

New Zealand.



OLD-AGE PENSIONS.

1908, No. 136.

AN ACT to consolidate certain Enactments of the General Assembly relating to Old-age Pensions.

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

1. (1.) The Short Title of this Act is "The Old-age Pensions Act, 1908." Short Title

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto, and with respect to those enactments the following provisions shall apply:— Enactments consolidated.

(a.) All appointments, regulations, districts, pensions, certificates, warrants, registers, records, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated. Savings.

(b.) All applications, matters, and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

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

"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, but not any pension payable under this Act, nor any payment by way of sick-allowance or funeral benefit from any registered friendly society;

Interpretation.
1898, No. 14, sec. 2

“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 of Finance:

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

Districts and Registrars.

Districts:
1898, No. 14, sec. 3

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.

Alteration of boundaries.

(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.

Registrar.
Ibid, sec. 4

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

Deputy Registrars.
Ibid, sec. 5

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

Their powers and duties.
Ibid, sec. 6

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

Pensions.

Persons entitled to pensions.
Ibid, sec. 7

7. Subject to the provisions of this Act, every person of the full age of sixty-five years or upwards shall, whilst in New Zealand, be entitled to a pension as hereinafter specified.

Necessary qualifications.
Ibid, sec. 8
1900, No. 28, sec. 2
1902, No. 20, sec. 9
1905, No. 2, sec. 3

8. No such person shall be entitled to a pension under 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

(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:—

(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 four years, if the total period of his actual residence in New Zealand (exclusive of the total period of his actual absence) is not less than twenty-five years, and he has not been absent from New Zealand during any part of the year immediately preceding the first day of November, one thousand eight hundred and ninety-eight (being the date of the passing of “The Old-age Pensions Act, 1898”); or

(iii.) In the case of a seaman, by absence therefrom whilst 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

- (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
- (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
- (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 :

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

- (f.) That he is of good moral character, and is, and has for five years immediately preceding such date been, leading a sober and reputable life : and also
- (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. The amount of the pension shall be twenty-six pounds per year, diminished by— Amount of pension.
1905, No. 2, sec. 2

- (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.

10. The net capital value of accumulated property shall be computed and assessed in the prescribed manner, and for that purpose the following provisions shall apply :— Assessment of value
of accumulated
property.
1898, No. 14, sec. 16

- (a.) All real and personal property owned by any person shall, to the extent of his beneficial estate or interest therein, be deemed to be his accumulated property :
- (b.) From the capital value of such accumulated property there shall be deducted all charges or incumbrances lawfully exist-

ing on such property, and also the sum of fifty pounds; and the residue then remaining shall, subject to the next succeeding section, be deemed to be the net capital value of all his accumulated property:

1935, No. 2, sec. 5

Provided that where any part of the accumulated property of any claimant consists of property of any tenure on which he permanently resides and which produces no actual income, there shall be deducted from the capital value of his accumulated property, in addition to the charges or incumbrances (if any) on such accumulated property, the sum of one hundred and fifty pounds, and the residue then remaining shall, subject to the next succeeding section, be deemed to be the net capital value of all his accumulated property.

Provisions where applicant is owner of his residence.

1902, No. 20, sec. 8

11. (1.) Where any person who otherwise would be entitled to a pension under this Act is the owner of the property in which he resides, and such property does not exceed in value the sum of three hundred pounds, as appears from the valuation thereof under "The Valuation of Land Act, 1908," 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.

(2.) The value of the property so conveyed or transferred shall be deducted from the capital value of the accumulated property of the pensioner for the purpose of computing the amount of his pension.

(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.

(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:

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.

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

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

Pension not to vary during year.
1898, No. 14, sec. 11

13. (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 next preceding income-year shall be deemed to be his yearly income.

Income for purposes of first year's pension.
1898, No. 14, sec. 12

(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 next preceding each such year shall be deemed to be his income for that year.

Income for subsequent years.

