



# **Social Services Act 1980**

**No. 9, 1981**

## **Compilation No. 1**

**Compilation date:** 18 June 2015

**Includes amendments up to:** Norfolk Island Continued Laws Amendment Ordinance 2015 (No. 2, 2015)

**Prepared Date:** 16 September 2015



# **SOCIAL SERVICES ACT 1980**

## **TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Definitions
4. Social Services Board
6. Terms of appointments of members of the Board
7. Powers of Board not affected by vacancy
9. Remuneration
10. Meetings of Board
11. Functions of the Board
12. Board not to incur expenditure
13. Powers as to evidence
14. Secrecy
15. Norfolk Island Social Services Benefits
16. Age benefits
17. Invalid benefits
18. Suspension of invalid benefits
19. Medical examination
20. Widowed persons benefits
21. Orphans benefits
22. Handicapped children's benefits
23. Medical examination
24. Notification where child ceases to need care and attention
25. Cancellation of benefits
26. Special benefits
- 26A. Low income special benefit
27. Double benefits not payable
28. Supplementary children's benefits

- 28A. Long-term care benefits
- 29. Variation of rates of benefits
- 30. Claims for benefit
- 31. Information as to beneficiaries
- 32. Notice of decisions
- 33. Review of decision by Commonwealth Minister
- 34. Provisions to have effect where damages or compensation recoverable
- 35. Cancellation, etc of benefit
- 36. Review of benefits
- 37. Suspension, etc of benefit in certain cases
- 38. Payment to other persons
- 38A. Benefits in respect of married person living apart in certain circumstances
- 39. Benefit not payable during absences
- 40. Benefits payable out of public moneys
- 41. Payments of benefits
- 42. Recovery of overpayments
- 43. Benefits to be inalienable
- 44. Offences
- 45. Prosecutions for offences
- 46. Death of beneficiary
- 47. Confidential information may be obtained
- 48. Exercise of powers by authorised officers
- 49. Regulations
- Schedule

NORFOLK



ISLAND

## Social Services Act 1980

---

An Act to establish a system of social service benefits.

### Short title

1. This Act may be cited as the *Social Services Act 1980*.

### Commencement

2. This Act shall come into operation on a date fixed by the Administrator by notice published in the Gazette.

### Definitions

3. In this Act, unless the contrary intention appears —
  - “authorised officer” means an officer for the time being appointed by the Administrator to be an authorised officer for the purposes of this Act;
  - “beneficiary” means a person to whom, or in respect of whom, a benefit is payable;
  - “benefit” means a benefit under this Act;
  - “Board” means The Norfolk Island Social Services Board;
  - “Chair” means the Chair of the Board.
  - “child” means a person who has not attained the age of 16 years;
  - “claim” means a claim under this Act;
  - “income”, in relation to a person, means any personal earnings, moneys, valuable consideration or profits earned, derived or received by the person for his own use or benefit by any means, and from any source whether within Norfolk Island or not, and includes —
    - (a) a periodical payment by way of gift or allowance; and

(aa) the value of an interest in any property received by way of distribution from a deceased estate other than an interest in real property;

(b) a payment that the Administrator or an authorised officer determines to be in the nature of income,

but does not include a payment that the Administrator or an authorised officer determines to be not in the nature of income or that, for some other reason, the Administrator or an authorised officer determines should not be regarded as income;

“officer” has the meaning given to “public sector employee” by the *Public Sector Management Act 2000*;

“resident” means a resident within the meaning of the *Immigration Act 1980*.

### **Social Services Board**

4. (1) There is hereby established a body by the name of “The Norfolk Island Social Services Board”.

(2) The Board shall consist of not less than 3 nor more than 5 members.

(3) The members of the Board are to be appointed by the Commonwealth Minister by written instrument.

(4) A person cannot be appointed as a member of the Board if:

(a) he or she is not a resident; or

(b) he or she is:

(i) the Commonwealth Minister; or

(ii) an authorised officer; or

(iii) a beneficiary; or

(c) his or her spouse is a beneficiary.

(5) One of the members of the Board is to be appointed by the Commonwealth Minister by written instrument as the Chair of the Board.

### **Terms of appointments of members of the Board**

6. (1) A member of the Board holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

(2) A member of the Board may resign his or her appointment by giving the Commonwealth Minister a written resignation.

(3) The resignation takes effect on the day it is received by the Commonwealth Minister or, if a later day is specified in the resignation, on that later day.

(4) The Commonwealth Minister may at any time terminate the appointment of a member of the Board.

(5) The Commonwealth Minister must terminate a person’s appointment as a member of the Board if:

(a) the person becomes a person who cannot be appointed as a member of the Board; or

(b) without the Chair’s permission, the person fails to attend 3 consecutive meetings of the Board.

**Powers of Board not affected by vacancy**

7. (1) The exercise of a power or the performance of a function by the Board is not affected by reason of a vacancy in the membership of the Board, not being a vacancy in the office of Chair.

(2) The appointment of a member of the Board or of the Chair of the Board is not invalidated by reason of a defect or irregularity in connection with the appointment and proceedings of the Board shall not be called in question by reason of such a defect or irregularity.

**Remuneration**

9. A member of the Board shall not be paid any remuneration in respect of his membership of the Board.

**Meetings of Board**

10. (1) Meetings of the Board shall be convened by the Chair, or, if there is no Chair or the Chair is for any reason unable to act, by the Administrator.

