



ANALYSIS

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1978, No. 9

An Act to provide for a Child Benefit Scheme

(6 December 1978)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled and by the authority of the same as follows:

1. Short Title and Commencement - (1) This act may be cited as the Child Benefit Act 1978.

(2) This Act shall come into force on the 1st day of January 1979.

2. Interpretation - In this Act unless the context otherwise requires -

"Applicant" means a person by whom or on whose behalf an application is made for a benefit under this Act;

"Beneficiary" means a person who has been granted a benefit under this Act;

"Benefit" means a monetary benefit payable under this Act;

"Chief Examiner" means the Chief Examiner of Child Benefits appointed under section 10 of this Act;

"Examiner" means an examiner of Child Benefits appointed under section 10 of this Act;

"Minister" means the Minister of Internal Affairs;

"Pay Period" means a period of 4 complete weeks commencing on such date as the Minister may from time to time determine and publish into Cook Islands Gazette.

3. Child Benefit - (1) Subject to the provisions of this Act, on the application of the father or mother of the child or other person to whom the benefit would be payable under section 7 of this Act a child benefit shall be granted in respect of each child under the age of six years.

(2) For the purposes of this Act the term "child" includes a stepchild, an adopted child and any child who though not a member of the applicants' family, is maintained as a member of that family but does not include:

- (a) Any child who is not in fact maintained as a member of the family of the applicant; or
- (b) Any child in respect of whom any other benefit is payable under the provisions of any other Act.

4. Qualifications for Child Benefits - (1) A child benefit shall not be payable in respect of any child unless the following conditions are satisfied, namely:

- (a) The child is born in the Cook Islands; or
- (b) The mother of the child was only temporarily absent from the Cook Islands at the time of its birth; or
- (c) If the child does not fall within the provisions of paragraphs (a) and (b) of this section, it has resided continuously in the Cook Islands for not less than twelve calendar months and the Chief Examiner is satisfied that the child is likely to remain permanently in the Cook Islands.

5. Rate of Child Benefits - (1) The child benefit payable pursuant to this Act shall be at the rate from time to time fixed by Order in Executive Council.

6. Period for which Child Benefit Payable - (1) The child benefit in respect of a child shall commence on the first day of the next pay period after receipt of the application and shall terminate when the child attains the age of six years.

(2) Nothing in this Act shall authorise the payment to any person of any child benefit in respect of any child for any period prior to the date of lodging an application for a benefit.

7. How Child Benefit is to be Paid - (1) The child benefit payable in respect of any child shall be payable to the mother of those children (whether the application for the benefit has been made by the father or the mother).

(2) The child benefit payable in respect of any child may be paid to the father of that child if the Chief Examiner is of the opinion that payment should be made to him.

(3) In any other case the Chief Examiner may, if he thinks fit, determine that the child benefit shall be paid to any reputable person for the benefit of the child or any person having care and control of the child.

8. Child Benefit to be Expended for Maintenance and Education of Children - All money received by way of child benefit under this Act shall be used towards the maintenance or education of the child or children in respect of whom it is paid, and the Chief Examiner may refuse to grant a benefit or may terminate or suspend the benefit unless satisfied the benefit will be or has been properly applied.

9. Method of Applying for Benefit - (1) Application for a child benefit shall be in writing addressed to the Chief Examiner of child benefits and shall be in such form with such information and evidence as the Minister may from time to time prescribe.

(2) In case of applications for a child benefit from persons living in the Outer Islands applications may be lodged through the Chief Administration Officer who shall transmit the same to the Chief Examiner.

(3) The Chief Administration Officer receiving an application pursuant to subsection (2) of this section shall endorse upon the application the date of receipt of same.

10. Chief Examiner and Examiners - (1) The Minister shall appoint a Chief Examiner of Child Benefits and such other persons as he thinks necessary as Examiners of Child Benefits.

(2) Persons appointed under subsection (1) of this section shall hold office at the pleasure of the Minister.

(3) A person appointed to be Chief Examiner or an Examiner who is not an employee of the Public Service or of any ad-hoc body of Government shall be entitled to be paid from funds appropriated for that purpose such remuneration and allowance as may from time to time be fixed by Order in Executive Council.

11. Investigation of Applications - (1) Every application for a child benefit shall be investigated by the Chief Examiner or an Examiner.

(2) Where the application is investigated by an Examiner, the Examiner shall report to the Chief Examiner who shall have the final power of decision as to whether the benefit is payable and if so to whom.

(3) It shall be the duty of every person to answer all questions put to him by the Chief Examiner or Examiner concerning any application for a child benefit or concerning any statements contained in any application for a benefit.

(4) Every person commits an offence who demands or accepts from any applicant or from any other person any fee or other consideration for procuring or endeavouring to procure any benefit under this Act.

12. Recovery of Payments Made in Excess or Improperly Procured to be Paid - (1) If any benefit or instalment of a benefit is paid in excess of the amount to which the beneficiary is by law entitled or if a benefit is procured to be paid by fraud or false information the amount so paid or paid in excess may be recovered from the beneficiary as a debt due to the Crown at the suit of the Chief Examiner, or the Chief Examiner may make any necessary adjustments in any instalment of the same or any other benefit thereafter becoming payable to the beneficiary.

13. Offences - Every person who makes any statement knowing it to be false in any material particular, or who wilfully does or says anything or omits to do or say anything for the purpose of misleading or attempting to mislead any officer concerned in the administration of this Act or any other person whomsoever for the purpose of obtaining (for himself or any other person) or which results in himself or any other person obtaining:

- (a) Any benefit under this Act, or
- (b) Any payment from any account administered under this Act;

commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding twelve months, or to a fine not exceeding \$500.00, or to both imprisonment and fine.

14. Proceedings for Offences - (1) Notwithstanding anything to the contrary in any other enactment of the Legislative Assembly an information for any offence against this Act may be laid at any time within twelve months after the facts alleged in the information have been brought to the knowledge of any officer concerned in the administration of this Act.

(2) All proceedings for offences against this Act shall be taken before a Judge of the High Court of the Cook Islands.

15. General Penalty for Offences - Every person who commits an offence against this Act or any regulations made under this Act for which no penalty is provided elsewhere than in this section is liable on summary conviction to a fine not exceeding forty dollars (\$40.00).

16. Regulations - (1) The High Commissioner by order in Executive Council, may from time to time make all such regulations as are deemed necessary or expedient for the purpose of giving full effect to this Act and for the due administration thereof including regulations creating offences.

(2) All regulations made under this section shall be laid before the Legislative Assembly by the Minister within twenty eight days of the date of the making thereof if the Assembly is then in session and, if not, shall be laid before the Assembly within twenty eight days after the date of the commencement of the next ensuing session.

This Act is administered in the Department of Internal Affairs.