
INVALID AND OLD-AGE PENSIONS.

No. 17 of 1908.

An Act to provide for the Payment of Invalid and Old-age Pensions and for other purposes.

[Assented to 10th June, 1908.]

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

PART I.—INTRODUCTORY.

1. This Act may be cited as the *Invalid and Old-age Pensions Act* Short title.
1908.

2. This Act shall commence on the first day of July One thousand nine hundred and nine or on such earlier day as is fixed by Proclamation. Commencement.

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

PART I.—Introductory.

PART II.—Administration.

PART III.—Old-age Pensions.

PART IV.—Invalid Pensions.

PART V.—Invalid and Old-age Pensions.

Division 1.—Rate of Pensions.

Division 2.—Pension Claims.

Division 3.—Payment of Pensions.

PART VI.—Offences.

PART VII.—Miscellaneous.

Definitions.

Cf. N.S.W.
1900, No. 74,
s. 3; Vic. 1901,
No. 1751, s. 2;
Q. 1908, No. 6,
s. 2.

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

“Benevolent Asylum” means any benevolent asylum which is wholly or partly maintained by contributions from the Consolidated Revenue Fund of the Commonwealth or the Consolidated Revenue of a State, and which is proclaimed by the Governor-General to be a benevolent asylum for the purposes of this Act.

“Claimant” means an applicant for a pension.

“The Commissioner” means the Commissioner of Pensions under this Act.

“Deputy Commissioner” means a Deputy Commissioner of Pensions under this Act.

“Hospital” means any hospital which is wholly or partly maintained by contributions from the Consolidated Revenue Fund of the Commonwealth or the Consolidated Revenue of a State, and which is proclaimed by the Governor-General to be a hospital for the purposes of this Act.

“Income” means any moneys, valuable consideration, or profits earned derived or received by any person for his own use or benefit by any means from any source whatever, whether in or out of the Commonwealth, and shall be deemed to include personal earnings, but not any payment—

(a) By way of benefit from any friendly society registered under any Act or State Act, or

(b) During illness, infirmity, or old-age from any trade-union, provident society, or other society or association.

“Magistrate” means a Police, Stipendiary, or Special Magistrate of the Commonwealth or a State.

“The Minister” means the Minister of State administering this Act.

“Pension” means an invalid or old-age pension under this Act.

“Pensioner” means an invalid or old-age pensioner under this Act.

“Registrar” means a Registrar of Pensions under this Act.

“Relatives” means the husband, wife, or children of a claimant or pensioner, as the case may be.

“This Act” includes all Regulations made thereunder.

(2.) Where, in relation to any act of a Registrar, reference is made to the Deputy Commissioner, the reference shall be deemed to be to the Deputy Commissioner for the State in which the Registrar's district is situated.

PART II.—ADMINISTRATION.

Commissioner.

Cf. N.S.W.
1900, No. 74,
ss. 7, 8 (1); Vic.
1901, No. 1751,
s. 3; Q. 1908,
No. 6, s. 2.

5. There shall be a Commissioner of Pensions, who shall, subject to the control of the Minister, have the general administration of this Act.

Deputy Commissioners.

6. There shall be a Deputy Commissioner for each State, who shall, subject to the control of the Commissioner, have the powers conferred on him by this Act.

7. The Commissioner and the Deputy Commissioners may, for the purposes of this Act—

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

Powers of
Commissioner
and Deputy
Commissioners.
Cf. No. 21, 1903,
s. 14.

8. No person who has been summoned to appear as a witness before the Commissioner or a Deputy Commissioner shall, without lawful excuse, and after tender of reasonable expenses, fail to appear in obedience to the summons.

Penalty for
disobedience of
summons.
No. 21, 1903,
s. 15.

Penalty : Twenty pounds.

9. No person who appears before the Commissioner or a Deputy Commissioner as a witness shall, without lawful excuse, refuse to be sworn, or to make an affirmation, or to produce documents, or to answer questions which he is lawfully required to answer.

Penalty for
refusing to give
evidence.
No. 21, 1903,
s. 16.

Penalty : Fifty pounds.

