

Social Security Amendment Bill
(No 3)

Government Bill

As reported from the committee of the whole
House

Social Security Amendment Bill (No 3)

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

text deleted

Hon Anne Tolley

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Social Security Amendment Act **(No 3) 2010**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent. 5
- 3 Principal Act amended**
This Act amends the Social Security Act 1964.

Part 1
Amendments to principal Act 10

- 4 Accommodation supplement**
- (1) Section 61EA(4) is amended by inserting the following paragraph after paragraph (a):
“(ab) would be eligible to receive a basic grant or an independent circumstances grant under the Student Allowances Regulations 1998, if he or she were to apply for the grant; or” 15
- (2) Section 61EA(4)(b) is amended by inserting “or spouse or partner, were the person to apply for the grant” after “parents”.
- 5 Deduction of weekly compensation from income-tested benefits** 20
Section 71A is amended by repealing subsection (3) and substituting the following subsection:
- “(3) In this section, **weekly compensation** means weekly compensation for loss of earnings or loss of potential earning capacity payable to the person under the Accident Compensation Act 2001 (whether payable by or on behalf of the Accident Com- 25

pensation Corporation or by or on behalf of an accredited employer within the meaning of section 181 of that Act).”

5A New section 79 substituted

Section 79 is repealed and the following section substituted:

“79 Persons who have had income tax deducted or withheld on earnings from employment overseas to be treated as resident and present in New Zealand 5

“(1) This section applies to any person who was employed outside New Zealand if, with respect to the person’s period of employment, the person’s employer (or other relevant person) makes— 10

“(a) PAYE income payments (as that term is used in the Income Tax Act 2007) from which the person, employer, or other relevant person must withhold an amount of tax under the PAYE rules as defined in that Act: 15

“(b) source deduction payments,—

“(i) as that term is used in the Income Tax Act 2004, from which the person, employer, or other relevant person must withhold an amount of tax under the PAYE rules as defined in that Act: 20

“(ii) as that term is used in the Income Tax Act 1994, from which the person, employer, or other relevant person must make a tax deduction under the PAYE rules as defined in that Act:

“(iii) as that term is used in the Income Tax Act 1976, from which the person, employer, or other relevant person must make a tax deduction under Part 11 of that Act: 25

“(iv) as that term is used in the Income Tax Assessment Act 1957, from which the person, employer, or other relevant person must make a tax deduction under Part 2 of that Act. 30

“(2) This section applies in respect of a period of employment, whether or not the person’s employer (or other relevant person) failed to pay an amount of tax deducted or withheld to the Commissioner of Inland Revenue if the chief executive is satisfied that— 35

- “(a) the employer (or other relevant person) deducted or withheld tax under **subsection (1)**; and
- “(b) the person did not contribute to the employer’s (or other relevant person’s) failure to pay that tax to the Commissioner. 5
- “(3) For the purposes of satisfying the residential qualification for any benefit after the return to New Zealand, on or after 23 June 1987, of the person to whom this section applies or the spouse or partner or any child of that person,—
- “(a) that person must be treated as being resident and present in New Zealand during the period to which this section applies: 10
- “(b) if the spouse or partner or any child of that person was with the person during that period or any part of it, the spouse or partner or child must be treated as being resident and present in New Zealand during that period or that part of it, as the case may be: 15
- “(c) any child of that person born outside New Zealand during that period must be treated as having been born in New Zealand. 20
- “(4) Nothing in **subsection (3)** may be construed to derogate from the provisions of section 77.”

6 Benefit applications by claimants under Injury Prevention, Rehabilitation, and Compensation Insurance Act 2001

- (1) The heading to section 80D is amended by omitting “**Injury Prevention, Rehabilitation, and Compensation Insurance Act 2001**” and substituting “**Accident Compensation Act 2001**”. 25
- (2) Section 80D is amended by repealing paragraph (a) and substituting the following paragraph: 30
- “(a) weekly compensation is paid by or on behalf of the Accident Compensation Corporation, or by or on behalf of an accredited employer within the meaning of section 181 of the Accident Compensation Act 2001, in respect of a claim made under that Act; and”. 35

6A Schedule 6 amended

The proviso to item 1 of Schedule 6 is amended by inserting “receiving a supported living payment under section 40B” after “any beneficiary”.

6B Schedule 18 amended

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Part 1 of Schedule 18 is amended by inserting the following subparagraph after clause 2(b)(i):

“(ia) in the case of a sole parent, at the appropriate maximum rate in item 1(ba) or (c) of Schedule 9 as if Income Test 3 applied to that rate instead of Income Test 1; or”.