(2) Subject to subsection (3), a meeting of the Board shall not be held or continued unless the Chair and at least 2 other members are present.

(3) If there is no Chair, a meeting of the Board shall not be held unless at least 3 members are present.

(4) In such a case —

- (a) if a member appointed by the Commonwealth Minister is present, he shall preside at the meeting; or
- (b) if a member appointed by the Commonwealth Minister is not present, the members present shall choose one of their number to preside at that meeting.

(5) Questions arising at a meeting of the Board shall be decided by a majority of the votes of the members present and voting.

(6) In the event of an equality of votes, the Chair or other member presiding has a second or casting vote.

(7) The Board shall cause minutes of its proceedings to be kept and shall furnish a copy of the minutes to the Administrator.

**Functions of the Board**

11. (1) The functions of the Board are to consider and make recommendations to the Administrator concerning claims and concerning the exercise of any power by the Administrator or by an authorised officer under this Act.

(2) In addition to the functions of the Board under subsection (1), the Board has the further function of furnishing to the Administrator reports or recommendations concerning —

- (a) social welfare in Norfolk Island;
- (b) the likely cost of any extension of the benefits under this Act;
- (c) the priority that should be given to an extension of the benefits under this Act; and
- (d) the operation generally of this Act.

(4) The Board shall, upon request by the Administrator, furnish a report or recommendation concerning any matter specified in subsection (2).

(5) Subject to this Act, the Board has such powers as are necessary for the performance of its functions and, in particular, may make such inquiries and investigations as it thinks fit.

(6) In the performance of its functions or the exercise of its powers, the Board is not bound by any rules of evidence but may inform itself in such manner as it thinks fit.

**Board not to incur expenditure**

12. The Board shall not incur expenditure.

**Powers as to evidence**

13. (1) The Board may, for the purposes of this Act —

- (a) receive evidence on oath or affirmation; and
- (b) receive documents in evidence.

(2) The Chair or, if he or she is absent, the Administrator may, by notice in writing served on a person, summon the person to appear before the Board and may also require the person to produce to the Board documents specified in the notice.

(3) A person so summoned shall not, without lawful excuse, fail to appear or produce documents as required by the notice.

(4) A person, whether summoned or not, who appears before the Board shall not —

- (a) refuse to be sworn, or to make an affirmation, as a witness; or
- (b) fail to answer a question that he is lawfully required to answer; or
- (c) fail to produce a document that he is lawfully required to produce.

Penalty: 0.50 penalty unit.

**Secrecy**

14. A member of the Board shall not, directly or indirectly —

- (a) except in the exercise of his powers or the performance of his functions as a member of the Board or as otherwise authorised by law; and
- (b) while he is, or after he ceases to be, a member of the Board,

make a record of, or divulge or communicate to a person other than the Administrator, any information with respect to the affairs of another person acquired by him as a member of the Board.

Penalty: 10 penalty units.

**Norfolk Island Social Services Benefits**

15. (1) Benefits to be known as Norfolk Island Social Services Benefits are payable in accordance with this Act.

(2) Benefits so payable are —

- (a) age benefits;
- (b) invalid benefits;
- (c) widowed persons benefits;
- (d) orphans benefits;
- (e) handicapped children's benefits;
- (f) special benefits;
- (g) supplementary benefits; and
- (h) long-term care benefit.

(3) The decision whether a benefit shall be granted or refused shall be made by the Administrator or, except in the case of a special benefit, by an authorised officer but shall not be made except after receipt of a recommendation of the Board.

(4) The Administrator or an authorised officer shall not exercise any other power under this Act in respect of a benefit (not being a power to direct that a person undergo a medical examination or a power to require a person to furnish to him a confidential statement) except after receipt of a recommendation of the Board.

(5) The Board shall, if the Administrator so requires, furnish to the Administrator all the evidence, information or documents in the possession of the Board relating to a recommendation of the Board.

#### **Age benefits**

16. (1) A person is qualified to receive an age benefit if the person —

- (a) being a male, has attained the age of 65 years or, being a female, has attained the age of 60 years;
- (b) is a resident; and
- (c) is living in Norfolk Island on the date on which his claim for benefit is received and was ordinarily resident in Norfolk Island for not less than 10 years immediately before that date.

(2) An age benefit is not payable to a person who —

- (a) has directly or indirectly deprived himself of property or income in order to receive, or to continue to receive, the benefit; or
- (b) has ceased to live in Norfolk Island after his claim for benefit was received.

(3) The rate of an age benefit payable in respect of a person is, subject to section 29, the rate ascertained in respect of that person in accordance with the Schedule.

#### **Invalid benefits**

17. (1) A person is qualified to receive an invalid benefit if the person —

- (a) is not receiving an age benefit;
- (b) has attained the age of 16 years;
- (c) is —
  - (i) permanently blind; or
  - (ii) permanently incapacitated for work;
- (d) is a resident; and
- (e) is living in Norfolk Island on the day on which his claim for benefit is received and was ordinarily resident in Norfolk Island for not less than 5 years immediately before that date.

(2) If the degree of permanent incapacity for work of a person is not less than 85%, the person shall be deemed to be permanently incapacitated for work.

(3) An invalid benefit is not payable to a person —

- (a) who has directly or indirectly deprived himself of property or income in order to receive, or to continue to receive, the benefit;
- (b) who has ceased to live in Norfolk Island after his claim for benefit was received;
- (c) if his blindness or incapacity was brought about with a view to obtaining the benefit; or
- (d) if he has an enforceable claim against a person, under a law or contract, for adequate compensation in respect of his blindness or



incapacity and the Administrator is satisfied that there is a reasonable likelihood that the compensation will be recovered.

