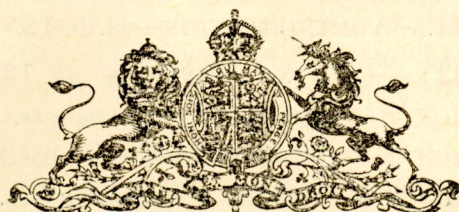


*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*W. S. MOWLE,  
Clerk of the Legislative Assembly.  
Legislative Assembly Chamber,  
Sydney, 21 December, 1925.*

## **New South Wales.**



ANNO SEXTO DECIMO

GEORGII V REGIS.

\*\*\*\*\*

Act No. 23, 1925.

**An Act** to provide for pensions to widows and their children in certain cases; to amend the Child Welfare Act, 1923, and certain other Acts; and for purposes connected therewith. [Assented to, 24th December, 1925.]

**B**E 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 "Widows' Pensions Act, 1925."  
(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.*



*Widows' Pensions.*

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

Division into  
Parts.

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

PART I.—PRELIMINARY—*ss.* 1-4.

PART II.—ADMINISTRATION—*ss.* 5-12.

PART III.—WIDOWS' PENSIONS—*ss.* 13-39.

DIVISION 1.—*Amount of pensions*—*ss.* 13-15.

DIVISION 2.—*Pension claims*—*ss.* 16-31.

DIVISION 3.—*Payment of pensions*—*ss.* 32-39.

PART IV.—OFFENCES—*ss.* 40-41.

PART V.—MISCELLANEOUS—*ss.* 42-44.

Definitions.

**3.** In this Act, unless the context or subject-matter otherwise indicates or requires,—

“Child” includes a stepchild or a child legally adopted before the commencement of the widowhood of a claimant.

“Child” also includes an illegitimate child of a claimant not born during the widowhood of the claimant.

“Child” does not include or refer to any child who has attained the age of fourteen years.

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

“Claimant” means an applicant for a widow's pension.

“Deputy Registrar” means a deputy registrar of widows' pensions holding such office by virtue of this Act.

“Magistrate” means a police or stipendiary magistrate.

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

“Registrar” means the registrar of widows' pensions appointed under this Act.

“Regulations” means regulations made under this Act.

“Widow”



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*Widows' Pensions.*

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“Widow” means the widow of a person who, being domiciled in New South Wales, died within or outside the State, whether before or after the commencement of this Act.

**4.** (1) The Child Welfare Act, 1923, is amended Amendment of Act No. 21, 1923, s. 14. by adding at the end of section fourteen the following new subsection :—

(2) This section shall not extend to authorise the Minister to board out her own child to any widow who is in receipt of a pension under the Widows' Pensions Act, 1925, where any part of the pension is paid to her in respect of the child to be boarded out.

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PART II.

ADMINISTRATION.

**5.** (1) The Governor may upon the recommendation Appointment of officers. of the Public Service Board appoint a Registrar of Widows' Pensions and such officers as are necessary for the administration of this Act.

(2) 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 during their tenure of office.

**6.** (1) The Governor may, from time to time, appoint Advisory committee. such persons as he thinks fit, not exceeding three in 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.

**7.** (1) The Governor may appoint such clerks of petty sessions as he considers necessary to be deputy Deputy registrars. registrars of widows' pensions within the Metropolitan, Parramatta, and Newcastle police districts.

(2)



*Widows' Pensions.*

(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 widows' pensions.

Powers of  
registrar and  
deputy  
registrars.  
cf. C'wlth. L.  
and O.A.P. Act,  
1903-25, s. 7.

**8.** 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.

Penalty for  
disobedience  
of summons.  
cf. *Ibid.* s. 8.

**9.** Any person who has been summoned to appear as a witness before 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.  
*Ibid.* s. 9.

**10.** Any person who appears before 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.  
*Ibid.* s. 12.

**11.** It shall be the duty of each deputy registrar—

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

Declaration  
by officers.  
*Ibid.* s. 13.

**12.** 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.

## PART III.

## WIDOWS' PENSIONS.

DIVISION 1.—*Amount of pension.*

Qualifications  
for pension.

**13.** (1) Subject to this Act, every widow resident in New South Wales shall, while so resident, be qualified to receive a widow's pension.

(2)



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*Widows' Pensions.*

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(2) (a) Subject to this Act, a widow shall not be qualified to receive a pension unless—

- (i) she was domiciled in New South Wales on the date of the death of her husband ;
- (ii) she is residing in New South Wales at the date of her application for a pension certificate, and had been continuously so residing for a period of three years ;
- (iii) she has at the date of her application for a pension certificate a child under the age of fourteen years who is dependent wholly or mainly upon her for support.

(b) Continuous residence in New South Wales shall not be deemed to have been interrupted by occasional absences not exceeding in the aggregate one-tenth of the total period of residence.

(c) Continuous residence in New South Wales shall not be deemed to have been interrupted by absence from New South Wales, if the claimant proves that during the period of such absence the children or home of the claimant was in New South Wales.

(3) Subject to this Act a widow shall not be qualified to receive a pension if—

- (a) the magistrate to whom the claim for a pension is referred is not satisfied that she is of good moral character and sober habits and that the pension will be properly used for the support of herself and her children ; or
- (b) she has directly or indirectly deprived herself of property or income in order to qualify for or obtain a pension or to increase the pension to which she might otherwise be entitled ; or
- (c) she has at any time within six months preceding the date of her application for a pension certificate, been refused a pension certificate for any reason which exists at the date of the further application ; or
- (d) she is in receipt of any other pension or allowance exceeding the amount which she would, if otherwise qualified, receive under this Act ; or

(e)



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*Widows' Pensions.*

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- (e) she is an alien; or
- (f) she is an Asiatic and was not born in Australia; or
- (g) she is an aboriginal native of Africa, the Islands of the Pacific, or New Zealand.

(4) This section extends to a person who became a widow before the commencement of this Act as well as to a person who became a widow subsequently to such commencement.

Rate of  
pension.

**14.** (1) Subject to this Act the pension shall be at the rate of one pound per week in respect of the widow, and an additional weekly amount of ten shillings in respect of each of her children who is under the age of fourteen years and who is wholly or mainly dependent upon her for support.

(2) To ascertain the amount of the pension to be paid in any case there shall be deducted from the annual amount of the pension calculated in accordance with subsection one of this section one pound per annum for each one pound per annum by which the net income of the widow as defined in section fifteen exceeds the amount of seventy-eight pounds per annum.

Income.

**15.** (1) For the purposes of this Act, "income of the widow" shall be deemed to include—

- (a) any pension or allowance other than the pension granted under this Act;
- (b) the earnings of a widow and her children under fourteen years of age from personal effort;
- (c) five per centum of the value of any real or personal property owned by the widow or her children and which produces no income or produces an income of less than five per centum per annum; the value of any house in which the widow and her children reside and also the value of any furniture and other personal effects, to be disregarded;
- (d) twenty-five per centum of the earnings of a child or children over fourteen years of age residing with a claimant;
- (e)



*Widows' Pensions.*

- (e) moneys derived or received from investments of capital ;
- (f) any amount applied for the maintenance or education of any child 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 ;
- (g) income received from any other source whatever.

