

Hon. Mr. Fisher.

PENSIONS.

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A BILL INTITULED

Title.

AN ACT to consolidate and amend certain Enactments relating to Old-age and other Pensions.

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

Short Title.

1. This Act may be cited as the Pensions Act, 1913.

Preliminary.

Interpretation.

1908, No. 136, sec. 2

2. In this Act, if not inconsistent with the context,—

“Commissioner” means the Commissioner of Pensions appointed under this Act: 10

“Income” means any moneys, valuable consideration, or profits derived or received by any person for his own use or benefit in any year, by any means or from any source, and shall be deemed to include personal earnings and the reasonable cost of board and lodgings estimated at a rate not exceeding twenty-six pounds a year, but shall not include:— 15

(a.) Any pension payable under this Act; nor

(b.) Any payment by way of sick-allowance or funeral benefit from any registered friendly society; nor 20

(c.) Any relief received from a charitable institution; nor

(d.) Any money received from the Gold-miners' Relief Fund pursuant to section sixteen of the Mining Amendment Act, 1910, or from the Coal-miners' Relief Fund or the Sick and Accident Fund pursuant to section eighty of the Coal-mines Act, 1908; nor 25

(e.) Any money received on the sale or exchange of land or property; nor 30

(f.) Any money received under an insurance policy on the destruction or damage by fire or otherwise of a building or other property; nor

(g.) Any capital moneys expended for the benefit of the applicant or for the benefit of his or her wife or husband or dependent children: 35

“Income-year” means the year ending one month before the date on which the pension-claim is finally admitted, and at the same time in each subsequent year:

“Minister” means the Minister for the time being administering this Act: 40

“Prescribed” means prescribed by this Act or by regulations thereunder :

“Pension-year” means in respect of an original pension-certificate a period of twelve months commencing on the first day of the month in which the pension-claim is established, and in respect of a renewed pension-certificate means a period of twelve months commencing on the corresponding day of any subsequent year :

“Widow” includes a woman whose husband is detained in an institution under the Mental Defectives Act, 1911, if the Magistrate to whom application for a pension-certificate is made finds, upon the certificate of the Medical Superintendent of the institution, that the husband is incurable or likely to be incurable for the period of at least twelve months after the granting of a pension-certificate.

Districts and Registrars.

3. (1.) For the purposes of this Act the Governor may from time to time divide New Zealand into such districts, with such names and boundaries, as he thinks fit.

Districts.
1908, No. 136, sec. 3

(2.) If any such district is constituted by reference to the boundaries of any other portion of New Zealand as defined by any other Act, then any alteration in such boundaries shall take effect in respect of such district without any further proceedings, unless the Governor otherwise determines.

Alteration of
boundaries.

4. The Governor may from time to time appoint a Commissioner of Pensions who, subject to the control of the Minister, shall have the general administration of this Act.

Commissioner.
1908, No. 136, sec. 4
1908, No. 245, sec. 2

5. The Governor may also from time to time appoint in and for every such district a Registrar and such other persons as he deems fit.

Registrars.
1908, No. 136, sec. 5
1908, No. 245, sec. 2

6. Subject to the provisions of this Act, the Commissioner and every Registrar and other person appointed as aforesaid shall have such powers and duties as the Governor from time to time determines.

Their powers and
duties.
1908, No. 136, sec. 6

PART I.

OLD-AGE PENSIONS.

7. Subject to the provisions of this Part of this Act,—

(a.) Every male person of the full age of sixty-five years or upwards and every female person of the full age of sixty years or upwards; and

(b.) Every person who, if a male, has attained the age of sixty years, or, if a female, has attained the age of fifty-five years, and is the parent of two or more children under the age of fourteen years who are dependent on him or her,

Persons entitled to
pensions.
Ibid., sec. 7
1911, No. 14, sec. 4 (1)

shall, while in New Zealand, be entitled to a pension as hereinafter specified.

Necessary
qualifications.
1908, No. 136, sec. 8
1908, No. 245, sec. 3

8. No such person shall be entitled to a pension under this Part of this Act unless he fulfils the following conditions, that is to say:—

(a.) That he is residing in New Zealand on the date when he establishes his claim to the pension: and also 5

(b.) That he has so resided continuously for not less than twenty-five years immediately preceding such date:

Provided that continuous residence in New Zealand shall not be deemed to have been interrupted by occasional absence therefrom in the following cases:— 10

(i.) Where the total period of all such absence does not exceed two years; or

(ii.) Where the total period of all such absence exceeds two years but does not exceed that period by more than a period of six months for every year of residence in New Zealand in excess of a period of twenty-five years, computed in accordance with the provisions of the *last preceding* subparagraph, if the applicant has been actually resident in New Zealand for the twelve months immediately preceding the date of the establishment of his claim; or 15 20

(iii.) In the case of a seaman, by absence therefrom while serving on board a vessel registered in and trading to and from New Zealand if he establishes the fact that during such absence his family or home was in New Zealand: and also 25

(c.) That during the period of twelve years immediately preceding such date he has not been imprisoned for four months, or on four occasions, for any offence punishable by imprisonment for twelve months or upwards, and dishonouring him in the public estimation: and also 30

(d.) That during the period of twenty-five years immediately preceding such date he has not been imprisoned for a term of five years, with or without hard labour, for any offence dishonouring him in the public estimation: and also 35

(e.) That the claimant has not during the period of twelve years immediately preceding such date, for a period of six months or upwards, if a husband, deserted his wife, or without just cause failed to provide her with adequate means of maintenance, or neglected to maintain such of his children as were under the age of fourteen years; or, if a wife, deserted her husband or such of her children as were under that age: 40

Provided that if the pension-certificate is issued, the pensioner's rights thereunder shall not be affected by any disqualification contained in this paragraph unless the fact of such disqualification is established at any time to the satisfaction of a Magistrate: and also 45

(f.) That he is of good moral character, and is, and has for one year immediately preceding such date been, leading a sober and reputable life: and also 50

- (g.) That his yearly income does not amount to sixty pounds or upwards, computed as hereinafter provided : and also
- (h.) That the net capital value of his accumulated property does not amount to two hundred and sixty pounds or upwards, computed and assessed as hereinafter provided : and also
- (i.) That he has not directly or indirectly deprived himself of property or income in order to qualify for a pension : and also
- (j.) That he is the holder of a pension-certificate as hereinafter provided.