14. The following general rules shall apply in the computation of income for all the purposes of this Act:—

General rules for computing income
Ibid, sec. 13

(a.) There shall be deducted therefrom all income derived or received from accumulated property as hereinbefore defined.

(b.) Where any person receives board or lodging, the reasonable cost of such board or lodging, not exceeding twenty-six pounds in the year, shall be included in the computation of the yearly income.

15. If the applicant for a pension or a pension-certificate is married, the following provisions shall apply:—

Where applicant is married.
1905, No. 2, sec. 4

(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.

(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 ninety pounds for the year.

1900, No. 28, sec. 3.
1905, No. 2, sec. 6

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

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

Pension payable pursuant to pension-certificate.

(a.) The pension shall be deemed to commence on the date named in that behalf in the pension-certificate issued in respect of the first year's pension, being in every case the first day of the month next after the date of the issue of such certificate.

When to commence, and payable monthly.
1898, No. 14, sec. 14

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

(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, whereof the first is payable on the first day of the month next after the commencement of the year.

Pension-claims and Pension-certificates.

17. (1.) Every person claiming to be entitled to a pension under this Act shall, in the prescribed manner and form, deliver a claim therefor (elsewhere throughout this Act called a "pension-claim") to the Deputy Registrar of the district wherein the claimant resides, or to the nearest Postmaster, who shall forthwith forward the same to the Deputy Registrar.

Pension-claim.
Ibid, sec. 15

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

Register of pension-claims.
1898, No. 14, sec. 16

Pension-claims to be numbered.
Ibid, sec. 17

Magistrate to investigate.
Ibid, sec. 18
1901, No. 50, sec. 2
1905, No. 2, sec. 8

When personal attendance may be dispensed with.
1893, No. 14, sec. 18

Witnesses and evidence on oath.
Ibid, sec. 19

Duty to answer questions respecting applications.
1901, No. 50, sec. 3

Evidence to be corroborated.
1898, No. 14, sec. 20

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

18. The Deputy Registrar shall file the claim, and record it in the prescribed manner in a book, to be called "The District Old-age Pension-claim Register," which shall be open to inspection on payment of a fee of one shilling.

19. All pension-claims shall be numbered consecutively in the order in which they are entered in the register, so that no two pension-claims in the same register bear the same number.

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

(2.) Thereupon the Clerk of the Magistrate's Court shall 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 Deputy Registrar, forthwith notify the Deputy Registrar of the date so fixed.

(3.) The Magistrate shall on the day 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 Deputy 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.) The hearing may from time to time be adjourned by the Magistrate at the request of the Deputy Registrar.

21. 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.

22. (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.

(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 Deputy Registrar or any officer authorised in that behalf by the Deputy Registrar.

(3.) Every person commits an offence who—

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

(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 and of any other Government Department which receives investments of money from the public.

23. 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.

24. 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.

How pension-claim to be dealt with. 1898, No. 14, sec. 21

25. (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:

Magistrate may postpone claim. Ibid, sec. 22

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

(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, disproved, and not to be proved.

Mode of rejecting claim. Ibid, sec. 23

26. (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. 1902, No. 20, sec. 2

(2.) If the Magistrate finds that any real or personal property has been transferred by the applicant to any person he may inquire into such transfer, and refuse the application or grant a reduced pension.

Transfer of property. 1901, No. 50, sec. 4

27. (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. 1898, No. 14, sec. 24

(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. Ibid, sec. 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. Ibid, sec. 26

(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. Ibid, sec. 27

28. In order to facilitate the adjustment of pension-claims they may be filed and provisionally investigated at any time not exceeding two years before the date on which the claimant alleges that his pension should commence; but no pension-claim shall be finally admitted, nor shall any pension-certificate be issued, until all the conditions prescribed in respect thereof by this Act have been fulfilled.

Provisional investigation of pension-claims. Ibid, sec. 28

29. 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

Issue of pension-
certificate when
claim established.
1898, No. 14, sec. 30

30. 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 Deputy Registrar, 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.