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.

(2) In every case in which the widow is paying rent for the house or dwelling in which she resides there shall be deducted from the income of the widow the amount actually paid by her for such rent, but in no case shall such deduction exceed seventy-eight pounds per annum.

*DIVISION 2.—Pension claims.*

**16.** (1) Every person claiming a pension shall, in the prescribed manner, deliver or send a pension claim therefor to the deputy registrar whose office is nearest the place of abode of such person. Pension claims. cf. C'wlth. Act, 1908 26, s. 27.

(2) The pension 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 pension claim, declare that the contents of the pension claim are true and correct in every particular, and if in the declaration or claim the claimant



*Widows' Pensions.*

claimant wilfully makes any statement which is untrue in any particular, the claimant shall be guilty of an offence against this Act.

(4) A pension 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.

Investigation  
by deputy  
registrar.  
cf. C'wlth.  
Act, 1908-25,  
s. 23.

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

(2) The deputy registrar may 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 or the financial transactions of any claimant or pensioner or of any relatives of a claimant or pensioner; 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.

Reference to  
magistrate.  
*Ibid.* s. 29.

**18.** (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.

(2) The deputy registrar shall notify the claimant of the time when and place where the claimant is required to attend to support the pension 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.  
*Ibid.* s. 30.

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

(2)



*Widows' Pensions.*

(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 officers and members of the governing bodies of any charitable institution or society, or any other persons whomsoever.

(4) In investigating the pension 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.

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

- (a) recommend the pension 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;

Recom-  
mendation by  
magistrate.  
cf. C'wlth.  
Act, 1908-25  
s. 31.

but no pension 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 intrusted with a pension, he shall make a 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 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 pension claim is not established, and cannot be mended  
by



*Widows' Pensions.*

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.

Appeal or  
fresh  
evidence.  
cf. C'wlth.  
Act, 1908-25,  
s. 32.

**21.** (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 Minister, who may cause an investigation thereof to be made by the registrar, and the decision of the Minister shall be final and conclusive and without appeal.

(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.

Determina-  
tion of claim.  
*Ibid.* s. 33.

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

(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 registrar, who shall determine the application.

(3) The determination of the registrar shall, if in favour of the claim, set out the rate of the pension and the date of its commencement (which must not be prior to the date of the claim), and a pension certificate in the prescribed form shall thereupon be issued to the claimant.

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

Rehearing  
of pension  
claim.  
*Ibid.* s. 34.

**23.** At the request of the registrar a magistrate may rehear a pension claim previously admitted or rejected,  
and



*Widows' Pensions.*

and the registrar 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.

**24.** (1) The Minister or the registrar may at any time cancel, suspend, or reduce any pension if he considers it expedient so to do, but any decision of the registrar 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,  
&c., of  
pension.  
C'wlth. Act,  
1908-25,  
s. 37.

(2) Where any decision cancelling, suspending, or reducing a pension has been given under this section the registrar shall indorse the pension certificate accordingly.

**25.** (1) In any case where a pension certificate is cancelled the pension shall be deemed to be absolutely forfeited.

Forfeiture  
of pension on  
cancellation  
of certificate.

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

cf. N.Z. Act,  
1913, No. 10,  
s. 58.

**26.** (1) During the period a pension 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  
of pensions  
forfeited  
during  
currency of  
suspension.  
*Ibid.* s. 59.

(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 pension certificate issued for the next succeeding year.

**27.** (1) Whenever required by the registrar each pensioner shall send to the registrar a statement in the prescribed form relating to his income and accumulated property.

Pensioner to  
file statement  
of income  
when  
required.

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



*Widows' Pensions.*

owers  
magistrates  
Cwlth. Act,  
1908-25,  
s. 38A.

**28.** (1) Every magistrate may, for the purposes of 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.

Duplicate  
pension  
certificate.  
*Ibid.* s. 36.

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

Pension  
certificate.

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

(2) A pension certificate shall be signed by 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 registrar, the Minister may appoint some other officer to sign the certificate.

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

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



*Widows' Pensions.*

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

Renewal of pension 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 she is qualified to receive a pension and has not from any cause become disqualified.

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

*DIVISION 3.—Payment of Pensions.*

**32.** (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 pensioner, and the production of his pension certificate to the officer in charge at the office or place named therein.

Instalment to be applied for within twenty-one days.  
cf. C'wlth. Act, 1908-25, s. 40.

(2) In default of strict compliance by the pensioner 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 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 the pensioner's illness or debility or temporary absence from the locality in which the pension is payable, or other sufficient cause; or

(b)



*Widows' Pensions.*

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

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

Forfeiture of instalments in certain cases.

cf. N.Z. Act, 1913, No. 10, s. 48.

**33.** Every instalment shall be absolutely forfeited and no pension certificate shall be granted—

- (a) during any period while the pensioner 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 pensioner satisfies the registrar that during such absence the family or home of the pensioner was in New South Wales;
- (b) if the pensioner marries;
- (c) as from the date the pensioner becomes qualified to receive an old-age or invalidity pension under any Act of the Parliament of the Commonwealth of Australia.

Pension absolutely inalienable. C'wlth. Act, 1908-25, s. 41.

Pensions granted subject to any future Act. *Ibid.*

**34.** Subject to this Act, a pension shall be absolutely inalienable whether by way or in consequence of sale, assignment, charge, execution, bankruptcy, or otherwise howsoever.

**35.** (1) Every pension 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 pensioner shall have any claim for compensation or otherwise by reason of his pension 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 pension certificate.

Payment to other person of pensions. *Ibid.* s. 43.

**36.** (1) Whenever the registrar is satisfied that, having regard to the age, infirmity, ill-health, insanity, or improvidence of a pensioner, or any special circumstances of the pensioner or her children, it is expedient that payment of any instalments of the pension be made to any



*Widows' Pensions.*

any other person, a warrant to that effect shall be issued by the registrar, 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 pension.

(3) The moneys so received shall be applied by him for the benefit of the pensioner and her child, and he shall account to the registrar in the prescribed manner for all moneys so received by him.

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

**37.** (1) In case of the death of a pensioner the guardian or other person for the time being having the maintenance care or control of her children to whom this Act applies shall, with the approval of the Minister, be entitled to apply for and receive the pension at the rate of ten shillings per week to which the widow would have been entitled in respect of each child if she had lived.

On death of widow guardian may receive pension on behalf of children.  
cf. N.Z. Act, 1913, No. 10, s. 21.

(2) The pension shall cease in respect of each child when such child attains the age of fourteen years.

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

**38.** The right to a pension or the amount of a pension shall not be affected during any period covered by a pension certificate by reason merely of the fact that a child of the pensioner has within that period attained the age of fourteen years, or by reason merely of the death of a child of the pensioner.

Death, &c., of child.  
cf. *Ibid.* s. 22.

**39.** The following provisions shall apply to the payment of instalments of pensions:—

Procedure as to payment of instalments of pensions.

- (a) the officer in charge of an office or place at which a pension is payable may, if he thinks fit, require the applicant for payment to prove his

cf. C'wlth. Act, 1908-25, s. 48.



