

Housing Restructuring (Income-Related Rents) Amendment Act 2000

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**Housing Restructuring (Income-Related
Rents) Amendment Act 2000**

2000 No 22

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The Parliament of New Zealand enacts as follows:**1 Title**

- (1) This Act is the Housing Restructuring (Income-Related Rents) Amendment Act 2000.
- (2) In this Act, the Housing Restructuring Act 1992 is called **the principal Act**.

2 Commencement

- (1) Subsections (1), (2), and (4) to (7) of section 7 come into force on a day appointed by the Governor-General by Order in Council.
- (2) Section 7(3) comes into force 6 months after the rest of section 7.
- (3) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

Part 1**Principal objective of company, and
statement of corporate intent****3 Principal objective of company**

Section 4 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- “(1) The company’s principal objective is to help meet the Crown’s social objectives by providing housing and related services in a businesslike manner, whether in accordance with its statement of corporate intent or pursuant to any agreement made under section 7, and to that end to be an organisation that—
- “(a) exhibits a sense of social responsibility by having regard to the interests of the community in which it operates; and
 - “(b) exhibits a sense of environmental responsibility by having regard to the environmental implications of its operations; and
 - “(c) operates with good financial oversight and stewardship, and efficiently manages its assets and liabilities and the Crown’s investment; and
 - “(d) is a good employer.”

4 Statement of corporate intent

Section 15(3) of the principal Act is amended by inserting, after paragraph (b), the following paragraph:

- “(ba) the exercise by the company of the powers, functions, and discretions conferred by Part 5 and the calculation mechanism (within the meaning of section 42(1)).”

**Part 2
Income-related rents****5 New Part 5 inserted**

The principal Act is amended by inserting, after Part 4, the following Part:

**“Part 5
Income-related rents****“42 Interpretation**

- “(1) In this Part and Schedules 2 and 3, unless the context otherwise requires,—

“**additional resident**, in relation to any HNZ housing, means a person who—

- “(a) is aged 16 years or over; and
“(b) is financially independent (within the meaning of section 3(1) of the Social Security Act 1964); and
“(c) resides or is to reside in the housing; but
“(d) is not an applicable person

“**applicable person**, in relation to any HNZ housing,—

- “(a) means every person to whom the housing is or is to be let; and
“(b) includes every person who is the partner of such a person

“**appointed day** means the day appointed under section 2(1) of the Housing Restructuring (Income-Related Rents) Amendment Act 2000 for the commencement of subsections (1), (2), and (4) to (7) of section 7 of that Act

“**assessable assets** has the meaning given to that term by the calculation mechanism

“**assessable income** has the meaning given to that term by section 47

“**calculate** includes ascertain

“**calculation mechanism**,—

“(a) before the commencement of the regulations first made under section 53, means sections 46 to 52 and the provisions of Schedule 2; and

“(b) after that commencement, means sections 46 to 52 and the regulations for the time being in force under section 53

“**contributions**, in relation to an additional resident of any HNZ housing, means all payments made by the resident, and the value of all goods or services provided or paid for by the resident,—

“(a) as a contribution towards the costs and expenses incurred by the applicable persons in residing there; or

“(b) in consideration of goods or services provided by the applicable persons while the resident is residing there; or

“(c) in consideration of the resident’s being allowed to reside there; or

“(d) for 2 or all of those reasons

“**HNZ housing** means premises (whether owned by the Crown, the company, or any other person) let or to be let by or on behalf of the company for occupation by any person as a place of residence

“**income-related purpose** has the same meaning as in section 3(1) of the Social Security Act 1964

“**income-related rent**, in relation to a tenant, means a rent calculated for the tenant under the calculation mechanism, or under Schedule 3

“**market rent**, in relation to any HNZ housing, means the rent for the time being determined by the company (or the Tenancy Tribunal under the Residential Tenancies Act 1986) as the market rent for that housing

“**partner**, in relation to any person, means a person who,—

“(a) either—

“(i) is legally married to that person; or

“(ii) in the company’s opinion, has a relationship in the nature of marriage with that person (whether

they are of opposite sexes or the same sex, and even if they are not able to be legally married to each other); and

“(b) in the company’s opinion, is not living apart from that person

“**prescribed**, in any provision of this Part, means for the time being—

“(a) prescribed by the calculation mechanism for the purposes of the provision; or

“(b) calculated under a means prescribed by the calculation mechanism for the purposes of the provision

“**prospective tenant** means a person—

“(a) who—

“(i) is not a person to whom any HNZ housing is let or to be let; and

“(ii) has applied to the company (alone or together with some other person or people) to become a tenant of HNZ housing and has not yet had the application accepted or declined, or withdrawn it; or

“(b) who—

“(i) is already a person to whom HNZ housing is let or to be let; but

“(ii) has applied to the company (alone or together with some other person or people) to become a tenant of some other HNZ housing and has not yet had the application accepted or declined, or withdrawn it

“**rent period**, in relation to any HNZ housing, means a period in respect of which the tenant is required by the tenancy agreement to pay rent for it

“**standard tax** has the same meaning as in section 13A(1) of the Social Welfare (Transitional Provisions) Act 1990

“**study grant** means a basic grant or independent circumstances grant under regulations under section 303 of the Education Act 1989 (or an allowance, award, bursary, grant, or scholarship that the company considers to have been established under that section in place of a basic grant or independent circumstances grant)

“**tenant**,—

“(a) in relation to HNZ housing in general,—

“(i) means any person or people to whom any HNZ housing is let or to be let; and

“(ii) includes a prospective tenant; and

“(b) in relation to any particular HNZ housing, means the person or people to whom it is let or to be let.

