

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

S. G. BOYDELL,
Acting Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 24 March, 1927.

New South Wales.



ANNO SEPTIMO DECIMO

GEORGII V REGIS.

Act No. 39, 1927.

An Act to make provision for the benefit of children by means of endowment payable to mothers; to provide for a Family Endowment Fund; and for purposes connected therewith.
[Assented to, 11th April, 1927.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Family Endowment Act, 1927."
(2) Short title and commencement.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

R. GREIG,
Chairman of Committees of the Legislative Assembly.

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(2) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette. But the day shall not be so notified unless and until a living wage for male adult employees has been declared on the requirements of a man and wife without children.

Division into
parts.

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

PART I.—PRELIMINARY—ss. 1-3.

PART II.—ADMINISTRATION—ss. 4-11.

PART III.—FAMILY ENDOWMENTS—ss. 12-38.

DIVISION 1.—*Amount of endowment*—ss. 12-14.

DIVISION 2.—*Endowment claims*—ss. 15-30.

DIVISION 3.—*Payment of endowments*—ss.
31-38.

PART IV.—FAMILY ENDOWMENT FUND—ss.
39-43.

PART V.—OFFENCES—ss. 44, 45.

PART VI.—MISCELLANEOUS—ss. 46-48.

Interpreta-
tion.

3. In this Act, unless the context otherwise requires,—

“Child” means a child under the age of fourteen years but does not include—

- (a) an illegitimate child save as expressly provided in this Act; or
- (b) any child who is not in fact maintained as a member of the family of the claimant; or
- (c) any child in respect of whom a pension or payment in the nature of a pension out of public moneys is payable under the Widows' Pensions Act, 1925, or under any Act of Parliament of the Commonwealth or of this State, save as expressly provided in this Act; or
- (d)

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- (d) any child in respect of whom an allowance is payable in pursuance of any regulation made under the Commonwealth Public Service Act, 1922-1924, or in pursuance of any award or agreement made under the Arbitration (Public Service) Act, 1920 ;
- (e) the child of an alien father unless the child was born in Australia ;
- (f) the child of an Asiatic father unless the child was born in Australia ;
- (g) the child of a father who is an aboriginal native of Africa, the islands of the Pacific, or New Zealand unless the child was born in Australia.

“Children” has a corresponding meaning, and is subject to corresponding limitations.

“Claim” means a claim for a family endowment under this Act, and “Claimant” has a corresponding meaning.

“Commissioner” means the Commissioner of Family Endowment appointed under this Act.

“Deputy Registrar” means a deputy registrar of family endowment appointed under or holding such office by virtue of this Act.

“Employee” means person employed whether on salary or wages or piece-work rates, or as member of a butty gang, but shall not include a member of a family in the employment of a parent, and the fact that a person is working under a contract for labour only, or substantially for labour only, or as lessee of any tools or other implements of production, or any vehicle used in the delivery of goods, shall not in itself prevent such person being held to be an employee.

“Employee” also includes insurance and time-payment canvassers or collectors paid wholly

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wholly or in part by commission, and timber-getters whether paid by wages or at piece-work rates; but "employee" does not include any person employed in domestic service, or whose employment is casual or intermittent and who is employed otherwise than for the purposes of his employer's trade or business.

"Employer" means person, firm, company, or corporation employing persons, whether on behalf of himself or itself or any other person or on behalf of the Government of the State or any statutory authority, and without limiting the generality of the foregoing part of this definition, includes the Commissioners for Railways for New South Wales, the Sydney Harbour Trust Commissioners, the Metropolitan Water, Sewerage and Drainage Board, the Hunter District Water Supply and Sewerage Board, and any council of a municipality or shire.

Where an employer is resident out of the State, the term shall be deemed to include a person to whom the management of the affairs of the employer relating to his employees within the State is for the time being committed.

"Fund" means the Family Endowment Fund established under this Act.

"Magistrate" means a police or stipendiary magistrate.

"Mother" includes a step-mother and the wife of a person supporting a legally adopted child, and in relation to a child who has no mother or step-mother living, or who is not living with his mother or step-mother, includes the person who has the legal custody of and is actually maintaining the child.

"Prescribed" means prescribed by this Act or by regulations made thereunder.

"Registrar" means the registrar of family endowment appointed under this Act.

"Regulations"

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“Regulations” means regulations made under this Act

“Wages” include remuneration for piece-work, bonuses, commissions, and salaries.

PART II.

ADMINISTRATION.

4. (1) The Governor may appoint a Commissioner of Family Endowment, who, subject to the control of the Minister, shall have the execution and administration of this Act. Appointment of officers.

(2) The provisions of the Public Service Act, 1902, shall not apply to such appointment.

(3) The salary of the commissioner shall be fixed by the Governor, and shall be payable out of the Family Endowment Fund.

(4) A commissioner shall be appointed for a term of seven years, and shall be eligible for reappointment for a like term.

(5) The commissioner shall be a “permanent head” within the meaning of the Public Service Act, 1902, and any Act amending the same.

(6) A commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except in manner following, that is to say :—

The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is in session or if not then within seven sitting days after the commencement of the next session. A commissioner suspended under this subsection shall be restored to office unless each House of

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of Parliament within twenty-one days from the time when such statement has been laid before such House declares by resolution that the commissioner ought to be removed from office, and if each such House within the time aforesaid does so declare, the commissioner shall be removed by the Governor accordingly.

(7) A commissioner shall be deemed to have vacated his office if he—

- (a) engages in New South Wales during his term of office in any paid employment outside the duties of his office;
- (b) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary or estate for their benefit;
- (c) absents himself from duty for a period of fourteen consecutive days except on leave granted by the Governor;
- (d) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898;
- (e) resigns his office by writing under his hand addressed to the Governor.

(8) A commissioner who at the date of his appointment is an officer of the Public Service

- (a) shall in the event of his office as commissioner being discontinued or abolished be eligible on the recommendation of the Public Service Board to be appointed to some office in the Public Service not lower in classification and salary than that which he held at the date of his appointment as commissioner; and
- (b) shall while such commissioner continues to contribute to the Superannuation Fund be entitled to all the benefits under the Superannuation Act, 1916, as amended by subsequent Acts, to which he is entitled as such contributor.

(9) The Governor may, upon the recommendation of the Public Service Board, appoint a Registrar of Family Endowment and such officers as are necessary for

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for the administration of this Act. No such appointment shall be made without the concurrence of the commissioner.

(10) The registrar and officers shall receive such remuneration and allowances as shall be fixed by the Public Service Board, and shall be subject to the provisions of the Public Service Act, 1902, during their tenure of office.

(11) Every person appointed under or holding office by virtue of this Act who without lawful excuse reveals any matter or thing which has come to his knowledge in his official capacity shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term not exceeding two years.

(12) For the purpose of carrying out the powers, duties, authorities and obligations imposed upon the commissioner by this or any other Act, the commissioner may, with the approval of the Minister of the department concerned, make use of the services of any of the officers and employees of the Public Service.

5. (1) The Governor may, from time to time, appoint such persons as he thinks fit, not exceeding three in number, to form an advisory committee.

Advisory
committee.

(2) Such committee shall exercise such powers and duties and receive such fees and allowances as may be prescribed.

6. (1) The Governor may appoint such clerks of petty sessions as he considers necessary to be deputy registrars of family endowments within the Metropolitan, Parramatta, and Newcastle police districts.

Deputy
registrars.

(2) In other parts of the State the officer for the time being performing the duties of clerk of petty sessions shall by virtue of this Act and without any further appointment be a deputy registrar of family endowments.

(3) The Governor may appoint any other person to be deputy registrar for any district in lieu of the clerk of petty sessions in which case the clerk of petty sessions shall not act as deputy registrar for that district.

(4)

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(4) A deputy registrar shall have such powers as are prescribed or as are delegated either generally or in a particular case or class of cases by the commissioner.

Powers of
commissioner
and registrar
and deputy
registrars.

7. (1) The commissioner, the registrar, and any deputy registrar may, for the purposes of this Act—

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

(2) The registrar shall have such powers as are prescribed or as are delegated either generally or in a particular case by the commissioner, and shall perform such duties and discharge such functions as are prescribed or as the commissioner may direct.

Penalty for
disobedience
of summons.

8. Any person who has been summoned to appear as a witness before the commissioner, the registrar, or a deputy registrar and who, without lawful excuse, and after tender of reasonable expenses, fails to appear in obedience to the summons shall be guilty of an offence against this Act.

Penalty for
refusing to
give evidence.

9. Any person who appears before the commissioner, the registrar, or a deputy registrar as a witness and who, without lawful excuse, refuses to be sworn, or to make an affirmation, or to produce documents, or to answer questions which he is lawfully required to answer shall be guilty of an offence against this Act.

Duties of
deputy
registrars.

10. It shall be the duty of each deputy registrar—

- (a) to receive claims;
- (b) to investigate claims as prescribed;
- (c) generally, to keep such books and registers, and do all such things as are prescribed.

Declaration
y officers.

11. The commissioner, the registrar, and all deputy registrars shall, before entering upon their duties or exercising any powers under this Act, make a statutory declaration in accordance with the prescribed form.

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PART III.

FAMILY ENDOWMENTS.

DIVISION 1.—*Amount of endowment.*

12. (1) Subject to this Act, there shall be paid to every mother in respect of each child an endowment for his maintenance, training, and advancement at the rate of five shillings per week. Endowment for children.

(2) When any child under the age of fourteen years is an inmate of any charitable institution there shall be paid in respect of that child a like endowment, but so that not more than one endowment shall be paid in respect of each such child. The person to make the claim and to be paid the endowment shall be as prescribed.

13. (1) In any case where the commissioner is satisfied that a child in respect of whom an endowment has been paid under this Act is, by reason of any physical or mental defect, totally incapacitated from earning a living, an endowment in respect of such child may continue to be paid for such period not exceeding two years as the commissioner thinks fit, notwithstanding that such child may have attained the age of fourteen years. Endowments in special case.

(2) Where in the opinion of the commissioner the circumstances of any case render it desirable to do so, he may authorise the payment of an endowment under this Act in respect of an illegitimate child in the same manner as if such child were a legitimate child.

(3) The commissioner shall not authorise any payment under subsection two of this section—

(a) where there is in force any order for the payment in respect of the child of a sum for his maintenance and education, made under the Child Welfare Act, 1923, or any Act replaced by that Act, and such order is being complied with;

(b) unless the commissioner is satisfied that all reasonable steps have been taken to apply for such an order;

(c)

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- (c) unless the commissioner is satisfied that all reasonable steps have been taken to enforce any such order ;
- (d) where there is in existence any agreement for the payment of such a sum and the agreement is being carried out ;
- (e) unless the commissioner is satisfied that all reasonable steps are being taken to enforce any such agreement ;
- (f) if in the exercise of his discretion he is of opinion on the merits of the case that such payment ought not to be made.

(4) Subject to section fourteen of this Act when a pension is being paid under the War Pensions Act, 1914-1916, on account of a child under the age of fourteen years of a member of the Forces an endowment shall be payable under this Act in respect of such child, but only of such a sum as together with the pension will amount to five shillings per week for such child.

Qualifica-
tions.

14. (1) No endowment shall be payable unless—

- (a) the mother is on the date when a claim for endowment is made residing and has her home in New South Wales, and has been continuously so residing for a period of two years immediately preceding that date ; and
- (b) the child in respect of whom the endowment is claimed is and has been resident in New South Wales for not less than two years, or if under the age of two years, was born in New South Wales.

Residence or continuous residence shall not be deemed to have been interrupted by occasional absences not exceeding in the aggregate six weeks or by a longer absence if the claimant proves to the satisfaction of the magistrate that during the period of such absence the child or home of the claimant was in New South Wales.

(2) No certificate for endowment shall be issued in any case where—

- (a) the family income in the twelve months immediately preceding the date of the claim exceeded the aggregate of the following amounts,

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amounts, namely :—the amount for one year of the living wage based on the requirements of a man and wife without children and for the time being in force and appropriate to the case and the amount of thirteen pounds for each child in the family ; or

- (b) if the magistrate is satisfied that the claimant or his spouse has directly or indirectly deprived himself of property or income in order to qualify for or obtain an endowment.

(3) Where the family income would by the issue of a certificate of endowment be increased beyond the aggregate mentioned in paragraph (a) of subsection two of this section the certificate shall be issued for such an amount only as will with the amount of the family income for the twelve months immediately preceding the date of the claim amount to that aggregate.

