

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
3rd September, 1936.*

Hon. Mr. Parry.

PENSIONS AMENDMENT.

ANALYSIS.

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A BILL INTITULED

Title.

AN ACT to amend the Pensions Act, 1926.

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

Short Title and commencement.

See Reprint of Statutes, Vol. VI, p. 760

1. (1) This Act may be cited as the Pensions Amendment Act, 1936, and shall be read together with and deemed part of the Pensions Act, 1926 (hereinafter referred to as the principal Act).

(2) This Act shall be deemed to have come into force on the first day of July, nineteen hundred and thirty-six.

PART I.

AMENDING PROVISIONS RELATING TO OLD-AGE, WIDOWS', MINERS', AND MILITARY PENSIONS.

Old-age Pensions.

Modification of qualifications of applicants for old-age pensions.

2. (1) Section eight of the principal Act is hereby amended by omitting from paragraph (b) thereof the words "twenty-five years" wherever they occur therein, and in each case substituting the words "twenty years".

(2) The said section is hereby further amended by repealing paragraphs (c) and (d) thereof.

3. (1) Except as provided in subsection *three* hereof, the rates of old-age pensions in force on the commencement of this Act, or that may hereafter be granted, shall be computed as follows:—

Increasing rates
of old-age
pensions.

5 (a) From the commencement of this Act to the thirtieth day of November, nineteen hundred and thirty-six, the rate of every such pension shall be fifty-two pounds a year, diminished in
10 respect of the income or accumulated property of the applicant as provided in the *next succeeding* subsection:

(b) On and after the first day of December, nineteen hundred and thirty-six, the rate of every such pension (whether granted before or after that
15 date) shall be fifty-eight pounds ten shillings a year, diminished in respect of the income or accumulated property of the applicant as provided in the *next succeeding* subsection.

(2) The amount of every pension computed in
20 accordance with the *last preceding* subsection shall be diminished as follows:—

(a) By one pound for every complete pound of the income of the applicant in excess of fifty-two pounds a year; and also

25 (b) By one pound for every complete ten pounds of the net capital value of the accumulated property of the applicant, computed in accordance with the provisions of the *next succeeding* section:

30 Provided that the rate of the pension shall not be diminished in respect both of the net capital value of any property and of the income derived from that property, but in any case to which this proviso relates the deduction
35 shall be made in respect of the property or in respect of the income, whichever method provides for the greater deduction.

(3) In addition to the amount computed in accordance with the foregoing provisions of this section, there shall
40 be payable to every pensioner to whom the provisions of paragraph (b) of section seven of the principal Act relate such additional amount, not exceeding *thirteen* pounds a year, as (having regard to the circumstances of the case) the Magistrate by whom the pension-claim is
45 investigated may in his discretion determine.

Repeals.

1935, No. 5

(4) The foregoing provisions of this section are in substitution for section nine of the principal Act, as amended by section thirteen of the Finance Act, 1935, and the said sections are hereby accordingly repealed.

(5) Section thirteen of the principal Act, as amended by section thirteen of the Finance Act, 1935, is hereby amended by omitting from paragraph (b) of subsection one the words "one hundred and forty-three pounds", and substituting the words "one hundred and fifty-six pounds". On the first day of December, nineteen hundred and thirty-six, section thirteen of the principal Act shall be deemed to be further amended by omitting the words "one hundred and fifty-six pounds", and substituting the words "one hundred and sixty-nine pounds".

In computing capital value of accumulated property, certain classes of property not to be taken into account.

4. (1) In computing, for the purposes of Part I of the principal Act, the capital value of the accumulated property of any applicant for a pension, no account shall be taken of—

- (a) His interest in any land (including his interest under any mortgage of any estate or interest in land):
- (b) His interest in any annuity or in any policy of life-insurance:
- (c) Any furniture or personal effects belonging to the applicant:

Provided that if, at any time after the commencement of this Act, any property that would be regarded as accumulated property has been converted into property of any of the classes referred to in this subsection, the Magistrate by whom the pension-claim is investigated or the Commissioner, as the case may be, may regard such property, in whole or in part, as being accumulated property of the applicant if he is of opinion that the conversion of the property was for the purpose of enabling the applicant to qualify for a pension or to qualify for a pension of a greater amount than otherwise he would be entitled to receive.