9. (1.) Except as hereinafter provided, the amount of the pension shall be twenty-six pounds per year, diminished by— Amount of pension. 1908, No. 136, sec. 9

- (a.) One pound for every complete pound of income above thirty-four pounds ; and also by
- (b.) One pound for every complete ten pounds of the net capital value of all accumulated property, computed and assessed as next hereinafter provided :

Provided that no pension shall be diminished in respect both of the net capital value of a property and the actual income derived from that property : 1909, No. 22, sec. 2

Provided further that no pension shall be granted in excess of the sum allowed by computing the amount thereof either under paragraph (a) or paragraph (b) hereof, whichever provides for the greater deduction.

(2.) Where the applicant for a pension (other than an applicant to whom the provisions of paragraph (b) of section seven hereof apply) is a woman whose age is less than sixty-five years, the amount of the pension shall be further diminished by one pound for every year or part of a year by which the age of the applicant is less than sixty-five years.

(3.) In addition to the pension hereinbefore prescribed there shall be payable annually to pensioners to whom the provisions of paragraph (b) of section seven hereof apply an additional pension of such amount, not exceeding thirteen pounds per annum, as the Magistrate in his discretion, having regard to the circumstances of the case, from time to time determines. Increased pension where young children dependent on pensioner. 1911, No. 14, sec. 4 (2)

10. (1.) For the purposes of this Part of this Act all real and personal property owned by any person shall, to the extent of his beneficial interest therein, be deemed to be his accumulated property, except that his interest in any life-assurance policy, or in any annuity or other fixed sum derived from real or personal property in the principal or capital sum of which he has no interest either reversionary or in possession further or other than such annuity or fixed sum, shall not be deemed to be accumulated property within the meaning of this section. Assessment of value of accumulated property. 1910, No. 45, sec. 2 1911, No. 14, sec. 2

(2.) There shall be deducted—

- (a.) From the capital value of his interest in any property upon which he permanently resides, including any furniture and other personal effects belonging to him and in his possession, the sum of three hundred and forty pounds ; and
- (b.) From the value of his interest in any other property, the sum of fifty pounds ;

and the residue then remaining shall be deemed to be the net capital value of all his accumulated property :

Provided that in the case of joint ownership by husband and wife of any property on which they permanently reside, including furniture and other personal effects, no greater deduction shall be allowed in respect of that property than three hundred and forty pounds. 5

Provisions where applicant is owner of his residence. 1908, No. 136, sec. 11 1909, No. 22, sec. 4

11. (1.) Where any person who otherwise would be entitled to a pension under this Part of this Act is the owner of the property on which he resides, he may convey or transfer the same to the Public Trustee, who shall deal therewith as directed by the Public Trust Office Act, 1908, the provisions of which Act shall, where applicable, and subject to the provisions of this section, apply to such property. 10

(2.) The property so conveyed or transferred shall not be deemed to form part of the accumulated property of the pensioner for the purposes of this Act. 15

(3.) The Public Trustee shall permit the pensioner to reside on the property rent-free during his life, and if the pensioner dies leaving a wife or husband who is also entitled to a pension, then during the life of the survivor. 20

(4.) While the pensioner or the survivor aforesaid so resides he shall maintain the premises in good and substantial repair, and shall pay all rates and other assessments payable thereon.

(5.) On the death of the pensioner or of the survivor aforesaid, or where from any cause the pensioner is no longer entitled to a pension, the Public Trustee shall sell the property, and out of the proceeds thereof shall (after deducting the commission payable under the Public Trust Office Act, 1908) refund to the Treasury so much of the pension paid to the pensioner since the date of the conveyance or transfer as but for the operation of this section would not have been payable, together with interest thereon at the rate of four per centum per annum, and shall pay the balance (if any) to the person entitled thereto : 25 30

Provided that if at any time the pensioner or the survivor aforesaid so desires, the Public Trustee shall, on payment of so much of the pension so paid as aforesaid, with commission and interest as aforesaid, reconvey or transfer the property to the applicant or the said survivor, as the case may be, and thereafter the value of the property shall not be deducted from the capital value of the accumulated property of the pensioner as aforesaid, and his pension shall be adjusted accordingly. 35 40

(6.) Notwithstanding anything in the *last preceding* subsection, on the death of the pensioner or of the survivor as aforesaid the Public Trustee shall, on the application of the person who would have been entitled to the said property if it had not been so conveyed or transferred as aforesaid, and on payment by the applicant to the Public Trustee of the amount of the pension so paid in excess of the amount which would have been payable had no such conveyance or transfer been made, and also on payment of the amount of interest and commission as aforesaid, convey or transfer that property to the said applicant. 45 50

(7.) Upon the receipt of any moneys under the *last preceding* subsection the Public Trustee shall forthwith pay the same into the Consolidated Fund, with the exception of the amounts received by him by way of commission as aforesaid.

5 (8.) All conveyances and transfers to and by the Public Trustee under this section shall be exempt from stamp duty.

12. (1.) For the purpose of ascertaining whether the claimant for a pension is entitled thereto, and also of fixing the rate of the first year's pension, his income for the last preceding income-year shall be deemed to be his yearly income, and the property owned by him at the end of that income-year shall be deemed to be his accumulated property :

Mode of computing annual income. 1908, No. 245, sec. 6

Provided that if, on application for a pension or for a renewal thereof, it is shown to the satisfaction of the Magistrate that owing to loss of employment or any other cause any part of the applicant's income for the last preceding income-year which was derived from personal earnings has ceased, the Magistrate may deduct from such income all personal earnings not exceeding at the rate of two pounds per week, and shall compute the income accordingly.

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20 (2.) For the purpose of fixing the rate of the pension for the second and each subsequent year, the pensioner's income for the income-year last preceding each such year shall be deemed to be his income for that year, and the property owned by him at the end of that income-year shall be deemed to be his accumulated property.

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25 13. (1.) If the applicant for a pension or a pension-certificate is married, the following provisions shall apply :—

Where applicant is married. 1908, No. 136, sec. 15 1909, No. 22, sec. 6

(a.) In computing the amount of the pension of husband or wife, the net capital value of all the accumulated property of each shall be deemed to be half the total net capital value of all the accumulated property of both.