10.—(1.) It shall be the duty of the Commissioner, as soon as may be after the commencement of this Act, to divide each State of the Commonwealth into districts for the purposes of this Act.

Division of
States into
districts.

(2.) The Commissioner may, by notice in the *Gazette*, alter the boundaries of any district.

11. In and for each district, there shall be a Registrar, to be called the Registrar of Pensions, who shall have power to administer oaths, and shall perform such duties as are by this Act imposed upon him.

Registrars.

12. It shall be the duty of the Registrar for any district—

- (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 or as the Commissioner or the Deputy Commissioner directs.

Duties of
Registrars.

13. The Commissioner and all Deputy Commissioners and Registrars appointed under this Act shall, before entering upon their duties or exercising any powers under this Act, make before a Justice of the Peace or Commissioner for Affidavits a declaration in accordance with the prescribed form.

Declaration by
officers.
No. 15, 1905,
s. 7.
Cf. N.S.W.
1906, No. 74,
s. 3 (2); Vic.
1901, No. 1751,
s. 4 ; Q. 1908,
No. 6, s. 4.

14.—(1.) The Minister may, in relation to any particular matters or class of matters, or to any particular State or part of the Commonwealth, by writing under his hand, delegate all or any of his powers under this Act (except this power of delegation), so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters or the State or part of the Commonwealth specified in the instrument of delegation.

Delegation by
Minister.
Cf. No. 21,
1903, s. 11.

(2.) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power by the Minister.

PART III.—OLD-AGE PENSIONS.

Who may
receive pensions.
Vic. 1901, No.
1751, s. 6.
Cf. N.S.W. 1900,
No. 74, ss. 9, 10 ;
Q. 1908, No. 6,
s. 6.

15.—(1.) Subject to this Act, every person who has attained the age of sixty-five years, or who, being permanently incapacitated for work, has attained the age of sixty years, shall, whilst in Australia, be qualified to receive an old-age pension.

(2.) The Governor-General may by proclamation declare that the age at which women shall be qualified to receive an old-age pension shall be sixty years, and from and after such proclamation the last preceding sub-section shall, as regards women, be read as if the word "sixty" were substituted for the word "sixty-five."

(3.) No old-age pension shall be paid to any person who is under the age of sixty-five years unless and until his claim is certified by a Registrar pursuant to this Act, and is recommended in writing by a Deputy Commissioner.

Provided that this sub-section shall not, after proclamation under the last preceding sub-section, apply to women.

Persons
disqualified.
Cf. N.S.W. 1900,
No. 74, s. 51 ;
Vic. 1901, No.
1751, ss. 6 (3), 7 ;
Q. 1908, No. 6,
s. 7.

16.—(1.) The following persons shall not be qualified to receive an old-age pension, namely :—

- (a) Aliens ;
- (b) Naturalized subjects of the King who have not been naturalized for the period of three years next preceding the date of their pension claims ;
- (c) Asiatics (except those born in Australia), or aboriginal natives of Australia, Africa, the Islands of the Pacific, or New Zealand.

(2.) No woman having married one of the persons disqualified by this section shall, in consequence only of such marriage, be or become disqualified to receive a pension.

Necessary
conditions.
Cf. N.S.W. 1900,
No. 74, s. 9 ;
Vic. 1901,
No. 1751, s. 8 ;
1903, No. 1865,
s. 3 ; Q. 1908,
No. 6, s. 8.

17. No person shall receive an old-age pension unless —

- (a) he is residing in Australia on the date when he makes his claim to the pension ;
- (b) he has on that date so resided continuously for at least twenty-five years ;
- (c) he is of good character ;
- (d) if a husband, he has not for twelve months or upwards during five years immediately preceding that date, without just cause, deserted his wife, or without just cause failed to provide her with adequate means of maintenance, or neglected to maintain any of his children being under the age of fourteen years ; or, if a wife, she has not for twelve months during five years immediately preceding such date, without just cause, deserted her husband, or deserted any of her children being under the age of fourteen years ;
- (e) the net capital value of his accumulated property, whether in or out of Australia, does not exceed Three hundred and ten pounds ;

- (f) he has not directly or indirectly deprived himself of property or income in order to qualify for or obtain a pension; and
- (g) he has not at any time within six months been refused a pension certificate, except for the reason that he was disqualified on account of his age or for reasons which are not in existence at the time of the further application.

