

Serial Number 1945/193



THE DESTITUTE PERSONS (CROWN MONEYS) ORDER 1945

C. L. N. NEWALL, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington, this 19th day of
December, 1945

Present :

THE HON. W. NASH PRESIDING IN COUNCIL

PURSUANT to section 5 of the Statutes Amendment Act, 1942, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council and on the recommendation of the Minister of Finance, doth hereby make the following Order.

ORDER

1. This Order may be cited as the Destitute Persons (Crown Moneys) Order 1945.

2. The provisions of section 44 of the Destitute Persons Act, 1910, shall bind the Crown to the extent and subject to the conditions hereinafter set out.

3. A Magistrate exercising jurisdiction under the said section 44 in respect of a maintenance order may order and declare that the moneys payable or to become payable under the maintenance order shall be a charge upon any moneys to the payment of which by the Crown within New Zealand the defendant is entitled.

4. Every such charging-order shall, in specifying the property on which the charge is imposed, set out the amount of the sum so payable by the Crown, the circumstances giving rise to the liability of the Crown to make the payment, and the officer of the Crown (described by name of office, name of Department, and place at which the officer is stationed) by whom in the ordinary course of Crown business payment of the said sum would be made to the defendant.

5. Service of every such charging-order shall be effected on the Permanent Head of the Department affected and also on the officer of the Crown specified in the order.

6. Service of any such charging-order may be effected either by personal service upon the person to be served or by sending the same by registered-post letter addressed to the person to be served at the office of the Department affected at the place specified in the order, and in the address of any such letter it shall be sufficient to describe the person to be served by his official title or the name of his office or any sufficient description without his personal name.

7. Notwithstanding the provisions of this Order, the Crown shall not be liable to pay twice in respect of the same sum of money, and accordingly the Crown may, notwithstanding the making and service of a charging-order as aforesaid, make directly to or to the order of the person otherwise entitled to receive the money any payment affected by such charging-order, and the receipt of the person to whom payment is made shall be a sufficient discharge therefor to the same extent as if no such charging-order had been made.

8. This order shall not apply—

- (a) To any pay or allowance payable to a defendant as a member of the Armed Forces which falls due whilst he is serving as a member of the Armed Forces; or
- (b) To any deferred pay, accrued pay, mufti allowance, gratuity, or other payment or allowance payable to a defendant upon or in connection with his ceasing to be a member of the Armed Forces, whether payable before or after he ceased to be a member of the Armed Forces; or
- (c) To sums credited in respect of the unallotted pay of a member of the Armed Forces reported missing pursuant to any enactment in that behalf for the time being in force, whether credited in respect of a period before or after he is so reported missing; or
- (d) To moneys payable to a member of the Armed Forces out of a special account in the Post Office Savings-bank opened by or for him in his capacity as a member of the Armed Forces; or
- (e) To moneys in the case of which the Naval Discipline Act (Imperial) or the Army Act (Imperial) or the Air Force Act (Imperial) applies as part of the law of New Zealand so as to prevent execution against the pay of the defendant,—but shall apply to any moneys of the foregoing kinds payable to the representative of a deceased person who has been a member of the Armed Forces.

9. Unless in any particular case the Crown agrees to the contrary, this Order shall not apply to any moneys payment of which in the ordinary course of Crown business is or would be effected otherwise than through some person in the service of the Crown employed in some Department of State within New Zealand or to any moneys in the payment of which the Crown acts only in the capacity of an agent.

10. This Order shall not apply to any moneys which are by statute declared not to be capable of being assigned or charged, or of passing to any other person by operation of law, or to any moneys payable under the Government Life Insurance Act, 1908.

11. In any case to which the Maintenance Orders (Military Forces) Emergency Regulations 1940 apply, then, so long as those regulations continue in force, these regulations shall be read subject thereto and shall not be deemed to authorize the making of any order otherwise than as thereby provided or permitted.

T. J. SHERRARD,
Acting Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette*: 20th day of December, 1945.

These regulations are administered in the Department of Justice.

By Authority: E. V. PAUL, Government Printer, Wellington.—1945.

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