(4) For the purposes of this Act "family income" means the combined incomes of a claimant, his spouse, and children under the age of fourteen years, arising from any source whatsoever, whether in or out of the State, and income includes any money, valuable consideration, or profits earned, derived, or received by or to which any such person is entitled for his own use and benefit, and without limiting the generality of the foregoing part of this definition shall be deemed to include—

- (a) any weekly payment under the Workers' Compensation Act, 1926, or other law relating to workmen's compensation ;
- (b) any endowment under this Act ;
- (c) five per centum of the value of any real or personal property owned by the claimant, or his spouse, other than the residence in which he resides, or his furniture and personal effects therein, or by his children under the age of fourteen years, and which produces no income or produces an income of less than five per centum per annum ;
- (d) moneys derived or received from investments of capital wherever invested ;

(e)

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- (e) any amount applied for the maintenance or education of any child under the age of fourteen years by the administrator of any estate, the executor of any will, or the trustee of any settlement, or paid to a claimant for such purpose;

But shall not include—

- (a) any payment by way of sick allowance or funeral benefit from any association or society; nor
- (b) any money received under an insurance policy on the destruction or damage by fire or otherwise of a building or other property of any nature; nor
- (c) any lump sum payment under any law relating to workers or workmen's compensation, or any gratuity paid under any Act relating to superannuation; nor
- (d) the earnings of a child under the age of fourteen years; nor
- (e) the earnings of a mother from casual employment; nor
- (f) the earnings of an employee for overtime in his usual employment; nor
- (g) any amount received as pension under the War Pensions Act, 1914-1916, in respect of a member of the Forces or his wife or as the widow of such a member.

In any case where the income is derived otherwise than from wages the magistrate shall deduct an amount equal to the amount which in his opinion has been expended in the production of that income.

(5) In the case of children in a charitable institution the income of the institution shall not be taken into account in determining whether any endowment shall be paid in respect of any particular child or in determining the amount of the endowment, but the family income shall be the combined incomes of the particular child and of his parents (if any).

DIVISION

Family Endowment.

DIVISION 2.—*Endowment claims.*

15. (1) Every person claiming a family endowment shall, in the prescribed manner, deliver or send a claim therefor to the deputy registrar whose office is nearest the place of abode of such person. Endowment claims.

(2) The claim shall be in accordance with the prescribed form, and shall affirm all the qualifications and requirements and negative all the disqualifications under this Act, and shall set out the place of abode and length of residence therein of the claimant, and the place or places of abode of the claimant during the previous twelve months, and such other particulars as are prescribed.

(3) Every claimant shall, by statutory declaration to be indorsed on the claim, declare that the contents of the claim are true and correct in every particular, and if in the declaration or claim the claimant wilfully makes any statement which is untrue in any particular, the claimant shall be guilty of an offence against this Act.

(4) A claim may be withdrawn at any time by a notice of withdrawal, sent by the claimant to the deputy registrar to whom the claim was delivered or sent.

16. (1) Upon receipt of a claim the deputy registrar shall cause to be made such investigations as appear to him desirable, or as are directed by the commissioner, in order to ascertain the circumstances of the claimant and the truth of the statements in the claim. Investigation by deputy registrar.

(2) The deputy registrar may in the prescribed manner require any person, whom he believes to be in a position to do so, to furnish to him, for submission to the magistrate, a confidential report as to the circumstances of any claimant; and any person who, on being required to do so by the deputy registrar, fails to furnish a report within a reasonable time, or furnishes a report containing any statement which is untrue in any particular, shall be guilty of an offence against this Act.

17. (1) Upon the completion of his investigations the deputy registrar shall refer the claim, together with a full report of the result of the investigations which have been made, to a magistrate. Reference to magistrate.

(2)

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(2) The deputy registrar shall notify the claimant of the time when and place where the claimant is required to attend to support the claim.

(3) The magistrate may dispense with the attendance of the claimant where he is satisfied that there is sufficient reason for such non-attendance.

Investigation
by magis-
trate.

18. (1) On the day so notified, or on any subsequent day, the magistrate may proceed to investigate the claim for the purpose of ascertaining whether the claimant is entitled to a family endowment, and if so, at what amount.

(2) All investigations by the magistrate shall be made in the locality wherein the claimant resides, or as near thereto as practicable, and shall be made in chambers.

(3) In order to ascertain the circumstances of the claimant, evidence may be taken at the hearing from any persons whomsoever.

(4) In investigating the claim the magistrate shall not be bound by any rules of evidence, but shall investigate the matter and make his recommendation according to equity, good conscience, and the substantial merits of the case, without regard to technicalities or legal forms.

Recom-
mendation by
magistrate.

19. (1) Subject to the following provisions of this section, the magistrate may, as he deems equitable—

(a) recommend the claim as made, or as modified by the result of his investigations; or

(b) postpone the claim for further evidence; or

(c) recommend the rejection of the claim;

but no claim shall be recommended unless the magistrate is satisfied that the claim is established and unless the evidence (if any) of the claimant is corroborated on all material points by documentary information or oral evidence.

(2) If it appears to the magistrate that the claimant, although otherwise qualified for, is unfit to be entrusted with a family endowment, he shall make a special report in or to the effect of the prescribed form.

(3)

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(3) 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, the magistrate shall, if the claimant so desires, postpone the investigation, and in such case all matters as to which the magistrate is satisfied shall be recorded as proved: Provided that further evidence may be adduced in respect of any matters recorded as proved.

(4) If the magistrate is of opinion that the claim is not established, and cannot be mended by further evidence, or by postponement of the investigation for a reasonable time, the magistrate shall recommend the rejection of the claim, and when so doing shall specify in writing all the material points which he finds to be respectively proved, disproved, and unproved or insufficiently proved.

20. (1) In respect of matters found by the magistrate to be disproved, the claimant may in the time and in the manner prescribed appeal to the commissioner, whose decision shall be final and conclusive and without appeal. Appeal or fresh evidence.

(2) In respect of matters found by the magistrate to be simply unproved or insufficiently proved, the claimant may at any time thereafter, first giving the deputy registrar three days' notice, adduce before the magistrate fresh evidence, and in such case all material points previously found by the magistrate to be proved shall be deemed to be established, and the magistrate shall dispose of all other points as in the case of a new claim.

21. (1) The recommendation of the magistrate as to the claim shall be indorsed on the claim, which shall thereupon be returned to the deputy registrar. Determination of claim.

(2) The deputy registrar shall forthwith transmit the claim as indorsed, together with the prescribed particulars for identification of the claimant, and such other particulars as are prescribed, to the commissioner, who shall determine the application.

(3) The determination of the commissioner shall, if in favour of the claim, set out the amount of the endowment.

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endowment and the date of its commencement, and a certificate in the prescribed form shall thereupon be issued to the claimant.

(4) If the determination of the commissioner is adverse to the claim, the claimant shall be notified accordingly.

Rehearing
of claim.

22. At the request of the commissioner a magistrate may rehear a claim previously admitted or rejected, and the commissioner may, if he thinks fit, amend any certificate so as to accord with the recommendation made by the magistrate after the rehearing. Upon the rehearing the magistrate shall have the same powers as upon the original hearing.

Cancellation.

23. (1) The commissioner may at any time cancel, suspend, or reduce any endowment if he considers it expedient so to do.

(2) Where any decision cancelling, suspending, or reducing an endowment has been given under this section the commissioner shall indorse the certificate accordingly.

Forfeiture or
cancellation
of certificate.

24. (1) In any case where a certificate is cancelled the endowment shall be deemed to be absolutely forfeited.

(2) Every application for a new certificate made by a person whose endowment has been forfeited shall be subject in all respects to the same provisions as if no former endowment had been granted to that person.

Instalments
forfeited
during
currency of
suspension.

25. (1) During the period a certificate has been suspended all instalments which would otherwise become due and payable during such period shall be forfeited.

(2) If any period of suspension is such as to extend beyond the expiration of the year in which the order of suspension is made the order shall apply so far as regards the residue of that period to any endowment certificate issued for the next succeeding year.

Statement of
income to be
filed when
required.

26. (1) Whenever required by the commissioner each claimant shall send to the commissioner a statement in the prescribed form relating to his family income.

(2)

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(2) If upon investigation the commissioner is satisfied that the endowment should be discontinued, or that the amount of the endowment is greater or less than it should be, he may discontinue the endowment or reduce or increase the amount of endowment accordingly.

27. (1) Every magistrate may, for the purposes of ^{Powers of} any investigation or inquiry under this Act— ^{magistrates.}

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

(2) Any person who has been summoned to appear as a witness before a magistrate and who, without lawful excuse, and after tender of reasonable expenses, fails to appear in answer to the summons, shall be guilty of an offence against this Act.

(3) Any person who appears before a magistrate as a witness and who, without lawful excuse, refuses to be sworn, or to make an affirmation, or to produce documents, or to answer questions which he is lawfully required to answer, shall be guilty of an offence against this Act.

28. On application in the prescribed form, the commissioner may direct the issue of a ^{Duplicate} duplicate certificate in any case where satisfactory proof is given of the loss or destruction of the original. ^{certificate.}

29. (1) A certificate shall be issued only for the ^{Certificates.} payment of endowment for a period of not more than one year from the date of commencement specified in the certificate.

(2) A certificate shall be signed by the commissioner or the registrar and countersigned by such officer as may be appointed by the Minister in that behalf.

(3) In the absence from duty from any cause of the commissioner or the registrar, the Minister may appoint some officer to sign the certificate.

(4) Unless the circumstances otherwise require the instalments of endowment shall be paid fortnightly.

(5) The certificate shall in each case specify the amount of the endowment payable thereunder, the instalments

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instalments by which it is to be paid, the office or place of payment, and such other particulars as may be prescribed.

(6) The office or place of payment may be changed from time to time in the prescribed manner, and every such change shall be recorded by the registrar on the certificate.

Renewal of
certificates.

30. (1) At least one month before the due date of the last instalment of endowment authorised to be paid by a certificate, or at such earlier time as may be prescribed, the holder of the certificate may apply in the manner prescribed for a certificate for a further period.

(2) With the application, which shall be lodged with the deputy registrar whose office is nearest the place of abode of the applicant, there shall be lodged a statement in the prescribed form (verified by statutory declaration) setting out such particulars as may be prescribed to show that the applicant is qualified to receive an endowment and has not from any cause become disqualified.

(3) The application for a certificate for a further period shall be dealt with in like manner to that prescribed for dealing with an original claim, save that, with the approval of the commissioner, the reference to a magistrate may be dispensed with.

DIVISION 3.—Payment of endowments.

Instalment to
be applied for
within
twenty-one
days.

31. (1) Subject to this Act, each instalment shall be applied for and payable at any time within twenty-one days after its due date on the personal application of the person entitled thereto, and the production of his certificate to the officer in charge at the office or place named therein.

(2) In default of strict compliance with the provisions of the last preceding subsection, the instalment shall be deemed to be forfeited unless the forfeiture is waived as provided in the next following subsection.

(3)

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(3) The commissioner, registrar, or a deputy registrar may waive any such forfeiture in any case where after investigation he is satisfied—

- (a) that, if the forfeiture was occasioned by default of personal application for payment, or of application within the prescribed time, the default was due to illness or debility or temporary absence from the locality in which the endowment is payable, or other sufficient cause; or
- (b) that, if the forfeiture was occasioned by default in producing the certificate, the default was due to its being lost or destroyed.

(4) It shall not be lawful for the registrar or a deputy registrar to waive the forfeiture of any instalment unless waiver of such forfeiture is applied for within the prescribed time.

32. Every instalment shall be absolutely forfeited and no certificate shall be granted—

Forfeiture of instalments in certain cases.

- (a) during any period while the person to whom the certificate has been granted resides out of New South Wales: Provided that residence in New South Wales shall not be deemed to have been interrupted by occasional absence therefrom if the commissioner is satisfied that during such absence the family or home of the said person was in New South Wales;
- (b) as from the date the person to whom the certificate is granted becomes qualified to receive a widow's pension, or an allowance in respect of any child payable in pursuance of any regulation made under the Commonwealth Public Service Act, 1922-1924, or in pursuance of any award or agreement made under the Arbitration (Public Service) Act, 1920.

33. 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.

Endowment absolutely inalienable.

34.

Family Endowment.

Endowment
granted
subject to any
future Act.

34. (1) Every endowment shall be deemed to be granted, and shall be held subject to all the provisions of this Act, and to the provisions of any other Act amending or repealing or in substitution for this Act which may at any time be passed, and no person shall have any claim for compensation or otherwise by reason of his endowment being affected by the operation of this Act or any such other Act.

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

Payment to
other person

35. (1) Where the commissioner is satisfied that, having regard to the age, infirmity, ill-health, insanity, or improvidence or other reasonable cause of disqualification of a person to whom a certificate is granted, or any special circumstances of such person or the child, it is expedient that payment of any instalments of the endowment be made to any other person, a warrant to that effect shall be issued by the commissioner, and transmitted to the person authorised therein to receive payment.

(2) Subject to the regulations, and to the directions and limitations, if any, contained in the warrant, the person named therein shall be entitled on its production to receive payment of the endowment.

(3) The moneys so received shall be applied by him for the benefit of the child in respect of whom the endowment was granted, and he shall account to the commissioner in the prescribed manner for all moneys so received by him.

(4) A warrant issued by the commissioner under this section may at any time be revoked by the commissioner upon notice to the person to whom it was issued, and to the officer in charge of the office or place at which the endowment is payable.

Guardian
may receive
endowment
on behalf of
children.

36. (1) In case of the death of a person to whom a certificate has been granted, or where there is no mother, or where the mother is divorced from or is living apart from her husband and has not the custody of the child, the guardian or other person for the time being having the maintenance, care, or control of the child shall, with the approval of the commissioner, be entitled to apply for and receive the endowment in respect of the child.

(2)

Family Endowment.

(2) Subject to this Act, the endowment shall cease in respect of a child when that child attains the age of fourteen years.

