

CHILD ENDOWMENT.

No. 8 of 1941.

An Act to provide for the Payment of Endowments, in respect of certain Children, at the rate of Five shillings per week for each Child.

[Assented to 7th April, 1941.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Child Endowment Act 1941*.

Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent, but an endowment shall not be payable for any period prior to the first day of July, One thousand nine hundred and forty-one.

Commencement.

3. This Act is divided into Parts as follows :—

Parts.

Part I.—Preliminary.

Part II.—Administration.

Part III.—Child Endowment.

Part IV.—Miscellaneous.

4. In this Act, unless the contrary intention appears—

Definitions.

“child” means a child (including an ex-nuptial child) under the age of sixteen years but does not include—

(a) a child who is maintained in an institution carried on wholly or mainly at the expense of the Commonwealth or a State ; or

(b) the child of an alien father unless the child was born in Australia or unless the mother is a British subject or has made a declaration under section eighteen A of the *Nationality Act 1920-1936* ;

“claim” means a claim for endowment under this Act ;

“Deputy Commissioner” means a Deputy Commissioner of Pensions appointed under the *Invalid and Old-age Pensions Act 1908-1940* ;

“endowment” means endowment under this Act ;

- “ institution ” means a charitable institution or organization (not being a charitable institution or organization maintained by the Commonwealth or a State or mainly dependent upon financial assistance from the Commonwealth or a State) approved by the Minister ;
- “ Magistrate ” means a Police, Stipendiary or Special Magistrate of the Commonwealth or of a State or Territory of the Commonwealth ;
- “ mother ” includes a stepmother, a fostermother and the wife of a person maintaining a legally adopted child ;
- “ person ” includes an institution ;
- “ Registrar ” means a Registrar of Pensions appointed under the *Invalid and Old-age Pensions Act 1908-1940* ;
- “ the Assistant Commissioner ” means the Assistant Commissioner of Pensions appointed under the *Invalid and Old-age Pensions Act 1908-1940* ;
- “ the Commissioner ” means the Commissioner of Pensions appointed under the *Invalid and Old-age Pensions Act 1908-1940* ;
- “ this Act ” includes the Regulations.

PART II.—ADMINISTRATION.

- Administration.** **5.** The Secretary, Department of Social Services, shall, subject to any directions of the Minister, have the general administration of this Act.
- Commissioner.** **6.**—(1.) The Commissioner may, by writing under his hand, delegate to the Assistant Commissioner all or any of his powers and functions under this Act so that the delegate may exercise the powers and functions specified in the instrument of delegation.
- (2.) Where in this Act the exercise of any power or function by the Commissioner or the operation of any provision of this Act is dependent upon the opinion, belief or state of mind of the Commissioner in relation to any matter, that power or function may be exercised by the delegate of the Commissioner or that provision may operate (as the case may be) upon the opinion, belief or state of mind of the delegate in relation to that matter.
- (3.) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Commissioner.
- Determination of claims.** **7.** A Deputy Commissioner, or any officer thereto authorized by a Deputy Commissioner, may, subject to this Act and to any direction of the Commissioner, determine claims for endowment.
- Review by Commissioner or Deputy Commissioner.** **8.** Whenever it appears to the Commissioner or a Deputy Commissioner that sufficient reason exists for reviewing any determination made under this Act he may review, and may affirm, vary or annul the determination.

9. Any person affected by a determination made in pursuance of this Act may, within such time (if any) as is prescribed, appeal to the Commissioner and the Commissioner may affirm, vary or annul the determination.

Appeal to
Commissioner.

10.—(1.) The Governor-General may appoint such Special Magistrates of the Commonwealth as he thinks necessary for the purposes of this Act.

Special
Magistrates.

(2.) The persons for the time being holding office as Special Magistrates under the *Invalid and Old-age Pensions Act 1908-1940* shall be deemed to have been appointed Special Magistrates for the purposes of this Act.

11.—(1.) The Commissioner, the Assistant Commissioner, a Deputy Commissioner, a Magistrate or a Registrar may, for the purposes of any inquiry which he has power to make—

Powers of
Commissioner
and Deputy
Commissioners

- (a) summon witnesses ;
- (b) receive evidence on oath ; and
- (c) require the production of documents.

