by deposit, or withdrawal, or instruction in writing; and
- (ii) In any other case, the customer has not operated on the account for a period of 6 years, whether by deposit, or withdrawal, or instruction in writing:
- (d) Money payable or distributable on or in consequence of the maturity of a policy of life assurance, being money which has been in the possession of any holder for the period of 6 years immediately succeeding the date on which—
- (i) The policy matured otherwise than by death; or
- (ii) The holder first had reason to suppose that the policy has matured by death, whether such death has been legally proved or not,—
whichever date is the earlier, and notwithstanding that by the terms of the policy the money is not payable or distributable except on proof of death, or on proof of age or any other collateral matter:
- (e) Any other money, of any kind whatsoever, which has been owing by any holder for the period of 6 years immediately following the date on which the money has become payable by the holder:

Provided that money of any of the kinds referred to in this subsection shall cease to be unclaimed money where—

- (i) In respect of any one owner it does not exceed \$20 in total; and
- (ii) Before the 1st day of June next succeeding the end of the period of 6 years or, as the case may be, 25 years specified in this subsection, that unclaimed money is, without limiting any claim

any owner may have thereto, applied by the holder for his own benefit or for the benefit of any other person or for any purpose or object.

(2) Unclaimed money shall not include—

- (a) Any dividends, not being dividends payable by a mutual association in relation to money deposited with the association, payable by a company to any of its shareholders:
- (b) Any rebate payable by a mutual association (other than a holder of the kind referred to in paragraph (f) of subsection (1) of section 5 of this Act) to any of its members in relation to the trading transactions of the member with the association, not being a rebate payable in relation to money deposited with the association:
- (c) Any benefits payable from any pension or superannuation fund.

(3) Where a holder has ceased to carry on business or has died, and the holder, or, as the case may be, his personal representative, has for a period of 6 months or more immediately succeeding the date of that cessation or death been in possession of or owed money which has remained unclaimed and—

- (a) Which would become unclaimed money when the period referred to in the appropriate paragraph of subsection (1) of this section had expired if the money had remained unclaimed; or
- (b) Which would have so become unclaimed money if it were not money of any of the kinds referred to in subsection (2) of this section,—

the holder or that personal representative may, if he thinks fit, pay the money to the Commissioner and furnish to the Commissioner particulars of the payment and of the person on whose behalf the money was held or to whom it was owed; and thereupon that money shall be deemed to be unclaimed money, and the provisions of this Act, as far as they are applicable, shall apply accordingly:

Provided that this subsection shall not apply to any money of the kind referred to in section 330 of the Companies Act 1955.

(4) In subsection (2) of this section the expression “mutual association” means any body or association of

persons, whether incorporated or not, which enters into transactions of a mutual character with its members, whether or not it also enters into transactions with other persons.

Cf. 1908, No. 201, s. 2; 1932, No. 11, s. 26

5. Holder—(1) This Act shall apply to unclaimed money held or owing by the following holders:

- (a) Any company incorporated in New Zealand and any liquidator or receiver of any such company:
- (b) Any company incorporated out of New Zealand and carrying on business in New Zealand, and any liquidator or receiver of any such company:
- (c) Any bank, including a savings bank, carrying on business in New Zealand:
- (d) Any building society within the meaning of the Building Societies Act 1965:
- (e) Any person, firm, body, or institution carrying on the business of borrowing and lending money in New Zealand, in respect of money borrowed:
- (f) Any insurance office or company carrying on business in New Zealand, including the Government Life Insurance Office:
- (g) Any auctioneer within the meaning of the Auctioneers Act 1928, whether or not a company, in respect of any balance of proceeds of any auction sale:
- (h) Any real estate agent within the meaning of the Real Estate Agents Act 1963, whether or not a company, in respect of money held in a trust account:
- (i) Any sharebroker within the meaning of the Sharebrokers Act 1908, whether or not a company, in respect of money held on behalf of clients:
- (j) Any member of the New Zealand Society of Accountants and any person licensed by the Council of the Society under subsection (1) of section 32A of the New Zealand Society of Accountants Act 1958, in either case in respect of money held on behalf of clients:
- (k) Any motor-vehicle dealer within the meaning of the Motor Vehicle Dealers Act 1958, whether or not a company, in respect of money held on behalf of any person for whom the dealer has acted as agent under section 19 of that Act:

Provided that where any holder referred to in paragraph (e) or paragraph (g) or paragraph (h) or paragraph (i) or paragraph (k) of this subsection is a company, nothing in those paragraphs shall derogate from the provisions of paragraphs (a) and (b) of this subsection in relation to that holder.

(2) Any person, firm, body, or institution may elect to be the holder in respect of such money held or owing by him or it as he or it thinks fit, not being—

- (a) Unclaimed money in respect of which he or it is the holder under subsection (1) of this section; or
- (b) Except where subsection (3) of section 4 of this Act applies, money to which subsection (2) of that section applies;—

and in that case he or it shall be deemed to be the holder in respect of that money.

Cf. 1908, No. 201, s. 2; 1932, No. 11, s. 25; 1932–33, No. 45, s. 17

6. Register to be kept—(1) Every holder shall, on the 1st day of June in each year, enter in an alphabetical register, to be kept at the head or principal office in New Zealand of the holder, in the form prescribed in the Schedule to this Act, particulars of unclaimed money arising on or after the 1st day of June in the preceding year; and from and after the 8th day of June in each year that register shall be open to the inspection of all persons at that head or principal office during the hours within which the ordinary business of the holder is transacted, on payment of such fee as may be determined by the holder, but not exceeding 50 cents:

Provided that—

- (a) On ceasing to carry on business in New Zealand a holder shall deposit the register in the custody of the Registrar of the Magistrate's Court nearest to the place where that register was theretofore kept:
- (b) Any holder may at any time so deposit any book or part of the register in which no entry has been made for a period of not less than 6 years immediately preceding the date of that deposit.

(2) Nothing in this section shall apply to any unclaimed money in respect of which special provisions are made by or under any other Act, or to any unclaimed money which, pursuant to the proviso to subsection (1) of section 4 of this Act, ceases to be unclaimed money.

Cf. 1908, No. 201, s. 3; 1932, No. 11, s. 27

7. Holder to notify Commissioner and owners of entries in register of unclaimed money—(1) Not later than the 30th day of June in each year, every holder shall, by letter addressed to the last known place of business or abode of the owner, post to every owner in respect of whom an entry as the owner of unclaimed money was required to be made on the 1st day of that month in the register kept by the holder pursuant to section 6 of this Act, a notice specifying the amount of that money and the fact that it is entered in the register as unclaimed money, and the holder shall thereupon enter in that register the date of posting of the notice.

(2) Not later than the 30th day of September in each year, every holder shall furnish to the Commissioner a copy of every entry made, on or after the 1st day of June in that year, in the register kept by the holder pursuant to section 6 of this Act, and shall indicate to the Commissioner which, if any, of the unclaimed money in respect of which the entry was so made, has, on or after that 1st day of June, been paid to the owner thereof.

(3) Nothing in this section shall apply to any unclaimed money in respect of which special provisions are made by or under any other Act.

Cf. 1932, No. 11, s. 28

8. Payment of unclaimed money to Commissioner—(1) All unclaimed money arising in any year ending with the 31st day of May which has not, before the next succeeding 30th day of September, been paid by a holder to the owner thereof, and in respect of which no person has before that 30th day of September established a valid claim, shall be paid, on or before the next succeeding 31st day of October, by the holder to the Commissioner:

Provided that this subsection shall not apply to any unclaimed money in respect of which special provisions in relation to payment to the Commissioner are made by this Act or in respect of which special provisions are made by or under any other Act.