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(b.) The amount of the pension of either of them for any year shall in no case exceed such sum as, with the total actual incomes of both of them for the year and the pension (if any) then already granted to the other of them, will amount to *one* hundred pounds for the year.

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(2.) Nothing in this section shall authorize the grant of a pension of a greater amount than is provided by section *nine* hereof.

(3.) This section does not apply in cases where husband and wife are living apart pursuant to decree, order, or deed of separation.

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14. The following provisions shall apply in every case where the pensioner is maintained in any charitable institution or receives relief therefrom :—

Provision where pensioner in receipt of charitable aid. 1908, No. 136, sec. 41

(a.) The reasonable cost of such maintenance or relief shall be payable out of the pension.

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(b.) For the purpose of procuring such payment, instalments of the pension shall, to such extent as is necessary, be payable to the governing body of such institution in such manner as is prescribed, and on production to the Post-master of a warrant in the prescribed form.

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(c.) Any surplus pension-moneys remaining in the hands of such governing body after defraying such cost shall be paid to the pensioner.

(d.) For the purpose of computing the amount of any subsidy or contribution payable by the Government to such governing body under any Act, all instalments so paid shall be excluded.

Pensioners becoming inmates of mental hospitals, 1908, No. 245, sec. 9

15. (1.) When a pensioner becomes an inmate of a mental hospital the amount of his pension shall be paid to the Superintendent of the mental hospital in which the pensioner is an inmate. 5

(2.) The income and property statements required by this Act in order to secure a continuance of pensions shall in the case of any such pensioner be made in the manner and by the persons prescribed by regulations. 10

Apportionment of instalment on death of pensioner. 1908, No. 186, sec. 59

16. (1.) On the death of a pensioner the instalment then accruing but not actually accrued due shall be apportioned up to the date of the death, and the apportioned amount, together with the previous instalment (if any) then payable but not actually paid, shall, without further appropriation than this Act, be paid to such person as the Minister directs, and shall be applied in or towards defraying the burial expenses of the deceased pensioner: 15

1908, No. 245, sec. 16

Provided that if on the death of the pensioner any money is owing to a charitable institution in respect of his maintenance or relief, the Minister may, if he thinks fit, direct that the said apportioned amount and previous instalments, or any part thereof, shall be paid to the said institution in satisfaction or on account of the money so owing. 20

(2.) This section shall not apply to any instalment which at the date of the death had become absolutely forfeited. 25

1909, No. 22, sec. 7

(3.) The Minister may from time to time, as he thinks fit, by writing under his hand, delegate to the Commissioner all powers vested in him by this section. 30

PART II.

WIDOWS' PENSIONS.

Pensions to widows. 1911, No. 16, sec. 3

17. Subject to the provisions of this Part of this Act, every widow who at the commencement of any pension-year conforms to the requirements hereinafter set forth shall be entitled to receive during that year a pension at the rate hereinafter provided. 35

Qualifications of applicant for pension. Ibid., sec. 4

18. No widow shall be entitled to a pension unless she is resident in New Zealand, and has a child or children to whom this Part of this Act is applicable.

Children to whom this Part of Act does not apply. Ibid., sec. 5 1912, No. 21, secs. 4 and 5

19. This Part of this Act shall not apply to— 40

(a.) Any child over the age of fourteen years:

(b.) Any illegitimate child, unless after the birth of the child its parents have intermarried:

(c.) Any adopted child:

(d.) Any child born out of New Zealand unless its mother was only temporarily absent from New Zealand at the time of its birth; or unless its mother has continuously resided in New Zealand for not less than ten years immediately preceding the date of an application for a pension: 45 50

Provided that continuous residence in New Zealand shall not be deemed to have been interrupted by occasional absences therefrom if she establishes the fact that during such absences her family or home was in New Zealand.

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20. No widow shall be entitled to a pension under this Part of this Act—

Restrictions on grant of pensions. 1911, No. 16, sec. 6 and 10

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(a.) If she has at any time, whether before or after the coming into operation of this Act, deprived herself directly or indirectly of property or income in order to qualify for a pension, or in order to increase the pension to which she would otherwise be entitled; nor

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(b.) Unless the Magistrate to whom the application for a pension-certificate is made is satisfied that she is of sober habits and of good moral character, and that the pension will be properly used for the support of her children.

21. (1.) A pension under this Part of this Act shall be payable at the following rates, subject to the deductions hereinafter provided :—

Rates of pension. Ibid., sec. 7

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(a.) If the widow has one child to whom this Part of this Act applies the pension shall amount to twelve pounds a year :

(b.) If she has two such children the pension shall be eighteen pounds a year :

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(c.) If she has three such children the pension shall be twenty-four pounds a year :

(d.) If she has more than three such children the pension shall be thirty pounds a year.

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(2.) Each of the foregoing rates of pension shall be subject to a deduction of one pound for every pound by which the annual income of the widow and her children as aforesaid, after deducting personal earnings to an amount not exceeding one hundred pounds, exceeds the sum of thirty pounds.

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22. (1.) If a widow or any of her children to whom this Part of this Act applies is the owner of any property (other than furniture and personal effects) which produces no income, or which produces an income less than five per centum per annum of the value of that property, the widow or child shall for the purposes of this Part of this Act be deemed to be in receipt from that property of an annual income equal to five per centum of the value thereof.

Income from property. 1912, No. 21, sec. 6 (3) (4)

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(2.) If a widow or any of her children to whom this Part of this Act applies is in receipt of any income which is partly derived from property and is partly personal earnings in respect of that property, the Magistrate to whom the application for a pension-certificate is made shall apportion that income in such manner as he thinks just between the income derived from such property and such personal earnings.

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23. In case of the death of the pensioner, the guardian or other person for the time being having the care or control of her children to whom this Part of this Act applies shall, with the approval of the Commissioner, be entitled to receive the pension to which the widow would have been entitled in respect of her children if she had lived.

On death of widow, guardian may receive pension on behalf of children. Ibid., sec. 8

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Amount of pension not affected by death of child within pension-year. 1911, No. 16, sec. 21

24. The right to a pension or the amount of a pension shall not be affected during any pension-year by reason merely of the fact that any child of the pensioner has within that year attained the age of fourteen years, or by reason merely of the death of any child of the pensioner.