(3) Applications under subsection one of this section and the method of accounting for moneys received by such guardian or person shall be as prescribed.

37. The right to an endowment or the amount of an endowment shall not be affected during any period covered by a certificate by reason merely of the fact that a child to which the certificate relates has within that period attained the age of fourteen years, or by reason merely of the death of any such child. Death, &c., of child.

38. The following provisions shall apply to the payment of instalments of endowment:— Procedure as to payment of instalments.

- (a) the officer in charge of an office or place at which an endowment is payable may, if he thinks fit, require the applicant for payment to prove his identity, but, subject to the regulations, he may accept the production of the certificate as sufficient evidence that the person producing it is the person entitled to payment;
- (b) when making the payment, the officer shall record on the certificate 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) a receipt so given shall be sufficient evidence that the payment to which it purports to relate has been duly made, and no claim against the State or the officer shall thereafter arise or be made in any court or proceeding whatsoever, by any person whomsoever, in respect thereof; and
- (d) upon payment of the last instalment authorised by a certificate, the certificate shall be retained by the paying officer and forwarded by him to the registrar for cancellation.

Family Endowment.

PART IV.

Family Endowment Fund.

Fund.

39. (1) There shall be constituted a fund, to be called the Family Endowment Fund.

(2) All moneys expended under or for the purposes of this Act shall be paid out of such fund, and all moneys received under this Act shall be paid into such fund.

(3) The fund shall be under the direction and control of the commissioner and shall be applied for the purpose of the administration and execution of this Act and for no other purpose whatsoever.

(4) Every employer shall contribute to the fund in each year at the prescribed times and in the prescribed manner a contribution equal in amount to such a percentage of the total amount of the wages paid by him during the prescribed period to his employees as may be fixed by Act of Parliament. Where such amount includes any wages paid to an employee working under an award made under an Act of the Parliament of the Commonwealth of Australia, such amount shall be reduced by a sum equal to ten per centum of the wages so paid to such employee.

This subsection shall not apply to an employer where the total amount of the wages paid by him during the twelve months immediately preceding the prescribed date did not exceed one hundred and fifty pounds nor to an employer which is a public hospital or public benevolent or charitable institution.

(5) When board and lodging are provided for an employee by an employer the total amount of wages under subsection four of this section shall include a sum of one pound per week in respect of such employee as if it had been paid as wages.

(6) All moneys received by the Colonial Treasurer for credit of the Family Endowment Fund shall be carried to an account in Special Deposits Account in the Treasury, and such moneys and interest allowed thereon shall be made available to the commissioner for the

Family Endowment.

the purpose of meeting payments of endowments under this Act or of any costs or expenses payable out of the fund.

(7) Interest at a rate to be determined by the Colonial Treasurer shall be allowed on the amount for the time being at the credit of the fund.

40. The Colonial Treasurer is hereby authorised Advance by Treasury. from time to time to advance out of the Consolidated Revenue Fund such amounts as may be necessary to meet the payments becoming due out of the Family Endowment Fund, but any such advance shall be recouped out of that fund.

41. The regulations may provide for the furnishing Returns. of returns of wages paid by employers to employees, and the form of, and the matter to be contained in, such returns, the assessment of contributions, the periods in respect of which contributions are to be paid, and the collection and receipt thereof.

42. (1) Any contribution payable by an employer Recovery of contributions. to the Family Endowment Fund, may be sued for and recovered as a debt in any court of competent jurisdiction by the Attorney-General, or by any person authorised by him in writing, either generally or in any particular case.

(2) In any proceedings the production of a notification in the Gazette that any person has been so appointed shall be conclusive evidence of the appointment and evidence that his authority to sue remains in force.

43. The commissioner, or any person authorised in Power to inspect wages sheets, books, &c. writing by him, may call for and inspect any books, wages sheets, or documents of any employer.

Family Endowment.

PART V.

OFFENCES.

Offences

44. (1) Any person who—

- (a) wilfully makes any false statement or representation to obtain a certificate of endowment, or any instalment of an endowment, or to deceive any officer, or to affect the rate or amount of any endowment; or
- (b) by any unlawful means obtains payment of any forfeited or suspended instalment of endowment; or
- (c) by means of personation or any fraudulent device whatsoever obtains payment of any instalment of endowment; or
- (d) by any wilfully false statement or representation aids or abets any person in obtaining or claiming a certificate of endowment or instalment of endowment; or
- (e) wilfully lends a certificate to any other person; or
- (f) receives any money in consideration of or in respect of the procuring of any certificate of endowment or instalment of endowment; or
- (g) refuses to produce any books, wages sheets, or documents upon demand by the commissioner or any person authorised by him in writing in that behalf,

shall be guilty of an offence against this Act.

(2) Where a person to whom a certificate has been granted is convicted of an offence under this section the commissioner may, in addition to any other penalty imposed in respect of the offence, cancel the certificate in respect of which the offence was committed.

Penalties.

45. (1) Any person who commits an offence against this Act shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a penalty not exceeding one hundred pounds.

(2) Any penalty imposed by this Act or the regulations may be recovered in a summary manner.

(3)

Family Endowment.

(3) All proceedings in respect of an offence Proceedings how and when to be taken. against this Act or the regulations may be taken at any time not exceeding six months from the time when the facts first came to the knowledge of the commissioner.

(4) Any such proceedings may be taken by the commissioner or some person appointed by him in writing, either generally or in a particular case.

PART VI.

MISCELLANEOUS.

46. Nothing in this Act shall confer upon any holder of a certificate of endowment any right to sue No right to sue. for and recover from the Crown or any other person the amount expressed to be payable upon any such certificate.

47. Where it is found that any endowment or Payments in excess may be recovered. instalment of an endowment has been paid in excess of the amount to which the person to whom a certificate has been granted was by law entitled, the amount so paid in excess may be recovered from him or his legal representative as a debt due to the Crown.

48. (1) The Governor may make regulations, Regulations. not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act, and without limiting the generality of the foregoing power, in particular in regard to all or any of the following matters:—

- (a) the powers and duties of the commissioner, the registrar, and officers;
- (b) the forms of claims, and of applications or declarations relating thereto, and the times within which they are to be made or given;
- (c) the registering and numbering of claims and particulars in regard thereto;
- (d) the forms of certificates;

(e)

Family Endowment.

- (e) proceedings before a magistrate, the commissioner, the registrar, or any deputy registrar;
- (f) the forms of receipt to be given for any instalment; and
- (g) the delivery up by and recovery of certificates cancelled, or suspended, or lapsed on death, or for any other reason.

(2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

In the name and on behalf of His Majesty I assent to this Act.

D. R. S. DE CHAIR,
Governor.

*Government House,
Sydney, 11th April, 1927.*

FAMILY ENDOWMENT BILL.

SCHEDULE showing the Legislative Assembly's disagreements from the Legislative Council's Amendments referred to in Message of 24 March, 1927.

S. G. BOYDELL,
Acting Clerk of the Legislative Assembly.

Page 3, clause 3. *After* paragraph (d) *omit* new paragraph (e).

Page 4, clause 3. *After* line 9 *omit* "'Employee' does not include any employee working under an award made under an Act of the Parliament of the Commonwealth of Australia."

Page 22, clause 39, line 15. *After* "manner" *reinsert* "a contribution equal in amount to such a percentage of the total amount of the wages paid by him during the prescribed period to his employees as may be fixed by Act of Parliament." *Omit* "such sum in respect of each male adult employee employed by him and such sum in respect of each female adult employee employed by him as may be fixed by Parliament in respect of adult male and adult female employees respectively."

FAMILY ENDOWMENT BILL.

SCHEDULE of the Amendments referred to in Message of 24th March, 1927.

- Page 2, clause 1. At end of clause *add* “ But the day shall not be so notified unless
“ and until a living wage for male adult employees has been declared
“ on the requirements of a man and wife without children ”
- Page 3, clause 3. *After* paragraph (d) *insert* new paragraph (e).
- Page 4, clause 3. *After* line 9 *insert* “ ‘ Employee ’ does not include any employee
“ working under an award made under an Act of the Parliament of the
“ Commonwealth of Australia ”
- Page 10, clause 14, line 41. *Omit* “ the sum of three hundred and sixty-four pounds ” ;
and on page 11 *insert* “ the aggregate of the following amounts, namely :—
“ the amount for one year of the living wage based on the requirements
“ of a man and wife without children and for the time being in force
“ and appropriate to the case and the amount of thirteen pounds for
“ each child in the family ”
- Page 11, clause 14, line 13. *After* “ increased ” *omit* “ beyond three hundred and sixty-
“ four pounds for the current year ” *insert* “ beyond the aggregate mentioned
“ in paragraph (a) of subsection two of this section ”
- Page 11, clause 14, lines 19 and 20. *Omit* “ three hundred and sixty-four pounds ”
insert “ that aggregate ”
- Page 12, clause 14, line 12. *After* paragraph (d) *insert* new paragraphs (e) and (f)
- Page 16, clause 23, line 16. *After* “ do ” *omit* to end of subclause.
- Page 16, clause 25. *Omit* lines 35 and 36.
- Page 22, clause 39, line 15. *After* “ manner ” *omit* to end of paragraph and *insert* “ such
“ sum in respect of each male adult employee employed by him and such
“ sum in respect of each female adult employee employed by him as may
“ be fixed by Parliament in respect of adult male and adult female
“ employees respectively ”
-

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*W. S. MOWLE,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 17 February, 1927.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

*W. L. S. COOPER,
Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, 24th March, 1927.*

New South Wales.



ANNO SEPTIMO DECIMO

GEORGII V REGIS.

Act No. , 1927.

An Act to make provision for the benefit of children by means of endowment payable to mothers; to provide for a Family Endowment Fund; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Family Endowment Act, 1927."

Short title] and commencement.

23241

206—A

(2)

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Family Endowment.

(2) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette. But the day shall not be so notified unless and until a living wage for male adult employees has been declared on the requirements of a man and wife without children.

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

Division into
Parts.

PART I.—PRELIMINARY—ss. 1-3.

PART II.—ADMINISTRATION—ss. 4-11.

10 PART III.—FAMILY ENDOWMENTS—ss. 12-38.

DIVISION 1.—*Amount of endowment*—ss. 12-14.

DIVISION 2.—*Endowment claims*—ss. 15-30.

DIVISION 3.—*Payment of endowments*—ss.
31-38.

15 PART IV.—FAMILY ENDOWMENT FUND—ss.
39-43.

PART V.—OFFENCES—ss. 44, 45.

PART VI.—MISCELLANEOUS—ss. 46-48.

20 3. In this Act, unless the context otherwise requires,— Interpretation.

“Child” means a child under the age of fourteen years but does not include—

- (a) an illegitimate child save as expressly provided in this Act; or
- 25 (b) any child who is not in fact maintained as a member of the family of the claimant; or
- (c) any child in respect of whom a pension or payment in the nature of a pension out of public moneys is payable under the Widows' Pensions Act, 1925, or under any Act of Parliament of the Commonwealth or of this State, save as expressly provided in this Act; or

(d)

Family Endowment.

- 5 (d) any child in respect of whom an allowance is payable in pursuance of any regulation made under the Commonwealth Public Service Act, 1922-1924, or in pursuance of any award or agreement made under the Arbitration (Public Service) Act, 1920 ;
- 10 (e) any child of an employee working under an award made under an Act of the Parliament of the Commonwealth of Australia ;
- (e f) the child of an alien father unless the child was born in Australia ;
- 15 (f g) the child of an Asiatic father unless the child was born in Australia ;
- (g h) the child of a father who is an aboriginal native of Africa, the islands of the Pacific, or New Zealand unless the child was born in Australia.
- 20 "Children" has a corresponding meaning, and is subject to corresponding limitations.
- "Claim" means a claim for a family endowment under this Act, and "Claimant" has a corresponding meaning.
- 25 "Commissioner" means the Commissioner of Family Endowment appointed under this Act.
- "Deputy Registrar" means a deputy registrar of family endowment appointed under or holding such office by virtue of this Act.
- 30 "Employee" means person employed whether on salary or wages or piece-work rates, or as member of a butty gang, but shall not include a member of a family in the employment of a parent, and the fact that a person is working
- 35 under a contract for labour only, or substantially for labour only, or as lessee of any tools or other implements of production, or any vehicle used in the delivery of goods, shall not in itself prevent such person being held to be
- 40 an employee.

"Employee"

Family Endowment.

- 5 “Employee” also includes insurance and time-payment canvassers or collectors paid wholly or in part by commission, and timber-getters whether paid by wages or at piece-work rates; but “employee” does not include any person employed in domestic service, or whose employment is casual or intermittent and who is employed otherwise than for the purposes of his employer’s trade or business.
- 10 “Employee” does not include any employee working under an award made under an Act of the Parliament of the Commonwealth of Australia.
- 15 “Employer” means person, firm, company, or corporation employing persons, whether on behalf of himself or itself or any other person or on behalf of the Government of the State or any statutory authority, and without limiting the generality of the foregoing
- 20 part of this definition, includes the Commissioners for Railways for New South Wales, the Sydney Harbour Trust Commissioners, the Metropolitan Water, Sewerage and Drainage Board, the Hunter District Water Supply and
- 25 Sewerage Board, and any council of a municipality or shire.
- 30 Where an employer is resident out of the State, the term shall be deemed to include a person to whom the management of the affairs of the employer relating to his employees within the State is for the time being committed.
- “Fund” means the Family Endowment Fund established under this Act.
- 35 “Magistrate” means a police or stipendiary magistrate.
- “Mother” includes a step-mother and the wife of a person supporting a legally adopted child, and in relation to a child who has no mother or step-mother living, or who is not living with

Family Endowment.

