



# National Assistance Act 1948

## 1948 CHAPTER 29

### PART IV

#### GENERAL AND SUPPLEMENTARY.

##### *Miscellaneous.*

#### **46 Amendments of Old Age Pensions Act, 1936.**

- (1) In calculating the means of a person for the purposes of the Old Age Pensions Act, 1930, no account shall be taken—
  - (a) of any assistance grant, or
  - (b) of the value to that person of accommodation provided by, or by arrangement with, a local authority under Part III of this Act.
- (2) Regulations under section twelve of the said Act of 1936 may provide that where a person is undergoing medical or other treatment as an in-patient in a hospital or similar institution no account shall be taken, in calculating his means for the purposes of the First Schedule to that Act, of the value to him of the accommodation, maintenance and services provided in the hospital or institution, but that his pension under that Act shall be adjusted to such extent as may be specified in the regulations.
- (3) All such claims for old age pensions and questions relating thereto as are mentioned in subsection (1) of section eight of the said Act of 1936 shall be decided by the Board, subject however to the right of a person aggrieved by a decision of the Board to refer the decision to the Appeal Tribunal; and accordingly for the words in the said subsection (1) from " shall be considered and determined as follows " to the end of the subsection there shall be substituted—

“shall be decided by the National Assistance Board.

  - (1A) Any person aggrieved by a decision of the Board under the last foregoing subsection may refer the claim or question to which the decision relates for decision by the Appeal Tribunal constituted under the National Assistance Act, 1948.”

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- (4) The said Act of 1936 shall have effect subject to the amendments specified in the Fourth Schedule to this Act, being minor amendments and amendments consequential on the foregoing provisions of this section.

**47 Removal to suitable premises of persons in need of care and attention.**

- (1) The following provisions of this section shall have effect for the purposes of securing the necessary care and attention for persons who—
- (a) are suffering from grave chronic disease or, being aged, infirm or physically incapacitated, are living in insanitary conditions, and
  - (b) are unable to devote to themselves, and are not receiving from other persons, proper care and attention.

- (2) If the medical officer of health certifies in writing to the appropriate authority that he is satisfied after thorough inquiry and consideration that in the interests of any such person as aforesaid residing in the area of the authority, or for preventing injury to the health of, or serious nuisance to, other persons, it is necessary to remove any such person as aforesaid from the premises in which he is residing, the appropriate authority may apply to a court of summary jurisdiction having jurisdiction in the place where the premises are situated for an order under the next following subsection.

- (3) On any such application the court may, if satisfied on oral evidence of the allegations in the certificate, and that it is expedient so to do, order the removal of the person to whom the application relates, by such officer of the appropriate authority as may be specified in the order, to a suitable hospital or other place in, or within convenient distance of, the area of the appropriate authority, and his detention and maintenance therein:

Provided that the court shall not order the removal of a person to any premises, unless either the person managing the premises has been heard in the proceedings or seven clear days' notice has been given to him of the intended application and of the time and place at which it is proposed to be made.

- (4) An order under the last foregoing subsection may be made so as to authorise a person's detention for any period not exceeding three months, and the court may from time to time by order extend that period for such further period, not exceeding three months, as the court may determine.
- (5) An order under subsection (3) of this section may be varied by an order of the court so as to substitute for the place referred to in that subsection such other suitable place in, or within convenient distance of, the area of the appropriate authority as the court may determine, so however that the proviso to the said subsection (3) shall with the necessary modification apply to any proceedings under this subsection.
- (6) At any time after the expiration of six clear weeks from the making of an order under subsection (3) or (4) of this section an application may be made to the court by or on behalf of the person in respect of whom the order was made, and on any such application the court may, if in the circumstances it appears expedient so to do, revoke the order.
- (7) No application under this section shall be entertained by the court unless, seven clear days before the making of the application, notice has been given of the intended application and of the time and place at which it is proposed to be made—

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- (a) where the application is for an order under subsection (3) or (4) of this section, to the person in respect of whom the application is made or to some person in charge of him;
  - (b) where the application is for the revocation of such an order, to the medical officer of health.
- (8) Where in pursuance of an order under this section a person is maintained neither in hospital accommodation provided by the Minister of Health under the National Health Service Act 1946, or by the Secretary of State under the National Health Service (Scotland) Act, 1947, nor in premises where accommodation is provided by, or by arrangement with, a local authority under Part III of this Act, the cost of his maintenance shall be borne by the appropriate authority.
- (9) Any expenditure incurred under the last foregoing subsection shall be recoverable from the person maintained or from any person who for the purposes of this Act is liable to maintain that person; and any expenditure incurred by virtue of this section in connection with the maintenance of a person in premises where accommodation is provided under 'art III of this Act shall be recoverable in like manner as expenditure incurred in providing accommodation under the said Part III.
- (10) The provisions of section twenty-seven of the National Health Service Act, 1946, and of section sixteen of the National Health Service (Scotland) Act, 1947 (which respectively require local health authorities and the Secretary of State to secure that ambulances and other means of transport are available for the conveyance of certain persons) shall apply to the conveyance of persons in respect of whom an order is made under this section as they apply to the conveyance of the persons specified in the said sections twenty-seven and sixteen.
- (11) Any person who wilfully disobeys, or obstructs the execution of, an order under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten pounds.
- (12) For the purposes of this section, the appropriate authorities shall be the councils of county boroughs and county districts and the authorities which are sanitary authorities for the purposes of the Public Health (London) Act, 1936, and in Scotland the councils of counties and large burghs.
- (13) The foregoing provisions of this section shall have effect in substitution for any provisions for the like purposes contained in, or having effect under, any public general or local Act passed before the passing of this Act:  
  
Provided that nothing in this subsection shall be construed as affecting any enactment providing for the removal to, or detention in, hospital of persons suffering from notifiable or infectious diseases.
- (14) Any notice under this section may be served by post.