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PART III.

MILITARY PENSIONS.

Military pensions. 1912, No. 36, sec. 5

25. Subject to the provisions of this Act, any person who served under the Crown in any of the Maori wars, and has been awarded a medal for active service in any such war, shall, while in New Zealand, be entitled to a pension as hereinafter specified.

Qualifications of applicants for pensions. Ibid., secs. 6, 7

26. (1.) No such person shall be entitled to a pension under this Part of this Act unless he fulfils the following conditions, that is to say:—

(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 if he establishes the fact that during such absences his family or home was in New Zealand.

(b.) That during the said period of ten years he has not been imprisoned for any offence punishable by imprisonment for two years or upwards.

(c.) That during the said period of ten years he has not deserted or failed to provide for his wife or children.

(d.) That he is of good moral character and sober habits.

Amount of pension. Ibid., sec. 8

27. The amount of a pension under this Part of this Act shall be thirty-six pounds per annum.

Form of application. Ibid., sec. 10

28. (1.) Every application for a pension under this Part of this Act shall be made in writing, in the prescribed form, to the Examining Officer of the district in which the applicant resides, and the applicant shall therein affirm by statutory declaration that the contents thereof are true and correct in every material point.

(2.) Every such application shall be investigated and determined by the Commissioner, whose decision shall be final and conclusive.

PART IV.

MISCELLANEOUS.

Periodical payments to which applicant entitled to be included in computation of income.

29. Where an applicant for a pension or for the renewal of a pension under Part I or Part II hereof is, at the date of application, entitled to receive from any source periodical payments of money for his or her own use or benefit, or (in the case of an application for a pension under Part II) for the use or benefit of the children of the applicant, such money shall be included in the computation of the

income of the applicant although no part thereof has been actually received by the applicant.

30. With respect to every pension under this Act the following provisions shall apply :—

Pension, when to commence, and payable monthly.
1908, No. 136, sec. 16
1908, No. 245, sec. 8
1910, No. 45, s. c. 3
1911, No. 16, s. cs. 9, 11
1912, No. 36, sec. 11

5 (a.) The pension shall be deemed to commence on the date named in that behalf in the Magistrate's certificate issued in respect of the first year's pension, being in every case the first day of the month within which that certificate is issued :

10 Provided that no old-age pension shall be deemed to commence on a date prior to that on which the applicant reached the age of fifty-five, sixty, or sixty-five years (as the case may be).

15 (b.) Each year's pension shall be payable pursuant to a pension-certificate issued in respect of such year, and not otherwise.

20 (c.) Such certificate shall in every case specify the amount of the year's pension, and the instalments by which it is payable, being twelve equal monthly instalments. The first such instalment shall be payable on the first day of the month next after the commencement of the year, and subsequent instalments shall be payable on the first day of each succeeding month thereafter :

25 Provided that an instalment payable on the first day of January in any year may be paid at any time not earlier than the twenty-third day of December preceding the due date.

(d.) Except as hereinafter provided, the rate of each year's pension shall not vary during the year.

30 *Pension-claims and Pension-certificates.*

31. (1.) Every person claiming to be entitled to a pension under Part I or Part II of this Act shall, in the prescribed manner and form, deliver a claim therefor (elsewhere throughout this Act called a "pension-claim") to the Registrar of the district wherein the claimant resides.

Pension-claim.
1908, No. 136, sec. 17
1911, No. 16, sec. 12
1912, No. 36, sec. 10

(2.) The pension-claim shall affirm all the requirements and negative all the disqualifications under this Act.

40 (3.) Every claimant shall, by statutory declaration, affirm that the contents of his pension-claim are true and correct in every material point.

32. (1.) The Registrar shall, in the prescribed manner, transmit the claim to a Magistrate exercising jurisdiction in the district.

Magistrate to investigate.
1908, No. 136, sec. 20
1911, No. 16, sec. 14

45 (2.) The Registrar shall thereupon ascertain on what date the claim may be investigated, and shall notify the claimant of a date on which he may attend to support his claim, and shall also, if he is not himself the Registrar, forthwith notify the Registrar of the date so fixed.

(3.) The Magistrate shall on the date so fixed, or on the first convenient day thereafter, proceed in open Court, or in his discretion

in Chambers, to fully investigate the claim for the purpose of ascertaining whether the claimant is entitled to a pension, and, if so, for what amount in respect of the first year.

(4.) The Registrar, or some person appointed by him, shall have the right to appear at the hearing and to examine or cross-examine the applicant and the witnesses. 5

(5.) The hearing may from time to time be adjourned by the Magistrate at the request of the Registrar.

When personal attendance may be dispensed with. 1908, No. 136, sec. 21

33. Where the Magistrate is satisfied that the documentary evidence in support of the claim is sufficient to establish it, and also that by reason of physical disability or other sufficient cause the attendance of the applicant should be dispensed with, he shall not require the personal attendance of the applicant, who shall be notified accordingly. 10

Witnesses and evidence on oath. Ibid., sec. 22

34. (1.) For the purposes of such investigation all the powers under the Magistrates' Courts Act, 1908, shall be available for the purpose of compelling the attendance of witnesses, and every witness shall be examined on oath. 15

Duty to answer questions respecting applications.

(2.) It shall be the duty of every person to make true answers to all questions concerning any applicant for a pension or pension-certificate, or any of the statements contained in any application for a pension or pension-certificate, put to him by the Registrar or any officer authorized in that behalf by the Registrar. 20

(3.) Every person commits an offence who—

(a.) Refuses to answer any such question; or 25

(b.) Makes any answer knowing the same to be untrue.

(4.) This section shall apply to any officer of any bank or other corporation carrying on business in New Zealand, and to any officer of the Post Office Savings - Bank or of any other Government Department which receives investments of money from the public. 30

Evidence to be corroborated. Ibid., sec. 23

35. No pension-claim shall be admitted unless the evidence of the claimant is corroborated on all material points, except that in respect of the age of the claimant the Magistrate, if otherwise satisfied, may dispense with corroborative evidence.