- with his mother or step-mother, includes the person who has the legal custody of and is actually maintaining the child.
- 5 "Prescribed" means prescribed by this Act or by regulations made thereunder.
- "Registrar" means the registrar of family endowment appointed under this Act.
- "Regulations" means regulations made under this Act
- 10 "Wages" include remuneration for piece-work, bonuses, commissions, and salaries.
-

PART II.

ADMINISTRATION.

4. (1) The Governor may appoint a Commissioner of ^{Appointment of officers.} Family Endowment, who, subject to the control of the Minister, shall have the execution and administration of this Act.
- 15 (2) The provisions of the Public Service Act, 1902, shall not apply to such appointment.
- 20 (3) The salary of the commissioner shall be fixed by the Governor, and shall be payable out of the Family Endowment Fund.
- (4) A commissioner shall be appointed for a term of seven years, and shall be eligible for reappointment
- 25 for a like term.
- (5) The commissioner shall be a "permanent head" within the meaning of the Public Service Act, 1902, and any Act amending the same.
- (6) A commissioner may be suspended from his
- 30 office by the Governor for misbehaviour or incompetence, but shall not be removed from office except in manner following, that is to say :—
- The Minister shall cause to be laid before Parliament a full statement of the grounds of
- 35 suspension within seven sitting days after such

Family Endowment.

such suspension if Parliament is in session or if not then within seven sitting days after the commencement of the next session. A
5 commissioner suspended under this subsection shall be restored to office unless each House of Parliament within twenty-one days from the time when such statement has been laid before such House declares by resolution that
10 the commissioner ought to be removed from office, and if each such House within the time aforesaid does so declare, the commissioner shall be removed by the Governor accordingly.

(7) A commissioner shall be deemed to have vacated his office if he—

- 15 (a) engages in New South Wales during his term of office in any paid employment outside the duties of his office ;
(b) becomes bankrupt, compounds with his
20 creditors, or makes an assignment of his salary or estate for their benefit ;
(c) absents himself from duty for a period of fourteen consecutive days except on leave granted by the Governor ;
(d) becomes an insane person or patient or an
25 incapable person within the meaning of the Lunacy Act, 1898 ;
(e) resigns his office by writing under his hand addressed to the Governor.

(8) A commissioner who at the date of his
30 appointment is an officer of the Public Service

- (a) shall in the event of his office as commissioner being discontinued or abolished be eligible on the recommendation of the Public Service Board to be appointed to some office in the
35 Public Service not lower in classification and salary than that which he held at the date of his appointment as commissioner ; and
(b) shall while such commissioner continues to contribute to the Superannuation Fund be entitled

Family Endowment.

entitled to all the benefits under the Superannuation Act, 1916, as amended by subsequent Acts, to which he is entitled as such contributor.

5 (9) The Governor may, upon the recommendation of the Public Service Board, appoint a Registrar of Family Endowment and such officers as are necessary for the administration of this Act. No such appointment shall be made without the concurrence of the
10 commissioner.

(10) The registrar and officers shall receive such remuneration and allowances as shall be fixed by the Public Service Board, and shall be subject to the provisions of the Public Service Act, 1902, during their
15 tenure of office.

(11) Every person appointed under or holding office by virtue of this Act who without lawful excuse reveals any matter or thing which has come to his knowledge in his official capacity shall be guilty of a
20 misdemeanour, and shall be liable to imprisonment for a term not exceeding two years.

(12) For the purpose of carrying out the powers, duties, authorities and obligations imposed upon the commissioner by this or any other Act, the commis-
25 sioner may, with the approval of the Minister of the department concerned, make use of the services of any of the officers and employees of the Public Service.

5. (1) The Governor may, from time to time, appoint such persons as he thinks fit, not exceeding three in
30 number, to form an advisory committee.

(2) Such committee shall exercise such powers and duties and receive such fees and allowances as may be prescribed.

6. (1) The Governor may appoint such clerks of
35 petty sessions as he considers necessary to be deputy registrars of family endowments within the Metropolitan, Parramatta, and Newcastle police districts.

(2) In other parts of the State the officer for the time being performing the duties of clerk of petty
40 sessions shall by virtue of this Act and without any further appointment be a deputy registrar of family endowments.

(3)

Family Endowment.

(3) The Governor may appoint any other person to be deputy registrar for any district in lieu of the clerk of petty sessions in which case the clerk of petty sessions shall not act as deputy registrar for that district.

(4) A deputy registrar shall have such powers as are prescribed or as are delegated either generally or in a particular case or class of cases by the commissioner.

7. (1) The commissioner, the registrar, and any deputy registrar may, for the purposes of this Act—
 (a) summon witnesses;
 (b) receive evidence on oath; and
 (c) require the production of documents.

Powers of commissioner and registrar and deputy registrars.

(2) The registrar shall have such powers as are prescribed or as are delegated either generally or in a particular case by the commissioner, and shall perform such duties and discharge such functions as are prescribed or as the commissioner may direct.

8. Any person who has been summoned to appear as a witness before the commissioner, the registrar, or a deputy registrar and who, without lawful excuse, and after tender of reasonable expenses, fails to appear in obedience to the summons shall be guilty of an offence against this Act.

Penalty for disobedience of summons.

9. Any person who appears before the commissioner, the registrar, or a deputy registrar as a witness and who, without lawful excuse, refuses to be sworn, or to make an affirmation, or to produce documents, or to answer questions which he is lawfully required to answer shall be guilty of an offence against this Act.

Penalty for refusing to give evidence.

10. It shall be the duty of each deputy registrar—
 (a) to receive claims;
 (b) to investigate claims as prescribed;

Duties of deputy registrars.

(c) generally, to keep such books and registers, and do all such things as are prescribed.

11. The commissioner, the registrar, and all deputy registrars shall, before entering upon their duties or exercising any powers under this Act, make a statutory declaration in accordance with the prescribed form.

Declaration by officers.

Family Endowment.

PART III.

FAMILY ENDOWMENTS.

DIVISION 1.—*Amount of endowment.*

12. (1) Subject to this Act, there shall be paid to ^{Endowment} every mother in respect of each child an endowment ^{for children.} for his maintenance, training, and advancement at the rate of five shillings per week.

(2) When any child under the age of fourteen years is an inmate of any charitable institution there shall be paid in respect of that child a like endowment, but so that not more than one endowment shall be paid in respect of each such child. The person to make the claim and to be paid the endowment shall be as prescribed.

13. (1) In any case where the commissioner is satisfied that a child in respect of whom an endowment has been paid under this Act is, by reason of any physical or mental defect, totally incapacitated from earning a living, an endowment in respect of such child may continue to be paid for such period not exceeding two years as the commissioner thinks fit, notwithstanding that such child may have attained the age of fourteen years. ^{Endowments in special case.}

(2) Where in the opinion of the commissioner the circumstances of any case render it desirable to do so, he may authorise the payment of an endowment under this Act in respect of an illegitimate child in the same manner as if such child were a legitimate child.

(3) The commissioner shall not authorise any payment under subsection two of this section—

(a) where there is in force any order for the payment in respect of the child of a sum for his maintenance and education, made under the Child Welfare Act, 1923, or any Act replaced by that Act, and such order is being complied with ;

(b) unless the commissioner is satisfied that all reasonable steps have been taken to apply for such an order ;

(c)

Family Endowment.

- (c) unless the commissioner is satisfied that all reasonable steps have been taken to enforce any such order;
- 5 (d) where there is in existence any agreement for the payment of such a sum and the agreement is being carried out;
- (e) unless the commissioner is satisfied that all reasonable steps are being taken to enforce any such agreement;
- 10 (f) if in the exercise of his discretion he is of opinion on the merits of the case that such payment ought not to be made.
- (4) Subject to section fourteen of this Act when a pension is being paid under the War Pensions Act, 15 1914-1916, on account of a child under the age of fourteen years of a member of the Forces an endowment shall be payable under this Act in respect of such child, but only of such a sum as together with the pension will amount to five shillings per week for such child.
- 20 **14.** (1) No endowment shall be payable unless— Qualifications.
- (a) the mother is on the date when a claim for endowment is made residing and has her home in New South Wales, and has been continuously so residing for a period of two years
- 25 immediately preceding that date; and
- (b) the child in respect of whom the endowment is claimed is and has been resident in New South Wales for not less than two years, or if under the age of two years, was born in New
- 30 South Wales.
- Residence or continuous residence shall not be deemed to have been interrupted by occasional absences not exceeding in the aggregate six weeks or by a longer absence if the claimant proves to the satisfaction of the
- 35 magistrate that during the period of such absence the child or home of the claimant was in New South Wales.
- (2) No certificate for endowment shall be issued in any case where—
- (a) the family income in the twelve months immediately preceding the date of the claim
- 40 ~~exceeded the sum of three hundred and sixty~~
four

Family Endowment.

5 ~~four pounds~~ the aggregate of the following amounts, namely:—the amount for one year of the living wage based on the requirements of a man and wife without children and for the time being in force and appropriate to the case and the amount of thirteen pounds for each child in the family; or

10 (b) if the magistrate is satisfied that the claimant or his spouse has directly or indirectly deprived himself of property or income in order to qualify for or obtain an endowment.

15 (3) Where the family income would by the issue of a certificate of endowment be increased beyond ~~three hundred and sixty four pounds for the current~~ year, beyond the aggregate mentioned in paragraph (a) of subsection two of this section the certificate shall be issued for such an amount only as will with the amount of the family income for the twelve months immediately preceding the date of the claim amount to ~~three hundred~~
20 ~~and sixty four pounds~~ that aggregate.

25 (4) For the purposes of this Act "family income" means the combined incomes of a claimant, his spouse, and children under the age of fourteen years, arising from any source whatsoever, whether in or out of the State, and income includes any money, valuable consideration, or profits earned, derived, or received by or to which any such person is entitled for his own use and benefit, and without limiting the generality of the foregoing part of this definition shall be deemed to
30 include—

(a) any weekly payment under the Workers' Compensation Act, 1926, or other law relating to workmen's compensation;

(b) any endowment under this Act;

35 (c) five per centum of the value of any real or personal property owned by the claimant, or his spouse, other than the residence in which he resides, or his furniture and personal effects therein, or by his children under the age of fourteen years, and which produces no income or produces an income of less than five per
40 centum per annum;

(d)

Family Endowment.

- (d) moneys derived or received from investments of capital wherever invested ;
- 5 (e) any amount applied ~~for the maintenance or~~ education of any child under the age of fourteen years by the administrator of any estate, the executor of any will, or the trustee of any settlement, or paid to a claimant for such purpose ;

But shall not include—

- 10 (a) any payment by way of sick allowance or funeral benefit from any association or society ; nor
- 15 (b) any money received under an insurance policy on the destruction or damage by fire or otherwise of a building or other property of any nature ; nor
- 20 (c) any lump sum payment under any law relating to workers or workmen's compensation, or any gratuity paid under any Act relating to superannuation ; nor
- (d) the earnings of a child under the age of fourteen years ; nor
- (e) the earnings of a mother from casual employment ; nor
- 25 (f) the earnings of an employee for overtime in his usual employment ; nor
- (e g) any amount received as pension under the War Pensions Act, 1914-1916, in respect of a member of the Forces or his wife or as the widow of such a member.
- 30

In any case where the income is derived otherwise than from wages the magistrate shall deduct an amount equal to the amount which in his opinion has been expended in the production of that income.

- 35 (5) In the case of children in a charitable institution the income of the institution shall not be taken into account in determining whether any endowment shall be paid in respect of any particular child or in determining the amount of the endowment, but the
- 40 family income shall be the combined incomes of the particular child and of his parents (if any).

DIVISION

Family Endowment.

DIVISION 2.—*Endowment claims.*

15. (1) Every person claiming a family endowment shall, in the prescribed manner, deliver or send a claim therefor to the deputy registrar whose office is nearest the place of abode of such person. Endowment claims.

(2) The claim shall be in accordance with the prescribed form, and shall affirm all the qualifications and requirements and negative all the disqualifications under this Act, and shall set out the place of abode and length of residence therein of the claimant, and the place or places of abode of the claimant during the previous twelve months, and such other particulars as are prescribed.

(3) Every claimant shall, by statutory declaration to be indorsed on the claim, declare that the contents of the claim are true and correct in every particular, and if in the declaration or claim the claimant wilfully makes any statement which is untrue in any particular, the claimant shall be guilty of an offence against this Act.

(4) A claim may be withdrawn at any time by a notice of withdrawal, sent by the claimant to the deputy registrar to whom the claim was delivered or sent.

16. (1) Upon receipt of a claim the deputy registrar shall cause to be made such investigations as appear to him desirable, or as are directed by the commissioner, in order to ascertain the circumstances of the claimant and the truth of the statements in the claim. Investigation by deputy registrar.