Annual pension-
certificate.
Ibid, sec. 31

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

Particulars to be
entered in pension-
register.
Ibid, sec. 32

32. The Deputy Registrar shall enter in a book, to be called "The District Old-age Pension Register," the following particulars respecting each pension-certificate issued by him:—

- (a.) The number of the certificate, and the name of the district in which it is issued:
- (b.) The pensioner's full name, occupation, and address:
- (c.) The amount of his income for the year, and the date on which the income-year ends:
- (d.) The date on which the year's pension commences:
- (e.) The amount of the year's pension, the instalments by which it is payable, and the due dates thereof:
- (f.) Such other particulars as are prescribed.

Entries in register
to be numbered.
Ibid, sec. 33

33. All entries of pension-certificates in the Old-age Pension Register shall be numbered consecutively, so that no two entries in the same register bear the same number.

Transfer of pension-
certificates to other
districts, and
duplicates.
Ibid, sec. 34

34. On application in the prescribed form, and subject to prescribed conditions,—

- (a.) Any pension-certificate may be transferred from the register in one district to the register in another:
- (b.) The Deputy Registrar may issue a duplicate pension-certificate in any case where satisfactory proof is given of the loss of the original.

Income and Property Statements.

Statement of
income for preceding
pension-year to be
furnished to Deputy
Registrar.
Ibid, sec. 35.

35. 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 the pensioner is entitled to any payment in respect of his pension for such year, and, if so, for what amount, the following provisions shall apply:—

- (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 Deputy 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."
- (c.) The Magistrate shall investigate the statement, and ascertain whether the conditions of section eight hereof have been complied with, in the same manner, with the same powers, and subject to the same provisions as in the case of pension-claims.

(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 conditions of section eight hereof have been complied with, shall certify the same to the Deputy Registrar, who shall enter the same in the Old-age Pension Register, and issue a pension-certificate in the prescribed form in respect of the year's pension (if any) to which the pensioner is entitled:

Issue of pension-certificate for year.

Provided that, in lieu of himself issuing such certificate to the pensioner, the Deputy Registrar shall forward it to the Postmaster of the post-office where the pension is payable, and the Postmaster shall issue it to the pensioner in exchange for the outstanding pension-certificate.

(e.) When forwarding the pension-certificate to the Postmaster as aforesaid the Deputy Registrar shall, in the prescribed manner, notify both the Postmaster and the pensioner as to such exchange and surrender.

Payment of Pensions and Forfeiture of Instalments.

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

Where pension payable.
1898, No. 14, sec. 36

37. 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 Deputy Registrar on the pension-certificate and in the District Old-age Pension Register.

Change of place of payment.
Ibid, sec. 37

38. 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:

Instalment to be applied for within twenty-one days.
Ibid, sec. 38
1900, No. 28, sec. 5

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 lapsed or that the instalment has then been paid.

1901, No. 59, sec. 9

39. In default of strict compliance with all the provisions of the last preceding section, and subject to any extension of time as therein mentioned, such instalment shall be deemed to be forfeited.

When instalment deemed forfeited.
1898, No. 14, sec. 39

40. 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.

Charitable Aid Boards not to refuse to admit pensioner.
1900, No. 28, sec. 7

41. 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.
1898, No. 14, sec. 43

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

(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 Postmaster of a warrant in the prescribed form.

(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.

Payment to other than pensioner.
1898, No. 14, sec. 44

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

(2.) Such warrant may be issued by a Magistrate 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.

Period for which pension not payable.
Ibid, sec. 45

43. Every instalment which falls due during any period whilst the pensioner is in prison, an inmate of a lunatic asylum, or out of New Zealand shall be deemed to be absolutely forfeited.

Procedure as to payments of instalments by Postmasters.
Ibid, sec. 46

44. 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.

(b.) When making the payment the Postmaster shall indorse on the pension-certificate or warrant produced as aforesaid 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.

(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.

(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.

Inquiry by Registrar.
1902, No. 20, sec. 3

45. (1.) If at any time the Registrar 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.

(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.