(2) Except as provided in the *last preceding* subsection, all property belonging to the applicant shall be deemed to be his accumulated property, and the capital value thereof shall be ascertained in manner prescribed by regulations under the principal Act, or, in the absence of regulations or in so far as they do not extend, shall

be determined by the Magistrate by whom the pension-claim is investigated or the Commissioner, as the case may require.

(3) From the capital value of the accumulated property of the applicant, ascertained in accordance with the foregoing provisions of this section, there shall be deducted the sum of *five hundred* pounds, and the residue then remaining shall be deemed to be the net capital value of his accumulated property.

(4) Where for the purposes of Part I of the principal Act the value of the accumulated property of the wife or husband of an applicant for a pension is to be determined, it shall be determined in accordance with the foregoing provisions of this section.

(5) This section is in substitution for section ten of the principal Act, and that section is hereby accordingly repealed.

5. Section eleven of the principal Act is hereby repealed.

6. Section twelve of the principal Act is hereby amended as follows:—

(a) By repealing the proviso to subsection one, and substituting the following proviso:—

“ Provided that if, on application for a pension, or for the renewal of a pension, it is shown to the satisfaction of the Magistrate or the Commissioner, as the case may be, that the income of the applicant, or of the husband or wife of the applicant, for the then current income-year will be less than the income for the last preceding income-year, the Magistrate or Commissioner may exclude from the computation of the applicant's yearly income such amount (if any) as he thinks fit, not exceeding the amount of the estimated reduction ”:

(b) By inserting, after the words “ shall be deemed ” in subsection two, the words “ (subject to the provisions of the last preceding subsection) ”.

Widows' Pensions.

7. (1) Except as provided in the *next succeeding* subsection, the amount of every pension payable under Part II of the principal Act shall be computed at the rate of ten shillings a week for each child in respect of

Increasing
rates of
widows'
pensions.

whom the pension is payable, increased by one pound a week, but not so as to exceed in any case the rate of four pounds ten shillings a week.

(2) The annual amount of the pension computed in accordance with the *last preceding* subsection shall be diminished by one pound for every complete pound by which the total income of the applicant and of any child or children in respect of whom the pension is payable exceeds seventy-eight pounds a year. 5

Repeals.

1935, No. 5

(3) The foregoing provisions of this section are in substitution for section twenty-one of the principal Act, as amended by section fifteen of the Finance Act, 1935, and those sections are hereby accordingly repealed. 10

(4) Section twenty-three of the principal Act is hereby repealed. 15

Deserted wives who satisfy requirements of this section may be granted pensions under Part II of principal Act.

8. A pension under Part II of the principal Act may be granted to any married woman, as if she were a widow, who has been deserted by her husband and who satisfies the Magistrate by whom her claim for a pension is investigated— 20

See Reprint of Statutes, Vol. II, p. 906

(a) That she has taken proceedings against her husband for a maintenance order under Part III of the Destitute Persons Act, 1910, and that she has failed to obtain a maintenance order or that the order, if made, has not been complied with; and 25

(b) That she is not aware of the present whereabouts of her husband.

Conditions as to grant of pensions under Part II of principal Act to women whose husbands are mentally defective. Ibid., Vol. V, p. 743

9. (1) A pension under Part II of the principal Act may be granted to any married woman in respect of whose husband a reception-order under the Mental Defectives Act, 1911, is for the time being in force (whether or not he is detained in an institution under that Act). 30

(2) In computing the amount of the pension (if any) to which any woman may be entitled under this section, the income (if any) of the husband shall be taken into account as if it were income of the applicant. 35

Repeal.

(3) Section two of the principal Act is hereby consequentially amended by repealing the definition of the term "widow". 40

Further extension of provisions as to widows' pensions.

10. (1) Notwithstanding anything to the contrary in Part II of the principal Act, the Magistrate by whom any pension-claim under that Part is investigated may, in computing the amount of the pension payable to any 45

applicant, regard any child who is in fact maintained by the applicant and who was maintained by her husband before his death as if such child were a child of the applicant.

- 5 (2) Section nineteen of the principal Act is hereby amended by repealing paragraph (b) thereof.

Miners' Pensions.