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*Widows' Pensions.*

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- his identity, but, subject to the regulations, he may accept the production of the pension 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 pension 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 the pensioner or any person whomsoever, in respect thereof ; and
  - (d) upon payment of the last instalment authorised by a pension 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.

## OFFENCES.

Offences.  
cf. C'wlth.  
Act, 1908-25,  
s. 49.

- 40.** (1) Any person who—
- (a) wilfully makes any false statement or representation to obtain a pension certificate, or pension, or any instalment of a pension, or to deceive any officer, or to affect the rate of any pension ; or
  - (b) by any unlawful means obtains payment of any forfeited or suspended instalment of pension ; or
  - (c) by means of personation or any fraudulent device whatsoever obtains payment of any instalment of pension ; or
  - (d) by any wilfully false statement or representation aids or abets any person in obtaining or claiming a pension certificate or pension or instalment of a pension ; or
  - (e) wilfully lends a pension certificate to any other person ; or
  - (f)



*Widows' Pensions.*

(f) receives any money in consideration of or in N.Z. Act, 1913, No. 10, s. 61. respect of the procuring of any pension or pension certificate, shall be guilty of an offence against this Act.

(2) Where a pensioner is convicted of an offence under this section the registrar may, in addition to any other penalty imposed in respect of the offence, cancel the pension certificate in respect of the issue of which the offence was committed.

**41.** (1) Any person who commits an offence against Penalties. 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) 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 registrar.

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

**PART V.****MISCELLANEOUS.**

**42.** (1) All pensions granted under the provisions Appropriation. of this Act are hereby charged upon the Consolidated Revenue Fund, and such fund to the extent required for the payment of such pensions is hereby permanently appropriated.

(2) All expenses incurred in administering this Act shall be payable out of moneys to be from time to time appropriated by Parliament.

**43.** Where it is found that any pension or instalment of a pension has been paid in excess of the amount Payments in excess may be recovered. Ibid. s. 52. to which the pensioner was by law entitled, the amount so paid in excess may be recovered from the pensioner or her legal representative, as a debt due to the Crown.

**44.**



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*Widows' Pensions.*

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Regulations.

cf. N.Z. Act,  
1913, No. 10,  
s. 55.

**44.** (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 in particular in regard to all or any of the following matters:—

- (a) the powers and duties of the registrar and officers;
- (b) the forms of pension 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 pension claims and particulars in regard thereto;
- (d) the forms of pension certificates;
- (e) the mode of valuing properties;
- (f) proceedings before a magistrate, the registrar, or any deputy registrar;
- (g) the forms of receipt to be given for any pension; and
- (h) the delivery up by and recovery of pension certificates cancelled or suspended or lapsed on death or for any other reason.

(2) The regulations may impose a penalty not exceeding twenty 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, 24th December, 1925.



## WIDOWS' PENSIONS BILL.

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*SCHEDULE of Amendments referred to in Message of 17th December, 1925.*

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Page 3. *Omit* clause 7, *insert* new clause.

Page 7, clause 16, lines 26 and 27. *Omit* "of the district in which the claimant resides"  
*insert* "**whose office is nearest the place of abode of such person**"

Page 13, clause 31, lines 7 and 8. *Omit* "of the district in which the claimant resides"  
"the claimant shall lodge" *insert* "**whose office is nearest the place of**  
**"abode of the applicant there shall be lodged"**"

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THE UNITED STATES OF AMERICA

SCHEDULE A - *[illegible]*

*[Faint, illegible text, possibly a list or schedule of items]*



*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, 8 December, 1925.*

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

*W. L. S. COOPER,  
Clerk of the Parliaments.  
Legislative Council Chamber,  
Sydney, 17th December, 1925.*

## **New South Wales.**



ANNO SEXTO DECIMO

**GEORGII V REGIS.**

\*\*\*\*\*

Act No. , 1925.

An Act to provide for pensions to widows and their children in certain cases ; to amend the Child Welfare Act, 1923, and certain other Acts ; and for purposes connected therewith.

**B**E 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 "Widows' Pensions Act, 1925." short title and commencement.

5989

131—A

(2)

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



*Widows' Pensions.*

(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 :—

ision into  
Parts

5 PART I.—PRELIMINARY—ss. 1-4.

PART II.—ADMINISTRATION—ss. 5-12.

PART III.—WIDOWS' PENSIONS—ss. 13-39.

DIVISION 1.—*Amount of pensions*—ss. 13-15.

DIVISION 2.—*Pension claims*—ss. 16-31.

10 DIVISION 3.—*Payment of pensions*—ss. 32-39.

PART IV.—OFFENCES—ss. 40-41.

PART V.—MISCELLANEOUS—ss. 42-44.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,—

Definitions.

15 "Child" includes a stepchild or a child legally adopted before the commencement of the widowhood of a claimant.

"Child" also includes an illegitimate child of a claimant not born during the widowhood of the claimant.

20 "Child" does not include or refer to any child who has attained the age of fourteen years.

"Children" has a corresponding meaning, and is subject to a corresponding limitation.

25 "Claimant" means an applicant for a widow's pension.

"Deputy Registrar" means a deputy registrar of widows' pensions holding such office by virtue of this Act.

30 "Magistrate" means a police or stipendiary magistrate.

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

35 "Registrar" means the registrar of widows' pensions appointed under this Act.

"Regulations" means regulations made under this Act.

"Widow"



*Widows' Pensions.*

“Widow” means the widow of a person who, being domiciled in New South Wales, died within or outside the State, whether before or after the commencement of this Act.

5 **4.** (1) The Child Welfare Act, 1923, is amended Amendment of Act No. 21, 1923, s. 14. by adding at the end of section fourteen the following new subsection:—

10 (2) This section shall not extend to authorise the Minister to board out her own child to any widow who is in receipt of a pension under the Widows' Pensions Act, 1925, where any part of the pension is paid to her in respect of the child to be boarded out.

PART II.

15 ADMINISTRATION.

**5.** (1) The Governor may upon the recommendation Appointment of officers. of the Public Service Board appoint a Registrar of Widows' Pensions and such officers as are necessary for the administration of this Act.

20 (2) 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 during their tenure of office.

25 **6.** (1) The Governor may, from time to time, appoint Advisory committee. such persons as he thinks fit, not exceeding three in number, to form an advisory committee.

(2) Such committee shall exercise such powers and duties and receive such fees and allowances as may 30 be prescribed.

**7.** (1) The districts for the time being in respect of Districts which courts of petty sessions are appointed shall be districts for the purposes of this Act.

35 (2) In each district the clerk of petty sessions for the time being, or the officer acting as such shall, by virtue of this Act and without any further appointment, be the deputy registrar of widows' pensions for such district.