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

46. Irrespective of any such inquiry, the Magistrate may at any time himself review any pension-certificate, and may modify or cancel the same as he deems just.

Magistrate may review his decision. 1902, No. 20, sec. 4

47. 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 Registrar 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 hereof, be liable at the discretion of the Magistrate to a fine not exceeding double the amount so paid in excess.

Payments in excess may be recovered. Ibid, sec. 6

48. 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 Deputy Registrar may apply to the Magistrate, who may on inquiry either confirm or cancel the pension, or vary the amount thereof:

After-acquired property. 1901, No. 50, sec. 5

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.

49. 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:

Property disclosed on death of pensioner. Ibid, sec. 6

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.

50. (1.) Every person is liable to imprisonment for not more than six months with or without hard labour—

Imprisonment for certain breaches of Act. 1898, No. 14, sec. 47

(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.

(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.

Certificate to be cancelled in certain cases. 1902, No. 20, sec. 5

51. If any pensioner is convicted of drunkenness, or of any offence punishable by imprisonment for not less than one month and dishonouring him in the public estimation, then, in addition to any other penalty or punishment imposed, the convicting Court may, in its discretion,

Additional penalty for certain offences. 1898, No. 14, sec. 49

by order forfeit any one or more of the instalments falling due next after the date of the conviction :

Provided that if, in the opinion of the convicting Court, the pensioner misspends, wastes, or lessens his estate, or greatly injures his health, or endangers or interrupts the peace and happiness of his family, the Court may by order direct that the instalment be paid to any clergyman, Justice, or other reputable person for the benefit of the pensioner, or may by order cancel the pension-certificate :

Provided also that if on any conviction the pensioner is deemed to be an habitual drunkard within the meaning of "The Police Offences Act, 1908," then, in lieu of forfeiting any instalment of the pension, the convicting Court shall by order cancel the pension-certificate.

Pension-certificate to be cancelled on imprisonment for certain offences.
1898, No. 14, sec. 50

52. If any pensioner is sentenced to imprisonment for twelve months or upwards in respect of any offence dishonouring him in the public estimation, the convicting Court shall by order cancel the pension-certificate.

When pension absolutely forfeited.
Ibid, sec. 51

53. In any case where any pension-certificate is cancelled by order of a Court the pension shall be deemed to be absolutely forfeited.

Notice of forfeiture to Deputy Registrar.
Ibid, sec. 52

54. In every case where any instalment is forfeited or any pension-certificate is cancelled by order of a Court, the Clerk of the Court shall forthwith notify the Deputy Registrar of such forfeiture or cancellation, and the Deputy Registrar shall record the same.

Payment for procuring pension illegal.
1901, No. 50, sec. 7

55. 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.

General penalty for offences.
Ibid, sec. 8

56. 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.

Proceedings, how and when to be taken.
1902, No. 20, sec. 7

57. (1.) All proceedings under this Act, whether in respect of an offence heretofore or hereafter committed, or of moneys recoverable under section forty-seven 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 Registrar.

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

Miscellaneous.

Pensions absolutely inalienable.
1898, No. 14, sec. 53

58. The pension being for the personal support of the pensioner, it shall (subject to the provisions of this Act as to payment, forfeiture, and otherwise) be absolutely inalienable, whether by way of assignment, charge, execution, bankruptcy, or otherwise howsoever.

Apportionment of instalment on death of pensioner.
1900, No. 28, sec. 5

59. (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.