(4) The rate of an invalid pension payable in respect of a person is, subject to section 29, the rate ascertained in accordance with the Schedule.

#### **Suspension of invalid benefits**

18. The Administrator may suspend payment of an invalid benefit for such period as he specifies if the beneficiary refuses or fails, without just cause, to undertake training for an occupation, being training that he is capable of undertaking.

#### **Medical examination**

19. (1) The Administrator or an authorised officer may require a claimant for an invalid benefit or a person in receipt of an invalid benefit to be examined by a medical practitioner.

(2) The medical practitioner shall furnish to the Administrator or to the authorised officer a certificate stating whether, in his opinion, the claimant or beneficiary is permanently blind or is permanently incapacitated for work and shall set out the grounds of his opinion.

(3) If the medical practitioner is of the opinion that the claimant or beneficiary is permanently incapacitated for work but that the degree of permanent incapacity is less than 85%, the medical practitioner shall furnish to the Administrator or to the authorised officer a statement setting out the degree to which the claimant or beneficiary is permanently incapacitated for work and shall set out the grounds of his opinion.

(4) A copy of a certificate under this section shall be given to the claimant or beneficiary concerned.

#### **Widowed persons benefits**

20. (1) A person is qualified to receive a widowed persons benefit —

- (a) if —
  - (i) the spouse of the person has died and the person has not remarried; or
  - (ii) the person is a dependent person, that is to say, a person who, for not less than 3 years immediately before the death of another person (being a person of the opposite sex), was wholly or mainly maintained by the other person and lived with the other person as a spouse on a permanent and bona fide domestic basis and has not married or remarried;
- (b) if the person is a resident;
- (c) if the person is living in Norfolk Island on the date on which his claim for benefit is received and was ordinarily resident in Norfolk Island for not less than 5 years immediately before that date; and
- (d) if the person has the custody, care and control of one or more children.

(2) For the purposes of paragraph (1)(a), a person who, is wholly or mainly maintained by a person of the opposite sex and is living with the second-mentioned person as a spouse on a permanent and bona fide domestic basis shall be deemed to be married.

(3) A benefit under this section is not payable to a person who —

- (a) has directly or indirectly deprived himself of property or income in order to receive, or to continue to receive, the benefit; or

- (b) has ceased to live in Norfolk Island after his claim for benefit was received.

(4) Where a person —

- (a) has attained the age of 16 years but has not attained the age of 25 years;
- (b) is wholly or substantially dependent upon another person;
- (c) is receiving full time education at a school, college or university; and
- (d) is not in receipt of a benefit,

this section has effect as if the first-mentioned person were a child and was in the custody, care and control of the second-mentioned person.

(5) The rate of a widowed persons benefit payable in respect of a person is, subject to section 29, the rate ascertained in accordance with the Schedule.

### **Orphans benefits**

**21. (1)** In this section, “child” includes an adopted child and “parent”, in relation to an adopted child, means a person by whom the child was adopted.

(2) A child who is living in Norfolk Island is qualified to receive an orphans benefit if —

- (a) both his parents are dead;
- (b) a parent of the child who was formerly responsible for the custody, care and control of the child is dead and the other parent cannot be found; or
- (c) a parent of the child who was formerly responsible for the custody, care and control of the child is an inmate of an institution for the insane or is imprisoned and has been such an inmate or imprisoned for not less than 6 months and the other parent is dead or cannot be found,

and the child is a child —

- (d) who was born in Norfolk Island; or

- (e) whose —
  - (i) last surviving parent was ordinarily resident in Norfolk Island for not less than 5 years immediately before his death; or
  - (ii) other parent, being a parent who was formerly responsible for the custody, care and control of the child, was ordinarily resident in Norfolk Island for not less than 5 years immediately before his death or before his becoming an inmate or imprisoned as mentioned in paragraph (2)(c).

(3) A claim for an orphans benefit may be made by a person who for the time being has the custody, care and control of the child.

(4) A benefit granted on the claim may be paid to the claimant, who shall apply the benefit towards the maintenance, training and advancement of the child.

(5) Where a person is in receipt of an orphans benefit in respect of a child who is an orphan by reason that a parent of the child cannot be found and that person becomes aware of the whereabouts of that parent, that person shall, within 14 days after so becoming aware, notify the Administrator accordingly.

Penalty: .50 penalty unit.

(6) The rate of an orphans benefit is, subject to section 29, the rate specified in the Schedule.

#### **Handicapped children's benefits**

22. (1) In this section, "handicapped child" means a child who —

- (a) has a physical or mental disability; and
- (b) by reason of that disability, needs substantially constant care and attention and is likely to need that care and attention permanently or definitely.

(2) A person who —

- (a) has been resident in Norfolk Island for not less than 5 years;
- (b) has the custody, care and control of a handicapped child; and
- (c) provides in a private home that is the residence of the person substantially constant care and attention for the child,

is qualified to receive a handicapped children's benefit.

(3) The rate of a handicapped children's benefit payable in respect of a person is, subject to section 29, the rate specified in the Schedule.

#### **Medical examination**

23. (1) The Administrator or an authorised officer may require a child in respect of whom a handicapped children's benefit is claimed or is being paid to be examined by a medical practitioner.