11. Section thirty-six of the Finance Act, 1929, is hereby amended by inserting, before the words
10 "contracted while working as a miner in New Zealand" in subsection two, the words "or other occupational disease or heart disease".

Extension of grounds on which miners' pensions may be granted.
See Reprint of Statutes, Vol. VI, p. 794

12. Section thirty-four of the principal Act is hereby amended as follows:—

- 15 (a) By omitting from paragraph (a) all words after the words "That he is a British subject"; and
(b) By omitting from paragraph (d) the words "has not been convicted of any offence punishable by imprisonment for two years or upwards, and".

Modification of qualifications of applicants for miners' pensions.

13. (1) If any miner while in receipt of a pension under Part IV of the principal Act has heretofore died or hereafter dies leaving a widow, his widow shall be entitled during widowhood to a pension at the rate of
25 seventeen shillings and sixpence a week. The pension payable under this section to the widow of any miner who has died before the date of the commencement of this Act shall commence on that date.

Provision for pension to widow of deceased miner.

- (2) This section is in substitution for subsection one
30 of section thirty-five of the principal Act, as amended by section twenty of the National Expenditure Adjustment Act, 1932, and by subsection two of section sixteen of the Finance Act, 1935, and the said enactments are hereby consequentially repealed.

1932, No. 8
1935, No. 5

35 *Military Pensions.*

14. Section forty-two of the principal Act is hereby amended by repealing paragraph (b) thereof.

15. Section forty-three of the principal Act is hereby amended by omitting the words "forty-nine pounds",
40 and substituting the words "fifty-two pounds". On the first day of December, nineteen hundred and thirty-six, the said section forty-three shall be deemed to be further amended by omitting the words "fifty-two pounds", and substituting the words "fifty-eight pounds ten
45 shillings".

Modification of qualifications for pension in respect of service in Maori wars.

Increasing rate of pensions for service in Maori wars.

Altering
limitations as
to income of
persons in
receipt of
pensions for
service in
South African
War.

16. (1) Section forty-five of the principal Act, as amended by section fourteen of the Finance Act, 1935, is hereby further amended by omitting from subsection one the words “ninety-seven pounds ten shillings”, and substituting the words “one hundred and four pounds”. On the first day of December, nineteen hundred and thirty-six, section forty-five of the principal Act shall be deemed to be further amended by omitting from subsection one the words “one hundred and four pounds”, and substituting the words “one hundred and ten pounds ten shillings”.

Repeal.
1935, No. 5

(2) Section fourteen of the Finance Act, 1935, is hereby consequentially repealed.

PART II.

INVALIDITY PENSIONS.

Provision for
grant of
pensions to
persons
permanently
incapacitated
by reason
of illness,
accident, or
congenital
defect.

17. (1) Subject to the provisions of this Part of this Act, every person of the age of sixteen years or upwards shall be entitled to a pension (hereinafter in this Part of this Act referred to as an invalidity pension) who—

- (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.

(2) No person shall be entitled to an invalidity pension who would be disqualified from obtaining an old-age pension on any of the grounds specified in section ninety-one of the principal Act, or who does not satisfy the following conditions, namely:—

- (a) That he has resided continuously in New Zealand for not less than ten years immediately preceding the date of his application:

Provided that continuous residence in New Zealand shall not be deemed to have been interrupted by occasional absences therefrom, not exceeding six months in the aggregate, and in the case of a totally blind person shall not be deemed to have been interrupted by any period of absence for purposes of vocational training or of medical treatment in respect of his eyes:

- (b) In the case of an applicant for a pension on the ground of blindness, that he was born blind in New Zealand or became blind while permanently resident in New Zealand; and, in the case of any other applicant, that he was born in New Zealand with the condition to which his incapacity for work is attributable or that he became incapacitated for work by reason of an accident happening in New Zealand or by reason of illness contracted in New Zealand:
- (c) That his incapacity for work was not self-induced, or was not in any way brought about with a view to qualifying for an invalidity pension:
- (d) That, where his incapacity for work is the result of an accident, he has no claim outstanding against any employer or any other person for compensation or damages in respect of such accident:
- (e) That he is of good moral character and sober habits.
18. (1) Subject to the provisions of this section, pensions granted under this Part of this Act shall be computed as follows:— Rates of invalidity pensions.
- (a) In the case of a married man (with a wife dependent on him or with a wife and children dependent on him) the pension shall be at the rate of twenty shillings a week, increased by ten shillings a week in respect of his wife and further increased by ten shillings a week in respect of each such child:
- (b) In the case of a widower with children dependent on him, the pension shall be at the rate of twenty shillings a week, increased by ten shillings a week in respect of each such child:
- (c) In every other case the pension shall be at the rate of twenty shillings a week.
- (2) The annual amount of any pension computed in accordance with the *last preceding* subsection shall be diminished in accordance with the following provisions, namely:—
- (a) In the case of an applicant to whom paragraph (a) or paragraph (b) of the *last preceding* subsection relates, the annual amount so computed shall be diminished as follows:—

