

Social Security Amendment Act 1939

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An Act to amend the Social Security Act, 1938.

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

1 Short Title.
1938, No. 7

This Act may be cited as the Social Security Amendment Act, 1939, and shall be read together with and deemed part of the Social Security Act, 1938 (hereinafter referred to as the principal Act).

Amendments affecting Part II of Principal Act

2 Section 18 of principal Act amended.

Section eighteen of the principal Act is hereby amended by adding thereto the following proviso:—

“Provided that the Commission may, if in the circumstances of any case it thinks fit so to do, regard any child as being a child of the applicant for the purposes of this section if such child is being maintained by the applicant or by the wife or husband of the applicant.”

3 Section 24 of principal Act amended.

- (1) Section twenty-four of the principal Act is hereby amended by adding to subsection one thereof the following words “and (where the applicant for the benefit has attained the age of sixty years) also reduced by one pound for every complete ten pounds of the net capital value of the accumulated property of the applicant, computed as in the case of applicants for age-benefits.”

- (2) The amendment to section twenty-four of the principal Act, contained in the foregoing provisions of this section, shall not apply with respect to any widow's benefit granted before the passing of this Act, but shall, where applicable, apply with respect to the renewal of any such benefit.

4 Section 34 of principal Act amended.

- (1) Section thirty-four of the principal Act is hereby amended by adding thereto the following subsections:—

“(6) Subject to the provisions of the next succeeding subsection an applicant for an invalid's benefit who is living apart from his wife or her husband, as the case may be, pursuant to a decree of judicial separation, or a separation order, or a deed of separation, shall be deemed for the purposes of this section to be an unmarried applicant.

“(7) Nothing in the last preceding subsection shall affect the amount of any invalid's benefit in so far as it is computed by reference to any dependent child or dependent children.”

Saving of existing benefits.

- (2) The amendments to section thirty-four of the principal Act, contained in the foregoing provisions of this section, shall not apply so as to reduce the rate of any invalid's benefit that has been granted before the passing of this Act or so as to reduce the rate of any such benefit on its renewal.

5 Rates of age-benefits to persons who were in receipt of invalidity pensions on 31st March, 1939.

- (1) This section applies with respect only to those persons who, on the thirty-first day of March, nineteen hundred and thirty-nine, were in receipt of invalidity pensions under Part II of the Pensions Amendment Act, 1936.
- (2) Notwithstanding anything to the contrary in Part II of the principal Act, where any person to whom this section applies has heretofore been or is hereafter granted an age-benefit, the rate of that benefit shall not at any time be less than the rate of the invalidity pension to which he would for the time being be entitled under Part II of the Pensions Amendment Act, 1936, if that Part of that Act had not been repealed.
- (3) The rate of any age-benefit granted before the passing of this Act to any person with respect to whom this section applies, at a rate less than the rate provided for in this section, shall be deemed to be increased to the rate provided for in this section as from the commencement of that benefit.

6 Section 41 of principal Act amended.

Section forty-one of the principal Act is hereby amended by adding to subsection four thereof the following proviso:—

“Provided that the Commission may, if in the circumstances of any case it thinks fit so to do, regard any child as being a child of the applicant for the purposes of this section if such child is being maintained by the applicant.”

7 Section 47 of principal Act amended.

- (1) Section forty-seven of the principal Act is hereby amended by omitting therefrom all words after the words “or a like benefit from any other source”, and substituting the words “a sickness benefit under this Part of this Act shall not be payable of such an amount that the total amount received by the applicant from all sources for any week will exceed five pounds.”
- (2) If any question arises as to whether any moneys received or receivable by an applicant for a sickness benefit are of a like nature to a sick-benefit payable by a friendly society it shall be determined by the Commission.

8 Section 63 of principal Act amended.

Section sixty-three of the principal Act is hereby amended by inserting, after the words “or an unemployment benefit” in subsection three thereof, the words “or an emergency benefit”.