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Part 2**Validation and savings—Validation, savings, and consequential amendments****7 Validation**

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(1) For the purpose of calculating the rate of reduction of a benefit payable to a person in accordance with section 71A, the principal Act must be read as if, during the period beginning on 1 July 1999 and ending on the commencement of **section 5** of this Act, (the **relevant period**), the definition in section 71A(3) were replaced by the following definitions:

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weekly compensation means weekly compensation for loss of earnings or loss of potential earning capacity payable to the person in respect of any time or times within the relevant period by or on behalf of any person (including, without limitation, a specified payer) in accordance with any 1 or more of the following Acts as in force at that time or times during the relevant period:

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(a) the Accident Insurance Act 1998 (the **1998 Act**):

(b) the Injury Prevention, Rehabilitation, and Compensation Act 2001, renamed the Accident Compensation Act 2001 (the **2001 Act**) on 3 March 2010

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specified payer means a person who or that is—

(a) an insurer as defined in section 13(1) of the 1998 Act or section 341(1) of the 2001 Act; or

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- (b) the Accident Compensation Corporation established by section 328 of the 1998 Act and continued by section 259(1) of the 2001 Act; or
- (c) an accredited employer as defined in section 326A of the 1998 Act or section 181 of the 2001 Act. 5
- (2) For the purpose of determining the residential qualifications of any person for any benefit on and after 23 June 1987, the principal Act must be read as if **section 79** (as replaced by **section 5A** of this Act) had come into force on that date.
- (3) For the purposes of determining the validity of the rate of any supported living payment in the period beginning with 15 July 2013 and ending on the commencement of **section 6A** of this Act, the Social Security Act 1964 must be read as if the proviso to item 1 of Schedule 6 contained the words inserted by **section 6A** of this Act. 10 15
- (4) For the purposes of determining the validity of the rate of any accommodation supplement or any decision to refuse to grant an accommodation supplement on account of income in the period beginning with 15 July 2013 and ending on the commencement of **section 6B** of this Act, the Social Security Act 1964 must be read as if clause 2(b) of Part 1 of Schedule 18 contained **subparagraph (ia)** (as inserted by **section 6B** of this Act). 20
- 8 Savings**
- (1AA) **Section 79** of the principal Act (as replaced by **section 5A** of this Act)— 25
- (a) does not apply in respect of any application, appeal, or proceedings of a kind specified in **subsection (2)** that alleged an invalidity in the assessment of whether a person was liable for the payment of income tax on earnings from employment outside New Zealand under **section 79(1)** of the principal Act and was made or filed, as the case may be, before 6 July 2013; and 30
- (b) does not affect the rights of any person who made an application to which **paragraph (a)** applies, or was a party to an appeal or other proceedings to which **paragraph (a)** applies, under— 35

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- (i) any decision, or any judgment of a court, in relation to that application or appeal or those proceedings, as the case may be; or
- (ii) any decision or judgment given on appeal from that decision or judgment. 5
- (1) **Section 7** of this Act—
- (a) does not apply in respect of any application, appeal, or proceedings of a kind specified in **subsection (2)** that alleged an invalidity in a rate of benefit reduced or purported to be reduced under section 71A(2) of the principal Act and was made or filed, as the case may be, before 15 April 2009; and 10
- (b) does not affect the rights of any person who made an application to which **paragraph (a)** applies, or was a party to an appeal or other proceedings to which **paragraph (a)** applies, under— 15
- (i) any decision, or any judgment of a court, in relation to that application or appeal or those proceedings, as the case may be; or
- (ii) any decision or judgment given on appeal from that decision or judgment. 20
- (2) **Subsection (1)(a)-Subsection (1AA)(a) or (1)(a)** applies in respect of each of the following:
- (a) an application for review under section 10A of the principal Act: 25
- (b) an appeal under section 12J, 12Q, or 12R of the principal Act:
- (c) any other proceedings.
- 9 Consequential amendments**
- The Acts set out in the **Schedule** are consequentially amended in the manner set out in that schedule. 30
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Schedule**s 9****Acts consequentially amended****New Zealand Superannuation and Retirement Income Act 2001 (2001 No 84)**

Section 26A(2)(c): omit “was (by virtue of section 79(1)(a) of the Social Security Act 1964) deemed to have been resident in New Zealand” and substitute “was treated under **section 79(3)(a)** of the Social Security Act 1964 as being resident and present in New Zealand”. 5

Section 26A(2)(d): omit “deemed by section 79(1)(a) of the Social Security Act 1964 to have been resident in New Zealand, the person was also (by virtue of section 79(1)(b) of the Social Security Act 1964) deemed to have been resident in New Zealand” and substitute “treated under **section 79(3)(a)** of the Social Security Act 1964 as being resident and present in New Zealand, the person was also (by virtue of **section 79(3)(b)** of the Social Security Act 1964) treated as being resident and present in New Zealand”. 10 15

Veterans’ Support Act 2014 (2014 No 56)

Section 185(1)(c): omit “was (by virtue of section 79(1)(a) of the Social Security Act 1964) deemed to have been resident in New Zealand” and substitute “was treated under **section 79(3)(a)** of the Social Security Act 1964 as being resident and present in New Zealand”. 20

Section 185(1)(d): omit “deemed by section 79(1)(a) of the Social Security Act 1964 to have been resident in New Zealand, the person was also (by virtue of section 79(1)(b) of the Social Security Act 1964) deemed to have been resident in New Zealand” and substitute “treated under **section 79(3)(a)** of the Social Security Act 1964 as being resident and present in New Zealand, the person was also (by virtue of **section 79(3)(b)** of the Social Security Act 1964) treated as being resident and present in New Zealand”. 25 30

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Legislative history

16 November 2010	Introduction (Bill 232–1)
6 April 2011	First reading and referral to Social Services Committee
12 May 2011	Reported from Social Services Committee
17 February 2015	Second reading
25 March 2015	Committee of the whole House (Bill 232–2)