(2) The medical practitioner shall furnish to the Administrator or to the authorised officer a certificate as to any disability of the child and as to the question whether the child needs substantially constant care and attention and, if so, whether the child is likely to need that care and attention permanently or indefinitely.

#### **Notification where child ceases to need care and attention**

24. If a child in respect of whom a handicapped children's benefit is being paid ceases to need substantially constant care and attention, the person in receipt of the benefit shall, within 14 days, notify the Administrator accordingly.

Penalty: .50 penalty unit.

**Cancellation of benefits**

**25.** If —

- (a) having regard to the income of a person in receipt of a handicapped children's benefit; or
- (b) by reason of such a person not having notified the Administrator of a matter that might affect the continued payment of the benefit,

the Administrator considers it appropriate to do so, the Administrator may —

- (c) cancel the benefit;
- (d) suspend payment of the benefit for such period as he determines; or
- (e) reduce the rate of the benefit for such period as he determines.

**Special benefits**

**26. (1)** The Administrator may grant a special benefit to a person where the Administrator is satisfied that the person —

- (a) is suffering hardship;
- (b) by reason of age, physical or mental disability or domestic circumstances or for some other reason is not able to earn a sufficient livelihood for himself and his dependants (if any); and
- (c) is not qualified to receive any other benefit.

**(2)** The rate of a special benefit is such rate as the Administrator determines in each case but shall not exceed the rate of invalid benefit that would be payable to the beneficiary if he were qualified to receive that benefit.

**(3)** The Administrator may grant a special benefit subject to such conditions as he determines.

**(4)** The Administrator may at any time cancel a special benefit or may suspend payment of the benefit for such period as he determines.

**Low income special benefit**

**26A. (1)** The Administrator may from time to time by instrument published in the Gazette determine a pecuniary benefit that may be paid to —

- (a) an adult person;
- (b) a person who —
  - (i) has attained the age of 15 years;
  - (ii) is not wholly or substantially dependent upon another person;
  - (iii) is not receiving full time education at a school, college or university,

and whose income is below a level determined by the Administrator.

- (3) The determination under subsection (1) may —
- (a) establish more than one level of income that is eligible for a benefit with differing benefits payable in respect of each level and different classes of person who may be eligible; and
  - (b) determine classes of eligibility that include single income households, with and without dependants, dual income households with and without dependants, sole parent households with dependants and single persons.
- (4) This section—
- (a) applies to persons who are ordinarily resident in Norfolk Island and are holders of a Temporary Entry Permit, a General Entry Permit or are permanent residents; but
  - (b) does not apply to—
    - (i) a person who ceases to be ordinarily resident in Norfolk Island after making a claim for a benefit; or
    - (ii) is on leave without pay from his or her employment; or
    - (iii) subject to subsection (6), has a claim, or intends to claim, against a person, under a law or contract, for adequate compensation in respect of his or her employment, injury or illness and the Administrator is satisfied that there is a reasonable likelihood that the compensation will be recovered.

(5) Subparagraph (4)(b)(iii) does not apply if the Administrator makes a determination in a particular case to apply the provisions of section 34.

(6) For the avoidance of doubt for the purposes of this section the income of a person is deemed to include the money equivalent of any food, accommodation, transport or other benefit (other than money) paid or provided directly or indirectly to a person by or on behalf of his or her employer.

(7) For the avoidance of doubt an application for a benefit under this section must be made in accordance with section 30.

(8) Payment of a benefit shall be by direct credit to a bank account specified by the person entitled to receive the benefit or in such other manner determined by the Administrator.

(9) The Administrator may grant a benefit under this section subject to such conditions as he or she determines.

#### **Double benefits not payable**

27. (1) Except as provided by section 22, 28 or 28A, a person is not entitled to receive more than one benefit at the same time.

(2) If a person who is qualified to receive a benefit receives, or is qualified or entitled to receive, a periodical payment (whether in respect of himself only, in respect of any of his dependants or in respect of himself and any of his dependants) under a law in force outside Norfolk Island and the Administrator is satisfied that the periodical payment is paid for a reason or in circumstances similar to the reason for which or in circumstances in which the benefit is payable, the Administrator may determine that the rate of the benefit in respect of a period is the rate of the benefit otherwise payable in respect of that period less the rate of the periodical payment payable in respect of the same period.

### Supplementary children's benefits

**28. (1)** Where a person is in receipt of an age benefit, invalid benefit or widowed persons benefit and has, in Norfolk Island, the custody, care and control of one or more children, that person is qualified to receive a supplementary children's benefit.

**(2)** Where —

- (a) a person —
  - (i) has attained the age of 16 years but has not attained the age of 25 years;
  - (ii) is wholly or substantially dependent upon another person;
  - (iii) is receiving full-time education at a school, college or university; and
  - (iv) is not in receipt of a benefit; and
- (b) if the first-mentioned person is not in Norfolk Island, the second-mentioned person had the custody, care and control of the first-mentioned person immediately before he left Norfolk Island,

this section has effect as if the first-mentioned person were a child and was in Norfolk Island in the custody, care and control of the second-mentioned person.

**(3)** The rate of a supplementary children's benefit is, subject to section 29, the rate specified in the Schedule.

### Long-term care benefits

**28A. (1)** A person qualifies for a long-term care benefit if —

- (a) the person —
  - (i) is receiving, or is qualified to receive, another benefit under this Act; or
  - (ii) is receiving a benefit under the *Social Security Act 1947* of the Commonwealth or under a prescribed law; and
- (b) the person is, and has been for 90 consecutive days, an inpatient at the Hospital.