(i) By one pound for every complete pound of the total annual income of the applicant and of his wife and dependent children in excess of one hundred and four pounds; and also

(ii) By one pound for every complete ten pounds of the net capital value of the accumulated property of the applicant and of his wife and children, computed as in the case of an application for an old-age pension: 5

(b) In every other case, the annual amount so computed shall be diminished as follows:— 10

(i) By one pound for every complete pound of the annual income of the applicant in excess of fifty-two pounds; and also

(ii) By one pound for every complete ten pounds of the net capital value of the accumulated property of the applicant, computed as in the case of an application for an old-age pension. 15

(3) The provisions of section twelve of the principal Act shall apply with respect to the computation of pensions under this Part of this Act. 20

(4) In computing for the purposes of this section the annual income of any blind person, no account shall be taken of any personal earnings up to but not exceeding two pounds fifteen shillings a week. 25

(5) Notwithstanding anything in the foregoing provisions of this section, no pension shall be granted under this Part of this Act in excess of four pounds a week. 30

(6) For the purposes of this Part of this Act the term “child”, in relation to an applicant for an invalidity pension, means a child under the age of sixteen years, and includes a stepchild or a child legally adopted by the applicant prior to the date of his application for a pension. 35

(7) Notwithstanding anything in the foregoing provisions of this section, the Commissioner, in computing the amount of the pension payable to any applicant under this Part of this Act, may regard any child who is in fact maintained by the applicant as if such child were a child of the applicant and dependent on him. 40

19. In addition to the pension computed as provided in the *last preceding* section, there shall be payable to every blind pensioner who may be employed in any occupation an additional weekly allowance equal to
5 twenty-five per centum of his average weekly earnings for the year, but so that in no case shall the total receipts of the pensioner in his own right (whether derived from pension or personal earnings or from any other source) exceed the rate of three pounds fifteen shillings a week.
- 10 20. Every application for a pension under this Part of this Act shall be determined by the Commissioner of Pensions.
21. (1) No person shall be entitled to receive a pension under this Part of this Act in respect of any
15 period during which he is undergoing a sentence of imprisonment or reformatory detention, or is being maintained at the expense of the Government as an inmate of any public institution:
- Provided that, in any such case, the Commissioner
20 may pay to any person competent to receive the same so much of the pension as is granted in respect of the wife or children of the pensioner.
- (2) Every instalment of any such pension which falls due while the pensioner is resident out of New
25 Zealand shall be absolutely forfeited:
- Provided that this subsection shall not apply in respect of any period, not exceeding two years, during which a blind pensioner may be out of New Zealand for purposes of vocational training or of medical
30 treatment in respect of his eyes.
22. (1) Except as otherwise provided herein, pensions payable under this Part of this Act shall be paid to the applicant personally, but the Commissioner may, in any case, if he thinks fit, pay to the wife of
35 the applicant so much of the pension as is granted in respect of her or of any child or children of the applicant.
- (2) In any other special case the Commissioner may pay any pension under this Part of this Act or any part
40 of such pension to any reputable person in trust to apply the same for the benefit of the applicant, or of the wife or the children in respect of whom such pension is payable, in such manner as the Commissioner may approve or direct.
- Additional pension to blind pensioner by way of bonus in respect of personal earnings.
- Commissioner to determine applications under this Part.
- Forfeiture of pension in certain cases.
- Instalments of pension may be paid to pensioner, or to suitable person on his behalf.

Blind pensioner (being a minor) may be required to undergo occupational training.