*Widows' Pensions.*

- 7.** (1) The Governor may appoint such clerks of petty sessions as he considers necessary to be deputy registrars of widows' pensions within the Metropolitan, Parramatta, and Newcastle police districts. Deputy registrars.
- 5 (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 widows' pensions.
- 10 **8.** The registrar and any deputy registrar may, for the purposes of this Act— Powers of registrar and deputy registrars. cf. C'wlth. I. and O.A.P. Act, 1903-25, s. 7.
- (a) summon witnesses ;
- (b) receive evidence on oath ; and
- (c) require the production of documents.
- 15 **9.** Any person who has been summoned to appear as a witness before 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. cf. *Ibid.* s. 8.
- 20 **10.** Any person who appears before 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 Penalty for refusing to give evidence. *Ibid.* s. 9.
- 25 be guilty of an offence against this Act.
- 11.** It shall be the duty of each deputy registrar— Duties of deputy registrars. *Ibid.* s. 12.
- (a) to receive pension claims ;
- (b) to investigate pension claims as prescribed ;
- (c) generally, to keep such books and registers, and do all such things, as are prescribed.
- 30 **12.** 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. *Ibid.* s. 13.

35

## PART III.

## WIDOWS' PENSIONS.

DIVISION 1.—*Amount of pension.*

- 13.** (1) Subject to this Act, every widow resident in New South Wales shall, while so resident, be qualified to receive a widow's pension. Qualifications for pension.
- 40

(2)



*Widows' Pensions.*

(2) (a) Subject to this Act, a widow shall not be qualified to receive a pension unless—

- (i) she was domiciled in New South Wales on the date of the death of her husband ;
- 5 (ii) she is residing in New South Wales at the date of her application for a pension certificate, and had been continuously so residing for a period of three years ;
- 10 (iii) she has at the date of her application for a pension certificate a child under the age of fourteen years who is dependent wholly or mainly upon her for support.

(b) Continuous residence in New South Wales shall not be deemed to have been interrupted by 15 occasional absences not exceeding in the aggregate one-tenth of the total period of residence.

(c) Continuous residence in New South Wales shall not be deemed to have been interrupted by absence from New South Wales, if the claimant proves 20 that during the period of such absence the children or home of the claimant was in New South Wales.

(3) Subject to this Act a widow shall not be qualified to receive a pension if—

- 25 (a) the magistrate to whom the claim for a pension is referred is not satisfied that she is of good moral character and sober habits and that the pension will be properly used for the support of herself and her children ; or
- 30 (b) she has directly or indirectly deprived herself of property or income in order to qualify for or obtain a pension or to increase the pension to which she might otherwise be entitled ; or
- 35 (c) she has at any time within six months preceding the date of her application for a pension certificate, been refused a pension certificate for any reason which exists at the date of the further application ; or
- 40 (d) she is in receipt of any other pension or allowance exceeding the amount which she would, if otherwise qualified, receive under this Act ; or

(e)



*Widows' Pensions.*

- (e) she is an alien ; or
- (f) she is an Asiatic and was not born in Australia ; or
- 5 (g) she is an aboriginal native of Africa, the Islands of the Pacific, or New Zealand.

(4) This section extends to a person who became a widow before the commencement of this Act as well as to a person who became a widow subsequently to such commencement.

10 **14.** (1) Subject to this Act the pension shall be at <sup>Rate of</sup> the rate of one pound per week in respect of the widow, <sup>pension.</sup> and an additional weekly amount of ten shillings in respect of each of her children who is under the age of fourteen years and who is wholly or mainly dependent  
15 upon her for support.

(2) To ascertain the amount of the pension to be paid in any case there shall be deducted from the annual amount of the pension calculated in accordance with subsection one of this section one pound per annum  
20 for each one pound per annum by which the net income of the widow as defined in section fifteen exceeds the amount of seventy-eight pounds per annum.

**15.** (1) For the purposes of this Act, "income of the <sup>Income.</sup> widow" shall be deemed to include—

- 25 (a) any pension or allowance other than the pension granted under this Act ;
- (b) the earnings of a widow and her children under fourteen years of age from personal effort ;
- 30 (c) five per centum of the value of any real or personal property owned by the widow or her children and which produces no income or produces an income of less than five per centum per annum ; the value of any house in which the widow and her children reside and also  
35 the value of any furniture and other personal effects, to be disregarded ;
- (d) twenty-five per centum of the earnings of a child or children over fourteen years of age residing with a claimant ; (e)



*Widows' Pensions.*

- (e) moneys derived or received from investments of capital ;
- (f) any amount applied for the maintenance or education of any child 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 ;
- (g) income received from any other source whatever.
- 10 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.
- (2) In every case in which the widow is paying rent for the house or dwelling in which she resides there shall be deducted from the income of the widow the amount actually paid by her for such rent, but in no case shall such deduction exceed seventy-eight pounds per annum.

*DIVISION 2.—Pension claims.*

**16.** (1) Every person claiming a pension shall, in Pension claims. the prescribed manner, deliver or send a pension claim therefor to the deputy registrar of the district in which the claimant resides, whose office is nearest the place of abode of such person. cf. Cwlth. Act, 1908-25, s. 27.

(2) The pension 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 pension claim, declare that the contents of the pension claim are true and correct in every particular, and if in the declaration or claim the claimant



*Widows' Pensions.*

claimant wilfully makes any statement which is untrue in any particular, the claimant shall be guilty of an offence against this Act.

(4) A pension 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.

**17.** (1) Upon receipt of a pension claim the deputy registrar shall cause to be made such investigations as appear to him desirable, or as are directed by the registrar, in order to ascertain the circumstances of the claimant and the truth of the statements in the claim. Investigation by deputy registrar. cf. C'wlth. Act, 1908-25, s. 28.

(2) The deputy registrar may 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 or the financial transactions of any claimant or pensioner or of any relatives of a claimant or pensioner; 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.

**18.** (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. Ibid. s. 29.

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

**19.** (1) On the day so notified, or on any subsequent day, the magistrate may proceed to investigate the pension claim, for the purpose of ascertaining whether the claimant is entitled to a pension, and, if so, at what rate. Investigation by magistrate. Ibid. s. 30.



*Widows' Pensions.*

(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.

5 (3) In order to ascertain the circumstances of the claimant, evidence may be taken at the hearing from officers and members of the governing bodies of any charitable institution or society, or any other persons whomsoever.

10 (4) In investigating the pension 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  
15 technicalities or legal forms.

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

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

20 (b) postpone the claim for further evidence; or  
(c) recommend the rejection of the claim;

but no pension claim shall be recommended unless the magistrate is satisfied that the claim is established and unless the evidence (if any) of the claimant is  
25 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 intrusted with a pension, he shall make a special  
30 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  
35 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.

40 (4) If the magistrate is of opinion that the pension claim is not established, and cannot be mended by

Recom-  
mendation by  
magistrate.  
cf. C'wlth.  
Act, 1908-25,  
s. 31.



*Widows' Pensions.*

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.

**21.** (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 Minister, who may cause an investigation thereof to be made by the registrar, and the decision of the Minister shall be final and conclusive and without appeal.

Appeal or fresh evidence. cf. C'wlth. Act, 1908-25 s. 32.

(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.

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

Determination of claim. *Ibid.* s. 33.

(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 registrar, who shall determine the application.

(3) The determination of the registrar shall, if in favour of the claim, set out the rate of the pension and the date of its commencement (which must not be prior to the date of the claim), and a pension certificate in the prescribed form shall thereupon be issued to the claimant.