18.—(1.) Continuous residence in Australia shall not be deemed to have been interrupted by occasional absences not exceeding in the aggregate one-tenth of the total period of residence.

Occasional short absences. ¶
 Cf. N.S.W. 1900, No. 74, s. 9; Vic. 1901, No. 1751, s. 9; Q. 1908, No. 6, s. 9.

(2.) A person, whether claimant or pensioner, shall not be deemed to be absent from Australia during any period of absence from Australia if he proves that during that period his home was in Australia, and if married that his wife and family, or his wife (if he has no family), or his family (if his wife is dead), resided in Australia and were maintained by him.

PART IV.—INVALID PENSIONS.

19. This Part shall not come into operation on the commencement of this Act, but shall come into operation on a subsequent day to be fixed by Proclamation.

Commencement of this Part.

20. Subject to this Act, every person above the age of sixteen years who is permanently incapacitated for work, by reason of an accident or by reason of his being an invalid, and who is not receiving an old-age pension, shall, whilst in Australia, be qualified to receive an invalid pension.

Conditions on which such pension may be granted.

Cf. N.S.W., 1907, No. 22

21.—(1.) The following persons shall not be qualified to receive an invalid pension, namely:—

Persons disqualified.

(a) Aliens.

(b) Asiatics (except those born in Australia), or aboriginal natives of Australia, Africa, the Islands of the Pacific, or New Zealand.

(2.) No woman having married one of the persons disqualified by this section shall, in consequence only of such marriage, be or become disqualified to receive a pension.

22. No person shall receive an invalid pension unless—

Necessary conditions.

(a) he is residing in Australia on the date when he makes his claim to the pension;

(b) he has on that date resided in Australia continuously (within the meaning of section eighteen) for at least five years;

(c) he has become permanently incapacitated whilst in Australia;

C. 7869.

- (*d*) the accident or invalid state of health was not self-induced, nor in any way brought about with a view to obtaining a pension ;
- (*e*) he has no claim against any employer, company, or other person, or body, compellable under private contract or public enactment to adequately maintain or compensate him on account of accident or invalid state of health ;
- (*f*) his income or property does not exceed the limits prescribed in the case of applicants for old-age pensions ;
- (*g*) he has not directly or indirectly deprived himself of income or property in order to qualify for a pension ; and
- (*h*) his relatives, namely, father, mother, husband, wife, or children do not, either severally or collectively adequately maintain him.

Amount of pension.
Cf. N.S.W. 1907, No. 22,

23.—(1.) The amount of an invalid pension shall in every case be determined annually by the Commissioner or Deputy Commissioner, having regard to any income or property possessed by the applicant, and the fact that his relatives contribute to his maintenance, and the fact also of his having received compensation from any source in respect of any injury.

Examination by medical practitioner.

(2.) The Commissioner or Deputy Commissioner shall in all cases of invalidity, and also in cases of accident where the permanent incapacity for work is not manifest, direct an examination of the claimant to be made by a duly qualified medical practitioner, who shall certify in the prescribed form whether the claimant is permanently incapacitated for any work, giving the prescribed particulars. In his final determination the Commissioner or Deputy Commissioner shall be guided by the certificate of the medical practitioner.

PART V.—INVALID AND OLD-AGE PENSIONS.

DIVISION I.—RATE OF PENSIONS.

Limit of pension.
Cf. N.S.W. 1900, No. 74, s. 11 (2) ; Vic. 1901, No. 1751, ss. 10, 11 ; Q. 1908, No. 6, s. 10.

24.—(1.) The amount of a pension shall in each case be at such rate as, having regard to all the circumstances of the case, the Commissioner or Deputy Commissioner who determines the pension claim deems reasonable and sufficient, but shall not exceed the rate of Twenty-six pounds per annum in any event, nor shall it be at such a rate as will make the pensioner's income, together with pension, exceed Fifty-two pounds per annum.

