

REPEALED: See Act, 196.] No.



ANALYSIS

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1958, No. 106

An Act to provide for the payment of family benefits in advance for housing purposes [2 October 1958]

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

1. Short Title and commencement—(1) This Act may be cited as the Family Benefits (Home Ownership) Act 1958.

(2) This Act shall come into force on the first day of April, nineteen hundred and fifty-nine.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Capitalised value”, in relation to any family benefit, means the capitalised value of the benefit until the child in respect of whom it is payable attains the age of sixteen years, determined in accordance with regulations under this Act:

“Beneficiary”, in relation to any family benefit, means the person to whom the family benefit is payable under the Social Security Act 1938, being a parent of the child in respect of whom the benefit is payable:

“Family benefit” means a family benefit under the Social Security Act 1938, being a benefit in respect of a child under sixteen years of age:

“Land” includes all estates and interests, whether freehold or chattel, in real property.

(2) Where a family benefit is payable in respect of two or more children, then, for the purposes of this Act a separate benefit shall be deemed to be payable in respect of each child.

3. Payment of family benefits in advance for housing purposes—Subject to the provisions of this Act and of any regulations under this Act, and notwithstanding anything in the Social Security Act 1938, on the application of a beneficiary who pursuant to those regulations is eligible to receive such an advance, an advance for any housing purpose specified in those regulations may be made to the beneficiary of an amount not exceeding the capitalised value of the family benefit or benefits payable to the beneficiary:

Provided that—

(a) Where application is made for an advance of the capitalised value of the family benefits payable in respect of two or more children of the beneficiary, the advance together with the amount of any other advance under this Act previously made to the beneficiary shall not exceed the capitalised value of benefits payable in respect of two children for a period of sixteen years:

(b) No such advance shall be made where the capitalised value of the benefit or benefits is less than two hundred pounds.

4. Financial provisions—(1) Every advance under this Act shall be made, without further appropriation than this section, out of money in the Social Security Fund.

(2) For the purpose of making advances under this Act,—

(a) There may in each year be paid from the Consolidated Fund into the Social Security Fund, out of money appropriated by Parliament for the purpose, such sums as may be approved in that behalf by the Minister of Finance:

1961
No. 106 s.

1961
No. 106 s.
Substitutn.

REP. 196
No. 106 s.
Substitutn.

(b) Money may be transferred into the Social Security Fund under the provisions of section forty of the Public Revenues Act 1953 and, notwithstanding anything in subsection two of that section, shall be paid out and restored to the fund or account from which the transfer was made within twelve months from the date of the transfer:

(c) The Minister of Finance is hereby empowered to borrow, on the security of and charged upon the public revenues of New Zealand, such sums of money as he thinks fit.

(3) The sums borrowed under the authority conferred by paragraph (c) of subsection two of this section shall bear interest at such rate as the Minister of Finance prescribes.

(4) All money borrowed under the authority of the said paragraph (c) shall be paid into the Social Security Fund. AMd. 1961
No. 1 s.

(5) The said paragraph (c) shall be deemed to be an authorising Act within the meaning of the New Zealand Loans Act 1953, and the money authorised by that paragraph to be borrowed shall be borrowed under and subject to the provisions of that Act accordingly.

5. Family benefit to be applied in repayment of advances—

(1) Notwithstanding anything in the Social Security Act 1938, where an advance is made to a beneficiary under this Act, each family benefit in respect of which the advance is made shall—

(a) Cease to be payable to the beneficiary until the child in respect of whom the benefit is payable attains the age of sixteen years, and, on the attainment of that age by the child, the advance, to the extent to which it was made in respect of that benefit, shall be deemed to have been repaid: Am. 1961
No. 1 s.

(b) In any case where before the child attains that age an event occurs by reason of which the unpaid balance of the advance, or any part thereof, has become repayable, be applied in repayment of that balance or part and any interest payable thereon until that balance or part and that interest are paid in full,—

and thereafter, if the benefit continues to be payable in respect of that child, it shall be paid to the person entitled to receive payment thereof under the Social Security Act 1938.

(2) Where the child in respect of whom a family benefit is payable dies after the expiration of one year from the date of the advance and before attaining the age of sixteen years and before any event has occurred by reason of which the unpaid balance of the advance or any part thereof has become repayable, any advance under this Act, to the extent that it was made in respect of that benefit, shall be deemed to have been repaid on the death of the child.