(2.) A person who has been lawfully summoned to appear before the Commissioner, the Assistant Commissioner, a Deputy Commissioner, a Magistrate or a Registrar shall not fail to appear, and a person who appears, whether summoned or not, shall not—

- (a) refuse to be sworn as a witness ;
- (b) fail to answer any question which he is lawfully required to answer ; or
- (c) fail to produce any document which he is lawfully required to produce.

Penalty : Fifty pounds.

12.—(1.) The Commissioner, the Assistant Commissioner, a Deputy Commissioner, a Registrar, and an officer performing duties under this Act—

Officers to
observe secrecy.

- (a) shall not directly or indirectly, except in the performance of his duties under this Act, and either while he has, or after he ceases to have, any duties, powers or functions under this Act, make a record of, or divulge or communicate to any person, any information acquired by him in the performance or exercise of such duties, powers or functions, respecting the affairs of any other person ;
- (b) shall, if the Minister so directs, before entering upon his duties or exercising any powers or functions under this Act, make before a Justice of the Peace or a Commissioner for Declarations a declaration in accordance with the prescribed form ; and
- (c) shall not be required to produce in court any claim or determination of a claim or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties, or the exercise of his

powers or functions, except where it is necessary to do so for the purpose of carrying into effect the provisions of this Act.

(2.) Notwithstanding anything contained in sub-section (1.) of this section, the Commissioner, the Assistant Commissioner, a Deputy Commissioner, a Registrar, or an officer performing duties under this Act may, if the Minister certifies that it is necessary in the public interest that any information acquired by him in the performance or exercise of his duties, powers or functions under this Act should be divulged, divulge that information to such person as the Minister directs.

(3.) Any person to whom information is divulged under the last preceding sub-section, and any person or employee under his control, shall, in respect of that information, be subject to the same rights, privileges, obligations and liabilities under paragraphs (a) and (c) of sub-section (1.) of this section as if he were an officer performing duties under this Act, and had acquired the information in the performance of those duties.

Penalty : Two hundred and fifty pounds.

PART III.—CHILD ENDOWMENT.

Child
Endowment.

13.—(1.) Subject to this Act, an endowment at the rate of Five shillings per week may be granted—

- (a) to any person maintaining more than one child, in respect of each child in excess of one maintained by him ; and
- (b) to any institution in respect of every child maintained by it.

(2.) Where a person is maintaining a child born in Australia who is the child of an alien father and is also maintaining a child under the age of sixteen years not born in Australia who is the child of such father, an endowment may be granted in respect of such child born in Australia who is maintained by him.

(3.) In any prescribed case a child shall, for the purposes of this section, be deemed to be maintained by such person as is prescribed.

Qualifications.

14.—(1.) An endowment shall not be granted unless—

- (a) the person (not being an institution) claiming the endowment is in Australia on the date on which the claim is made, and, if not born in Australia, has, for the period of twelve months immediately preceding that date, had his usual place of residence in Australia ; and
- (b) the child in respect of whom the endowment is claimed is in Australia, and, if not born in Australia, has been resident in Australia for the period of twelve months immediately preceding the date on which the claim is made.

(2.) For the purposes of this section a child shall be deemed to have been born in Australia if at the date of his birth the usual place of residence of his mother was in Australia and her absence from Australia was temporary only.

15. Subject to this Act, an endowment may be granted to an aboriginal native of Australia unless—

Children of
aboriginal
natives of
Australia.

- (a) he is nomadic ; or
- (b) the child in respect of whom the endowment is claimed is wholly or mainly dependent upon the Commonwealth or a State for his support.

16.—(1.) A claim for an endowment shall be made in accordance with such form and in such manner as are prescribed.

Claims.

(2.) Every claim shall be supported by a statutory declaration made in accordance with the laws of the State or Territory of the Commonwealth in which the claim is made or by such declaration as is prescribed.

17.—(1.) Subject to this section, an endowment shall not be paid for any period prior to the date on which the claim for the endowment is made :

Special
provisions as
to payment of
endowments.

Provided that where a claim is made in respect of any child within three months after the first day of July, One thousand nine hundred and forty-one, or the birth of the child, an endowment may be paid in respect of that child for any period commencing on or after that date, or the date of the birth of the child, whichever is the later.

(2.) Where a child was, at the date of lodgment of the claim, under sixteen years of age, endowment may, subject to this Act, be granted and paid in respect of that child notwithstanding that the child has attained that age or has died, married or ceased to be resident in Australia, at or before the determination of the claim in respect of that child.