(2.) Where the pensioner has accumulated property, the amount of a pension shall be subject to the following deductions :—

- (*a*) One pound for every complete Ten pounds by which the net capital value of the property exceeds Fifty pounds, except where the property includes a home in which the pensioner permanently resides, and which produces no income ; and

- (b) One pound for every complete Ten pounds by which the net capital value of the property exceeds One hundred pounds, where the property includes a home in which the pensioner permanently resides, and which produces no income.

Provided that, where both husband and wife are pensioners, except where they are living apart pursuant to any decree, judgment, order, or deed of separation, in making the deduction in the case of each of them—

paragraph (a) shall be read with the substitution of Twenty-five pounds for Fifty pounds, and

paragraph (b) shall be read with the substitution of Fifty pounds for One hundred pounds.

25. The net capital value of accumulated property shall be assessed in the prescribed manner, and, unless otherwise prescribed, the following provisions shall apply:—

- (a) All real and personal property owned by any person shall be deemed to be his accumulated property :
- (b) From the capital value of such accumulated property there shall be deducted all charges or encumbrances lawfully and properly existing on the property, and the residue remaining shall be deemed to be the net capital value of all accumulated property :
- (c) Where a valuation has been made for any local authority of any accumulated real property, that valuation, being the last valuation of the property, may for the purposes of this Act be taken to be the capital value of the property unless satisfactory evidence is adduced to the contrary :
- (d) In the case of husband and wife, except where they are living apart pursuant to any decree, judgment, order, or deed of separation, the net capital value of the accumulated property of each shall be deemed to be half the total net capital value of the accumulated property of both.

Assessment of value of accumulated property.
Cf. N.S.W. 1900, No. 74, s. 4 ;
Vic. 1901, No. 1751, s. 12 ;
Q. 1908, No. 6, s. 11.

26. In the computation of income—

- (a) where any person receives board or lodging or board and lodging, the actual or estimated value or cost of such board or lodging or board and lodging, not exceeding Five shillings per week, shall be included ; and
- (b) in the case of husband and wife, except where they are living apart pursuant to any decree, judgment, order, or deed of separation, the income of each shall be deemed to be half the total income of both.

Rules for computing income.
Cf. N.S.W. 1900, No. 74, s. 5 ;
Vic. 1901, No. 1751, s. 13 ;
Q. 1908, No. 6, s. 12.

DIVISION 2.—PENSION CLAIMS.

27.—(1.) Every person claiming a pension shall, in the prescribed manner, deliver or send a pension claim therefor to the Registrar of the district in which he resides, or to a prescribed officer therein.

Pension claim.
Cf. N.S.W. 1900, No. 74, s. 15 ;
Vic. 1901, No. 1751, s. 14 ;
Q. 1908, No. 6, s. 13.

(2.) Where the claim is sent to a prescribed officer, he shall forthwith transmit it to the Registrar of the district.

(3.) 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.

(4.) Every claimant shall, by declaration to be indorsed thereon, declare that the contents of his pension claim are true and correct in every particular, and if in the declaration or claim he wilfully makes any statement which is untrue in any particular, he shall be guilty of an indictable offence.

Penalty : Five years' imprisonment.

(5.) The declaration may be made before any of the following persons :—A postmaster or postmistress, or person in charge of a post-office, a police, stipendiary or special magistrate of the Commonwealth or a State, a justice of the peace, a barrister or solicitor, a State school head-teacher, an officer of the Department of Trade and Customs, a member of the police force of the Commonwealth or of a State, a legally qualified medical practitioner, a notary public, a commissioner for affidavits, a registrar, or any prescribed officer or person.

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

Investigation
by Registrar.
Cf. N.S.W. 1900,
No. 74, s. 16 ;
Vic. 1901,
No. 1751, s. 15 ;
Q. 1908, No. 6,
s. 14.

28.—(1.) Upon receipt of a pension claim the Registrar shall cause to be made such investigations as appear to him desirable, or as are directed by the Deputy Commissioner, in order to ascertain the circumstances of the claimant and the truth of the statements in the claim.

(2.) The 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 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.