**(2)** Subject to subsection (3), a person who is a long-term care beneficiary is not required to pay fees or charges that would, apart from this subsection, be payable by the person under the *Healthcare Act 1989* for the provision to the person of accommodation at the Hospital.

**(3)** The person remains liable to pay the fees or charges to the extent that the fees or charges do not exceed 80% of the person's income in respect of the period to which the fees or charges relate.

**(4)** In this section, "Hospital" means the same as in the *Healthcare Act 1989*.

### Variation of rates of benefits

**29. (1)** In this section —

- "calculated rate" means a rate calculated as provided by subsection (4);
- "relevant rate" means the rate of a benefit (other than a special benefit or long-term care benefit) as specified in the Schedule, and includes a rate specified in item 2 of the Schedule and, if such a rate has been varied under section 49, means that rate as so varied;
- "substituted rate" means a rate substituted, as provided by subsection (4) or (5), for a relevant rate.

(2) The factor to be ascertained for the purposes of subsection 29(4) as at a particular date is the number, calculated to 3 places of decimals, ascertained by dividing the retail price index number for Norfolk Island ascertained as at that date by the highest previously ascertained retail price index number for Norfolk Island ascertained as at 30 June or 31 December.

(3) If the number so calculated would, if it were calculated to 4 places of decimals, end in 5 or a higher number, then that number shall be increased by 0.001.

(4) Where the factor ascertained in accordance with subsections (2) and (3) as at 30 June or 31 December in a year is greater than one, this Act has effect as if for each relevant rate there were substituted a rate calculated by multiplying by that factor —

(a) (except in a case to which paragraph (4)(b) applies) - the relevant rate; or

(b) where, by reason of another application or several other applications of this Act, this Act has had effect as if another rate were substituted, or other rates were successively substituted, for the relevant rate - the substituted rate or the last of those substituted rates, respectively.

(5) Where a calculated rate is not a multiple of 10 cents per fortnight, the rate that is to be substituted as provided by subsection (4) —

(a) if the calculated rate exceeds the next lower rate that is a multiple of 10 cents by 5 cents or more - is the next higher rate per fortnight that is a multiple of 10 cents; or

(b) in any other case - is that lower rate.

(6) Subject to subsection (7), a substituted rate has effect in relation to each instalment of benefit payable after particulars of the retail price index for Norfolk Island by reference to which that rate was ascertained were published in the Gazette and until the next substituted rate has effect.

(7) A substituted rate ascertained by reference to the retail price index for Norfolk Island ascertained as at 31 December 1983 is payable in relation to each instalment of benefit payable after the date of commencement of the *Social Services (Amendment) Act 1983* and until the next substituted rate has effect.

....

### **Claims for benefit**

**30. (1)** A claim for a benefit shall be in writing, signed by the claimant and lodged with or sent by post to the Chief Executive Officer.

**(1A)** Where a claimant is unable to sign a claim for a benefit, a person having knowledge of the claimant's circumstances may sign on behalf of the claimant.

**(2)** Where a person makes a claim for a benefit under a particular provision of this Act and the circumstances are such that the claim might properly have been made for a benefit under another provision of this Act, the Administrator or an authorised officer may, if he considers it reasonable to do so and subject, if necessary, to the making of a proper claim, treat the first-mentioned claim, for the purpose of determining the date as from which a benefit is payable to the person, as a claim for whichever benefit is appropriate in the circumstances.

**Information as to beneficiaries**

**31. (1)** The Administrator may, by writing served on a person (including a beneficiary) whom he believes to be in a position to do so, require the person to furnish to him in writing a confidential statement as to any matter —

- (a) that might affect the entitlement of a person to a benefit;
- (b) relating to the rate or amount of a benefit payable to a person; or
- (c) relating to the payment of a benefit to a person.

**(2)** A person so required shall not —

- (a) fail to furnish a statement accordingly within 14 days after service of the writing; or
- (b) furnish a statement that is false or misleading in a material particular.

Penalty: .40 penalty unit.

**Notice of decisions**

**32.** Where the Administrator or an authorised officer refuses to grant a benefit on a claim or makes a decision under this Act in relation to a benefit, he shall give notice in writing of the decision and of his reasons for it to the claimant or to the person to whom the benefit is being paid, as the case may be.

**Review of decision by Commonwealth Minister**

**33. (1)** A person aggrieved by a decision of the Administrator or of an authorised officer under this Act may, within 21 days after notice in writing of the decision is given to him, by writing under his hand lodged with or sent by post to the Commonwealth Minister, request the Commonwealth Minister to review the decision.

**(2)** The request shall set out, or be accompanied by, particulars of the matters that the person wishes the Commonwealth Minister to consider.

**(3)** The Commonwealth Minister shall consider the request and may, subject to this Act, confirm, vary or annul the decision or may make some other decision in substitution for the decision.

**(4)** The decision of the Commonwealth Minister has the same effect as a decision of the Administrator.

**(5)** The Commonwealth Minister has, in relation to the request, the same powers as the Board has in relation to matters before the Board.

**(6)** The Board shall, if so requested by the Commonwealth Minister, furnish to the Commonwealth Minister a report or information of which the Board has knowledge, or both, concerning any matter relating to the request.

**Provisions to have effect where damages or compensation recoverable**

**34. (1)** This section has effect where a person has recovered or is entitled to recover a payment by way of damages or compensation in respect of a disability caused by accident or disease, not being a payment in respect of which the person has made contributions.