(2) All money payable to the Commissioner in accordance with this section shall be recoverable by the Commissioner on behalf of the Crown by action in his official name in any Court of competent jurisdiction against the holder as a debt due to the Crown.

(3) All unclaimed money received by the Commissioner under this or any other Act shall be paid into the Consolidated Revenue Account.

(4) Where unclaimed money is paid by a holder to the Commissioner in accordance with this Act, the holder shall thereafter be relieved of all further liability to any claimant in respect of the money so paid.

Cf. 1932, No. 11, s. 30

9. Special arrangements may be made by Commissioner—Notwithstanding the provisions of this Act, but without affecting the liability of the holder to pay unclaimed money to the Crown, the Commissioner may from time to time, pursuant to a special arrangement, exempt in writing any holder or any class of holder from compliance with all or any of the provisions of section 6, section 7, or subsection (1) of section 8 of this Act, either absolutely or conditionally, or in respect of specified kinds of unclaimed money.

10. Examination of accounts—(1) The Commissioner or any officer of the Department authorised by him in that behalf may at any time examine any register kept by a holder pursuant to section 6 of this Act and any accounts of the holder which relate to money which is or may be unclaimed money, and for that purpose may require the production of any book, voucher, or document relating to such money. If any error is found in the register furnished to the Commissioner or any such officer or in any notice sent to any owner, the Commissioner or the officer may require the same to be amended.

(2) The Commissioner or any officer of the Department authorised by him in that behalf shall at all times have full and free access to all books and documents for the purpose of inspecting them for the purposes of this Act, and for this purpose may, without fee, make extracts from or copies of any such books or documents.

(3) Every person shall, without fee, from time to time as required by the Commissioner or any officer of the Department authorised by him in that behalf furnish in writing any information or produce any books or documents which may be in his knowledge, or his possession or control, as the case may be, and which relate to money which is or may be unclaimed money.

Cf. 1932, No. 11, s. 31 (1)–(4)

11. Commissioner may make payment to claimant—(1) If any claimant makes any demand against the Commissioner for any money—

- (a) Paid to the Commissioner; or
- (b) Paid, whether before or after the commencement of this Act, into the Public Account under the provisions of any former enactment,—

the Commissioner, on being satisfied that the claimant is the owner of the money demanded by him, shall cause payment to be made by him.

(2) All money paid by the Commissioner under subsection (1) of this section, not being money paid by the Director-General of the Post Office under subsection (3) of this section, shall be paid out of the Consolidated Revenue Account without further appropriation than this Act.

(3) For the purposes of this section, the Director-General of the Post Office shall be the agent of the Commissioner in respect of any Post Office Savings Bank deposits, including the interest thereon, which have become unclaimed money.

(4) Where any money paid to any claimant under this section is afterwards claimed by any other person, neither the Commissioner nor the Director-General of the Post Office shall be responsible for the payment of the same, but that person may have recourse against the claimant to whom the Commissioner or the Director-General of the Post Office has paid the money.

(5) No claimant shall be entitled to interest on the amount of any money for which demand on the Commissioner or the Director-General of the Post Office is made by him or on the amount of any money payment of which is made to him under this section.

Cf. 1908, No. 201, ss. 8, 9

12. Officers to maintain secrecy—(1) The Commissioner and every officer of the Department shall maintain and aid in maintaining the secrecy of all matters which come to his knowledge in the course of his duties under this Act, and shall not communicate any such matters to any person, except for the purpose of carrying this Act into effect:

Provided that the Commissioner may make available for publication the names of owners of unclaimed money paid to the Commissioner under this Act or any former Act and the amounts received belonging to those owners.

(2) Every person who wilfully acts in contravention of the provisions of this section is liable on summary conviction before a Magistrate to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$200.