Amendments affecting Part III of Principal Act

9 Commencement of Part III of principal Act.

- (1) Part III of the principal Act (except section ninety-nine thereof) shall be deemed to have come into force on the first day of April, nineteen hundred and thirty-nine.
- (2) Section ninety-nine of the principal Act shall be deemed to have come into force on the fifteenth day of May, nineteen hundred and thirty-nine (being the date appointed by the Minister for the commencement of maternity benefits under the principal Act).
- (3) Section ninety-nine of the principal Act is hereby consequentially amended, as from the passing of that Act, by omitting the words “commencement of this Part of this Act” wherever those words occur, and in each case substituting the words “coming into force of this section”.
- (4) Notwithstanding anything to the contrary in section ninety-nine of the principal Act, if any woman who is not entitled to maternity benefits by reason of the fact that she is not ordinarily resident in New Zealand receives treatment in a State maternity hospital such reasonable charges as the Minister may approve may be made in respect of such treatment.

10 Hospital benefits in licensed mental hospitals.

- (1) Any institution in respect of which a license is for the time being in force under section forty-five of the Mental Defectives Act, 1911, may be recognized and

approved by the Minister of Health as a hospital for the purposes of Part III of the principal Act.

- (2) Section ninety-four of the principal Act is hereby consequentially amended as from the passing of that Act by inserting the word “public” before the word “institution” in subsection one thereof.

Special Provisions as to Maternity Benefits

11 Section 95 of principal Act amended.

- (1) Section ninety-five of the principal Act is hereby amended by adding to subsection one the following paragraph:—

“(d) In the case of a woman who suffers a miscarriage after having received any antenatal advice or treatment from any medical practitioner or midwife, all such medical services as she may require in relation to the miscarriage, for a period of fourteen days.”

- (2) The benefits provided for by paragraph (d) of subsection one of section ninety-five of the principal Act, as set out in the last preceding subsection may, in special cases, with the approval of the Minister or of the Director-General on behalf of the Minister, be afforded notwithstanding that the conditions prescribed by that paragraph have not been complied with.
- (3) Section ninety-five of the principal Act is hereby further amended by omitting from subsection two thereof all words commencing with the words “The medical practitioner so selected” down to and including the words “in relation to such services”.

12 Fixation of fees payable for medical services afforded in relation to maternity benefits.

- (1) The amount of the fees to be paid out of the Social Security Fund for any medical services afforded in relation to maternity benefits shall be determined in accordance with a scale of fees to be fixed in accordance with this section.
- (2) Such scale of fees may be fixed by agreement between the Minister and any person or persons having the authority of the New Zealand Branch of the British Medical Association (hereinafter referred to as the Medical Association) to enter into such an agreement.
- (3) In default of agreement, or in so far as any such agreement does not extend, the scale of fees shall be fixed by a tribunal to be appointed by the Minister, consisting of a President and two assessors. The President of the tribunal shall be a Judge of the Supreme Court or, if in the opinion of the Minister of Justice a Judge of the Supreme Court is not available for the purpose, the President shall be some other suitable person whose appointment as President is agreed to both by the Minister and the Medical Association. One of the assessors shall be appointed on the recommendation of the Council of the Medical

Association, and the other shall be selected by the Minister. A decision by any two members of the tribunal shall be deemed to be a decision of the tribunal.

- (4) The first scale of fees fixed in accordance with this section shall come into force on a date to be fixed in that behalf by the Minister (being not earlier than the date of the passing of this Act).
- (5) Any scale of fees may at any time be altered by agreement between the Minister and appointed representatives of the Medical Association, and unless so altered shall, subject to the provisions of the next succeeding subsection, continue in force for a period of two years and thereafter until a new scale of fees comes into force.
- (6) The Minister or the Medical Association may at any time give notice that the scale of fees should be revised, and such scale shall thereupon be revised in accordance with the foregoing provisions of this section, and the revised scale shall come into force on the expiry of the period fixed for the duration of the former scale, unless an earlier or a later date is agreed to or is fixed by a tribunal appointed for the purposes of this section.
- (7) In addition to fees for medical services, the scale of fees may fix mileage fees in respect of visits to patients, and may specify the circumstances and conditions in and subject to which mileage fees will be payable out of the Social Security Fund.