How pension-claim to be dealt with. Ibid., sec. 24

36. The Magistrate may admit the pension-claim as originally made, or as modified by the result of his investigations, or may postpone it for further evidence, or reject it, as he deems equitable; and his decision shall be notified to the claimant by the Clerk. 35

Magistrate may postpone claim. Ibid., sec. 25

37. (1.) If the Magistrate is of opinion that, although the claim is not completely established, further evidence may be adduced in support thereof, or it may be mended by lapse of time, he shall postpone the claim if the claimant so desires, and in such case all matters as to which the Magistrate is satisfied shall be recorded as proved: 40

Provided that this shall not be a bar to further evidence being adduced in respect of the matter recorded as proved. 45

Mode of rejecting claim.

(2.) If the Magistrate decides that the pension-claim is not established, and cannot be mended by postponement for a reasonable time, he shall reject it, and when doing so shall specify in writing all the material points which he finds to be respectively proved, dis-proved, and not to be proved. 50

38. (1.) If the Magistrate is of opinion that any fraudulent misrepresentation has been made by the applicant for a pension or a pension-certificate, with the intention of obtaining a pension to which he was not by law entitled, or a higher rate of pension than that to which he was by law entitled, then, in addition to any penalty incurred under this Act by the applicant, the Magistrate shall refuse the application, and may by order declare that the applicant shall not be entitled to make a fresh application for such period, not exceeding twelve months, as the Magistrate thinks fit.

Fraudulent misrepresentation by applicant. 1908, No. 136, sec. 26

10 (2.) If the Magistrate finds that any real or personal property has been transferred to any other person by the applicant, or by the wife or husband of the applicant, he may inquire into such transfer, and refuse the application or grant a reduced pension. A disposition by will of any real or personal property shall be deemed to be a transfer of such property for the purposes of this section.

Transfer of property.

15 39. (1.) In investigating any claim for a pension or pension-certificate, the Magistrate shall not be bound by the strict rules of evidence, but shall investigate and determine the matter by such means and in such manner as in equity and good conscience he thinks fit.

Strict rules of evidence not to be binding. Ibid., sec. 27

(2.) In disposing of material points against the claimant, the Magistrate shall distinguish between what he finds to be disproved and what he finds to be simply unproved or insufficiently proved.

Matters to be distinguished.

25 (3.) In respect of what is found to be disproved, the Magistrate's decision shall be final and conclusive for all purposes.

As to matters disproved.

(4.) In respect of what is found to be simply unproved or insufficiently proved, the claimant may at any time thereafter adduce fresh evidence on those points before the Magistrate, and in such case all material points previously found by the Magistrate to be proved shall be deemed to be established, and he shall dispose of all other points as in the case of a new pension-claim.

As to matters unproved.

40 40. The pension-claim may be amended from time to time on any point which has not been finally disposed of.

Pension-claims may be amended. Ibid., sec. 29

35 41. As soon as the pension-claim is established, and the rate of the first year's pension is fixed by the Magistrate, he shall, in the prescribed manner, certify the same to the Commissioner, who shall, in the prescribed manner and form, issue to the claimant a certificate (elsewhere throughout this Act called a "pension-certificate") in respect of the first year's pension.

Issue of pension-certificate when claim established. Ibid., sec. 30 1911, No. 16, sec. 15

40 42. In respect of the pension for each year after the first, a fresh pension-certificate shall be issued as hereinafter provided.

Annual pension-certificate. 1908, No. 136, sec. 31

Income and Property Statements.

45 43. For the purpose of ascertaining in respect of the second and each subsequent year, computed from the date of the commencement of the pension, whether a pensioner under Part I or Part II hereof is entitled to any payment in respect of his pension for such year, and, if so, for what amount, the following provisions shall apply:—

Statement of income for preceding pension-year to be furnished to Registrar. Ibid., sec. 35 1912, No. 36, sec. 12

50 (a.) Within the prescribed period before the commencement of each such year the pensioner, whether claiming any payment in respect of his pension for that year or not, shall furnish to the Registrar a statement in the prescribed form setting forth full particulars of his income for such

year (being the income for the last preceding income-year), and also the net capital value of all his accumulated property.

(b.) If the pensioner has received no income for the year and has no accumulated property, the statement shall contain the word "Nil." 5

(c.) The Magistrate shall investigate the statement, and ascertain whether the pensioner is entitled to a renewal of his pension, in the same manner, with the same powers, and subject to the same provisions as in the case of pension-claims. 10

(d.) The Magistrate, when satisfied as to the amount of the pensioner's income, and the net capital value of his accumulated property, and that the pensioner is entitled to a renewal of his pension, shall certify the same to the Commissioner, who shall issue a pension-certificate in the prescribed form in respect of the year's pension (if any) to which the pensioner is entitled. 15

Issue of pension-certificate for year.

Payment of Pensions and Forfeiture of Instalments.

Where pension payable.
1908, No. 136, sec. 36
1911, No. 16, sec. 16 (1)

Change of place of payment.
1908, No. 136, sec. 37
1911, No. 16, sec. 16 (2)

Instalment to be applied for within twenty-one days.
1908, No. 136, sec. 38
1911, No. 16, sec. 17

44. Each monthly instalment of the pension shall be payable at the post-office money-order office named in the pension-certificate. 20

45. On application in the prescribed manner, the name of such office may be changed from time to time, and every change of office shall be recorded by the Registrar on the pension-certificate and in the District Pension Register. 25

46. (1.) Subject to the provisions of this Act, each monthly instalment shall be payable at any time within one month after its due date on the personal application of the pensioner and the production of his pension-certificate to the Postmaster of the post-office money-order office named therein : 30

Provided that the Minister may at any time further extend such period in any case where the provisions of this section are not strictly complied with owing to the pensioner's illness or temporary absence from home (but not from New Zealand), or other sufficient cause, and notwithstanding that such period has then elapsed or that the instalment has then been paid. 35

Power to delegate certain powers.
1909, No. 22, sec. 7

When instalment deemed forfeited.
1908, No. 136, sec. 39

Charitable Aid Board not to refuse to admit pensioner.
Ibid., sec. 40

Payment to other than pensioner.
Ibid., sec. 42
1908, No. 245, sec. 10
1911, No. 16, sec. 18
1912, No. 36, sec. 14

(2.) The Minister may from time to time, as he thinks fit, by writing under his hand, delegate to the Commissioner all powers vested in him by this section.