Penalty : One hundred pounds, or six months' imprisonment.

Reference to
Magistrate.
Cf. N.S.W.,
1900, No. 74,
s. 17 (1) ;
Vic. 1901, No.
1751, s. 15,
(1), (2), and (8) ;
Q. 1908, No. 6
s. 14 (1) and (2).

29.—(1.) Upon the completion of his investigations, the 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 Registrar shall notify the claimant of the time when and place where he is required to attend to support his pension claim.

Provided that, where the Magistrate is satisfied that by reason of physical disability or other sufficient cause the claimant is unable to attend, the Magistrate may dispense with his attendance. F —

30.—(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.
Cf. N.S.W.,
1900, No. 74,
ss. 17 (2), 18,
19;
Vic., 1901, No.
1751, s. 15 (1),
(2), (3), and (9);
Q. 1908, No. 6
s. 14 (1), (3),
and (6).

(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 in open Court, if for any reason the Magistrate deems it advisable.

(3.) In order to ascertain the circumstances of the claimant, evidence may be taken at the hearing from members of the police force of the Commonwealth or a State, 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.

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

Recommendation
by
Magistrate.
Cf. N.S.W.,
1900, No. 74,
ss. 20, 21 (1);
Vic., 1901, No.
1751, s. 15
(6), (7), and
(10);
Q. 1908, No. 6,
s. 14 (5) and (7)

- (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;

but no pension claim shall be recommended unless the Magistrate is satisfied that the claim is established and the claimant is deserving of a pension, and unless the evidence (if any) of the claimant is corroborated on all material points by documentary information or oral evidence :

Provided, however, that in respect of the age of the claimant, the Magistrate, if otherwise satisfied, may dispense with corroborative evidence.

(2.) If it appears to the Magistrate that the claimant, although otherwise qualified for, is unfit to be intrusted with, a pension, he may recommend that the claimant, instead of being granted a pension, be sent to a benevolent asylum or charitable institution; and the Registrar shall at once notify the Deputy Commissioner, who may thereupon cause steps to be taken for the admission of the claimant into a benevolent asylum or any prescribed public or private charitable institution.

(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 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. N.S.W., 1900, No. 74, s. 21 (2) and (3);
 Vic., 1901, No. 1751, s. 15 (11-13);
 Q., 1908, No. 6, s. 14 (8-10).

32.—(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 Commissioner or a Deputy Commissioner, whose decision 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 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.

Determination of claim.
 Cf. N.S.W., 1900, No. 74, s. 24;
 Vic., 1903, No. 1865, s. 6;
 Q., 1908, No. 6, s. 15.

33.—(1.) The recommendation of the Magistrate as to the pension claim shall be indorsed on the claim, which shall thereupon be returned to the Registrar.

(2.) The 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 Deputy Commissioner, who shall, except in such cases or classes of cases as are prescribed, and in which the claim shall be referred for the determination of the Commissioner, determine the application.

(3.) The determination of the Commissioner or the Deputy Commissioner 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 Commissioner or Deputy Commissioner is adverse to the claim, the claimant shall be notified accordingly.

(5.) The Registrar shall in the prescribed manner report to the Deputy Commissioner upon every pension claim whose rejection is recommended by the Magistrate.

Rehearing of pension claim.
 Vic. 1901, No. 1751, s. 18;
 Q. 1908, No. 6, s. 16.

34. At the request of the Commissioner or a Deputy Commissioner a Magistrate may rehear a pension claim previously admitted or rejected, and the Commissioner or a Deputy Commissioner may, if

he thinks fit, amend any certificate so as to accord with the recommendation made by the Magistrate after the rehearing. Upon the rehearing the Magistrate shall have the same powers as upon the original hearing.

35. Any person who at the commencement of this Act is the holder of a valid certificate entitling him to an invalid or old-age pension under a State Act may, instead of sending in a pension claim, deliver up his State certificate to the Deputy Commissioner, and the Deputy Commissioner may, subject to the Regulations, if he is satisfied that the person is entitled to a pension under this Act, issue a pension certificate to him.

Persons entitled to State pensions.