(2) The deputy registrar may in the prescribed manner require any person, whom he believes to be in a position to do so, to furnish to him, for submission to the magistrate, a confidential report as to the circumstances of any claimant; and any person who, on being required to do so by the deputy registrar, fails to furnish a report within a reasonable time, or furnishes a report containing any statement which is untrue in any particular, shall be guilty of an offence against this Act.

17. (1) Upon the completion of his investigations the deputy registrar shall refer the claim, together with a full report of the result of the investigations which have been made, to a magistrate. Reference to magistrate.

(2)

Family Endowment.

(2) The deputy registrar shall notify the claimant of the time when and place where the claimant is required to attend to support the claim.

(3) The magistrate may dispense with the attendance of the claimant where he is satisfied that there is sufficient reason for such non-attendance.

18. (1) On the day so notified, or on any subsequent day, the magistrate may proceed to investigate the claim for the purpose of ascertaining whether the claimant is entitled to a family endowment, and if so, at what amount. Investigation by magistrate.

(2) All investigations by the magistrate shall be made in the locality wherein the claimant resides, or as near thereto as practicable, and shall be made in chambers.

(3) In order to ascertain the circumstances of the claimant, evidence may be taken at the hearing from any persons whomsoever.

(4) In investigating the claim the magistrate shall not be bound by any rules of evidence, but shall investigate the matter and make his recommendation according to equity, good conscience, and the substantial merits of the case, without regard to technicalities or legal forms.

19. (1) Subject to the following provisions of this section, the magistrate may, as he deems equitable— Recommendation by magistrate.

(a) recommend the claim as made, or as modified by the result of his investigations; or

(b) postpone the claim for further evidence; or

(c) recommend the rejection of the claim; but no claim shall be recommended unless the magistrate is satisfied that the claim is established and unless the evidence (if any) of the claimant is corroborated on all material points by documentary information or oral evidence.

(2) If it appears to the magistrate that the claimant, although otherwise qualified for, is unfit to be entrusted with a family endowment, he shall make a special report in or to the effect of the prescribed form.

(3)

Family Endowment.

(3) 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, the magistrate shall, if the claimant so
5 desires, postpone the investigation, and in such case all matters as to which the magistrate is satisfied shall be recorded as proved: Provided that further evidence may be adduced in respect of any matters recorded as proved.

10 (4) If the magistrate is of opinion that the claim is not established, and cannot be mended by further evidence, or by postponement of the investigation for a reasonable time, the magistrate shall recommend the rejection of the claim, and when so
15 doing shall specify in writing all the material points which he finds to be respectively proved, disproved, and unproved or insufficiently proved.

20. (1) In respect of matters found by the magistrate to be disproved, the claimant may in the time and in
20 the manner prescribed appeal to the commissioner, whose decision shall be final and conclusive and without appeal.

Appeal or
fresh
evidence.

(2) In respect of matters found by the magistrate to be simply unproved or insufficiently proved, the claimant may at any time thereafter, first giving the
25 deputy registrar three days' notice, adduce before the magistrate fresh evidence, and in such case all material points previously found by the magistrate to be proved shall be deemed to be established, and the magistrate shall dispose of all other points as in the case of a new
30 claim.

21. (1) The recommendation of the magistrate as to the claim shall be indorsed on the claim, which shall
thereupon be returned to the deputy registrar.

Determina-
tion of claim.

(2) The deputy registrar shall forthwith transmit
35 the claim as indorsed, together with the prescribed particulars for identification of the claimant, and such other particulars as are prescribed, to the commissioner, who shall determine the application.

(3) The determination of the commissioner shall,
40 if in favour of the claim, set out the amount of the endowment

Family Endowment.

endowment and the date of its commencement, and a certificate in the prescribed form shall thereupon be issued to the claimant.

(4) If the determination of the commissioner is adverse to the claim, the claimant shall be notified accordingly.

22. At the request of the commissioner a magistrate may rehear a claim previously admitted or rejected, and the commissioner may, if he thinks fit, amend any certificate so as to accord with the recommendation made by the magistrate after the rehearing. Upon the rehearing the magistrate shall have the same powers as upon the original hearing. Rehearing of claim.

23. (1) The commissioner may at any time cancel, suspend, or reduce any endowment if he considers it expedient so to do but any decision of the commissioner under this section shall be subject to an appeal, in the time and in the manner prescribed, to the Minister, whose decision shall be final and conclusive. Cancellation.

(2) Where any decision cancelling, suspending, or reducing an endowment has been given under this section the commissioner shall indorse the certificate accordingly.

24. (1) In any case where a certificate is cancelled the endowment shall be deemed to be absolutely forfeited. Forfeiture cancellation of certificate.

(2) Every application for a new certificate made by a person whose endowment has been forfeited shall be subject in all respects to the same provisions as if no former endowment had been granted to that person.

25. (1) During the period a certificate has been suspended all instalments which would otherwise become due and payable during such period shall be forfeited unless the suspension is reversed on the appeal to the Minister. Instalments forfeited during currency of suspension.

(2) If any period of suspension is such as to extend beyond the expiration of the year in which the order of suspension is made the order shall apply so far as regards the residue of that period to any endowment certificate issued for the next succeeding year.

26. (1) Whenever required by the commissioner each claimant shall send to the commissioner a statement in the prescribed form relating to his family income. Statement of income to be filed when required.

(2)

Family Endowment.

(2) If upon investigation the commissioner is satisfied that the endowment should be discontinued, or that the amount of the endowment is greater or less than it should be, he may discontinue the endowment or reduce or increase the amount of endowment accordingly.

27. (1) Every magistrate may, for the purposes of Powers of magistrates, any investigation or inquiry under this Act—

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

(2) Any person who has been summoned to appear as a witness before a magistrate and who, without lawful excuse, and after tender of reasonable expenses, fails to appear in answer to the summons, shall be guilty of an offence against this Act.

(3) Any person who appears before a magistrate as a witness and who, without lawful excuse, refuses to be sworn, or to make an affirmation, or to produce documents, or to answer questions which he is lawfully required to answer, shall be guilty of an offence against this Act.

28. On application in the prescribed form, the commissioner may direct the issue of a duplicate certificate in any case where satisfactory proof is given of the loss or destruction of the original.

29. (1) A certificate shall be issued only for the payment of endowment for a period of not more than one year from the date of commencement specified in the certificate.

(2) A certificate shall be signed by the commissioner or the registrar and countersigned by such officer as may be appointed by the Minister in that behalf.

(3) In the absence from duty from any cause of the commissioner or the registrar, the Minister may appoint some officer to sign the certificate.

(4) Unless the circumstances otherwise require the instalments of endowment shall be paid fortnightly.

(5) The certificate shall in each case specify the amount of the endowment payable thereunder, the instalments

Family Endowment.

instalments by which it is to be paid, the office or place of payment, and such other particulars as may be prescribed.

(6) The office or place of payment may be changed from time to time in the prescribed manner, and every such change shall be recorded by the registrar on the certificate.

30. (1) At least one month before the due date of the last instalment of endowment authorised to be paid by a certificate, or at such earlier time as may be prescribed, the holder of the certificate may apply in the manner prescribed for a certificate for a further period.

Renewal of certificates.

(2) With the application, which shall be lodged with the deputy registrar whose office is nearest the place of abode of the applicant, there shall be lodged a statement in the prescribed form (verified by statutory declaration) setting out such particulars as may be prescribed to show that the applicant is qualified to receive an endowment and has not from any cause become disqualified.

(3) The application for a certificate for a further period shall be dealt with in like manner to that prescribed for dealing with an original claim, save that, with the approval of the commissioner, the reference to a magistrate may be dispensed with.

DIVISION 3.—Payment of endowments.

31. (1) Subject to this Act, each instalment shall be applied for and payable at any time within twenty-one days after its due date on the personal application of the person entitled thereto, and the production of his certificate to the officer in charge at the office or place named therein.

Instalment to be applied for within twenty-one days.

(2) In default of strict compliance with the provisions of the last preceding subsection, the instalment shall be deemed to be forfeited unless the forfeiture is waived as provided in the next following subsection.

(3)

Family Endowment.

(3) The commissioner, registrar, or a deputy registrar may waive any such forfeiture in any case where after investigation he is satisfied—

5 (a) that, if the forfeiture was occasioned by default of personal application for payment, or of application within the prescribed time, the default was due to illness or debility or temporary absence from the locality in which the endowment is payable, or other sufficient cause; or

10 (b) that, if the forfeiture was occasioned by default in producing the certificate, the default was due to its being lost or destroyed.

(4) It shall not be lawful for the registrar or a 15 deputy registrar to waive the forfeiture of any instalment unless waiver of such forfeiture is applied for within the prescribed time.

32. Every instalment shall be absolutely forfeited and no certificate shall be granted — Forfeiture of instalments in certain cases.

20 (a) during any period while the person to whom the certificate has been granted resides out of New South Wales: Provided that residence in New South Wales shall not be deemed to have been interrupted by occasional absence therefrom if the commissioner is satisfied that during such 25 absence the family or home of the said person was in New South Wales;

(b) as from the date the person to whom the certificate is granted becomes qualified to 30 receive a widow's pension, or an allowance in respect of any child payable in pursuance of any regulation made under the Commonwealth Public Service Act, 1922-1924, or in pursuance of any award or agreement made under the 35 Arbitration (Public Service) Act, 1920.

33. 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. Endowment absolutely inalienable.

Family Endowment.

34. (1) Every endowment shall be deemed to be granted, and shall be held subject to all the provisions of this Act, and to the provisions of any other Act amending or repealing or in substitution for this Act which may at any time be passed, and no person shall have any claim for compensation or otherwise by reason of his endowment being affected by the operation of this Act or any such other Act.

Endowment granted subject to any future Act.

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

35. (1) Where the commissioner is satisfied that, having regard to the age, infirmity, ill-health, insanity, or improvidence or other reasonable cause of disqualification of a person to whom a certificate is granted, or any special circumstances of such person or the child, it is expedient that payment of any instalments of the endowment be made to any other person, a warrant to that effect shall be issued by the commissioner, and transmitted to the person authorised therein to receive payment.

Payment to other person

(2) Subject to the regulations, and to the directions and limitations, if any, contained in the warrant, the person named therein shall be entitled on its production to receive payment of the endowment.

25 (3) The moneys so received shall be applied by him for the benefit of the child in respect of whom the endowment was granted, and he shall account to the commissioner in the prescribed manner for all moneys so received by him.

30 (4) A warrant issued by the commissioner under this section may at any time be revoked by the commissioner upon notice to the person to whom it was issued, and to the officer in charge of the office or place at which the endowment is payable.

35 36. (1) In case of the death of a person to whom a certificate has been granted, or where there is no mother, or where the mother is divorced from or is living apart from her husband and has not the custody of the child, the guardian or other person for the time being having the maintenance, care, or control of the child shall, with the approval of the commissioner, be entitled to apply for and receive the endowment in respect of the child.

Guardian may receive endowment on behalf of children.

(2)

Family Endowment.

(2) Subject to this Act, the endowment shall cease in respect of a child when that child attains the age of fourteen years.

(3) Applications under subsection one of this section and the method of accounting for moneys received by such guardian or person shall be as prescribed.

37. The right to an endowment or the amount of an endowment shall not be affected during any period covered by a certificate by reason merely of the fact that a child to which the certificate relates has within that period attained the age of fourteen years, or by reason merely of the death of any such child. Death, &c., of child

38. The following provisions shall apply to the payment of instalments of endowment :— Procedure as to payment of instalments.

- (a) the officer in charge of an office or place at which an endowment is payable may, if he thinks fit, require the applicant for payment to prove his identity, but, subject to the regulations, he may accept the production of the certificate as sufficient evidence that the person producing it is the person entitled to payment;
- (b) when making the payment, the officer shall record on the certificate 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) a receipt so given shall be sufficient evidence that the payment to which it purports to relate has been duly made, and no claim against the State or the officer shall thereafter arise or be made in any court or proceeding whatsoever, by any person whomsoever, in respect thereof; and
- (d) upon payment of the last instalment authorised by a certificate, the certificate shall be retained by the paying officer and forwarded by him to the registrar for cancellation.

Family Endowment.

PART IV.

Family Endowment Fund.

39. (1) There shall be constituted a fund, to be Fund.
called the Family Endowment Fund.

5 (2) All moneys expended under or for the
purposes of this Act shall be paid out of such fund,
and all moneys received under this Act shall be paid
into such fund.

(3) The fund shall be under the direction and
10 control of the commissioner and shall be applied for the
purpose of the administration and execution of this Act
and for no other purpose whatsoever.

(4) Every employer shall contribute to the fund
in each year at the prescribed times and in the prescribed
15 ~~manner a contribution equal in amount to such a~~
~~percentage of the total amount of the wages paid by him~~
~~during the prescribed period to his employees as may be~~
~~fixed by Act of Parliament such sum in respect of each~~
male adult employee employed by him and such sum in
20 respect of each female adult employee employed by him
as may be fixed by Parliament in respect of adult male
and adult female employees respectively.

This subsection shall not apply to an employer where
the total amount of the wages paid by him during the
25 twelve months immediately preceding the prescribed
date did not exceed one hundred and fifty pounds nor
to an employer which is a public hospital or public
benevolent or charitable institution.