**(2)** Where a payment by way of damages or compensation has been so recovered, the Administrator may determine that the person shall not receive a benefit, or shall receive a benefit at a reduced rate, in respect of the period in respect of which the Administrator determines the damages or compensation, or a relevant part of the damages or compensation, to have been paid.

**(3)** The Administrator shall take such action as is necessary to give effect to a determination under subsection (2).



(4) Where a claimant for a benefit or a beneficiary has a claim to recover damages or compensation, the Administrator may determine that the entitlement of the person to the benefit is subject to the condition that an amount equal to the whole, or such part as the Administrator determines, of the benefit, and in respect of such period as the Administrator determines, shall be paid to the Administration out of any damages or compensation recovered.

(5) Where the Administrator makes such a determination, the amount of the payment subject to the condition constitutes a charge on the damages or compensation and, if not paid, may be recovered as a debt due to the Administration from the claimant or beneficiary or from the person liable to pay the damages or compensation.

(6) The Administrator may give notice in writing of the determination to the person liable to pay the damages or compensation and, upon receipt of the notice, the person shall, unless he has already paid in full to the claimant or beneficiary the amount of the compensation or damages, pay to the Administration —

(a) the amount the subject of the determination; or

(b) the amount of the damages or compensation remaining unpaid,

whichever is the lesser.

(7) Payment of an amount to the Administration under subsection (6) is, to the extent of that amount, a good discharge to the person making the payment as against the claimant or beneficiary.

(8) In this section, “damages or compensation” includes a payment made in settlement of, or on account of, a claim for damages or compensation.

#### **Cancellation, etc of benefit**

35. Where a person fails to comply with a provision of this Act relating to a benefit or with a condition subject to which the benefit is payable, the Administrator may refuse to authorise payment of the benefit, may cancel the benefit, may suspend payment of the benefit for such period as he specifies or may reduce the rate of the benefit, as the circumstances require.

#### **Review of benefits**

36. (1) If, by reason of an amendment of this Act or by reason of a change of circumstances, a benefit is no longer payable to or in respect of a person, or the rate of a benefit being paid to or in respect of a person is greater or less than it should be, the Administrator shall, as the provisions of this Act as amended or the circumstances require, cancel the benefit or reduce or increase the rate of the benefit.

(2) A beneficiary or other person in receipt of a benefit (including part of a benefit) shall furnish to the Chief Executive Officer notice in writing of any change of circumstances by reason of which the benefit is no longer payable or the rate at which the benefit is being paid should be varied.

Penalty: .50 penalty unit.

#### **Suspension, etc of benefit in certain cases**

37. Where a beneficiary is —

(a) an inmate of an institution for the insane; or

(b) imprisoned following upon his conviction for an offence,

the Administrator may direct that —

(c) the payment of the whole of the benefit, or of such part of the benefit as the Administrator determines, be suspended; or

- (d) the whole of the benefit, or such part of the benefit as the Administrator determines, be paid to or for the beneficiary, his spouse or any child dependant on the beneficiary.

#### **Payment to other persons**

**38.** Where the Administrator is satisfied that, by reason of the age, infirmity, ill-health or improvidence of the beneficiary, a benefit should be paid to some other person on behalf of the beneficiary, the Administrator may direct that payment of the whole or part of the benefit be made accordingly.

#### **Benefits in respect of married person living apart in certain circumstances**

**38A.** Where the Administrator is satisfied that the living expenses of a beneficiary of an age or invalid benefit and the spouse of that beneficiary are, or are likely to be, greater than they would otherwise be because they are living apart —

- (a) by reason of the illness or infirmity of either or both of them; or  
(b) for any other reason the Administrator considers sufficient,

the Administrator may direct that the rate of benefit payable to that beneficiary shall, for such period (if any) as the Administrator may specify, be the rate specified in subparagraph 1(a) of the Schedule.

#### **Benefit not payable during absences**

**39. (1)** Subject to this section, benefit is not payable in respect of a period during which the beneficiary is absent from Norfolk Island, unless the Administrator is satisfied that the period of absence is not likely to exceed one year.

**(2)** Subsection (1) does not have effect in the case of a permanently blind person in respect of any period or periods of temporary absence from Norfolk Island, not exceeding in the aggregate 2 years, where the absence is for the purpose of receiving vocational training or treatment for his blindness.

**(3)** Subsection (1) does not have effect in the case of an orphans benefit in respect of any period of absence of the orphan from Norfolk Island for the purpose of receiving education or vocational training.

**(4)** Subsection (1) does not have effect in the case of a beneficiary in relation to whom section 37 applies.

#### **Benefits payable out of public moneys**

**40.** Benefits are payable by the Administration out of the public moneys of the Territory.

#### **Payments of benefits**

**41. (1)** Benefits are payable in fortnightly instalments on such days as the Administrator determines.

**(2)** Subject to this section, entitlement to a benefit commences from and including the first day after the last day for payment of benefits before the claim for a benefit was received by the Chief Executive Officer.

**(3)** Payment of a benefit shall be by direct credit to a bank account specified by the person entitled to receive the benefit or in such other manner determined by the Administrator.

**(4)** If, in relation to a special benefit, the Administrator considers that it would be fair for the benefit to be paid in respect of a period prior to the time at which, apart from this subsection, the entitlement to the benefit would have commenced, the Administrator may by written instrument direct that a person who is receiving, or who is proposed to receive, the benefit is to be entitled to payment of the

benefit in respect of such prior period, not exceeding 3 months, as is specified in the instrument.