36. On application, a Deputy Commissioner 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.

Duplicate pension certificate.
N.S.W. 1900, No. 74, s. 26 (b);
Vic. 1901, No. 1751, s. 22;
Q. 1908, No. 6, s. 17.
Cancellation &c. of pension.
Cf. Vic. 1901, No. 1751, s. 23;
Q. 1908, No. 6, s. 18.

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

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

38.—(1.) At any time not being sooner than one month before the expiration of each year (computed from the date of the commencement of the pension), during which the pension certificate remains in force, each pensioner shall file with the Registrar of his district unless exempted by the Registrar a statement showing the amount of income received by him during the preceding twelve months, and such other particulars as are prescribed.

Ascertainment of pension for subsequent years.
Cf. N.S.W. 1900, No. 74, s. 27.

(2.) If upon receipt of the statement the Registrar is satisfied that the pensioner is entitled to a continuation of the pension, he shall notify the Deputy Commissioner accordingly, and the Deputy Commissioner may authorize the continuation of the pension; but if he is not so satisfied he shall refer the statement to a Magistrate for investigation, and thereupon the procedure laid down by this Act in relation to investigations by a Magistrate shall apply.

DIVISION 3.—PAYMENT OF PENSIONS.

39.—(1.) Each instalment of pension shall be payable fortnightly at an office named in the pension certificate.

Where pension payable.
Q. 1908, No. 6, s. 19;
Cf. N.S.W. 1900, No. 74, s. 28;
Vic. 1901, No. 1751, s. 24.

(2.) On application, the office may be changed from time to time by the Registrar, and every change of office shall be recorded by the Registrar on the certificate.

Instalment to be applied for within twenty-one days.

Vic. 1901, No. 1751, s. 25 ;
Q. 1908, No. 6, s. 20 ;
Cf. N.S.W. 1900, No. 74, ss. 29, 30.

40.—(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 named therein.

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

(3.) A Deputy Commissioner or a 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) that, if the forfeiture was occasioned by default in producing the pension certificate, the default was due to its being lost or destroyed.

(4.) Except in special cases of the pensioner's illness or debility, it shall not be lawful for the Deputy Commissioner or a Registrar to waive the forfeiture of an instalment twice consecutively to the same pensioner ; and in no case shall forfeiture be waived unless waiver is applied for within the prescribed time.

Pension absolutely inalienable.

Q. 1908, No. 6, s. 5 ;
Cf. N.S.W. 1900, No. 74, s. 43 ;
Vic. 1901, No. 1751, s. 5.

Pensions granted subject to any future Act.

N.S.W. 1900, No. 74, s. 52 ;
Cf. Vic. 1901, No. 1751, s. 36 ;
Q. 1908, No. 6, s. 31.

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

42.—(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 sub-section shall be printed on every pension certificate.

Payment to other person of pensions.

Cf. N.S.W. 1900 No. 74, s. 33 ;
Vic. 1901, No. 1751, s. 26 ;
Q. 1908, No. 6, s. 21.

43.—(1.) Whenever the Deputy Commissioner is satisfied that, having regard to the age, infirmity, or improvidence of a pensioner, or any other special circumstances, it is expedient that payment of any instalments of the pension be made to any other person, a warrant to that effect shall be issued by the Deputy Commissioner, and transmitted to the person authorized 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.) A warrant issued by the Deputy Commissioner under this section may at any time be revoked by the Deputy Commissioner upon notice to the person to whom it was issued, and to the officer in charge of the office at which the pension is payable.

44. Where, in the opinion of a Registrar—

- (a) a pensioner misspends any part of his pension, or misspends, wastes, or lessens any part of his estate or of his income or earnings, or injures his health, or endangers or interrupts the peace and happiness of his family, or
- (b) a claimant or a pensioner is unfit to be intrusted with a pension,

Payment of pension where pensioner unfit, &c.
 Cf. N.S.W., 1900, No. 74, ss. 33, 39 ;
 Vic., 1901, No. 1751, s. 32 (2) ;
 Q., 1908, No. 6, s. 27 (2).

the Deputy Commissioner may, on the report of the Registrar, make an order directing that until further order the instalments shall be paid to any benevolent or charitable society, minister of religion, justice of the peace, or other person named by the Deputy Commissioner for the benefit of the pensioner, or suspending the pension certificate pending the decision of the Minister thereon, or directing the forfeiture of so many of the instalments as the Deputy Commissioner thinks fit.