(5) When board and lodging are provided for
30 an employee by an employer the total amount of wages
under subsection four of this section shall include a sum
of one pound per week in respect of such employee as
if it had been paid as wages.

(6) All moneys received by the Colonial Trea-
35 surer for credit of the Family Endowment Fund shall
be carried to an account in Special Deposits Account
in the Treasury, and such moneys and interest allowed
thereon shall be made available to the commissioner for
the purpose of meeting payments of endowments under
40 this Act or of any costs or expenses payable out of the
fund.

(7)

Family Endowment.

(7) Interest at a rate to be determined by the Colonial Treasurer shall be allowed on the amount for the time being at the credit of the fund.

40. The Colonial Treasurer is hereby authorised Advance by Treasury.
 5 from time to time to advance out of the Consolidated Revenue Fund such amounts as may be necessary to meet the payments becoming due out of the Family Endowment Fund, but any such advance shall be recouped out of that fund.

41. The regulations may provide for the furnishing Returns.
 10 of returns of wages paid by employers to employees, and the form of, and the matter to be contained in, such returns, the assessment of contributions, the periods in respect of which contributions are to be paid, and the
 15 collection and receipt thereof.

42. (1) Any contribution payable by an employer Recovery of contributions
 to the Family Endowment Fund, may be sued for and recovered as a debt in any court of competent jurisdiction by the Attorney-General, or by any person
 20 authorised by him in writing, either generally or in any particular case.

(2) In any proceedings the production of a notification in the Gazette that any person has been so appointed shall be conclusive evidence of the appoint-
 25 ment and evidence that his authority to sue remains in force.

43. The commissioner, or any person authorised in Power to inspect wages sheets, books, &c.
 writing by him, may call for and inspect any books, wages sheets, or documents of any employer.

Family Endowment.

PART V.

OFFENCES.

44. (1) Any person who—

Offences.

- 5 (a) wilfully makes any false statement or representation to obtain a certificate of endowment, or any instalment of an endowment, or to deceive any officer, or to affect the rate or amount of any endowment; or
- 10 (b) by any unlawful means obtains payment of any forfeited or suspended instalment of endowment; or
- (c) by means of personation or any fraudulent device whatsoever obtains payment of any instalment of endowment; or
- 15 (d) by any wilfully false statement or representation aids or abets any person in obtaining or claiming a certificate of endowment or instalment of endowment; or
- (e) wilfully lends a certificate to any other person; or
- 20 (f) receives any money in consideration of or in respect of the procuring of any certificate of endowment or instalment of endowment; or
- 25 (g) refuses to produce any books, wages sheets, or documents upon demand by the commissioner or any person authorised by him in writing in that behalf,

shall be guilty of an offence against this Act.

- 30 (2) Where a person to whom a certificate has been granted is convicted of an offence under this section the commissioner may, in addition to any other penalty imposed in respect of the offence, cancel the certificate in respect of which the offence was committed.

45. (1) Any person who commits an offence against this Act shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a penalty not exceeding one hundred pounds.

Penalties.

(2) Any penalty imposed by this Act or the regulations may be recovered in a summary manner.

(3)

Family Endowment.

(3) All proceedings in respect of an offence against this Act or the regulations may be taken at any time not exceeding six months from the time when the facts first came to the knowledge of the commissioner. Proceedings how and when to be taken.

(4) Any such proceedings may be taken by the commissioner or some person appointed by him in writing, either generally or in a particular case.

PART VI.

MISCELLANEOUS.

10 **46.** Nothing in this Act shall confer upon any holder of a certificate of endowment any right to sue for and recover from the Crown or any other person the amount expressed to be payable upon any such certificate. No right to sue.

15 **47.** Where it is found that any endowment or instalment of an endowment has been paid in excess of the amount to which the person to whom a certificate has been granted was by law entitled, the amount so paid in excess may be recovered from him or his legal representative as a debt due to the Crown. Payments in excess may be recovered.

20 **48.** (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act, and without limiting the generality of the foregoing power, in particular in regard to all or any of the following matters :—

- (a) the powers and duties of the commissioner, the registrar, and officers ;
- 30 (b) the forms of claims, and of applications or declarations relating thereto, and the times within which they are to be made or given ;
- (c) the registering and numbering of claims and particulars in regard thereto ;
- 35 (d) the forms of certificates ;

206—C

(e)

Family Endowment.

- (e) proceedings before a magistrate, the commissioner, the registrar, or any deputy registrar ;
- (f) the forms of receipt to be given for any instalment ; and
- 5 (g) the delivery up by and recovery of certificates cancelled, or suspended, or lapsed on death, or for any other reason.

(2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.

10 (3) The regulations shall—

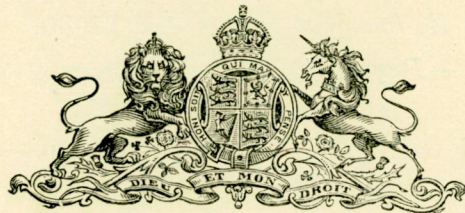
- (a) be published in the Gazette ;
- (b) take effect from the date of publication or from a later date to be specified in the regulations ; and
- 15 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

20 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. S. MOWLE,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 17 February, 1927.

New South Wales.



ANNO SEPTIMO DECIMO

GEORGII V REGIS.

Act No. , 1927.

An Act to make provision for the benefit of children by means of endowment payable to mothers; to provide for a Family Endowment Fund; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Family Endowment Act, 1927."

Short title
and com-
mencement.

Family Endowment.

(2) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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

Division
Parts.

5 PART I.—PRELIMINARY—ss. 1-3.

PART II.—ADMINISTRATION—ss. 4-11.

PART III.—FAMILY ENDOWMENTS—ss. 12-38.

DIVISION 1.—*Amount of endowment*—ss. 12-14.

DIVISION 2.—*Endowment claims*—ss. 15-30.

10 DIVISION 3.—*Payment of endowments*—ss. 31-38.

PART IV.—FAMILY ENDOWMENT FUND—ss. 39-43.

PART V.—OFFENCES—ss. 44, 45.

15 PART VI.—MISCELLANEOUS—ss. 46-48.

3. In this Act, unless the context otherwise requires,—

Interpreta
tion.

“Child” means a child under the age of fourteen years but does not include—

- 20** (a) an illegitimate child save as expressly provided in this Act; or
- (b) any child who is not in fact maintained as a member of the family of the claimant; or
- 25** (c) any child in respect of whom a pension or payment in the nature of a pension out of public moneys is payable under the Widows' Pensions Act, 1925, or under any Act of Parliament of the Commonwealth or of this State, save as expressly provided in this Act; or
- 30** (d) any child in respect of whom an allowance is payable in pursuance of any regulation made under the Commonwealth Public Service Act, 1922-1924,
- 35** or

Family Endowment.

or in pursuance of any award or agreement made under the Arbitration (Public Service) Act, 1920 ;

5

(e) the child of an alien father unless the child was born in Australia ;

(f) the child of an Asiatic father unless the child was born in Australia ;

10

(g) the child of a father who is an aboriginal native of Africa, the islands of the Pacific, or New Zealand unless the child was born in Australia.

“ Children ” has a corresponding meaning, and is subject to corresponding limitations.

15

“ Claim ” means a claim for a family endowment under this Act, and “ Claimant ” has a corresponding meaning.

“ Commissioner ” means the Commissioner of Family Endowment appointed under this Act.

20

“ Deputy Registrar ” means a deputy registrar of family endowment appointed under or holding such office by virtue of this Act.

25

“ Employee ” means person employed whether on salary or wages or piece-work rates, or as member of a butty gang, but shall not include a member of a family in the employment of a parent, and the fact that a person is working under a contract for labour only, or substantially for labour only, or as lessee of any tools or other implements of production, or any vehicle used in the delivery of goods, shall not in itself prevent such person being held to be an employee.

30

“ Employee ” also includes insurance and time-payment canvassers or collectors paid wholly or in part by commission, and timber-getters whether paid by wages or at piece-work rates ; but “ employee ” does not include any person employed in domestic service, or whose employment is casual or intermittent and who is employed otherwise than for the purposes of his employer’s trade or business.

35

40

“ Employer ”

Family Endowment.

- 5 “Employer” means person, firm, company, or
 corporation employing persons, whether on
 behalf of himself or itself or any other person
 or on behalf of the Government of the
10 State or any statutory authority, and without
 limiting the generality of the foregoing
 part of this definition, includes the Commis-
 sioners for Railways for New South Wales,
 the Sydney Harbour Trust Commissioners, the
15 Metropolitan Water, Sewerage and Drainage
 Board, the Hunter District Water Supply and
 Sewerage Board, and any council of a
 municipality or shire.
- 15 Where an employer is resident out of the
 State, the term shall be deemed to include a
 person to whom the management of the affairs
 of the employer relating to his employees
 within the State is for the time being committed.
- 20 “Fund” means the Family Endowment Fund
 established under this Act.
- “Magistrate” means a police or stipendiary
 magistrate.
- 25 “Mother” includes a step-mother and the wife
 of a person supporting a legally adopted child,
 and in relation to a child who has no mother
 or step-mother living, or who is not living
 with his mother or step-mother, includes the
 person who has the legal custody of and is
 actually maintaining the child.
- 30 “Prescribed” means prescribed by this Act or by
 regulations made thereunder.
- “Registrar” means the registrar of family endow-
 ment appointed under this Act.
- 35 “Regulations” means regulations made under this
 Act
- “Wages” include remuneration for piece-work,
 bonuses, commissions, and salaries.

Family Endowment.

PART II.

ADMINISTRATION.

4. (1) The Governor may appoint a Commissioner of ^{Appointment of officers.} Family Endowment, who, subject to the control of the Minister, shall have the execution and administration of this Act.

(2) The provisions of the Public Service Act, 1902, shall not apply to such appointment.

(3) The salary of the commissioner shall be fixed by the Governor, and shall be payable out of the Family Endowment Fund.

(4) A commissioner shall be appointed for a term of seven years, and shall be eligible for reappointment for a like term.

(5) The commissioner shall be a "permanent head" within the meaning of the Public Service Act, 1902, and any Act amending the same.

(6) A commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except in manner following, that is to say :—

The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is in session or if not then within seven sitting days after the commencement of the next session. A commissioner suspended under this subsection shall be restored to office unless each House of Parliament within twenty-one days from the time when such statement has been laid before such House declares by resolution that the commissioner ought to be removed from office, and if each such House within the time aforesaid does so declare, the commissioner shall be removed by the Governor accordingly.

Family Endowment.

(7) A commissioner shall be deemed to have vacated his office if he—

- 5 (a) engages in New South Wales during his term of office in any paid employment outside the duties of his office;
- (b) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary or estate for their benefit;
- 10 (c) absents himself from duty for a period of fourteen consecutive days except on leave granted by the Governor;
- (d) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898;
- 15 (e) resigns his office by writing under his hand addressed to the Governor.

(8) A commissioner who at the date of his appointment is an officer of the Public Service

- 20 (a) shall in the event of his office as commissioner being discontinued or abolished be eligible on the recommendation of the Public Service Board to be appointed to some office in the Public Service not lower in classification and salary than that which he held at the date of his appointment as commissioner; and
- 25 (b) shall while such commissioner continues to contribute to the Superannuation Fund be entitled to all the benefits under the Superannuation Act, 1916, as amended by subsequent
- 30 Acts, to which he is entitled as such contributor.

(9) The Governor may, upon the recommendation of the Public Service Board, appoint a Registrar of Family Endowment and such officers as are necessary
35 for the administration of this Act. No such appointment shall be made without the concurrence of the commissioner.

(10) The registrar and officers shall receive such remuneration and allowances as shall be fixed by the
40 Public Service Board, and shall be subject to the provisions of the Public Service Act, 1902, during their tenure of office.

(11)

Family Endowment.

(11) Every person appointed under or holding office by virtue of this Act who without lawful excuse reveals any matter or thing which has come to his knowledge in his official capacity shall be guilty of a
5 misdemeanour, and shall be liable to imprisonment for a term not exceeding two years.

(12) For the purpose of carrying out the powers, duties, authorities and obligations imposed upon the commissioner by this or any other Act, the commis-
10 sioner may, with the approval of the Minister of the department concerned, make use of the services of any of the officers and employees of the Public Service.

5. (1) The Governor may, from time to time, appoint such persons as he thinks fit, not exceeding three in
15 number, to form an advisory committee.

(2) Such committee shall exercise such powers and duties and receive such fees and allowances as may be prescribed.

6. (1) The Governor may appoint such clerks of
20 petty sessions as he considers necessary to be deputy registrars of family endowments within the Metropolitan, Parramatta, and Newcastle police districts.

(2) In other parts of the State the officer for the time being performing the duties of clerk of petty
25 sessions shall by virtue of this Act and without any further appointment be a deputy registrar of family endowments.

(3) The Governor may appoint any other person to be deputy registrar for any district in lieu of the
30 clerk of petty sessions in which case the clerk of petty sessions shall not act as deputy registrar for that district.

(4) A deputy registrar shall have such powers as are prescribed or as are delegated either generally or in
35 a particular case or class of cases by the commissioner.