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

**23.** At the request of the registrar a magistrate may rehear a pension claim previously admitted or rejected, and

Rehearing of pension claim. *Ibid.* s. 34.



*Widows' Pensions.*

and the registrar 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  
5 upon the original hearing.

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

Cancellation,  
&c., of  
pension.  
C'wlth. Act,  
1908-25,  
s. 37.

(2) Where any decision cancelling, suspending, or reducing a pension has been given under this section the registrar shall indorse the pension certificate  
15 accordingly.

**25.** (1) In any case where a pension certificate is cancelled the pension shall be deemed to be absolutely forfeited.

Forfeiture  
of pension on  
cancellation  
of certificate.

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

cf. N.Z. Act,  
1913, No. 10,  
s. 58.

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

Instalments  
of pensions  
forfeited  
during  
currency of  
suspension.

*Ibid.* s. 59.

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

**27.** (1) Whenever required by the registrar each pensioner shall send to the registrar a statement in the  
35 prescribed form relating to his income and accumulated property.

Pensioner to  
file statement  
of income  
when  
required.

(2) If upon investigation the registrar is satisfied that the pension should be discontinued, or that the rate of the pension is greater or less than it should be, he may  
40 discontinue the pension or reduce or increase the rate of pension accordingly.



*Widows' Pensions.*

**28.** (1) Every magistrate may, for the purposes of Powers of  
any investigation or inquiry under this Act—  
5 (a) summon witnesses;  
(b) receive evidence on oath; and  
(c) require the production of documents. C'wlth. Act,  
1908-25,  
s. 38A.

(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,  
10 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  
15 required to answer, shall be guilty of an offence against  
this Act.

**29.** On application in the prescribed form, the Duplicate  
registrar may direct the issue of a duplicate pension pension  
certificate in any case where satisfactory proof is given certificate.  
20 of the loss or destruction of the original. Ibid. s. 36.

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

25 (2) A pension certificate shall be signed by 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 registrar, the Minister may appoint some other  
30 officer to sign the certificate.

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

(5) The certificate shall in each case specify  
the amount of the pension payable thereunder, the  
35 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,  
40 and every such change shall be recorded by the registrar  
on the pension certificate.

**31.**



*Widows' Pensions.*

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

Renewal of pension certificates.

(2) With the application, which shall be lodged with the deputy registrar of the district in which the claimant resides the claimant shall lodge 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 she is qualified to receive a pension and has not from any cause become disqualified.

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

*DIVISION 3.—Payment of Pensions.*

**32.** (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 pensioner, and the production of his pension certificate to the officer in charge at the office or place named therein.

Instalment to be applied for within twenty-one days.

cf. C'wlth. Act, 1908-25, s. 40.

(2) In default of strict compliance by the pensioner 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 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 the pensioner's illness or debility or temporary absence from the locality in which the pension is payable, or other sufficient cause; or

(b)



*Widows' Pensions.*

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

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

**33.** Every instalment shall be absolutely forfeited and no pension certificate shall be granted—

Forfeiture of instalments in certain cases.

(a) during any period while the pensioner 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 pensioner satisfies the registrar that during such absence the family or home of the pensioner was in New South Wales;

cf. N.Z. Act, 1913, No. 10, s. 48.

(b) if the pensioner marries;

(c) as from the date the pensioner becomes qualified to receive an old-age or invalidity pension under any Act of the Parliament of the Commonwealth of Australia.

**34.** Subject to this Act, a pension shall be absolutely inalienable whether by way or in consequence of sale, assignment, charge, execution, bankruptcy, or otherwise howsoever.

Pension absolutely inalienable. C'wlth. Act, 1908-25, s. 41.

**35.** (1) Every pension 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 pensioner shall have any claim for compensation or otherwise by reason of his pension being affected by the operation of this Act or any such other Act.

Pensions granted subject to any future Act. *Ibid.*

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

**36.** (1) Whenever the registrar is satisfied that, having regard to the age, infirmity, ill-health, insanity, or improvidence of a pensioner, or any special circumstances of the pensioner or her children, it is expedient that payment of any instalments of the pension be made to

Payment to other person of pensions. *Ibid.* s. 43.

any



*Widows' Pensions.*

any other person, a warrant to that effect shall be issued by the registrar, 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 pension.

(3) The moneys so received shall be applied by him for the benefit of the pensioner and her child, and he shall account to the registrar in the prescribed manner for all moneys so received by him.

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

**37.** (1) In case of the death of a pensioner the guardian or other person for the time being having the maintenance care or control of her children to whom this Act applies shall, with the approval of the Minister, be entitled to apply for and receive the pension at the rate of ten shillings per week to which the widow would have been entitled in respect of each child if she had lived.

On death of widow guardian may receive pension on behalf of children.  
cf. N.Z. Act, 1913, No. 10, s. 21.

(2) The pension shall cease in respect of each child when such child attains the age of fourteen years.

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

**38.** The right to a pension or the amount of a pension shall not be affected during any period covered by a pension certificate by reason merely of the fact that a child of the pensioner has within that period attained the age of fourteen years, or by reason merely of the death of a child of the pensioner.

Death, &c., of child.  
cf. *Ibid.* s. 22.

**39.** The following provisions shall apply to the payment of instalments of pensions :—

(a) the officer in charge of an office or place at which a pension is payable may, if he thinks fit, require the applicant for payment to prove his

Procedure as to payment of instalments of pensions.  
cf. C'wlth. Act, 1908-25, s. 48.



*Widows' Pensions.*

- his identity, but, subject to the regulations, he may accept the production of the pension certificate as sufficient evidence that the person producing it is the person entitled to payment ;
- 5 (b) when making the payment, the officer shall record on the pension 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 ;
- 10 (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
- 15 the pensioner or any person whomsoever, in respect thereof ; and
- (d) upon payment of the last instalment authorised by a pension certificate, the certificate shall be retained by the paying officer and forwarded by
- 20 him to the registrar for cancellation.

PART IV.

OFFENCES.

40. (1) Any person who—
- 25 (a) wilfully makes any false statement or representation to obtain a pension certificate, or pension, or any instalment of a pension, or to deceive any officer, or to affect the rate of any pension ; or
- 30 (b) by any unlawful means obtains payment of any forfeited or suspended instalment of pension ; or
- (c) by means of personation or any fraudulent device whatsoever obtains payment of any instalment of pension ; or
- 35 (d) by any wilfully false statement or representation aids or abets any person in obtaining or claiming a pension certificate or pension or instalment of a pension ; or
- (e) wilfully lends a pension certificate to any other person ; or
- (f)

Offences.  
cf. C'wlth.  
Act, 1908-25  
s. 49.