(3.) In default of strict compliance with all the provisions of this section, and subject to any extension of time as therein mentioned, such instalment shall be deemed to be forfeited. 40

47. It shall not be lawful for the governing body of any charitable institution to refuse to admit any person as an inmate of such charitable institution or to refuse to grant him relief on the ground only that he is a pensioner under this Act. 45

48. (1.) Subject to regulations, and on production to the Postmaster of a warrant in the prescribed form, signed by the Commissioner, the instalments may be paid to any clergyman, Justice, or other reputable person named in the warrant for the benefit of the pensioner. 50

(2.) Such warrant may be issued by the Commissioner whenever he is satisfied that it is expedient so to do, having regard to the age, infirmity, or improvidence of the pensioner, or any other special circumstances.

5 49. Every instalment shall be absolutely forfeited—

(a.) In the case of an old-age pension, during any period while the pensioner is in prison or is out of New Zealand;

(b.) In the case of a widow's pension, during any period while the pensioner is out of New Zealand or if she marries; and

Forfeiture of instalments in certain cases.
1908, No. 136, sec. 43
1911, No. 16, sec. 20
1912, No. 36, sec. 16

10 (c.) In the case of a military pension, during any period while the pensioner is in prison, or is an inmate of an institution under the Mental Defectives Act, 1911, or is out of New Zealand.

15 the 50. With respect to the payment of instalments of pension by the Postmaster the following provisions shall apply:—

(a.) The Postmaster may, if he thinks fit, require the applicant for payment to prove his identity, but shall not be bound so to do, and may accept the production of the pension-certificate or warrant to which the instalment relates as sufficient evidence that the person producing the same is the person entitled to payment.

Procedure as to payments of instalments by Postmasters.
1908, No. 136, sec. 44
1911, No. 16, sec. 19

20 (b.) When making the payment the Postmaster shall indorse on the pension-certificate the date and fact of the payment, and shall also require the person receiving the payment to give a receipt therefor in the prescribed form.

25 (c.) Such receipt shall be sufficient evidence that the payment to which the receipt purports to relate has been duly made, and no claim against His Majesty or the Postmaster shall thereafter arise or be made in respect thereof.

30 (d.) Where the warrant produced as aforesaid relates to a single instalment, or to the last of a series of instalments, it shall be delivered up to and retained by the Postmaster on payment of such instalment.

35 51. (1.) If at any time the Commissioner has reason to believe that any pension-certificate has been improperly obtained, he shall cause special inquiry to be made before the Magistrate, and shall give notice to the Postmaster through whom the instalments are payable to suspend payment of any instalments pending the inquiry, and payment of such instalments shall be suspended accordingly.

Inquiry by Commissioner.
1908, No. 136, sec. 45
1911, No. 16, sec. 23

40 (2.) If on inquiry it appears that the pension-certificate was improperly obtained, it shall be cancelled by the Magistrate; but if it appears that the certificate was properly obtained, the suspended instalments shall be payable in due course.

45 (3.) Such inquiry shall be made in the prescribed manner.

50 52. Irrespective of any such inquiry, the Magistrate may at any time himself review any pension-certificate, and may either cancel the same or vary the same, whether by increasing or diminishing the amount of the pension or otherwise, in such manner as he thinks fit, having regard to the provisions of this Act,

Magistrate may review his decision.
1908, No. 136, sec. 46
1908, No. 245, sec. 11
1912, No. 36, sec. 17

Payments in excess
may be recovered.
1908, No. 136, sec. 47
1911, No. 16, sec. 24

53. Where it is found that any pension or instalment of a pension has been paid in excess of the amount to which the pensioner was by law entitled, the amount so paid in excess (whether paid before or after the coming into operation of this Act) may be recovered by the Commissioner as a debt due to the Crown, and if in the opinion of the Magistrate such excess was obtained by fraud, then the pensioner shall, in lieu of or in addition to any penalty to which he is liable under section fifty-six hereof, be liable, at the discretion of the Magistrate, to a fine not exceeding double the amount so paid in excess.

After-acquired
property.
1908, No. 136, sec. 48
Cf. 1912, No. 21,
sec. 7

54. If at any time during the currency of a pension the pensioner becomes possessed of any property or income in excess of what is allowed by law in respect of the amount of pension granted to him, the Registrar may apply to the Magistrate, who may on inquiry either confirm or cancel the pension, or vary the amount thereof:

Provided that should the excess of property or income as mentioned in this section cease, the pension shall be immediately restored to the original amount.

Property disclosed
on death of
pensioner.
1908, No. 136, sec. 49

55. If on the death of any pensioner, or of the wife or husband of any pensioner, it is found that he, or either of them, was possessed of property in excess of what is allowed by law in respect of the amount of the pension granted, double the amount of pension at any time paid in excess of that to which the pensioner was by law entitled may be recovered as a debt due to the Crown from the estate so found in excess:

Provided that where the husband and wife were at the time of such death living apart pursuant to decree, order, or deed of separation this section shall only apply in the case of the pensioner.

Offences.

Penalties.
1908, No. 16, sec. 50
1911, No. 16, sec. 25
1912, No. 36, sec. 18

56. (1.) Every person is liable to a fine not exceeding fifty pounds, or to imprisonment for not more than three months with or without hard labour—

- (a.) If by means of any wilfully false statement or representation he obtains or attempts to obtain a pension-certificate, not being justly entitled thereto, or a pension of a larger amount than he is justly entitled to; or
- (b.) If by any means he obtains or attempts to obtain payment of any absolutely forfeited instalment of pension; or
- (c.) If by means of personation or any other fraudulent device whatsoever he obtains or attempts to obtain payment of any instalment of pension; or
- (d.) If by any wilfully false statement or representation he aids or abets any person to obtain a pension-certificate or any instalment payable thereunder.

Certificate to be
cancelled in certain
cases.

(2.) Where any person is convicted of an offence under this section the Magistrate shall cancel the pension-certificate in respect to the issue of which the offence was committed.