45. If a pensioner becomes an inmate of an asylum for the insane or a hospital, his pension shall, without further or other authority than this Act, be deemed to be suspended, but when the pensioner is discharged from any such asylum or hospital, payment of his pension shall be resumed, and he shall be entitled to payment, in respect of the period during which his pension was so suspended, of a sum representing not more than four weeks' instalments of the pension, if the suspension so long continued.

Suspension of pension while pensioner in asylum, &c.
 Cf. N.S.W. 1900, No. 74, s. 31 ;
 Vic. 1901, No. 1751, s. 27 ;
 Q. 1908, No. 6, s. 22.

46.—(1.) If a pensioner departs from Australia, and it is proved to the satisfaction of the Registrar of the district in which he resided immediately prior to his departure, after notice given to the pensioner in the prescribed manner and form, that the pensioner does not intend to return to Australia, the Registrar shall notify the Deputy Commissioner accordingly, and upon such notification being received by the Deputy Commissioner, the pension shall, without further or other authority than this Act, be deemed to be forfeited.

Departure of pensioner from Australia or detention in prison.
 Q. 1908, No. 6, s. 22.

(2.) Any pensioner, whose pension has been forfeited under the preceding sub-section, may make application in the prescribed form for waiver of the forfeiture, and the Registrar, upon being satisfied that the pensioner has either returned to Australia, or is absent therefrom only temporarily, may notify the Deputy Commissioner to that effect, and thereupon the pension shall become payable to the pensioner as if it had never been forfeited.

(3.) For any period during which a pensioner is in prison, his pension shall, without further or other authority than this Act, be deemed to be forfeited, without prejudice, however, to any application for restoration of the pension to the pensioner upon his discharge from prison.

Benevolent
asylum inmates—
Vic. 1901, No.
1751, s. 23 ;
Q. 1908, No. 6,
s. 23.

47. If a successful claimant of a pension is an inmate of a benevolent asylum or other charitable institution, the pension shall become payable as from a date not more than twenty-eight days prior to the pensioner being discharged from or leaving the asylum or institution, but no payment on account of pension shall be made to him so long as he is an inmate of the asylum or institution.

Procedure as to
payment of
instalments of
pensions.

Vic. 1901, No.
1751, s. 29 ;
Cf. Q. 1908, No.
6, s. 24.

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

- (a) The officer in charge of an office at which a pension is payable may, if he thinks fit, require the applicant for payment to prove his identity, but, subject to the Regulations, he may accept the production of the 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 ; and
- (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 Commonwealth 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.

PART VI.—OFFENCES.

Imprisonment
for certain
breaches of Act.
Vic. 1901, No.
1751, s. 30 ;
Q. 1908, No. 6,
s. 25 ;
Cf. N.S.W. 1900,
No. 74, s. 37.

49. No person shall—

- (a) by means of any wilfully false statement or representation, obtain a pension certificate or pension or affect the rate of any pension for which he is a claimant ; or
- (b) by any unlawful means obtain payment of any forfeited or suspended instalment of pension ; or
- (c) by means of personation or any fraudulent device whatsoever obtain payment of any instalment of pension ; or
- (d) by any wilfully false statement or representation aid or abet any person in obtaining or claiming a pension certificate or pension, or instalment of a pension ; or
- (e) wilfully lend his pension certificate to any other person.

Penalty : Six months' imprisonment.

Additional
powers of
Court when
convicting.
Q. 1908, No. 6,
s. 26 ;
Cf. N.S.W. 1900,
No. 74, s. 33 ;
Vic. 1901, No.
1751, s. 31.

50. In the case of a conviction under the last preceding section, the Court, in addition to imposing the punishment thereby prescribed, may also, according to the circumstances of the case, by order—

- (a) cancel any pension certificate which is proved to have been wrongfully obtained ; or

- (b) impose a penalty not exceeding twice the amount of any instalment the payment of which has been wrongfully obtained, and, if the defendant is a pensioner, direct the forfeiture of future instalments of his pension equal in amount to the penalty and in satisfaction thereof.