*Widows' Pensions.*

- (f) receives any money in consideration of or in N.Z. Act,  
respect of the procuring of any pension or <sup>1913, No. 10,</sup>  
pension certificate, <sup>s. 61.</sup>  
shall be guilty of an offence against this Act.
- 5 (2) Where a pensioner is convicted of an offence  
under this section the registrar may, in addition to any  
other penalty imposed in respect of the offence, cancel  
the pension certificate in respect of the issue of which  
the offence was committed.
- 10 **41.** (1) Any person who commits an offence against <sup>Penalties.</sup>  
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  
15 regulations may be recovered in a summary manner.
- (3) All proceedings in respect of an offence <sup>Proceedings</sup>  
against this Act or the regulations may be taken at any <sup>how and</sup>  
time not exceeding six months from the time when the <sup>when to be</sup>  
facts first came to the knowledge of the registrar. <sup>taken.</sup>
- 20 (4) Any such proceedings may be taken by the  
registrar or some person appointed by him in writing  
either generally or in a particular case.

## PART V.

## MISCELLANEOUS.

- 25 **42.** (1) All pensions granted under the provisions <sup>Appropriation.</sup>  
of this Act are hereby charged upon the Consolidated  
Revenue Fund, and such fund to the extent required  
for the payment of such pensions is hereby permanently  
appropriated.
- 30 (2) All expenses incurred in administering this  
Act shall be payable out of moneys to be from time to  
time appropriated by Parliament.
- 43.** Where it is found that any pension or instal- <sup>Payments in</sup>  
ment of a pension has been paid in excess of the amount <sup>excess may be</sup>  
to which the pensioner was by law entitled, the amount <sup>recovered.</sup>  
35 so paid in excess may be recovered from the pensioner <sup>Ibid. s. 52.</sup>  
or her legal representative, as a debt due to the Crown.



*Widows' Pensions.*

**44.** (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 in particular in regard to all or any of the following matters:—

Regulations.  
cf. N.Z. Act,  
1913, No. 10,  
s. 55.

- (a) the powers and duties of the registrar and officers;
- 10 (b) the forms of pension 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 pension claims and particulars in regard thereto;
- (d) the forms of pension certificates;
- 15 (e) the mode of valuing properties;
- (f) proceedings before a magistrate, the registrar, or any deputy registrar;
- (g) the forms of receipt to be given for any pension; and
- 20 (h) the delivery up by and recovery of pension certificates cancelled or suspended or lapsed on death or for any other reason.

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

25 (3) The regulations shall—

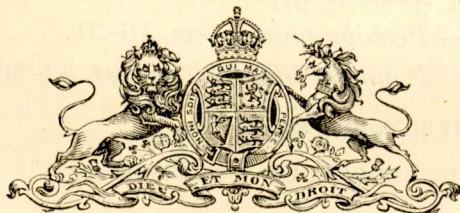
- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- 30 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session. If either
- 35 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.
- 40



*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, 8 December, 1925.*

## New South Wales.



ANNO SEXTO DECIMO

## GEORGII V REGIS.

\*\*\*\*\*

Act No. , 1925.

An Act to provide for pensions to widows and their children in certain cases ; to amend the Child Welfare Act, 1923, and certain other Acts ; 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 "Widows' Pensions Act, 1925."

Short title  
and com-  
mencement.

89891

131—A

(2)



*Widows' Pensions.*

(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 into  
Parts.

- 5      PART I.—PRELIMINARY—ss. 1-4.  
       PART II.—ADMINISTRATION—ss. 5-12.  
       PART III.—WIDOWS' PENSIONS—ss. 13-39.  
           DIVISION 1.—*Amount of pensions*—ss. 13-15.  
           DIVISION 2.—*Pension claims*—ss. 16-31.  
 10      DIVISION 3.—*Payment of pensions*—ss. 32-39.  
       PART IV.—OFFENCES—ss. 40-41.  
       PART V.—MISCELLANEOUS—ss. 42-44.

**3.** In this Act, unless the context or subject-matter otherwise indicates or requires,—

- 15      "Child" includes a stepchild or a child legally adopted before the commencement of the widowhood of a claimant.  
       "Child" also includes an illegitimate child of a claimant not born during the widowhood of the claimant.  
 20      "Child" does not include or refer to any child who has attained the age of fourteen years.  
       "Children" has a corresponding meaning, and is subject to a corresponding limitation.  
 25      "Claimant" means an applicant for a widow's pension.  
       "Deputy Registrar" means a deputy registrar of widows' pensions holding such office by virtue of this Act.  
 30      "Magistrate" means a police or stipendiary magistrate.  
       "Prescribed" means prescribed by this Act or by regulations made thereunder.  
       "Registrar" means the registrar of widows' pensions appointed under this Act.  
 35      "Regulations" means regulations made under this Act.

"Widow"



*Widows' Pensions.*

“Widow” means the widow of a person who, being domiciled in New South Wales, died within or outside the State, whether before or after the commencement of this Act.

5 **4.** (1) The Child Welfare Act, 1923, is amended Amendment of Act No. 21, 1923, s. 14. by adding at the end of section fourteen the following new subsection :—

10 (2) This section shall not extend to authorise the Minister to board out her own child to any widow who is in receipt of a pension under the Widows' Pensions Act, 1925, where any part of the pension is paid to her in respect of the child to be boarded out.

PART II.

ADMINISTRATION.

15

**5.** (1) The Governor may upon the recommendation Appointment of officers. of the Public Service Board appoint a Registrar of Widows' Pensions and such officers as are necessary for the administration of this Act.

20 (2) 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 during their tenure of office.

25 **6.** (1) The Governor may, from time to time, appoint Advisory committee. such persons as he thinks fit, not exceeding three in number, to form an advisory committee.

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

**7.** (1) The districts for the time being in respect of Districts. which courts of petty sessions are appointed shall be districts for the purposes of this Act.

(2)



*Widows' Pensions.*

(2) In each district the clerk of petty sessions for the time being, or the officer acting as such shall, by virtue of this Act and without any further appointment, be the deputy registrar of widows' pensions for such district.

8. 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 registrar and deputy registrars. cf. C'with. I. and O-A.P. Act, 1903-25, s. 7.

9. Any person who has been summoned to appear as a witness before 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. cf. *Ibid.* s. 8.

10. Any person who appears before 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. *Ibid.* s. 9.

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

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

Duties of deputy registrars. *Ibid.* s. 12.

12. 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. *Ibid.* s. 13.

## PART III.

## WIDOWS' PENSIONS.

DIVISION 1.—*Amount of pension.*

13. (1) Subject to this Act, every widow resident in New South Wales shall, while so resident, be qualified to receive a widow's pension.

Qualifications for pension.

(2)



*Widows' Pensions.*

(2) (a) Subject to this Act, a widow shall not be qualified to receive a pension unless—

- (i) she was domiciled in New South Wales on the date of the death of her husband ;
- 5 (ii) she is residing in New South Wales at the date of her application for a pension certificate, and had been continuously so residing for a period of three years ;
- 10 (iii) she has at the date of her application for a pension certificate a child under the age of fourteen years who is dependent wholly or mainly upon her for support.

(b) Continuous residence in New South Wales shall not be deemed to have been interrupted by 15 occasional absences not exceeding in the aggregate one-tenth of the total period of residence.

(c) Continuous residence in New South Wales shall not be deemed to have been interrupted by absence from New South Wales, if the claimant proves 20 that during the period of such absence the children or home of the claimant was in New South Wales.