7. (1) The commissioner, the registrar, and any deputy registrar may, for the purposes of this Act—

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

Powers of
commissioner
and registrar
and deputy
registrars.

(2)

Family Endowment.

(2) The registrar shall have such powers as are prescribed or as are delegated either generally or in a particular case by the commissioner, and shall perform such duties and discharge such functions as are prescribed or as the commissioner may direct.

8. Any person who has been summoned to appear as a witness before the commissioner, the registrar, or a deputy registrar and who, without lawful excuse, and after tender of reasonable expenses, fails to appear in obedience to the summons shall be guilty of an offence against this Act. Penalty for disobedience of summons.

9. Any person who appears before the commissioner, the registrar, or a deputy registrar as a witness and who, without lawful excuse, refuses to be sworn, or to make an affirmation, or to produce documents, or to answer questions which he is lawfully required to answer shall be guilty of an offence against this Act. Penalty for refusing to give evidence

10. It shall be the duty of each deputy registrar— Duties of deputy registrars.

- (a) to receive claims;
- (b) to investigate claims as prescribed;
- (c) generally, to keep such books and registers, and do all such things as are prescribed.

11. The commissioner, the registrar, and all deputy registrars shall, before entering upon their duties or exercising any powers under this Act, make a statutory declaration in accordance with the prescribed form. Declaration by officers.

PART III.

FAMILY ENDOWMENTS.

DIVISION 1.—*Amount of endowment.*

12. (1) Subject to this Act, there shall be paid to every mother in respect of each child an endowment for his maintenance, training, and advancement at the rate of five shillings per week. Endowment for children.

(2) When any child under the age of fourteen years is an inmate of any charitable institution there shall be paid in respect of that child a like endowment, but so that not more than one endowment shall be paid in respect of each such child. The person to make the claim and to be paid the endowment shall be as prescribed.

13.

Family Endowment.

- 13.** (1) In any case where the commissioner is satisfied that a child in respect of whom an endowment has been paid under this Act is, by reason of any physical or mental defect, totally incapacitated from earning a living, an endowment in respect of such child may continue to be paid for such period not exceeding two years as the commissioner thinks fit, notwithstanding that such child may have attained the age of fourteen years. Endowments
in special
case.
- 10 (2) Where in the opinion of the commissioner the circumstances of any case render it desirable to do so, he may authorise the payment of an endowment under this Act in respect of an illegitimate child in the same manner as if such child were a legitimate child.
- 15 (3) The commissioner shall not authorise any payment under subsection two of this section—
- (a) where there is in force any order for the payment in respect of the child of a sum for his maintenance and education, made under the
- 20 Child Welfare Act, 1923, or any Act replaced by that Act, and such order is being complied with ;
- (b) unless the commissioner is satisfied that all reasonable steps have been taken to apply for such an order ;
- 25 (c) unless the commissioner is satisfied that all reasonable steps have been taken to enforce any such order ;
- (d) where there is in existence any agreement for the payment of such a sum and the agreement is being carried out ;
- 30 (e) unless the commissioner is satisfied that all reasonable steps are being taken to enforce any such agreement ;
- 35 (f) if in the exercise of his discretion he is of opinion on the merits of the case that such payment ought not to be made.
- (4) Subject to section fourteen of this Act when a pension is being paid under the War Pensions Act, 1914–1916, on account of a child under the age of fourteen years of a member of the Forces an endowment shall

Family Endowment.

shall be payable under this Act in respect of such child, but only of such a sum as together with the pension will amount to five shillings per week for such child.

- 5 **14.** (1) No endowment shall be payable unless— Qualifica-
tions.
- 10 (a) the mother is on the date when a claim for endowment is made residing and has her home in New South Wales, and has been continuously so residing for a period of two years immediately preceding that date; and
- 15 (b) the child in respect of whom the endowment is claimed is and has been resident in New South Wales for not less than two years, or if under the age of two years, was born in New South Wales.
- 20 Residence or continuous residence shall not be deemed to have been interrupted by occasional absences not exceeding in the aggregate six weeks or by a longer absence if the claimant proves to the satisfaction of the magistrate that during the period of such absence the
- 25 child or home of the claimant was in New South Wales.
- (2) No certificate for endowment shall be issued in any case where—
- (a) the family income in the twelve months immediately preceding the date of the claim exceeded the sum of three hundred and sixty-four pounds; or
- 30 (b) if the magistrate is satisfied that the claimant or his spouse has directly or indirectly deprived himself of property or income in order to qualify for or obtain an endowment.
- (3) Where the family income would by the issue of a certificate of endowment be increased beyond three hundred and sixty-four pounds for the current year, the certificate shall be issued for such an amount
- 35 only as will with the amount of the family income for the twelve months immediately preceding the date of the claim amount to three hundred and sixty-four pounds.
- (4) For the purposes of this Act "family income" means the combined incomes of a claimant,
- 40 his spouse, and children under the age of fourteen years, arising from any source whatsoever, whether in or out of

Family Endowment.

of the State, and income includes any money, valuable consideration, or profits earned, derived, or received by or to which any such person is entitled for his own use and benefit, and without limiting the generality of the foregoing part of this definition shall be deemed to include—

- (a) any weekly payment under the Workers' Compensation Act, 1926, or other law relating to workmen's compensation ;
- 10 (b) any endowment under this Act ;
- (c) five per centum of the value of any real or personal property owned by the claimant, or his spouse, other than the residence in which he resides, or his furniture and personal effects
15 therein, or by his children under the age of fourteen years, and which produces no income or produces an income of less than five per centum per annum ;
- (d) moneys derived or received from investments
20 of capital wherever invested ;
- (e) any amount applied for the maintenance or education of any child under the age of fourteen years by the administrator of any estate, the executor of any will, or the trustee of any
25 settlement, or paid to a claimant for such purpose ;

But shall not include—

- (a) any payment by way of sick allowance or funeral benefit from any association or society ;
30 nor
- (b) any money received under an insurance policy on the destruction or damage by fire or otherwise of a building or other property of any nature ; nor
- 35 (c) any lump sum payment under any law relating to workers or workmen's compensation, or any gratuity paid under any Act relating to superannuation ; nor
- (d) the earnings of a child under the age of four-
40 teen years ; nor

(e)

Family Endowment.

(e) any amount received as pension under the War Pensions Act, 1914-1916, in respect of a member of the Forces or his wife or as the widow of such a member.

5 In any case where the income is derived otherwise than from wages the magistrate shall deduct an amount equal to the amount which in his opinion has been expended in the production of that income.

10 (5) In the case of children in a charitable institution the income of the institution shall not be taken into account in determining whether any endowment shall be paid in respect of any particular child or in determining the amount of the endowment, but the family income shall be the combined incomes of the
15 particular child and of his parents (if any).

DIVISION 2.—Endowment claims.

15. (1) Every person claiming a family endowment shall, in the prescribed manner, deliver or send a claim ^{Endowment claims.} therefor to the deputy registrar whose office is nearest
20 the place of abode of such person.

(2) The claim shall be in accordance with the prescribed form, and shall affirm all the qualifications and requirements and negative all the disqualifications under this Act, and shall set out the place of abode and
25 length of residence therein of the claimant, and the place or places of abode of the claimant during the previous twelve months, and such other particulars as are prescribed.

(3) Every claimant shall, by statutory declaration to be indorsed on the claim, declare that the contents of the claim are true and correct in every particular, and if in the declaration or claim the claimant wilfully makes any statement which is untrue in any particular, the claimant shall be guilty of an
30 offence against this Act.

(4) A claim may be withdrawn at any time by a notice of withdrawal, sent by the claimant to the deputy registrar to whom the claim was delivered or sent.

Family Endowment.

16. (1) Upon receipt of a claim the deputy registrar shall cause to be made such investigations as appear to him desirable, or as are directed by the commissioner, in order to ascertain the circumstances of the claimant and the truth of the statements in the claim. Investigation by deputy registrar.

(2) The deputy registrar may in the prescribed manner require any person, whom he believes to be in a position to do so, to furnish to him, for submission to the magistrate, a confidential report as to the circumstances of any claimant; and any person who, on being required to do so by the deputy registrar, fails to furnish a report within a reasonable time, or furnishes a report containing any statement which is untrue in any particular, shall be guilty of an offence against this Act.

17. (1) Upon the completion of his investigations the deputy registrar shall refer the claim, together with a full report of the result of the investigations which have been made, to a magistrate. Reference to magistrate.

(2) The deputy registrar shall notify the claimant of the time when and place where the claimant is required to attend to support the claim.

(3) The magistrate may dispense with the attendance of the claimant where he is satisfied that there is sufficient reason for such non-attendance.

18. (1) On the day so notified, or on any subsequent day, the magistrate may proceed to investigate the claim for the purpose of ascertaining whether the claimant is entitled to a family endowment, and if so, at what amount. Investigation by magistrate.

(2) All investigations by the magistrate shall be made in the locality wherein the claimant resides, or as near thereto as practicable, and shall be made in chambers.

(3) In order to ascertain the circumstances of the claimant, evidence may be taken at the hearing from any persons whomsoever.

(4) In investigating the claim the magistrate shall not be bound by any rules of evidence, but shall investigate the matter and make his recommendation according to equity, good conscience, and the substantial merits of the case, without regard to technicalities or legal forms.

Family Endowment.

19. (1) Subject to the following provisions of this section, the magistrate may, as he deems equitable—

Recom-
mendation by
magistrate.

- (a) recommend the claim as made, or as modified by the result of his investigations; or
5 (b) postpone the claim for further evidence; or
(c) recommend the rejection of the claim;

but no claim shall be recommended unless the magistrate is satisfied that the claim is established and unless the evidence (if any) of the claimant is corroborated on
10 all material points by documentary information or oral evidence.

(2) If it appears to the magistrate that the claimant, although otherwise qualified for, is unfit to be entrusted with a family endowment, he shall make a
15 special report in or to the effect of the prescribed form.

(3) 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, the magistrate shall, if the claimant so
20 desires, postpone the investigation, and in such case all matters as to which the magistrate is satisfied shall be recorded as proved: Provided that further evidence may be adduced in respect of any matters recorded as proved.

25 (4) If the magistrate is of opinion that the claim is not established, and cannot be mended by further evidence, or by postponement of the investigation for a reasonable time, the magistrate shall recommend the rejection of the claim, and when so
30 doing shall specify in writing all the material points which he finds to be respectively proved, disproved, and unproved or insufficiently proved.

20. (1) In respect of matters found by the magistrate to be disproved, the claimant may in the time and in
35 the manner prescribed appeal to the commissioner, whose decision shall be final and conclusive and without appeal.

Appeal of
fresh
evidence.

(2) In respect of matters found by the magistrate to be simply unproved or insufficiently proved, the claimant may at any time thereafter, first giving the
40 deputy registrar three days' notice, adduce before the magistrate fresh evidence, and in such case all material points

Family Endowment.

points previously found by the magistrate to be proved shall be deemed to be established, and the magistrate shall dispose of all other points as in the case of a new claim.

5 **21.** (1) The recommendation of the magistrate as to the claim shall be indorsed on the claim, which shall thereupon be returned to the deputy registrar. Determina-
tion of claim.

(2) The deputy registrar shall forthwith transmit the claim as indorsed, together with the prescribed
10 particulars for identification of the claimant, and such other particulars as are prescribed, to the commissioner, who shall determine the application.

(3) The determination of the commissioner shall, if in favour of the claim, set out the amount of the
15 endowment and the date of its commencement, and a certificate in the prescribed form shall thereupon be issued to the claimant.

(4) If the determination of the commissioner is adverse to the claim, the claimant shall be notified
20 accordingly.

22. At the request of the commissioner a magistrate may rehear a claim previously admitted or rejected, and the commissioner may, if he thinks fit, amend any certificate so as to accord with the recommendation
25 made by the magistrate after the rehearing. Upon the rehearing the magistrate shall have the same powers as upon the original hearing. Rehearing
of claim.

23. (1) The commissioner may at any time cancel, suspend, or reduce any endowment if he considers it
30 expedient so to do, but any decision of the commissioner under this section shall be subject to an appeal, in the time and in the manner prescribed, to the Minister, whose decision shall be final and conclusive. Cancellation.

(2) Where any decision cancelling, suspending,
35 or reducing an endowment has been given under this section the commissioner shall indorse the certificate accordingly.

24. (1) In any case where a certificate is cancelled the endowment shall be deemed to be absolutely
40 forfeited. Forfeiture or
cancellation
of certificate.

(2) Every application for a new certificate made by a person whose endowment has been forfeited shall

Family Endowment.

shall be subject in all respects to the same provisions as if no former endowment had been granted to that person.

25. (1) During the period a certificate has been suspended all instalments which would otherwise become due and payable during such period shall be forfeited unless the suspension is reversed on the appeal to the Minister.

Instalments
forfeited
during
currency of
suspension.

(2) If any period of suspension is such as to extend beyond the expiration of the year in which the order of suspension is made the order shall apply so far as regards the residue of that period to any endowment certificate issued for the next succeeding year.

26. (1) Whenever required by the commissioner each claimant shall send to the commissioner a statement in the prescribed form relating to his family income.

Statement of
income to be
filed when
required.