Commissioner may require applicants or pensioners to be medically examined.

Commencement of pensions.

Application to invalidity pensions of general provisions of principal Act.

Repeals.
1932, No. 15

23. In the case of a blind pensioner under the age of twenty years who is capable of being trained in any occupation, the Commissioner may suspend payment of the pension if the pensioner wilfully refuses without sufficient cause to undertake such training when called upon so to do. 5

24. The Commissioner may, if he thinks fit, direct any applicant or pensioner under this Part of this Act to be examined by a registered medical practitioner, to be nominated by the Commissioner for the purpose, who shall certify whether or not in his opinion the applicant or pensioner is permanently incapacitated for work or is totally blind, and shall state the grounds upon which his opinion is founded: 10

Provided that if any claim for a pension under this Part of this Act is declined or any such pension is cancelled on medical grounds, the applicant or pensioner shall have a right of appeal to a Board of three registered medical practitioners, to be appointed for the purpose by the Commissioner. 15 20

25. Every pension granted under this Part of this Act shall be deemed to have commenced on the first day of the month in which the application therefor is received by the Commissioner:

Provided that any pension granted on an application received within one month after the date of passing of this Act shall be deemed to commence on the first day of July, nineteen hundred and thirty-six. 25

26. The provisions of the principal Act (not being provisions limited in their application to any particular class of pension that may be granted thereunder) shall, with the necessary modifications and in so far as they are not inconsistent with the express provisions of this Part of this Act, apply in relation to invalidity pensions, to applications for such pensions, and to matters incidental thereto. 30 35

27. (1) Part III of the principal Act, and section four of the Pensions Amendment Act, 1932, are hereby repealed.

(2) All pensions granted under Part III of the principal Act and in force on the passing of this Act shall continue in force as if they were invalidity pensions granted under this Part of this Act. 40

PART III.

MISCELLANEOUS.

28. The definition of the term "income" in section two of the principal Act is hereby amended by inserting, after paragraph (f), the following new paragraph:—

Amending definition of term "income" for purposes of principal Act.

“(g) Any moneys, not exceeding in the aggregate the sum of five hundred pounds, that may be received by way of legacy or under any life-assurance policy or as compensation or damages in respect of any accident causing the death of or bodily injury to any person and that are expended in the purchase of property to be used as a home, or for improvements or renovations to property used as a home, or to pay off any principal sum or interest on a mortgage on any such property, or for any other purposes that the Commissioner deems reasonable.”

29. Notwithstanding anything to the contrary in the principal Act, if any person leaves New Zealand while in receipt of a pension and returns to New Zealand within a period of five years he shall not, in respect of a subsequent application for a pension of the same class, be required to comply with the residential qualifications applicable in the case of an original claim.

Modification of residential qualifications prescribed by principal Act.

30. Section forty-seven of the principal Act is hereby amended by adding to the proviso to paragraph (c) the words “or, in special circumstances and with the approval of the Minister, may be paid at any time not earlier than the twentieth day of that month”.

Extension of authority for payment of instalments of pension before due date.

31. Section forty-eight of the principal Act is hereby amended by adding to subsection three the following proviso:

Section 48 of principal Act amended.

“Provided that the requirements of this subsection may be dispensed with in any case if the Magistrate is satisfied that the claimant (not being a person in respect of whom a reception-order is in force under the Mental Defectives Act, 1911) is by reason of mental or bodily infirmity incapable of making the required declaration.”

Section 74 of
principal Act
amended.

32. (1) Section seventy-four of the principal Act is hereby amended by omitting from subsection one the words "be paid to such person as the Minister directs, and shall be applied in or towards defraying the burial expenses of the deceased pensioner", and substituting the words "as the Commissioner directs be paid to and for the benefit of his widow, or to any person having the control of any dependent child or children of the pensioner for the benefit of such child or children, or to the pensioner's estate". 5 10

(2) The said section seventy-four shall apply with respect to invalidity pensions granted under Part II of this Act.

Section 86 of
principal Act
amended.

33. Section eighty-six of the principal Act is hereby amended by inserting, after the word "solicitor", the words "Minister of Religion". 15

Section 91 of
principal Act
amended.

34. Section ninety-one of the principal Act is hereby amended by repealing paragraphs (c) and (d) of subsection one thereof.