(3) Subject to this Act a widow shall not be qualified to receive a pension if—

- 25 (a) the magistrate to whom the claim for a pension is referred is not satisfied that she is of good moral character and sober habits and that the pension will be properly used for the support of herself and her children ; or
- 30 (b) she has directly or indirectly deprived herself of property or income in order to qualify for or obtain a pension or to increase the pension to which she might otherwise be entitled ; or
- 35 (c) she has at any time within six months preceding the date of her application for a pension certificate, been refused a pension certificate for any reason which exists at the date of the further application ; or
- 40 (d) she is in receipt of any other pension or allowance exceeding the amount which she would, if otherwise qualified, receive under this Act ; or

(e)



*Widows' Pensions.*

- (e) she is an alien ; or
- (f) she is an Asiatic and was not born in Australia ; or
- 5 (g) she is an aboriginal native of Africa, the Islands of the Pacific, or New Zealand.

(4) This section extends to a person who became a widow before the commencement of this Act as well as to a person who became a widow subsequently to such commencement.

10 **14.** (1) Subject to this Act the pension shall be at the rate of one pound per week in respect of the widow, and an additional weekly amount of ten shillings in respect of each of her children who is under the age of fourteen years and who is wholly or mainly dependent  
15 upon her for support.

(2) To ascertain the amount of the pension to be paid in any case there shall be deducted from the annual amount of the pension calculated in accordance with subsection one of this section one pound per annum  
20 for each one pound per annum by which the net income of the widow as defined in section fifteen exceeds the amount of seventy-eight pounds per annum.

**15.** (1) For the purposes of this Act, "income of the widow" shall be deemed to include—

- 25 (a) any pension or allowance other than the pension granted under this Act ;
- (b) the earnings of a widow and her children under fourteen years of age from personal effort ;
- 30 (c) five per centum of the value of any real or personal property owned by the widow or her children and which produces no income or produces an income of less than five per centum per annum ; the value of any house in which the widow and her children reside and also  
35 the value of any furniture and other personal effects, to be disregarded ;
- (d) twenty-five per centum of the earnings of a child or children over fourteen years of age residing with a claimant ; (e)



*Widows' Pensions.*

- (e) moneys derived or received from investments of capital ;
- (f) any amount applied for the maintenance or education of any child 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 ;
- (g) income received from any other source whatever.
- 10 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.
- (2) In every case in which the widow is paying rent for the house or dwelling in which she resides there shall be deducted from the income of the widow the amount actually paid by her for such rent, but in no case shall such deduction exceed seventy-eight pounds per annum.

*DIVISION 2.—Pension claims.*

**16.** (1) Every person claiming a pension shall, in the prescribed manner, deliver or send a pension claim therefor to the deputy registrar of the district in which the claimant resides.

Pension claims.  
cf. C'wlth.  
Act, 1908-25,  
s. 27.

(2) The pension 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 pension claim, declare that the contents of the pension claim are true and correct in every particular, and if in the declaration or claim the claimant



*Widows' Pensions.*

claimant wilfully makes any statement which is untrue in any particular, the claimant shall be guilty of an offence against this Act.

(4) A pension 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.

**17.** (1) Upon receipt of a pension claim the deputy registrar shall cause to be made such investigations as appear to him desirable, or as are directed by the registrar, in order to ascertain the circumstances of the claimant and the truth of the statements in the claim. Investigation by deputy registrar. cf. C'wlth. Act, 1908-25, s. 28.

(2) The deputy registrar may 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 or the financial transactions of any claimant or pensioner or of any relatives of a claimant or pensioner; 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.

**18.** (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. Ibid. s. 29.

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

**19.** (1) On the day so notified, or on any subsequent day, the magistrate may proceed to investigate the pension claim, for the purpose of ascertaining whether the claimant is entitled to a pension, and, if so, at what rate. Investigation by magistrate. Ibid. s. 30.



*Widows' Pensions.*

(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.

5 (3) In order to ascertain the circumstances of the claimant, evidence may be taken at the hearing from officers and members of the governing bodies of any charitable institution or society, or any other persons whomsoever.

10 (4) In investigating the pension 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  
15 technicalities or legal forms.

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

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

but no pension claim shall be recommended unless the magistrate is satisfied that the claim is established and unless the evidence (if any) of the claimant is  
25 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 intrusted with a pension, he shall make a special  
30 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  
35 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.

40 (4) If the magistrate is of opinion that the pension claim is not established, and cannot be mended by

Recom-  
mendation by  
magistrate.  
cf. C'wlth.  
Act, 1908-25,  
s. 31.



*Widows' Pensions.*

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.

**21.** (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 Minister, who may cause an investigation thereof to be made by the registrar, and the decision of the Minister shall be final and conclusive and without appeal.

Appeal or fresh evidence.  
cf. C'wlth. Act, 1908-25, s. 32.

(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.

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

Determination of claim.  
*Ibid.* s. 33.

(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 registrar, who shall determine the application.

(3) The determination of the registrar shall, if in favour of the claim, set out the rate of the pension and the date of its commencement (which must not be prior to the date of the claim), and a pension certificate in the prescribed form shall thereupon be issued to the claimant.

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

**23.** At the request of the registrar a magistrate may rehear a pension claim previously admitted or rejected,

Rehearing of pension claim.

and *Ibid.* s. 34.



*Widows' Pensions.*

and the registrar 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  
5 upon the original hearing.

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

(2) Where any decision cancelling, suspending, or reducing a pension has been given under this section the registrar shall indorse the pension certificate  
15 accordingly.

**25.** (1) In any case where a pension certificate is cancelled the pension shall be deemed to be absolutely forfeited.

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

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

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

**27.** (1) Whenever required by the registrar each pensioner shall send to the registrar a statement in the  
35 prescribed form relating to his income and accumulated property.

(2) If upon investigation the registrar is satisfied that the pension should be discontinued, or that the rate of the pension is greater or less than it should be, he may  
40 discontinue the pension or reduce or increase the rate of pension accordingly.



*Widows' Pensions.*

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

Powers of  
magistrates.  
C'wlth. Act,  
1908-25,  
s. 38A.

(a) summon witnesses;

(b) receive evidence on oath; and

5 (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,  
10 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  
15 required to answer, shall be guilty of an offence against this Act.

**29.** On application in the prescribed form, the registrar may direct the issue of a duplicate pension certificate in any case where satisfactory proof is given  
20 of the loss or destruction of the original.

Duplicate  
pension  
certificate.  
*Ibid.* s. 36.

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

Pension  
certificate.

25 (2) A pension certificate shall be signed by 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 registrar, the Minister may appoint some other  
30 officer to sign the certificate.

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

(5) The certificate shall in each case specify the amount of the pension payable thereunder, the  
35 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,  
40 and every such change shall be recorded by the registrar on the pension certificate.



*Widows' Pensions.*

- 31.** (1) At least one month before the due date of the last instalment of pension authorised to be paid by a pension certificate, or at such earlier time as may be prescribed, a pensioner may apply in the manner prescribed for a pension certificate for a further period. Renewal of pension certificates.
- (2) With the application, which shall be lodged with the deputy registrar of the district in which the claimant resides, the claimant shall lodge a statement in the prescribed form (verified by statutory declaration) setting out such particulars as may be prescribed to show that she is qualified to receive a pension and has not from any cause become disqualified.
- (3) The application for a pension certificate for a further period shall be dealt with in like manner to that prescribed for dealing with an original pension claim, save that, with the approval of the registrar the reference to a magistrate may be dispensed with.