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

60. 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, Deputy Registrar, or Postmaster. Deputy Registrar, &c., may take declarations. 1898, No. 14, sec. 15 (4) 1900, No. 28, sec. 4
61. No stamp duty shall be payable on any statutory declaration, receipt, or other document made or given for the purposes of this Act. Exemption from stamp duty. 1903, No. 11, sec. 2
62. Every Deputy Registrar shall, in the prescribed manner and at prescribed intervals, prepare and forward to the Registrar a return showing for each such interval— Returns to be prepared by Deputy Registrars. 1898, No. 14, sec. 54
- (a.) All pension-certificates and warrants issued by him ;
- (b.) All forfeitures recorded by him ;
- (c.) Such other particulars as are prescribed.
63. The Registrar shall from the aforesaid returns compile a General Old-age Pension Register containing a record of all pension-certificates for the time being in force, and such other particulars as are prescribed. General register. Ibid, sec. 55
64. The Registrar shall at prescribed intervals furnish to the Postmaster-General schedules showing for each such interval— Particulars to be furnished to Postmaster-General. Ibid, sec. 56
- (a.) The names of the pensioners ;
- (b.) The numbers of their pension-certificates ;
- (c.) The dates on which and the post-office money-order offices at which the instalments in respect thereof are payable ; and
- (d.) The amount of the instalments payable.
65. 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 specified in such schedules to be paid out of such account, and the Postmaster-General shall thereupon pay such instalments accordingly. Payment of imprest money into Post Office Account. Ibid, sec. 58 1900, No. 28, sec. 8
66. (1.) The Postmaster-General shall, at such periodical intervals as are from time to time arranged between him and the Minister, furnish to the Registrar a statement showing for each such interval— Return by Postmaster-General of all payments made. 1898, No. 14, sec. 59
- (a.) The balance of the aforesaid imprest moneys in the Post Office Account at the commencement and also at the close of such interval ;
- (b.) The instalments paid ;
- (c.) The pensioners to whom such instalments were paid ; and
- (d.) Such other particulars as are prescribed.
- (2.) The Registrar, after satisfying himself that such statement is correct, shall certify to the accuracy thereof, and forward it to the Minister. Registrar to certify same. Ibid, sec. 60
67. Copies of this Act shall be posted at the several post-offices in New Zealand, and a list containing the names of the pensioners whose instalments are paid at any post-office shall be kept thereat, and the same shall on application be open to inspection on payment of the fee of one shilling. Act to be posted at post-offices. List of pensioners. Ibid, sec. 57
68. 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. Expenses of administration. Ibid, sec. 61
69. 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 Annual statement to be laid before Parliament. Ibid, sec. 62

days after the commencement of the next session, a statement showing for such year—

- (a.) The total amount paid under this Act in respect of pensions ;
- (b.) The total amount so paid in respect of other than pensions ;
- (c.) The total number of pensioners ;
- (d.) The total amount of absolutely forfeited instalments ; and
- (e.) Such other particulars as are prescribed.

Regulations.

1898, No. 14, sec. 63

70. (1.) The Governor may from time to time make such regulations as he thinks necessary for any purpose for which regulations are contemplated or required, and generally for carrying out the intention of this Act.

(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.

To whom Act not to apply.

Ibid, sec. 64
1900, No. 28, sec. 10

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

- (a.) 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 to
- (b.) Aliens ; nor to
- (c.) Naturalised subjects, except such as have been naturalised for the period of one year next preceding the date on which they establish their pension-claims ; nor to
- (d.) Chinese or other Asiatics, whether naturalised or not.

Act applies to Maoris.

1898, No. 14, sec. 65
Proviso.

72. Subject to the provisions of paragraph (a) of the last preceding section, this Act applies to aboriginal Maoris of New Zealand :

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

Rules for assessment of undetermined Maori interests.
Ibid, sec. 66

73. In determining the claim of any aboriginal Maori, 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 :—

- (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 :
- (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.

Payment of Maori pensions.

1901, No. 50, sec. 10

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

75. (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.

Pensions granted
subject to any
amending Act.
1898, No. 14, sec. 67

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

SCHEDULE.

ENACTMENTS CONSOLIDATED.

- 1898, No. 14.—“The Old-age Pensions Act, 1898.”
- 1900, No. 28.—“The Old-age Pensions Act Amendment Act, 1900.”
- 1901, No. 50.—“The Old-age Pensions Amendment Act, 1901.”
- 1902, No. 20.—“The Old-age Pensions Amendment Act, 1902.”
- 1903, No. 2.—“The Old-age Pensions Act, 1903.”