13 Medical practitioners entitled to scale fees for services rendered in relation to maternity benefits.

- (1) Except as provided in subsection three or in subsection four of this section, every medical practitioner who renders any services for which fees are fixed in accordance with the last preceding section to any woman who is entitled to receive maternity benefits under the principal Act shall be entitled to receive from the Fund fees calculated in accordance with the scale of fees for the time being in force. Payment of the fees calculated as aforesaid shall be accepted by the medical practitioner in full satisfaction of his claims in respect of the services for which the payment is made.
- (2) Where any medical practitioner renders any medical services in respect of which fees are not fixed as aforesaid, he may charge a fee for such services, and may recover the same from the patient or any other person liable for the payment of the fee and nothing in the principal Act shall be construed to affect the liability of any such person to pay for such services. The authority conferred by this subsection shall include authority to charge and recover reasonable mileage fees in respect of visits to patients for travelling distances for which mileage fees are not made payable out of the Social Security Fund.
- (3) Except as provided in the next succeeding section, with respect to obstetric specialists, no medical practitioner shall demand or accept or be entitled to recover from the patient or any other person any fees in respect of services

rendered by him for which he is entitled to receive payment out of the Social Security Fund:

Provided that if any woman who is entitled to receive maternity benefits under the principal Act notifies the medical practitioner concerned (before he has undertaken to accept her as a patient for medical treatment in relation to maternity) that she does not wish to receive any medical treatment by way of maternity benefits, the medical practitioner shall not be entitled to make a claim for payment out of the Social Security Fund in respect of services afforded to such woman, and may recover the amount of his fees from the patient or from any other person liable for the payment thereof.

- (4) Any medical practitioner may at any time give notice in writing to the Minister that he is unwilling to afford medical services in relation to maternity benefits on the terms provided for in this section, and any medical practitioner who has given such notice may recover any fees in respect of his professional services as if this Act had not been passed. Any notice given by a medical practitioner to the Minister in accordance with this subsection may at any time be in like manner withdrawn.
- (5) The Minister shall from time to time give public notice in such manner as he deems sufficient of the names of all medical practitioners who, in accordance with the last preceding subsection, have notified him that they are unwilling to afford medical services in relation to maternity benefits.

14 Special provisions as to obstetric specialists.

- (1) For the purposes of this section the expression "obstetric specialist" means a medical practitioner who is recognized by the Minister as an obstetric specialist in accordance with the following provisions of this section.
- (2) No medical practitioner shall be recognized as an obstetric specialist unless the Minister is satisfied—
 - (a) That his practice is wholly or mainly devoted to maternity work or to maternity work and gynæcology, and that he is generally recognized by medical practitioners in the health district in which he practises as having special skill and experience in obstetrics; or
 - (b) That he is the possessor of recognized academic qualifications in obstetrics, and that he has held or holds hospital or other public appointments affording special opportunities for acquiring special skill and experience in obstetrics.
- (3) Every application by a medical practitioner for recognition as an obstetric specialist shall be referred by the Minister to the Director-General of Health and to the Council of the New Zealand Branch of the British Medical Association for report and recommendations, and the Minister shall take such reports and recommendations into consideration before granting or refusing the application.

- (4) Any medical practitioner who is recognized as an obstetric specialist in accordance with the foregoing provisions of this section may, in addition to the fees payable to him from the Social Security Fund for medical services afforded by him in relation to maternity benefits, charge a fee for such services and may recover such fee from any person liable for the payment of the same.
- (5) The Minister shall from time to time give public notice in such manner as he deems sufficient of the names of all medical practitioners who are duly recognized as obstetric specialists for the purposes of this section.

15 Special provisions as to existing contracts to provide medical services in relation to maternity benefits.

- (1) Any medical practitioner who on the passing of this Act is party to a contract with the Minister to provide medical services in relation to maternity benefits may, at any time within one month after the first scale of fees has been fixed in accordance with the provisions of section twelve hereof, elect, by notice in writing delivered to the Minister, that the contract shall continue in force, and in any such case the rights and obligations of that medical practitioner under the contract shall, so long as the contract remains in force, be determined as if this Act had not been passed.
- (2) Any medical practitioner, being party to any such contract as aforesaid, who does not elect in accordance with the last preceding subsection that the contract shall continue in force, shall be deemed to have elected that the contract shall be terminated on the date on which the first scale of fees comes into force in accordance with section twelve hereof, and in any such case the provisions of section thirteen of this Act as to the payment of fees shall apply with respect to all medical services thereafter rendered by him in relation to maternity benefits.