Magistrate may
suspend pension-
certificate on
commission of
certain offences by
pensioner.
1908, No. 245, sec. 12

57. (1.) If any pensioner in receipt of an old-age pension is convicted of the offence of drunkenness, or of any offence punishable by imprisonment for one month or any longer period and dishonouring him in the public estimation, a Magistrate may, in his discretion, on

the application of the Registrar made within three months after the date of the conviction, make an order suspending the pension-certificate of the pensioner for any period not exceeding *six* months.

(2.) If any such pensioner is during the currency of any pension-certificate twice convicted of any of the offences described in the *last preceding* subsection (whether the offences of which he is so convicted are of the same or of different natures), a Magistrate shall, on the application of the Registrar made within three months after the date of the last of those convictions, make an order suspending the pension-certificate of the pensioner for a period not less than *six* months and not exceeding *twelve* months.

(3.) If at the time when any order of suspension is made under either of the *preceding* subsections the pension-certificate is already suspended under a previous order of suspension, the subsequent order shall take effect as from the expiry of the previous order, but the total period of continuous suspension shall in no case exceed *twelve* months.

(4.) If on the conviction of any such pensioner for any offence he becomes an habitual drunkard within the meaning of the Police Offences Act, 1908, or if any such pensioner is convicted of any offence dishonouring him in the public estimation and is sentenced to imprisonment for twelve months or more, a Magistrate shall, notwithstanding anything to the contrary in the *preceding* subsections, on application made by a Registrar within three months after the date of that conviction, make an order cancelling the pension-certificate of that pensioner.

Cancellation of pension-certificate in certain cases.

(5.) If any such pensioner is convicted of any offence before a Magistrate, and the conviction is such that the Magistrate is empowered or required by the foregoing provisions of this section to make an order of suspension or cancellation on the application of a Registrar, the Magistrate may, if he thinks fit, on his own motion, make at the time of the conviction any order of suspension or cancellation which he might lawfully make on the application of a Registrar.

(6.) No order of suspension made under this section shall operate so as to affect any instalment or part of any instalment of any pension that is, pursuant to section *fourteen* hereof, payable to the governing body of any charitable institution in which the pensioner with respect to whom the order of suspension is made is maintained or receives relief.

58. (1.) In any case where a pension-certificate is cancelled, the pension shall be deemed to be absolutely forfeited.

Forfeiture of pension on cancellation of certificate.

(2.) In every such case the person whose pension is so forfeited is disqualified to make any application for a new pension until the expiration of twelve months from the date of the forfeiture.

1908, No. 245, sec. 13

(3.) Every application made by any such person for a new pension shall be subject in all respects to the same provisions as if no former pension had been granted to that person.

(4.) This section shall extend and apply to all persons whose pensions have been forfeited before the passing of this Act.

59. (1.) So long as an order is in force suspending a pension-certificate all instalments which would otherwise become due and payable during that period shall be forfeited.

Instalments of pension forfeited during currency of suspension order.

Ibid., sec. 14

(2.) If any period of suspension is such as to extend beyond the expiration of the year in which the order of suspension is made, the order shall apply so far as regards the residue of that period to any pension-certificate issued for the next succeeding year.

Magistrate to notify Registrar of suspension or cancellation of certificates.
1908, No. 245, sec. 15

60. In every case in which a pension-certificate is suspended or cancelled, the Magistrate so suspending or cancelling the same shall forthwith send to the Commissioner a notice under the hand of the Magistrate setting forth the terms of the order so made by him and the grounds thereof. 5

Payment for procuring pension illegal.
1908, No. 136, sec. 55
1911, No. 16, sec. 26
1912, No. 36, sec. 19

61. Every person commits an offence who receives any money in consideration of or in respect of the procuring of any pension or pension-certificate, and in the case of any licensed Maori interpreter so committing an offence his license as such interpreter shall be cancelled. 10

General penalty for offences.
1908, No. 136, sec. 56

62. Every person who commits an offence under this Act for which no penalty is elsewhere provided is liable to a fine not exceeding *ten* pounds. 15

Proceedings, how and when to be taken.
Ibid., sec. 57

63. (1.) All proceedings under this Act, whether in respect of an offence heretofore or hereafter committed, or of moneys recoverable under section fifty-three hereof, shall be taken before a Magistrate alone, and may be so taken at any time not exceeding *six* months from the time when the facts first came to the knowledge of the Commissioner. 20

(2.) In all such proceedings the Registrar, or other person appointed by the Commissioner, may appear on behalf of the Commissioner, and the fact that any person so appears shall be sufficient evidence of his authority so to do. 25

Miscellaneous.

No person entitled to more than one pension.

64. Notwithstanding anything in the foregoing provisions of this Act, a person who is in receipt of a pension under any Part thereof shall not be entitled to receive a pension under any other Part thereof. 30

Pensions absolutely inalienable.
1908, No. 136, sec. 58
1911, No. 16, sec. 27
1912, No. 36, sec. 15

65. A pension under this Act shall be inalienable, whether by way of assignment, charge, execution, bankruptcy, or otherwise howsoever. 35

Registrar, &c., may take declarations.
1908, No. 136, sec. 60
1908, No. 245, sec. 17
1911, No. 16, sec. 28
1912, No. 36, sec. 20

66. Every statutory declaration required by this Act, or adduced in proof of any particular required to be proved on the investigation of any claim or income and property statement, may be made before any Justice, solicitor, constable, Registrar, or Postmaster, or the Commissioner. 40

Exemption from stamp duty.
1908, No. 136, sec. 61
1911, No. 16, sec. 29
1912, No. 36, sec. 23

67. No stamp duty shall be payable on any statutory declaration, receipt, or other document made or given for the purposes of this Act.

Payment of imprest moneys into Post Office Account.
1908, No. 136, sec. 65
1911, No. 16, sec. 30

68. The Minister shall from time to time, without further appropriation than this Act, pay out of the Consolidated Fund into the Post-office Account, by way of imprest, whatever moneys are necessary in order to enable the instalments of pensions granted under this Act to be paid out of such account, and the Postmaster-General shall thereupon pay such instalments accordingly. 45

Expenses of administration.
1908, No. 136, sec. 68
1911, No. 16, sec. 31
1912, No. 36, sec. 21

69. All expenses incurred in administering this Act (other than the payment of pensions) shall be payable out of moneys to be from time to time appropriated by Parliament. 50

70. The Minister shall, within thirty days after the close of each financial year ending the thirty-first day of March, prepare and lay before Parliament if sitting, or if not sitting, then within fourteen days after the commencement of the next session, a statement showing for such year—

- 5 (a.) The total amount paid under this Act in respect of old-age pensions, widows' pensions, and military pensions separately ;
- (b.) The total amount so paid in respect of other than pensions ;
- 10 (c.) The total number of pensioners ;
- (d.) The total amount of absolutely forfeited instalments ; and
- (e.) Such other particulars as are prescribed.

