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1966, No. 5

An Act to amend the law as to Old Age Pensions and to provide for Relief for Destitute and Infirm Persons

(1 November 1966)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:-

1. Short Title and Commencement - (1) This Act may be cited as the Aged Destitute and Infirm Persons Relief Act 1966.

(2) This Act shall be deemed to come into force on the first day of April, one thousand nine hundred and sixty-six.

2. Administration - This Act shall be administered under the general direction and control of the Minister of Social Development hereinafter referred to as the Minister.

PART I - OLD AGE PENSIONS

3. Interpretation - In this Act unless the context otherwise requires -

"Applicant" means a person by whom or on whose behalf an application is made for a pension under this part of this Act:

"Income" in respect of an applicant for a pension under this part of this Act includes all moneys and the value of all benefits derived or received by the applicant from any source for his own use and advantage but does not include:

- (a) any capital moneys received from any source
- (b) any payment or benefit received by a married applicant from his or her husband or wife provided that any married applicant living apart from his or her husband or wife pursuant to a separation agreement or an order of any Court shall be deemed an unmarried applicant.
- (c) any moneys or the value of any benefits derived or received from the produce of any land owned, leased or occupied by the applicant or any land in which the applicant has any interest provided this sub-paragraph (c) shall not apply in any case where the applicant may be required to furnish an annual return of income pursuant to section 5 subsection 4 of the Income Tax Ordinance 1956.

4. Persons over sixty-five years of age entitled to a pension - (1) Every person residing in the Cook Islands of the age of sixty-five years or more who is qualified by the provisions of this Section shall be entitled to a pension as provided in this Act.

(2) No person shall be qualified to receive a pension unless he satisfies the following conditions:-

- (a) In the case of a person who was not born in the Cook Islands, or though born in the Cook Islands neither of whose parents is or was a Cook Islands Maori that he has actually resided whether continuously or intermittently in the Cook Islands for a total of twenty years during his life.
- (b) In the case of a person either of whose parents is or was a Cook Islands Maori that he has actually resided whether continuously or intermittently in the Cook Islands for a total of ten years during his life.

(3) For the purpose of the last preceding subsection

- (a) Actual residence in the Cook Islands shall not be deemed to have been interrupted by absence therefrom if the applicant satisfies the Minister that during the whole of such absence his family or his home was in the Cook Islands.
- (b) Actual residence in the Cook Islands shall not be deemed to have been interrupted.
- (i) In any case where absence from the Cook Islands was in respect of service by the applicant of any of Her Majesty's Naval, Military or Air Forces, or was in respect of service in connection with any war as a member of any organisation attached to any of the said forces.
- (ii) In any case where absence from the Cook Islands was for the purposes of medical or surgical treatment and the Minister is satisfied that there were good and sufficient reasons for leaving the Cook Islands to obtain that special treatment.
- (c) In computing for the purposes of this section the period of actual residence of an applicant in the Cook Islands any period of absence allowed under subsection (2) shall be counted as a period of actual residence and not as a period of absence therefrom.

5. Rate of pension - Pensions shall be paid at the rate of twenty-six pounds per year.

6. Deduction from pension in respect of income - Where any person who is entitled to a pension in accordance with the provisions of this Act is in receipt of income the pension shall be at the rate prescribed by Section 5 reduced by one pound for every complete pound of such income in excess of one hundred and ninety-one pounds each year in which the pension is paid.

7. Age of applicants - The age of any applicant for a pension under this Act shall be verified by and certified to by the Registrar of Births at Rarotonga whose decision shall be final.

8. Review of pension - (1) In the event of any change in the circumstances of a person to whom a pension has been granted during the period for which the pension has been granted the Minister may in his discretion review the pension and may thereupon terminate or suspend the pension or may vary the amount thereof.

(2) Every person to whom a pension has been granted shall advise the Minister without delay of any material change in his circumstances that may affect the amount of pension payable.

(3) If a person to whom a pension has been granted fails so to advise the Minister, the Minister may in his discretion recover from such person the amount of any pension paid in excess of the amount that would have been paid had such person so advised the Minister.

PART II - DESTITUTE AND INFIRM  
PERSONS RELIEF

9. Interpretation -

"Chief Medical Officer" means the Chief Medical Officer of the Cook Islands and includes such other medical officer as the Chief Medical Officer may from time to time delegate the duties imposed upon him under this Act.

"Committee" means the Destitute and Infirm persons Relief Committee established by this Act.

"Department" means the Social Development Department.

"Destitute Person" and "Infirm Person" means any person unable permanently to support himself by his own means or labour and includes persons with dependents where such dependents are unable through infirmity or age to support themselves by their own means or labour.

"Inspector" means The Inspector of Destitute and Infirm Persons Relief appointed under this Act.

10. Destitute and Infirm Persons Relief Committee - (1) For the purposes of this Act there shall be a permanent Committee called the Destitute and Infirm Persons Relief Committee.

(2) The Committee shall consist of -

The Director of the Department  
The Chief Medical Officer and,  
A person appointed by and at the pleasure  
of the Minister who shall be known as the  
Inspector for Destitute and Infirm Persons Relief.

(3) The Chief Medical Officer shall be Chairman of the Committee and the Director of the Department shall be Deputy Chairman.

(4) The Chairman shall preside at all meetings at which he is present.

(5) In the absence of the Chairman the Deputy Chairman shall preside.

(6) At any meeting the Chairman or as the case may be the Deputy Chairman shall have a deliberative vote and in the case of an equality of votes shall also have a casting vote.

11. Meetings of the Committee - (1) The Committee shall sit at such times and places as it determines from time to time.

(2) At any meeting of the Committee two members shall form a Quorum.