Cf. 1932, No. 11, s. 31 (4), (5)

13. Offences—Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$500, who wilfully or negligently—

- (a) Being a holder, fails to comply with any provision of section 6, section 7, subsection (1) of section 8, or section 10 of this Act, or with any condition on which the Commissioner has granted exemption under section 9 of this Act; or
- (b) Being a director, manager, secretary, or other officer of the holder, authorises or permits that failure to comply.

Cf. 1932, No. 11, ss. 29 (1), 31 (5)

14. Consequential amendments—(1) Section 50 of the Waterfront Industry Act 1953 is hereby consequentially amended by repealing subsection (6).

(2) Section 13 of the Innkeepers Act 1962 is hereby consequentially amended—

- (a) By omitting from subsection (1) and also from subsection (3) the words “into the Public Account” and from subsection (2) the words “to the Public Account”, and substituting in each case the words “to the Commissioner of Inland Revenue”:
- (b) By omitting from subsection (3) the words “the provisions of sections 8, 8A, and 9 of the Unclaimed Moneys Act 1908”, and substituting the words “the provisions of section 11 of the Unclaimed Money Act 1971”.

(3) Section 72 of the Law Practitioners Act 1955 is hereby consequentially amended by repealing subsections (1) to (3), and substituting the following subsections:

“(1) Where the person on whose behalf any money is held in a trust account of any solicitor cannot be found and has no known agent with authority to receive the money, the solicitor may if he thinks fit pay the money to the Commissioner of Inland Revenue and furnish to the Commissioner particulars of the payment and of the person on whose behalf the money was held, and the solicitor shall thereupon be relieved from all further liability in respect of the money so paid.

“(2) All money paid to the Commissioner under this section shall be deemed to have been so paid as unclaimed money, and section 11 of the Unclaimed Money Act 1971 shall apply thereto.”

(4) Section 72 of the Law Practitioners Act 1955 is hereby further consequentially amended—

(a) By omitting from subsection (4) the words “into the Public Account”, and substituting the words “to the Commissioner of Inland Revenue”:

(b) By omitting from subsection (4) the words “Minister of Finance” and also the word “Minister” wherever it occurs, and substituting in each case the word “Commissioner”.

(5) Section 330 of the Companies Act 1955 is hereby consequentially amended—

(a) By omitting from subsection (1) (as amended by section 4 (4) of the Public Revenues Amendment Act 1963) the words “into the Public Account to the credit of the Consolidated Revenue Account at any time before they have become unclaimed moneys within the meaning of the Unclaimed Moneys Act 1908”, and substituting the words “to the Commissioner of Inland Revenue at any time before they have become unclaimed money within the meaning of the Unclaimed Money Act 1971”:

(b) By omitting from subsection (2) the words “unclaimed moneys, and the provisions of the Unclaimed Moneys Act 1908”, and substituting the words “unclaimed money and the provisions of the Unclaimed Money Act 1971”.

(6) Subject to section 11 of this Act, the enactments amended by this section shall continue to apply, as if this Act had not been passed, to all money which before the commencement of this Act has become unclaimed money under any provision of any such enactment.

15. Repeals and savings—(1) The following enactments are hereby consequentially repealed:

(a) The Unclaimed Moneys Act 1908:

(b) Part IV of the Finance Act 1932:

(c) Section 17 of the Finance Act 1932–33 (No. 2):

(d) The Unclaimed Moneys Amendment Act 1958.

(2) Subject to section 11 of this Act, the enactments hereby repealed shall continue to apply, as if this Act had not been passed, to all money which before the commencement of this Act has become unclaimed money under any provision of any such enactment.

SCHEDULE

n 6 (1)

REGISTER OF MONEY UNCLAIMED HELD BY [*Here insert name of holder*] ON 1 JUNE 19

Name, Occupation, and Last Known Address of Owner on Books	Total Amount Due to Owner	Description of Unclaimed Money	Date of Posting Notice to Owner	Unclaimed Money Paid to Owner	
				Date	Amount

This Act is administered in the Treasury.