71. (1.) This Act, in so far as it provides for the grant of pensions, shall not apply—

- 15 (a.) In the case of pensions under Part I or Part II hereof, to aboriginal Maoris of New Zealand to whom moneys other than pensions are paid out of the sums appropriated for Native purposes by the Civil List Act, 1908 ; nor
- (b.) To aliens ; nor
- 20 (c.) In the case of pensions under Part I hereof, to naturalized subjects, except such as have been naturalized for the period of one year next preceding the date on which they establish their pension-claims ; nor
- (d.) To Chinese or other Asiatics, whether naturalized or not, and whether British subjects by birth or not.
- 25 (2.) Subject to the provisions of paragraph (a) of the *last preceding* subsection, this Act applies to aboriginal Maoris of New Zealand :

30 Provided that on the investigation of any such Maori's pension-claim for an old-age pension his evidence as to his age shall be required to be corroborated to the satisfaction of the Magistrate.

72. In determining the claim of any aboriginal Maori to a pension under Part I or Part II hereof, in so far as the same may be affected by rights or property held or enjoyed otherwise than under defined legal title, the Magistrate shall be guided by the following rules :—

35

- (a.) In respect of "income," any customary rights used or capable of being used in respect of land the title to which has not been ascertained, but which is enjoyed or is capable of enjoyment, shall be assessed and determined by such evidence and in such manner as the Magistrate in his discretion considers proper :
- 40
- (b.) In respect of "accumulated property," the interest in land or other property held or enjoyed under Native custom, or in any way other than by defined legal title, shall be assessed and determined by the Magistrate in manner aforesaid, with the view of arriving as nearly as may be at a decision as to the net capital value thereof for the purposes of this Act ; and the decision of the Magistrate thereon shall be final.
- 45
- 50

73. (1.) Where, on the application by a Maori for a pension or a pension-certificate under Part I or Part II hereof, it would, in the opinion of the Magistrate, be more advantageous to the applicant

606.

Annual statement to be laid before Parliament.

1908, No. 136, sec. 69

To whom Act not to apply.

Ibid., sec. 71
1908, No. 245, sec. 18
1911, No. 16, sec. 32

Act applies to Maoris.

1908, No. 136, sec. 72

Rules for assessment of undetermined Maori interests.

Ibid., sec. 73

Payment of Maori pensions.

Ibid., sec. 74

to receive an allowance out of the moneys appropriated for Native purposes under the Civil List Act, 1908, he may, in lieu of granting a pension, report the circumstances of the case to the Native Minister, with such recommendation as he thinks fit to make.

(2.) Where on any such application the Magistrate is of opinion that a pension should be granted under this Act, he may, on issuing the certificate, direct that the pension shall be paid to some Government officer, to be applied by him for the benefit of the applicant. 5

Pensions granted
subject to any
amending Act.
1908, No. 136, sec. 75

74. (1.) Every pension granted under this Act shall be deemed to be granted and shall be held subject to the provisions of any amending or repealing Act that may hereafter be passed, and no pensioner under this Act shall have any claim for compensation or otherwise by reason of his pension being affected by any such amending or repealing Act. 10

(2.) A notification of the *last preceding* subsection shall be printed on every pension-certificate. 15

Regulations.
1911, No. 16, sec. 33
1912, No. 36, sec. 22

75. (1.) The Governor in Council may from time to time make regulations under this Act relating to any of the following purposes or matters:—

(a.) The procedure in all judicial proceedings (other than criminal proceedings) under this Act: 20

(b.) The recording or registration of pension-claims, pension-certificates, and all other matters and proceedings in relation to pensions under this Act:

(c.) The duties of the Commissioner, Registrars, Postmasters, and Magistrates under this Act: 25

(d.) The transfer of pension-certificates from the register of one district to the register of another district:

(e.) The issue of duplicate pension-certificates in lieu of certificates lost or destroyed: 30

(f.) The forms of instruments required or authorized by this Act:

(g.) The mode of payment of pensions:

(h.) All other matters in respect of which regulations are contemplated or required by this Act, or which the Governor deems necessary or admissible for the proper administration of this Act. 35

(2.) Such regulations shall be laid on the table of the House of Representatives within ten days after the commencement of each session, and referred to such sessional Committee for report as the House directs. 40

Repeals.

76. (1.) The Acts mentioned in the Schedule hereto are hereby repealed. 40

Savings.

(2.) The districts into which New Zealand was on the commencement of this Act divided for the purposes of the repealed enactments shall be deemed to have been constituted under this Act. 45

(3.) The Commissioner appointed under the Old-age Pensions Act, 1908, shall be deemed to have been appointed Commissioner of Pensions under this Act.

(4.) All appointments of officers made under the repealed Acts, and in force on the commencement of this Act, shall be deemed to have been made under this Act. 50

(5.) Every pension existing on the commencement of this Act shall be deemed to have been granted under this Act, and all applications, investigations, and proceedings pending under any Act hereby repealed may be dealt with and completed under the corresponding provisions of this Act.

SCHEDULE.

Schedule.

ACTS REPEALED.

- 1908, No. 136.—The Old-age Pensions Act, 1908.
- 1908, No. 245.—The Old-age Pensions Amendment Act, 1908.
- 1909, No. 22.—The Old-age Pensions Amendment Act, 1909.
- 1910, No. 45.—The Old-age Pensions Amendment Act, 1910.
- 1911, No. 14.—The Old-age Pensions Amendment Act, 1911.
- 1911, No. 16.—The Widows' Pensions Act, 1911.
- 1912, No. 21.—The Widows' Pensions Amendment Act, 1912.
- 1912, No. 36.—The Military Pensions Act, 1912.