12. Powers of Committee - (1) The Committee shall have power to coopt not more than two members from time to time and for such time as it shall determine. The coopted member or members shall be entitled to attend meetings and deliberations of the Committee but shall not have a vote.

(2) With the written consent of the Minister the Committee may from time to time either generally or particularly delegate to any of its members or any officer of the department such of its powers as the Committee determines.

(3) Subject to the provisions of this section and to any general or special directions given or conditions attached by the Committee, the person to whom any powers are delegated under this Section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section.

(4) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(5) Any delegation under this section may be at any time revoked by the Committee in whole or in part and no such delegation shall prevent the exercise of any power by the Committee.

13. Investigation of applications for relief - (1) Every application for relief under this part of this Act shall be investigated by the Inspector who shall report to the Committee thereon for final deliberation and decision.

(2) It shall be the duty of every person to answer all questions put to him by the Committee or by the Inspector or by any officer of the the Department concerning any applicant for Relief or concerning any statements contained in any application for relief.

(3) Every person commits an offence who demands or accepts from any applicant or from any other person any fee or other consideration for procuring or endeavouring to procure any grant of relief under this Act.

14. Method of applying for Relief - Application for Relief under this Act shall be in writing addressed to the Committee and shall be in such form with such information as the Committee may from time to time prescribe.

15. Provision for Relief - (1) On approval of any application the Committee shall make a grant in the first instance for a period not exceeding three months.

(2) On the expiry of three months and on the expiry of each succeeding period of three months up to one year in all re-application for continuation of the grant may be made by the recipient in the same manner as the original application.

(3) After four successive successful applications the Committee may make grants for longer periods not exceeding one year on such terms as it shall decide.

(4) Payments under any grant shall cease immediately on the death of the person for whose relief the grant was made.

(5) Payments under any grant shall be paid weekly and may be for any sum not exceeding one pound in any week as the Committee shall decide.

(6) Where an applicant owns any interest in land the Committee may disregard such interest to such extent as the Committee deems fit if the Committee is of the opinion that it is wholly or partly unavailable to relieve the needs of the applicant.

(7) On receipt of each application the Committee shall investigate the possibility of rehabilitating the applicant or of aiding the applicant to find employment or of aiding the applicant by advice. If an applicant shall refuse or neglect to act on the advice or instructions of the Committee without reasonable excuse his application shall be declined or as the case may be his grant shall be determined forthwith.

(8) In considering any application for relief under this part of this Act the Committee shall have regard to the provisions of Part XX of the Cook Islands Act 1915 and no grant shall be made under this Act if the Committee is of the opinion that proceedings on behalf of the applicant should first be taken for maintenance under the provisions of that Act and the Committee is hereby empowered in the name of the Inspector to make application to the High Court and to prosecute any application which may be made or instituted by any other person pursuant to section 543 of the Cook Islands Act 1915.

### PART III - GENERAL PROVISIONS

16. Moneys payable out of the Cook Islands Government Account - There shall from time to time be paid out of the Cook Islands Government account from money appropriated by the Legislative Assembly for the purpose

- (a) All money required to be expended in providing pensions or in granting any relief pursuant to this Act and
- (b) All other money that may be appropriated by the Legislative Assembly for the purposes of this Act or that may be appropriated for any purpose incidental or related to the purposes of this Act.

17. Recovery of Payments in excess - (1) If any pension or grant or instalment thereof, or any money is paid to any person pursuant to the provisions of this Act in excess of the amount which ought to have been paid to such person, the amount so paid in excess may be recovered from such person as a debt due to the Crown at the suit of the Inspector, or the Inspector may direct any necessary adjustments in any instalments of the same or any other pension. grant or other money thereafter becoming payable.

(2) If on the death of any person in receipt of a pension, grant or other monetary payment, or on whose behalf a pension, grant or other monetary payment under this Act shall have been made it shall be found that such person was disqualified from obtaining pension, grant or monetary payment for any reason or shall have been paid a sum in excess of that to which he was entitled, an amount to be assessed by the Inspector equal to the total amount paid to such person dying in excess of the amount (if any) to which he was by law entitled, shall constitute a debt owing to the Crown by the estate of the person so dying or by whomsoever was responsible for incurring the debt upon the dying person and may be recoverable accordingly at the suit of the Inspector.

18. Offences - Every person commits an offence and shall be liable on conviction to a fine not exceeding twenty pounds, or to imprisonment not exceeding three months who, for the purpose of obtaining any pension or grant of money under this Act for himself or for any other person makes any false statement to or otherwise misleads or attempts to mislead any officer concerned in the administration of this Act or any other person, howsoever.

19. Regulations - (1) The High Commissioner may from time to time by order of the Executive Council and upon notice in the Cook Islands Gazette make regulations providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof. Such notice shall be sufficient if it states that the regulations have been made, and gives the place where copies of them can be purchased.

(2) Regulations made under this Section may prescribe for offences against the regulations punishable by a term of imprisonment not exceeding three months or a fine not exceeding fifty pounds or both.

(3) All regulations made under this Section shall be laid before the Legislative Assembly within twenty-eight days of the making thereof if the Legislative Assembly is in session and if not in session shall be laid before the Legislative Assembly within twenty-eight days after the date of the commencement of the next ensuing session.

20. Repeals and Savings - (1) The Old Age Pension Act 1965 is hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924 it is hereby declared that the repeal of the Old Age Pension Act 1965 shall not affect any document made or anything whatsoever done under the provision of that Act and every such document or thing so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision were in force when the document was made or the thing was done.

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