(2) If upon investigation the commissioner is satisfied that the endowment should be discontinued, or that the amount of the endowment is greater or less than it should be, he may discontinue the endowment or reduce or increase the amount of endowment accordingly.

27. (1) Every magistrate may, for the purposes of any investigation or inquiry under this Act—

Powers of
magistrates.

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

(2) Any person who has been summoned to appear as a witness before a magistrate and who, without lawful excuse, and after tender of reasonable expenses, fails to appear in answer to the summons, shall be guilty of an offence against this Act.

(3) Any person who appears before a magistrate as a witness and who, without lawful excuse, refuses to be sworn, or to make an affirmation, or to produce documents, or to answer questions which he is lawfully required to answer, shall be guilty of an offence against this Act.

28. On application in the prescribed form, the commissioner may direct the issue of a duplicate certificate in any case where satisfactory proof is given of the loss or destruction of the original.

Duplicate
certificate.

29.

Family Endowment.

29. (1) A certificate shall be issued only for the payment of endowment for a period of not more than one year from the date of commencement specified in the certificate. Certificates.

5 (2) A certificate shall be signed by the commissioner or the registrar and countersigned by such officer as may be appointed by the Minister in that behalf.

(3) In the absence from duty from any cause of the commissioner or the registrar, the Minister may
10 appoint some officer to sign the certificate.

(4) Unless the circumstances otherwise require the instalments of endowment shall be paid fortnightly.

(5) The certificate shall in each case specify the amount of the endowment payable thereunder, the
15 instalments by which it is to be paid, the office or place of payment, and such other particulars as may be prescribed.

(6) The office or place of payment may be
20 changed from time to time in the prescribed manner, and every such change shall be recorded by the registrar on the certificate.

30. (1) At least one month before the due date of the last instalment of endowment authorised to be paid by a certificate, or at such earlier time as may be
25 prescribed, the holder of the certificate may apply in the manner prescribed for a certificate for a further period. Renewal of certificates.

(2) With the application, which shall be lodged with the deputy registrar whose office is nearest the
30 place of abode of the applicant, there shall be lodged a statement in the prescribed form (verified by statutory declaration) setting out such particulars as may be prescribed to show that the applicant is qualified to receive an endowment and has not from any cause
35 become disqualified.

(3) The application for a certificate for a further period shall be dealt with in like manner to that prescribed for dealing with an original claim, save that, with the approval of the commissioner, the reference to
40 a magistrate may be dispensed with.

*Family Endowment.*DIVISION 3.—*Payment of endowments.*

31. (1) Subject to this Act, each instalment shall be applied for and payable at any time within twenty-one days after its due date on the personal application Instalment to be applied for within twenty-one days. of the person entitled thereto, and the production of his certificate to the officer in charge at the office or place named therein.

(2) In default of strict compliance with the provisions of the last preceding subsection, the instalment shall be deemed to be forfeited unless the forfeiture is waived as provided in the next following subsection.

(3) The commissioner, registrar, or a deputy registrar may waive any such forfeiture in any case 15 where after investigation he is satisfied—

(a) that, if the forfeiture was occasioned by default of personal application for payment, or of application within the prescribed time, the default was due to illness or debility or temporary absence from the locality in which the endowment is payable, or other sufficient cause; or

(b) that, if the forfeiture was occasioned by default in producing the certificate, the default was due to its being lost or destroyed.

(4) It shall not be lawful for the registrar or a deputy registrar to waive the forfeiture of any instalment unless waiver of such forfeiture is applied for within the prescribed time.

32. Every instalment shall be absolutely forfeited and no certificate shall be granted— Forfeiture of instalments in certain cases.

(a) during any period while the person to whom the certificate has been granted resides out of New South Wales: Provided that residence in New South Wales shall not be deemed to have been interrupted by occasional absence therefrom if the commissioner is satisfied that during such absence the family or home of the said person was in New South Wales;

(b)

Family Endowment.

5 (b) as from the date the person to whom the certificate is granted becomes qualified to receive a widow's pension, or an allowance in respect of any child payable in pursuance of any regulation made under the Commonwealth Public Service Act, 1922-1924, or in pursuance of any award or agreement made under the Arbitration (Public Service) Act, 1920.

10 **33.** 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. Endowment absolutely inalienable.

15 **34.** (1) Every endowment shall be deemed to be granted, and shall be held subject to all the provisions of this Act, and to the provisions of any other Act amending or repealing or in substitution for this Act which may at any time be passed, and no person shall have any claim for compensation or otherwise by reason of his endowment being affected by the operation of this Act or any such other Act. Endowment granted subject to any future Act.

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

20 **35.** (1) Where the commissioner is satisfied that, having regard to the age, infirmity, ill-health, insanity, or improvidence or other reasonable cause of disqualification of a person to whom a certificate is granted, or any special circumstances of such person or the child, it is expedient that payment of any instalments of the endowment be made to any other person, a warrant to that effect shall be issued by the commissioner, and transmitted to the person authorised therein to receive payment. Payment to other person.

35 (2) Subject to the regulations, and to the directions and limitations, if any, contained in the warrant, the person named therein shall be entitled on its production to receive payment of the endowment.

(3) The moneys so received shall be applied by him for the benefit of the child in respect of whom the endowment was granted, and he shall account to the commissioner in the prescribed manner for all moneys so received by him.

(4)

Family Endowment.

(4) A warrant issued by the commissioner under this section may at any time be revoked by the commissioner upon notice to the person to whom it was issued, and to the officer in charge of the office or place at which the endowment is payable.

36. (1) In case of the death of a person to whom a certificate has been granted, or where there is no mother, or where the mother is divorced from or is living apart from her husband and has not the custody of the child, the guardian or other person for the time being having the maintenance, care, or control of the child shall, with the approval of the commissioner, be entitled to apply for and receive the endowment in respect of the child.

Guardian
may receive
endowment
on behalf of
children.

(2) Subject to this Act, the endowment shall cease in respect of a child when that child attains the age of fourteen years.

(3) Applications under subsection one of this section and the method of accounting for moneys received by such guardian or person shall be as prescribed.

37. The right to an endowment or the amount of an endowment shall not be affected during any period covered by a certificate by reason merely of the fact that a child to which the certificate relates has within that period attained the age of fourteen years, or by reason merely of the death of any such child.

Death, &c.,
of child.

38. The following provisions shall apply to the payment of instalments of endowment:—

Procedure as
to payment of
instalments.

(a) the officer in charge of an office or place at which an endowment is payable may, if he thinks fit, require the applicant for payment to prove his identity, but, subject to the regulations, he may accept the production of the certificate as sufficient evidence that the person producing it is the person entitled to payment;

(b) when making the payment, the officer shall record on the certificate 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)

Family Endowment.

- 5 (c) a receipt so given shall be sufficient evidence that the payment to which it purports to relate has been duly made, and no claim against the State or the officer shall thereafter arise or be made in any court or proceeding whatsoever, by any person whomsoever, in respect thereof; and
- 10 (d) upon payment of the last instalment authorised by a certificate, the certificate shall be retained by the paying officer and forwarded by him to the registrar for cancellation.
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PART IV.

Family Endowment Fund.

- 15 **39.** (1) There shall be constituted a fund, to be Fund. called the Family Endowment Fund.
- (2) All moneys expended under or for the purposes of this Act shall be paid out of such fund, and all moneys received under this Act shall be paid into such fund.
- 20 (3) The fund shall be under the direction and control of the commissioner and shall be applied for the purpose of the administration and execution of this Act and for no other purpose whatsoever.
- 25 (4) Every employer shall contribute to the fund in each year at the prescribed times and in the prescribed manner a contribution equal in amount to such a percentage of the total amount of the wages paid by him during the prescribed period to his employees as may be fixed by Act of Parliament.
- 30 This subsection shall not apply to an employer where the total amount of the wages paid by him during the twelve months immediately preceding the prescribed date did not exceed one hundred and fifty pounds nor to an employer which is a public hospital or public
- 35 benevolent or charitable institution.
- (5) When board and lodging are provided for an employee by an employer the total amount of wages under

Family Endowment.

under subsection four of this section shall include a sum of one pound per week in respect of such employee as if it had been paid as wages.

(6) All moneys received by the Colonial Treasurer for credit of the Family Endowment Fund shall be carried to an account in Special Deposits Account in the Treasury, and such moneys and interest allowed thereon shall be made available to the commissioner for the purpose of meeting payments of endowments under this Act or of any costs or expenses payable out of the fund.

(7) Interest at a rate to be determined by the Colonial Treasurer shall be allowed on the amount for the time being at the credit of the fund.

15 **40.** The Colonial Treasurer is hereby authorised from time to time to advance out of the Consolidated Revenue Fund such amounts as may be necessary to meet the payments becoming due out of the Family Endowment Fund, but any such advance shall be 20 recouped out of that fund. Advance by
Treasury.

41. The regulations may provide for the furnishing of returns of wages paid by employers to employees, and the form of, and the matter to be contained in, such returns, the assessment of contributions, the periods in 25 respect of which contributions are to be paid, and the collection and receipt thereof. Returns.

42. (1) Any contribution payable by an employer to the Family Endowment Fund, may be sued for and recovered as a debt in any court of competent 30 jurisdiction by the Attorney-General, or by any person authorised by him in writing, either generally or in any particular case. Recovery of
contributions.

(2) In any proceedings the production of a notification in the Gazette that any person has been so 35 appointed shall be conclusive evidence of the appointment and evidence that his authority to sue remains in force.

43. The commissioner, or any person authorised in writing by him, may call for and inspect any books, 40 wages sheets, or documents of any employer. Power to
inspect wages
sheets, books,
&c.

Family Endowment.

PART V.

OFFENCES.

44. (1) Any person who— Offences.

- 5 (a) wilfully makes any false statement or representation to obtain a certificate of endowment, or any instalment of an endowment, or to deceive any officer, or to affect the rate or amount of any endowment; or
- 10 (b) by any unlawful means obtains payment of any forfeited or suspended instalment of endowment; or
- (c) by means of personation or any fraudulent device whatsoever obtains payment of any instalment of endowment; or
- 15 (d) by any wilfully false statement or representation aids or abets any person in obtaining or claiming a certificate of endowment or instalment of endowment; or
- (e) wilfully lends a certificate to any other person; or
- 20 (f) receives any money in consideration of or in respect of the procuring of any certificate of endowment or instalment of endowment; or
- 25 (g) refuses to produce any books, wages sheets, or documents upon demand by the commissioner or any person authorised by him in writing in that behalf,

shall be guilty of an offence against this Act.

- 30 (2) Where a person to whom a certificate has been granted is convicted of an offence under this section the commissioner may, in addition to any other penalty imposed in respect of the offence, cancel the certificate in respect of which the offence was committed.

45. (1) Any person who commits an offence against Penalties.
35 this Act shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a penalty not exceeding one hundred pounds.

(2) Any penalty imposed by this Act or the regulations may be recovered in a summary manner.

(3)

Family Endowment.

(3) All proceedings in respect of an offence ^{Proceedings} against this Act or the regulations may be taken at any ^{how and} time not exceeding six months from the time when the ^{when to be} facts first came to the knowledge of the commissioner. ^{taken.}

5 (4) Any such proceedings may be taken by the commissioner or some person appointed by him in writing, either generally or in a particular case.

PART VI.

MISCELLANEOUS.

10 **46.** Nothing in this Act shall confer upon any ^{No right to} holder of a certificate of endowment any right to sue ^{sue.} for and recover from the Crown or any other person the amount expressed to be payable upon any such certificate.

15 **47.** Where it is found that any endowment or ^{Payments in} instalment of an endowment has been paid in excess of ^{excess may be} the amount to which the person to whom a certificate ^{recovered.} has been granted was by law entitled, the amount so paid in excess may be recovered from him or his legal

20 representative as a debt due to the Crown.
48. (1) The Governor may make regulations, not ^{Regulations.} inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed

25 for giving effect to this Act, and without limiting the generality of the foregoing power, in particular in regard to all or any of the following matters :—

- (a) the powers and duties of the commissioner, the registrar, and officers;
- 30 (b) the forms of claims, and of applications or declarations relating thereto, and the times within which they are to be made or given;
- (c) the registering and numbering of claims and particulars in regard thereto;
- 35 (d) the forms of certificates;

(e)

Family Endowment.

- (e) proceedings before a magistrate, the commissioner, the registrar, or any deputy registrar ;
 - (f) the forms of receipt to be given for any instalment ; and
 - 5 (g) the delivery up by and recovery of certificates cancelled, or suspended, or lapsed on death, or for any other reason.
- (2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.
- 10 (3) The regulations shall—
- (a) be published in the Gazette ;
 - (b) take effect from the date of publication or from a later date to be specified in the regulations ; and
 - 15 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.
- 20 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof,
- 25 such regulation or part shall thereupon cease to have effect.

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[1s. 9d.]

Private Legislation

- (a) introduced before a meeting of the committee; the committee may, at any time, refer the bill to the committee; and
- (b) the bill is referred to the committee for any reason.
- (c) The committee may, at any time, refer the bill to the committee; and
- (d) The committee may, at any time, refer the bill to the committee; and
- (e) The committee may, at any time, refer the bill to the committee; and
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