Amendments affecting Part IV of Principal Act

16 Section 109 of principal Act amended.

Section one hundred and nine of the principal Act is hereby amended, as from the passing of that Act, by adding thereto the following subsection:—

- “(4) Unless the context otherwise requires, all terms and expressions used in the Land and Income Tax Act, 1923, and also in this Part of this Act shall, when used in this Part of this Act, have the same meaning as when used in the Land and Income Tax Act, 1923.”

17 Section 112 of principal Act (as to exemptions on grounds of hardship) amended.

- (1) Section one hundred and twelve of the principal Act is hereby amended, as from the passing of that Act, by omitting from subsection two the words “but nothing in this section shall authorize the refund of any instalment or penalty”, and substituting the words “For the purpose of giving effect to any exemption

granted under this section the Commissioner may refund, in whole or in part, any instalment or penalty in any case where application in writing for exemption has been made on or before payment of the instalment or penalty, but not in any other case.”

- (2) The powers conferred on the Commissioner, by section one hundred and twelve of the principal Act may be exercised by him in respect of a company if, having regard to the financial circumstances of the company or to the financial or other circumstances of any shareholders of the company, he thinks fit so to do.

18 Section 118 of principal Act affected.

- (1) Where any person, in respect of his employment or service, receives any benefits in kind to which subsection two of section one hundred and eighteen of the principal Act applies, but does not receive any payment in money in respect of such employment or service, the charge in respect of the value of such benefits in kind shall become payable on the last day of each week in which any such benefit is received, or on such other dates as the Commissioner, by arrangement with the employer, may determine in any case.
- (2) This section shall be deemed to have come into force on the commencement of Part IV of the principal Act.

19 Section 122 of principal Act amended.

Section one hundred and twenty-two of the principal Act is hereby amended, as from the passing of that Act, by adding the following subsection:—

- “(4) The provisions of the last preceding subsection shall, with any necessary modifications, apply with respect to income derived for the year ending on the thirty-first day of March, nineteen hundred and thirty-nine, by any person who may have died before the first day of May, nineteen hundred and thirty-nine (being the due date of the first instalment of the charge on income other than salaries and wages), or by the administrator of the estate of any such person.”

20 Section 124 of principal Act (as to income derived by trustees) amended.

Section one hundred and twenty-four of the principal Act is hereby amended, as from the passing of that Act, as follows:—

- (a) By omitting from subsection one all words down to and including the words “are applicable”, and substituting the following words: “Every trustee who for any year derives any income which is not also income derived by a beneficiary entitled in possession to the receipt thereof under the trust during the same income year”; and
- (b) By adding to subsection three the following proviso:—

“Provided that the exemption provided for by this subsection shall not apply with respect to any income derived by a trustee and held by him as capital for any beneficiary.”

21 Any company liable under principal Act to a charge on its income may adjust dividends payable to preference shareholders.

- (1) Any company that has paid or is liable to pay a charge on its income in accordance with section one hundred and twenty-five of the principal Act may, notwithstanding anything to the contrary in any contract with any shareholder or in the terms on which any of its shares were issued, reduce the amount of the dividends payable to any shareholder by an amount not exceeding one penny for every sum of one shilling and eightpence or part thereof included in the amount of his dividends.
- (2) The last preceding subsection shall be deemed to have come into force on the commencement of Part IV of the principal Act.
- (3) Where any company to which this section applies has before the passing of this Act paid to any shareholder dividends of an amount in excess of the amount that it would have been required to pay to him if this section had been passed before such dividends were paid, it may recover the amount of the excess as a debt due to the company from the person to whom the dividends were paid, or it may make any necessary adjustments by a reduction of any dividends that may be paid or payable to the shareholder after the passing of this Act.

22 Repeal.

Section one hundred and twenty-seven of the principal Act is hereby amended by repealing subsection five thereof:

Provided that any income derived elsewhere than from New Zealand during any year prior to the year commencing on the first day of April, nineteen hundred and thirty-nine, shall be exempt from the charge imposed by the principal Act to the same extent (if any) as if this section had not been passed.