18.—(1.) Upon the grant of an endowment it shall be paid—

Payment of
endowment.

- (a) to the mother of the child in respect of whom it is granted ; or
- (b) in such cases as are prescribed, to such persons as are respectively prescribed.

(2.) An endowment shall be paid in such instalments and in such manner as are prescribed.

19.—(1.) An endowment shall not be payable in respect of any child for any period after—

Endowment to
cease in certain
circumstances.

- (a) the person to whom the endowment is granted ceases to be resident in Australia ;
- (b) the child reaches the age of sixteen years ;
- (c) the child ceases to be resident in Australia, or dies, before reaching that age ; or
- (d) if the child is a female child, she marries before reaching that age.

(2.) An instalment of an endowment shall not in any event be sent to any person outside Australia.

Application of endowment.

20. An endowment shall be applied, by the person to whom it is paid, to the maintenance, training and advancement of the child in respect of whom it is granted or, in such special cases as are prescribed, in such manner as is prescribed.

Endowment absolutely inalienable.

21. Subject to this Act, an endowment shall be absolutely inalienable whether by way or in consequence of sale, assignment, charge, execution, bankruptcy, or otherwise howsoever.

Payment to other person.

22.—(1.) Where the Commissioner or a Deputy Commissioner is satisfied that, having regard to the age, infirmity, ill-health, insanity or improvidence or other reasonable cause of disqualification of a person by whom a claim is made or to whom an endowment is granted or payable or any special circumstances of that person or the child in respect of whom the claim is made or the endowment is granted, it is expedient that the endowment be granted, or payment of any instalments of the endowment be made, to any other person, the Commissioner or Deputy Commissioner may authorize the grant or payment to that other person.

(2.) Any person affected by any authority given by a Deputy Commissioner under this section may, within such time (if any) as is prescribed, appeal to the Commissioner, and the Commissioner may affirm, vary or annul the authority.

Appropriation.

23. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, such sums as are necessary for the purpose of paying endowment at the rate of Five shillings per week in respect of each child in excess of one, maintained by any person, and in respect of each child maintained by any institution.

PART IV.—MISCELLANEOUS.

Payments in excess may be recovered.

24. Where it is found that any endowment or instalment of an endowment which is not payable has been paid, the amount so paid may be recovered at any time from the person to whom it was paid or his legal representative as a debt due to the Crown.

Offences.

25.—(1.) A person shall not—

- (a) make, either orally or in writing, a false or misleading statement, in connexion with, or in support of, any claim, either for himself or for any other person ;
- (b) obtain any endowment or any instalment thereof which is not payable ;
- (c) obtain payment of any endowment or any instalment thereof by means of any false or misleading statement ;

(d) make or present to any officer doing duty in relation to this Act, any statement or document which is false in any particular.

Penalty : Fifty pounds or imprisonment for six months.

(2.) Any person convicted of an offence against this section may, in addition to the penalty imposed for the offence, be ordered to repay to the Commonwealth any amount paid by way of endowment, in consequence of the act in respect of which he was convicted.

(3.) In any proceedings for an offence against this section the burden of proving the truth of the statement in respect of which proceedings have been instituted, or the genuineness of the document presented, shall rest upon the person accused.

(4.) Proceedings under this section may be commenced at any time within three years after the commission of the offence.

26. An offence against this Act shall not be prosecuted without the written consent of the Minister.

Consent to prosecution.

27. Nothing contained in any law of a State or Territory of the Commonwealth shall prohibit any person from furnishing any information, or making any books, documents or papers available, to the Commissioner or any other officer doing duty under this Act, for the purposes of this Act.

Indemnity to certain persons.

28. The Secretary, Department of Social Services, shall furnish to the Minister annually, for presentation to the Parliament, a report of the administration and operation of this Act.

Report to Parliament.

29. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are by this Act required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for prescribing matters providing for or in relation to—

Regulations.

- (a) the manner and form of any claim, the person by whom and to whom and the time within which claims shall be made, and the information and evidence which may be required and accepted in connexion with any such claim ;
- (b) the general conditions governing the grant, payment and administration of endowments ;
- (c) the manner in which endowments may be paid or applied ; and
- (d) penalties not exceeding a fine of Twenty-five pounds or imprisonment for three months, or both, for any breach of the regulations.