51.—(1.) When a pensioner is in any Court convicted of drunkenness, or of any offence punishable by imprisonment for not less than one month, then, in addition to any other punishment imposed, the Deputy Commissioner may, by order, forfeit any one or more of the instalments falling due after the date of the conviction.

Forfeiture of instalments or cancellation of pension certificate for certain offences. Cf. N.S.W. 1900, No. 74, ss. 39-42; Vic. 1901, No. 1751, s. 32; Q. 1908, No. 6, s. 27.

(2.) Where a pensioner is twice within twelve months convicted of any offence punishable by imprisonment for not less than one month, or where any pensioner is convicted of any offence punishable by imprisonment for twelve months or upwards, then, in lieu of forfeiting any instalment of the pension, the Deputy Commissioner shall, by order, cancel the pension certificate.

(3.) In any case where any pension certificate is cancelled by the Deputy Commissioner, the pension shall be deemed to be absolutely forfeited, and the certificate shall be delivered up to the Registrar, and forwarded by him to the Deputy Commissioner.

52.—(1.) Notwithstanding that a pensioner has not been convicted of drunkenness, a Registrar may, and, if so requested by the Deputy Commissioner, shall, at any time summon any pensioner to appear before a Magistrate to show cause why his pension should not be cancelled, reduced, or suspended for a time on account of his drunken intemperate or disreputable habits; and at the time and place mentioned in the summons the Magistrate may, if he thinks fit, recommend to the Deputy Commissioner the cancellation, reduction, or suspension of the pension.

Power to cancel pension for drunken habits. Cf. Vic. 1901, No. 1751, s. 33; Q. 1908, No. 6, s. 28.

(2.) The Deputy Commissioner shall, if he thinks fit, cancel, reduce, or suspend the pension accordingly.

PART VII.—MISCELLANEOUS.

53. The Minister shall, out of moneys to be from time to time appropriated by Parliament for the purpose, pay all such moneys as are necessary for the payment of pensions under this Act; and payments shall be made in the prescribed manner.

Payment of pensions out of moneys appropriated. Vic. 1901, No. 1751, s. 34; Q. 1908, No. 6, s. 29. Cf. N.S.W. 1900, No. 74, s. 48.

54. The Minister shall, within sixty days after the close of each financial year, prepare and lay before Parliament, if in session, and if not, then within forty days after the commencement of the next session, a statement showing for such year—

Annual statement to be laid before Parliament. Vic. 1901, No. 1751, s. 35; Q. 1908, No. 6, s. 30; Cf. N.S.W. 1900, No. 74, s. 48.

- (a) the total amount paid under this Act in respect of pensions;
- (b) the total number of pensions; and
- (c) such other particulars as are prescribed.

Regulations.
 Cf. N.S.W. 1900,
 No. 74, s. 49 ;
 Vic. 1901,
 No. 1751, s. 37 ;
 Q. 1905, No. 6,
 s. 32.

55. The Governor-General 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 Commissioner 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 Magistrates or Registrars ;
- (g) The forms of receipt to be given for any pension ; and
- (h) The delivery up and recovery of pension certificates cancelled or suspended or lapsed on death or for any other reason.

Evidence.
 Cf. Vic. 1903,
 No. 1365, s. 11 ;
 Q. 1905, No. 6,
 s. 33.

56.—(1.) All courts, judges, and magistrates acting judicially shall take judicial notice of the signature of the Minister or Commissioner or any Deputy Commissioner or Registrar, or of any person acting in any of such offices, to every document required to be signed for the purposes of this Act or any amending Act ; and such documents purporting to be so signed shall be received by such courts, judges, and magistrates as *primâ facie* evidence of the facts and statements therein contained.

(2.) A statement in writing purporting to be signed by the Commissioner that any person is a pensioner in receipt of a pension of a certain rate shall be *primâ facie* evidence that the person is a pensioner in receipt of a pension and of the rate thereof.