#### **Recovery of overpayments**

**42. (1)** Where, for any reason, an amount of benefit has been paid that is not payable, or an instalment or benefit has been paid at a higher rate than the rate payable, the amount of the excess is recoverable by the Administration from the beneficiary or from the estate of the beneficiary as a debt due to the Administration.

**(2)** The Administrator may recover the whole or part of the excess by reducing the amount of any further instalment of the benefit or of some other benefit payable to the beneficiary.

#### **Benefits to be inalienable**

**43.** Subject to this Act, a benefit is absolutely inalienable, whether by way of, or in consequence of, sale, charge, execution, insolvency or otherwise.

#### **Offences**

**44. (1)** A person shall not make, whether orally or in writing, a false or misleading statement —

- (a) in connection with, or in support of, a claim, whether for himself or for some other person;
- (b) to deceive the Board, the Administrator or an authorised officer in relation to this Act; or
- (c) that may affect the entitlement of a person to, or the continuance or rate of, a benefit.

Penalty: 5 penalty units.

**(2)** Charges against the same person for any number of offences against subsection (1) may be joined in one information if the charges are founded on the same facts or form, or are part of, a series of offences against subsection (1).

**(3)** Where 2 or more such charges are included in the same information, particulars of each offence shall be set out in a separate paragraph.

**(4)** All charges so charged shall be heard together unless the court otherwise orders.

**(5)** If a person is convicted of more than one offence against subsection (1), the court may impose one penalty in respect of all the offences but the penalty shall not exceed the sum of the maximum penalties that could be imposed if a penalty were imposed in respect of each offence separately.

**(6)** Where a person is convicted of an offence against this Act, the court may, in addition to imposing a penalty, order the person to pay to the Administration an amount not exceeding the amount that was paid by way of benefit in consequence of the act, failure or omission in respect of which he was convicted and has not been repaid.

**(7)** For the purposes of subsection (6), a certificate purporting to be under the hand of the Chief Executive Officer or of an authorised officer that an amount specified in the certificate is the amount that has been paid to a person specified in the certificate by way of benefit in consequence of an act, failure or omission specified in the certificate and has not been repaid is evidence of the matters specified in the certificate.

#### **Prosecutions for offences**

**45.** A prosecution for an offence against this Act —

- (a) shall not be commenced without the written consent of the Administrator; and
- (b) may be commenced at any time within 3 years after the commission of the offence.

**Death of beneficiary**

46. Where a beneficiary dies, any unpaid amount of benefit may be paid to the person who, in the opinion of the Administrator, is best entitled to receive it.

**Confidential information may be obtained**

47. Nothing in an enactment or in the relationship between persons (whether the relationship is that of banker and customer, solicitor and client or otherwise) operates so as to prevent a person from furnishing information or making books, documents or papers available to the Board or to the Administrator for the purposes of this Act.

**Exercise of powers by authorised officers**

48. Where, under this Act, the exercise of a power by the Administrator is dependent upon the opinion, belief or state of mind of the Administrator and that power may be exercised by an authorised officer, that power may be so exercised upon the opinion, belief or state of mind of the authorised officer in relation to that matter.

**Regulations**

49. (1) The Commonwealth Minister may make regulations, not inconsistent with this Act, prescribing all matters that this Act requires or permits to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may vary —

- (a) any rate of benefit specified in item 1, 5, 6 or 7 of the Schedule; or
- (b) any rate of income per fortnight specified in item 2 of the Schedule.

**SCHEDULE**

Sections 16, 17, 20, 21, 22, 28, 38A

**RATES OF BENEFIT****A. AGE, INVALID AND WIDOWED PERSONS BENEFITS**

1. The rate of benefit is —
  - (a) in the case of an unmarried person or a married person whose spouse is not also qualified to receive a benefit - \$139.40 per fortnight; and
  - (b) in the case of a married person whose spouse is also qualified to receive a benefit - \$116.30 per fortnight.
2. The rate of a benefit shall be reduced —
  - (a) in the case of an unmarried person or a married person whose spouse is not also qualified to receive a benefit -
    - (i) where the rate of income per fortnight of the beneficiary is not less than \$66 and not more than \$155.99 - by one-half of the amount by which the fortnightly income exceeds \$66; or
    - (ii) where the rate of income per fortnight is \$156 or more — by —
      - (A) the amount of reduction calculated in accordance with subparagraph 2(a)(i) if the income per fortnight were \$155.99; and
      - (B) three-quarters of the amount by which the fortnightly income exceeds \$155.99; or
  - (b) in the case of a married person whose spouse is also qualified to receive a benefit —
    - (i) where the rate of income per fortnight of the beneficiary is not less than \$55 and not more than \$143.99 - by one-half of the amount by which the fortnightly income exceeds \$55; or
    - (ii) where the rate of income per fortnight is \$144 or more — by —
      - (A) the amount of reduction calculated in accordance with subparagraph 2(b)(i) if the income per fortnight were \$143.99; and
      - (B) three-quarters of the amount by which the fortnightly income exceeds \$143.99.
3. Paragraph 2 does not apply where the beneficiary is a permanently blind person.
4. For the purposes of paragraph 2, the income of a married person shall be deemed to be one-half of the aggregate of the respective incomes of the person and his spouse, unless —
  - (a) the persons are living apart in pursuance of a separation agreement or an order of a court; or
  - (b) for some special reason, the Administrator otherwise determines.

