

Canada Pension Plan

orphan's benefit is payable to an orphan of a contributor, payment thereof shall, if the child or orphan has not reached 18 years of age, be made to the person having the custody and control of the child or orphan, or, where there is no person having such custody and control, to such person as the minister may direct, and for the purposes of this part,

- (a) the contributor, in relation to a disabled contributor's child, except where the child is living apart from the contributor, and
- (b) the surviving spouse, if any, of the contributor, in relation to an orphan, except where the orphan is living apart from the spouse,

shall be presumed, in the absence of any evidence to the contrary, to be the person having such custody and control.

Mr. Enns: I believe the same question could be raised here because the reference is simply to a person appointed by the minister. Could this also be a child care agency? The other question that arises in connection with this provision is that the child or orphan is only eligible to 18 years, whereas I believe elsewhere in the bill a child, if continuing at school beyond that age, may continue to be eligible. Am I correct in that assumption?

Miss LaMarsh: I am informed that clause 43 defines what an orphan is. If an orphan remains at school beyond 18, then he or she is entitled to the benefit in his or her own right. Here, the benefit is only in respect of a right which belongs to the contributor.

Mr. Enns: I appreciate this being clarified because I had in my mind a clause which referred to a student beyond the age of 18.

Mr. Aiken: Without wishing to delay the bill, I think I should say that the question that was raised concerning the definition of the word "person", while it was not really essential in clause 77, might really be essential under clause 78. The hon. member for Portage-Neepawa raised a question of whether or not a child in the custody of the children's aid society, or other welfare agency, would have his benefits paid to such an agency. I cannot find that the word "person" is defined in this bill. The only place it might be so defined would be in the general Interpretation Act. I would think that "person" might very easily be defined as an incorporated company. I believe that has always been considered a "person" within the meaning of a statute. However, some of the agencies that deal with children are not incorporated and I am just wondering if this is not a matter that should be clarified at this point, because it may very easily arise.

20220—774

Miss LaMarsh: I hope the committee will be indulgent for a moment or two while the draftsman is looking at this.

Mr. Enns: It seems to me that if after the word "person" we inserted the words "or recognized child care agency", the problem might be solved.

Miss LaMarsh: It was intended that agency would be covered. May I suggest that one change be made in the draft which has been circulated, and that in the fourth line in the mimeographed copy after the words "any other person" the words "or agency" be included. Subsequently, in clause 78 in the sixth line after "person" the words "or agency" be included, and in the following line after the words "there is no person" the words "or agency" be included.

Mr. Knowles: Will the minister not have to do it again in the next to last line?

Mr. Enns: While we are waiting to get this straightened out may I say I raise this point because there are some 20,000 children in Canada who are living away from their parents or legal guardians, and therefore this is an important matter to be amended.

Clause 78 stands.

On clause 77—*Persons by whom application may be made.*

The Chairman: Could the minister kindly let the Chair have a copy of the amended amendment? For the purposes of the record we will return to clause 77, and the amendment will read:

Persons by whom application may be made.

77(1) An application for a disabled contributor's child's benefit or orphan's benefit may be made on behalf of a disabled contributor's child or orphan by such child or orphan or by any other person or agency to whom the benefit would, if the application were approved, be payable under this part.

Commencement of payment of benefit.

(2) Subject to section 61, where payment of a disabled contributor's child's benefit or orphan's benefit in respect of a contributor is approved, the benefit is payable for each month commencing with,

(a) in the case of a disabled contributor's child's benefit, the month commencing with which a disability pension is payable to the contributor under this act or under a provincial pension plan; and

(b) in the case of an orphan's benefit, the month following the month in which the contributor died, but in no case earlier than the 12th month preceding the month following the month in which the application was received.

No benefit in respect of more than one contributor.

(3) Where a disabled contributor's child's benefit has become payable to a child under this act