6. Land in respect of which advances may be made—No advance may be made under this Act, unless—

- (a) The beneficiary is the sole owner of the land in respect of which the advance is made or will be the sole owner of the land when acquired; or
- (b) The land in respect of which the advance is made is or will be settled on the beneficiary and the spouse of the beneficiary as a joint family home under the Joint Family Homes Act 1950; or
- (c) In the case of an advance made in respect of Maori freehold land,—
 - (i) The beneficiary is the sole owner of the land or will be the sole owner of the land when acquired; or
 - (ii) The beneficiary and the spouse of the beneficiary are the owners of the land as joint tenants or will be the owners of the land as joint tenants when acquired.

7. Advances to be charged on land—(1) The amount of any advance under this Act shall be a charge upon the land in respect of which it is made, and the charge may be registered against the land in the manner prescribed by regulations under this Act.

(2) Notwithstanding anything in any other Act, where the amount of any advance is applied in discharging or partially discharging any registered encumbrance existing on the land, the charge created by this section shall, when registered under the Land Transfer Act 1952 or other appropriate Act, have priority over all registered encumbrances over which the encumbrance so discharged or partially discharged had priority, subject to the registration before the registration of the charge of a discharge or partial discharge, as the case may be, of the encumbrance so wholly or partially discharged.

(3) The provisions of subsection two of this section shall apply in the manner prescribed by regulations under this Act to the payment or partial payment from an advance under

this Act of the purchase money owing by the beneficiary under a registered agreement for sale and purchase of land or under a registered lease or licence under which the beneficiary is purchasing the fee simple.

(4) For the purposes of section four hundred and sixty-one of the Maori Affairs Act 1953, a charge under this Act shall be deemed to be a mortgage.

8. Exemption from stamp duty—No stamp duty shall be payable on any agreement or other instrument made or executed under this Act.

9. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations for any purpose for which regulations are contemplated by this Act, and make all such other regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

- (a) Prescribing the classes of beneficiaries who are eligible for advances under this Act:
- (b) Prescribing the purposes that are housing purposes for which advances may be made under this Act (including the discharge or partial discharge of encumbrances on dwellings owned by beneficiaries and the payment or partial payment of the purchase money owing under registered agreements for sale and purchase or under registered leases or licences under which the beneficiary is purchasing the fee simple):
- (c) Prescribing tables fixing the capitalised values of family benefits, having regard to the ages of the children at the time when advances are made and to the fact that on the death of a child after one year from the making of the advance and while under sixteen years of age the advance will be deemed to have been repaid:
- (d) Providing, notwithstanding anything in this Act, for a benefit to be capitalised on the application of the beneficiary for a period expiring before the child attains the age of sixteen years:
- (e) Prescribing the procedure for applying for advances:
- (f) Prescribing the conditions subject to which advances may be made:

- (g) Providing for the repayment of the whole or any part of the unpaid balance of any advance—
- (i) On the occurrence of any event (other than the death, after the expiration of one year from the making of the advance, of a child in respect of whom the benefit was granted) by reason of which the benefit or any part thereof would have ceased to be payable to the beneficiary if it had not been capitalised under this Act:
 - (ii) On the transfer or lease or other disposition by the beneficiary of the land in respect of which the advance was made or the occurrence of any event by which the beneficiary ceases to be the owner or one of the owners of the land:
 - (iii) On the beneficiary ceasing to occupy as a home the land in respect of which the advance was made:
 - (iv) On the occurrence of any other event specified in the regulations,—
and for the payment of interest on the amount so repayable at a rate prescribed in the regulations:
- (h) Prescribing the manner in which the unpaid balance for the time being of any advance is to be calculated:
- (i) Providing for the registration of charges created by virtue of this Act, defining the rights and liabilities of the holders of such charges, and prescribing the manner in which any such charge may be enforced on any default in the payment of any money to which the charge relates:
- (j) Exempting from any fee under any Act any documents or classes of documents required for the purposes of registering or releasing any charge under this Act:
- (k) Prescribing offences in respect of the contravention of or non-compliance with any regulation made under this section, and prescribing penalties, not exceeding imprisonment for a term of three months or a fine of one hundred pounds, for those offences.
- (3) All regulations made under this section shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.