*DIVISION 3.—Payment of Pensions.*

- 32.** (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 pensioner, and the production of his pension certificate to the officer in charge at the office or place named therein. Instalment to be applied for within twenty-one days. cf. C'wlth. Act, 1908-25, s. 40.
- (2) In default of strict compliance by the pensioner 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 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 the pensioner's illness or debility or temporary absence from the locality in which the pension is payable, or other sufficient cause; or

(b)



*Widows' Pensions.*

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

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

**33.** Every instalment shall be absolutely forfeited and no pension certificate shall be granted—

Forfeiture of instalments in certain cases.

10 (a) during any period while the pensioner 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 pensioner satisfies the registrar that during such absence the family or home of the pensioner was in New South Wales;

cf. N.Z. Act, 1913, No. 10, s. 48.

(b) if the pensioner marries;

15 (c) as from the date the pensioner becomes qualified to receive an old-age or invalidity pension under any Act of the Parliament of the Commonwealth of Australia.

**34.** Subject to this Act, a pension shall be absolutely inalienable whether by way or in consequence of sale, assignment, charge, execution, bankruptcy, or otherwise howsoever.

Pension absolutely inalienable. C'with. Act, 1908-25, s. 41.

**35.** (1) Every pension 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 pensioner shall have any claim for compensation or otherwise by reason of his pension being affected by the operation of this Act or any such other Act.

Pensions granted subject to any future Act.

*Ibid.*

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

**36.** (1) Whenever the registrar is satisfied that, having regard to the age, infirmity, ill-health, insanity, or improvidence of a pensioner, or any special circumstances of the pensioner or her children, it is expedient that payment of any instalments of the pension be made to any

Payment to other person of pensions. *Ibid.* s. 43.



*Widows' Pensions.*

any other person, a warrant to that effect shall be issued by the registrar, and transmitted to the person authorised therein to receive payment.

(2) Subject to the regulations, and to the 5 directions and limitations, if any, contained in the warrant, the person named therein shall be entitled on its production to receive payment of the pension.

(3) The moneys so received shall be applied by him for the benefit of the pensioner and her child, and 10 he shall account to the registrar in the prescribed manner for all moneys so received by him.

(4) A warrant issued by the registrar under this section may at any time be revoked by the registrar upon notice to the person to whom it was issued, and to 15 the officer in charge of the office or place at which the pension is payable.

**37.** (1) In case of the death of a pensioner the guardian or other person for the time being having the maintenance care or control of her children to whom 20 this Act applies shall, with the approval of the Minister, be entitled to apply for and receive the pension at the rate of ten shillings per week to which the widow would have been entitled in respect of each child if she had lived. On death of widow guardian may receive pension on behalf of children. cf. N.Z. Act, 1913, No. 10, s. 21.

25 (2) The pension shall cease in respect of each child when such child attains the age of fourteen years.

(3) Applications under the last preceding subsection and the method of accounting for moneys received by such guardian or person shall be as 30 prescribed.

**38.** The right to a pension or the amount of a pension shall not be affected during any period covered by a pension certificate by reason merely of the fact that a child of the pensioner has within that period 35 attained the age of fourteen years, or by reason merely of the death of a child of the pensioner. Death, &c., of child. cf. *Ibid.* s. 22.

**39.** The following provisions shall apply to the payment of instalments of pensions :— Procedure as to payment of instalments of pensions.

40 (a) the officer in charge of an office or place at which a pension is payable may, if he thinks fit, require the applicant for payment to prove his cf. C'wlth. Act, 1908-25, s. 48.



*Widows' Pensions.*

- his identity, but, subject to the regulations, he may accept the production of the pension certificate as sufficient evidence that the person producing it is the person entitled to payment;
- 5 (b) when making the payment, the officer shall record on the pension 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;
- 10 (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
- 15 made in any court or proceeding whatsoever, by the pensioner or any person whomsoever, in respect thereof; and
- (d) upon payment of the last instalment authorised by a pension certificate, the certificate shall be
- 20 retained by the paying officer and forwarded by him to the registrar for cancellation.

## PART IV.

## OFFENCES.

- 40.** (1) Any person who—
- 25 (a) wilfully makes any false statement or representation to obtain a pension certificate, or pension, or any instalment of a pension, or to deceive any officer, or to affect the rate of any pension; or
- 30 (b) by any unlawful means obtains payment of any forfeited or suspended instalment of pension; or
- (c) by means of personation or any fraudulent device whatsoever obtains payment of any instalment of pension; or
- 35 (d) by any wilfully false statement or representation aids or abets any person in obtaining or claiming a pension certificate or pension or instalment of a pension; or
- (e) wilfully lends a pension certificate to any other person; or (f)

Offences  
cf. C'wlth.  
Act, 1908-25,  
s. 49.



*Widows' Pensions.*

- (f) receives any money in consideration of or in N.Z. Act, 1913, No. 10, s. 61. respect of the procuring of any pension or pension certificate,  
 shall be guilty of an offence against this Act.
- 5 (2) Where a pensioner is convicted of an offence under this section the registrar may, in addition to any other penalty imposed in respect of the offence, cancel the pension certificate in respect of the issue of which the offence was committed.
- 10 **41.** (1) Any person who commits an offence against Penalties. 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  
 15 regulations may be recovered in a summary manner.
- (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 registrar.
- 20 (4) Any such proceedings may be taken by the registrar or some person appointed by him in writing either generally or in a particular case.

## PART V.

## MISCELLANEOUS.

- 25 **42.** (1) All pensions granted under the provisions Appropriation. of this Act are hereby charged upon the Consolidated Revenue Fund, and such fund to the extent required for the payment of such pensions is hereby permanently appropriated.
- 30 (2) All expenses incurred in administering this Act shall be payable out of moneys to be from time to time appropriated by Parliament.
- 43.** Where it is found that any pension or instal- Payments in excess may be recovered. ment of a pension has been paid in excess of the amount Ibid. s. 52. to which the pensioner was by law entitled, the amount so paid in excess may be recovered from the pensioner or her legal representative, as a debt due to the Crown.



*Widows' Pensions.*

**44.** (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 in particular in regard to all or any of the following matters:—

- (a) the powers and duties of the registrar and officers;
  - 10 (b) the forms of pension 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 pension claims and particulars in regard thereto;
  - 15 (d) the forms of pension certificates;
  - (e) the mode of valuing properties;
  - (f) proceedings before a magistrate, the registrar, or any deputy registrar;
  - (g) the forms of receipt to be given for any pension; and
  - 20 (h) the delivery up by and recovery of pension certificates cancelled or suspended or lapsed on death or for any other reason.
- (2) The regulations may impose a penalty not exceeding twenty pounds for any breach thereof.
- 25 (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
  - 30 (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
  - 35 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
  - 40 or part shall thereupon cease to have effect.