#### **48 Duty of councils to provide temporary protection for property of persons admitted to hospitals, etc.**

- (1) Where a person—
  - (a) is admitted as a patient to any hospital, or
  - (b) is admitted to accommodation provided under Part III of this Act, or

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- (c) is removed to any other place under an order made under subsection (3) of the last foregoing section,
- and it appears to the council that there is danger of loss of, or damage to, any movable property of his by reason of his temporary or permanent inability to protect or deal with the property, and that no other suitable arrangements have been or are being made for the purposes of this subsection, it shall be the duty of the council to take reasonable steps to prevent or mitigate the loss or damage.
- (2) For the purpose of discharging the said duty, the council shall have power at all reasonable times to enter any premises which immediately before the person was admitted or removed as aforesaid were his place of residence or usual place of residence, and to deal with any movable property of his in any way which is reasonably necessary to prevent or mitigate loss thereof or damage thereto.
- (3) A council may recover from a person admitted or removed as aforesaid, or from any person who for the purposes of this Act is liable to maintain him, any reasonable expenses incurred by the council in relation to him under the foregoing provisions of this section.
- (4) In this section the expression " council " means in relation to any property the council of the county, county borough or large burgh in the area of which the property is for the time being situated.

#### **49 Expenses of council officers acting as Receivers.**

Where an officer of the council of a county or county borough with the permission of the council applies for appointment under section one of the Lunacy Act, 1908, to exercise the powers of management of property referred to in that section, the council may defray any expenses incurred by him in connection with the application or the exercise of the said powers, in so far as those expenses are not recoverable by him from any other source.

#### **50 Burial or cremation of the dead.**

- (1) It shall be the duty of every authority to which this subsection applies to cause to be buried or cremated the body of any person who has died or been found dead in their area, in any case where it appears to the authority that no suitable arrangements for the disposal of the body have been or are being made otherwise than by the authority.
- (2) The authorities to which the last foregoing subsection applies are the councils of county boroughs and county districts and the authorities which are sanitary authorities for the purposes of the Public Health (London) Act, 1936, and in Scotland county and town councils.
- (3) The council of a county, county borough or large burgh may cause to be buried or cremated the body of any deceased person who immediately before his death was being provided with accommodation under Part III of this Act by, or by arrangement with, the council or was living in a hostel provided by the council under section twenty-nine of this Act.
- (4) An authority may recover from the estate of the deceased person or from any person who for the purposes of this Act was liable to maintain the deceased person immediately before his death expenses incurred under subsection (1) or subsection (3) of this section and not reimbursed under the next following subsection.

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- (5) The provisions of subsection (5) of section twenty-two of the National Insurance Act, 1946 (which enable the Minister of National Insurance to make payments to certain authorities out of the National Insurance Fund in respect of the cost of burial or cremation of certain persons) shall apply to all authorities to which subsection (1) of this section applies.
- (6) Nothing in the foregoing provisions of this section shall affect any enactment regulating or authorising the burial, cremation or anatomical examination of the body of a deceased person; and an authority shall not cause a body to be cremated under this section where they have reason to believe that cremation would be contrary to the wishes of the deceased.
- (7) The Burial of Drowned Persons Act, 1808, and the Burial of Drowned Persons Act, 1886, shall cease to have effect.

## **51 Failure to maintain.**

- (1) Where a person persistently refuses or neglects to maintain himself or any person whom he is liable to maintain for the purposes of this Act, and in consequence of his refusal or neglect assistance under Part II of this Act is given to, or accommodation under Part III thereof is provided for, himself or any other person, he shall be guilty of an offence.
- (2) For the purposes of this section, a person shall not be deemed to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.
- (3) A person guilty of an offence under this section shall be liable on summary conviction—
  - (a) where the assistance was given to him, or the accommodation provided for him, to imprisonment for a term not exceeding three months;
  - (b) in any other case, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.

## **52 False statements.**

- (1) If any person—
  - (a) for the purpose of obtaining, either for himself or for another person, any benefit under Part II or Part III of this Act; or
  - (b) for the purpose of avoiding or reducing any liability under this Act,makes any statement or representation which he knows to be false, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.
- (2) Notwithstanding anything in any enactment, proceedings for an offence under this section may be begun at any time within three months from the date on which evidence sufficient in the opinion of the Board or the local authority concerned to justify a prosecution for the offence comes to the knowledge of the Board or local authority, or within twelve months from the commission of the offence, whichever period is the longer.

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- (3) For the purposes of the last foregoing subsection, a certificate of the Board or of the local authority as to the date on which such evidence as aforesaid came to the knowledge of the Board or the local authority, as the case may be, shall be conclusive proof thereof.
- (4) In the application of this section to Scotland, for the references to evidence sufficient to justify a prosecution there shall be substituted references to evidence sufficient to justify a report to the Lord Advocate with a view to consideration of the question of prosecution.