**B. ORPHANS BENEFIT**

5. The rate of benefit is \$25.70 per fortnight.

**C. HANDICAPPED CHILDREN'S BENEFIT**

6. The rate of benefit is \$33.90 per fortnight.

**D. SUPPLEMENTARY CHILDREN'S BENEFIT**

7. The rate of the benefit is \$20.10 per fortnight in respect of each child.

**NOTES**

The *Social Services Act 1980* as shown in this consolidation comprises Act No. 9 of 1981 and amendments as indicated in the Tables below.

<b>Enactment</b>	<b>Number and year</b>	<b>Date of commencement</b>	<b>Application saving or transitional provision</b>
<i>Social Services Act 1980</i>	9, 1981	12.8.81	
<i>Social Services (Amendment) Act 1981</i>	16, 1981	12.11.81	
<i>Immigration (Consequential Amendments) Act 1983</i>	3, 1984	27.3.84	
<i>Social Services (Amendment) Act 1984</i>	21, 1984	10.1.85	
<i>Statute Law Revision (Penalties and Fees) Act 1984</i>	9, 1985	13.5.85	4
<i>Social Services Amendment Act 1990</i>	12, 1990	2.8.90	
<i>Social Services Amendment Act 1990</i>	20, 1990	31.12.90	
<i>Social Services Amendment Act 1991</i>	18, 1991	31.12.91	
<i>Statute Law (Miscellaneous Provisions) Act 1995</i>	13, 1995	27.7.95	
<i>[Previously consolidated as at 1 August 1995]</i>			
<i>Social Services (Amendment) Act 2006</i>	9, 2007	31.8.07	
<i>[Previously consolidated as at 18 September 2007]</i>			
<i>Social Services (Amendment) Act 2010</i>	3, 2010	12.03.10 with effect from 1.07.2010	
<i>Social Services (Amendment No. 2) Act 2010</i>	4, 2010	s. 1 & 2 comm 12.03.2010; remainder comm. on day fixed by Administrator, ie 19.03.2010	
<i>[Previously consolidated as at 20 March 2010]</i>			
<i>Social Services (Amendment) Act 2011</i>	13, 2011	21.10.11	To validate

<b>Enactment</b>	<b>Number and year</b>	<b>Date of commencement</b>	<b>Application saving or transitional provision</b>
			Regs 6/2000 from 1.7.2000

*[Previously consolidated as at 24 October 2011]*

*Interpretation (Amendment) Act 2012*      14, 2012      28.12.12  
*[to substitute throughout —  
 Commonwealth Minister for Minister;  
 and to substitute Minister for executive  
 member]*

*[Previously consolidated as at 31 January 2013]*

<b>Ordinance</b>	<b>FRLI registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provision</b>
Norfolk Island Continued Laws Amendment Ordinance 2015 (No. 2, 2015)	17 June 2015 (F2015L00835)	Sch 1 (items 298–334, 344, 345, 351): 18 June 2015 (s 2(1) item 1)	Sch 1 (items 344, 345, 351)

#### Table of Amendments

ad = added or inserted      am = amended      rep = repealed      rs = repealed and substituted

<b>Provisions affected</b>	<b>How affected</b>
3	am 16, 1981; 3, 1984; 9, 2007; Ord No 2, 2015
4	am 9, 2007; Ord No 2, 2015
5	rep Ord No 2, 2015
6	am 9, 2007
	rs Ord No 2, 2015
7	am Ord No 2, 2015
8	rep Ord No 2, 2015
10	am Ord No 2, 2015
11	am Ord No 2, 2015
12	am 12, 1990
13	am 9, 1985; 12, 1990; Ord No 2, 2015
14	am 9, 1985; 12, 1990; Ord No 2, 2015
15	am 20, 1990; Ord No 2, 2015
17	am Ord No 2, 2015
18	am Ord No 2, 2015
19	am 12, 1990; Ord No 2, 2015

ad = added or inserted      am = amended      rep = repealed      rs = repealed and substituted

<b>Provisions affected</b>	<b>How affected</b>	
21	am	9, 1985; 12, 1990; Ord No 2, 2015
23	am	Ord No 2, 2015
24	am	9, 1985; Ord No 2, 2015
25	am	Ord No 2, 2015
26	am	Ord No 2, 2015
26A	ad	3, 2010
	am	Ord No 2, 2015
27	am	20, 1990; Ord No 2, 2015
28A	ad	20, 1990
29	rs	21, 1984
	am	12, 1990; 18, 1991
30	am	13, 1995; Ord No 2, 2015
31	am	9, 1985; Ord No 2, 2015
32	am	Ord No 2, 2015
33	am	Ord No 2, 2015
34	am	12, 1990; Ord No 2, 2015
35	am	Ord No 2, 2015
36	am	9, 1985; Ord No 2, 2015
37	am	Ord No 2, 2015
38	am	Ord No 2, 2015
38A	ad	16, 1981
	am	Ord No 2, 2015
39	am	12, 1990; Ord No 2, 2015
41	am	12, 1990; Ord No 2, 2015
42	am	Ord No 2, 2015
44	am	9, 1985; Ord No 2, 2015
45	am	Ord No 2, 2015
46	am	Ord No 2, 2015
47	am	Ord No 2, 2015
48	am	Ord No 2, 2015
49	am	12, 1990; 13, 2011; Ord No 2, 2015
Schedule	am	21, 1984; Ord No 2, 2015