“(2) Schedule 2 expires on the commencement of the regulations first made under section 53.

“**43 Income-related rent**

“(1) This subsection applies to HNZ housing and a tenant if—

“(a) the tenant has applied to the company for it to calculate an income-related rent for the housing; and

“(b) the company is satisfied that—

“(i) it has had all information reasonably needed to calculate such a rent for the housing for long enough to be able to do so; and

“(ii) the information is accurate.

“(2) If subsection (1) applies to any HNZ housing and a tenant, the rent for the housing on or after the appointed day must be the income-related rent for the time being calculated for the tenant.

“(3) If subsection (1) does not apply to any HNZ housing and a tenant, the rent for the housing on or after the appointed day must be its market rent for the time being.

“(4) If satisfied that special circumstances justify its doing so, the company may, in its absolute discretion, set for and accept from a tenant of any HNZ housing a rent lower than the rent otherwise required by subsection (2) or subsection (3) to be paid for the housing by the tenant.

“(5) Subsections (2) and (4) are subject to sections 57(2) and 58(4).

“(6) Subsections (2) to (4) are subject to section 45.

“**44 Backdating**

“(1) The company may treat an application made at any time to it for it to calculate an income-related rent for any HNZ housing as having been made at any earlier time it determines, if satisfied that—

- “(a) it has all information reasonably needed to calculate an income-related rent for the housing as at the time determined; and
 - “(b) the information is accurate; and
 - “(c) it was unreasonable in all the circumstances to expect the application to have been made earlier.
- “(2) This subsection applies to an application made to the company for it to calculate an income-related rent for any HNZ housing if,—
- “(a) at the time it was made, the company—
 - “(i) did not have all information reasonably needed to calculate an income-related rent for the housing; or
 - “(ii) had all information reasonably needed to calculate an income-related rent for the housing, but was not satisfied that it was accurate; and
 - “(b) at some later time the company is satisfied that—
 - “(i) it has all that information; and
 - “(ii) the information is accurate.
- “(3) The company may treat an application to which subsection (2) applies as if the company had had all information reasonably needed to calculate an income-related rent for the housing concerned at any time it determines between the time the application was made and the later time concerned.

“45 Changes in rent

- “(1) This subsection applies to an existing tenant of HNZ housing if the company—
- “(a) is required by section 43 to reduce the rent for the housing; or
 - “(b) is empowered by section 43 or section 57(2) or section 58(4) to increase the rent for the housing, and decides to do so.
- “(2) The company must, in accordance with section 136 of the Residential Tenancies Act 1986, give a tenant to whom subsection (1) applies written notice of the reduction or increase in rent concerned, stating—

- “(a) the day on which it takes effect (being a day no earlier than the commencement of the first rent period commencing after the appointed day); and
 - “(b) the matters referred to in paragraphs (j) and (k) of section 13A of that Act.
- “(3) In the case of an increase in rent, the notice must comply with section 24 of the Residential Tenancies Act 1986.
- “(4) In the case of a reduction in rent, the notice has effect as a variation of the tenancy agreement for the housing, whether or not the tenant signs it.

“Calculating income-related rents

“46 Calculating income-related rents

- “(1) The income-related rent for any HNZ housing (calculated on a weekly basis) is the higher of the following rents:
- “(a) a rent calculated by reference to household income under subsection (2):
 - “(b) a rent calculated by reference to benefit levels under subsection (3).
- “(2) A rent calculated by reference to household income is the sum of—
- “(a) the prescribed proportion of the sum of the assessable incomes of the applicable persons concerned, up to the prescribed threshold (or the threshold prescribed for tenants of a category to which the tenant belongs); and
 - “(b) the prescribed proportion of any amount by which that sum is greater than that threshold; and
 - “(c) if any of the applicable persons is eligible to receive family support under Subpart KD of the Income Tax Act 1994, the prescribed proportion of the lesser of—
 - “(i) the total of the amounts that the applicable persons are eligible to receive as family support under that Subpart; and
 - “(ii) a prescribed amount (or an amount calculated by a prescribed means).
- “(3) A rent calculated by reference to benefit levels is the sum of—
- “(a) the prescribed proportion of the rate (before abatement) stated in paragraphs (a) to (j) of clause 1 of the Ninth

- Schedule of the Social Security Act 1964 that would be appropriate if the tenant were a beneficiary; and
- “(b) if any of the applicable persons is eligible to receive family support under Subpart KD of the Income Tax Act 1994, the prescribed proportion of the lesser of—
 - “(i) the total of the amounts that the applicable persons are eligible to receive as family support under that Subpart; and
 - “(ii) a prescribed amount (or an amount calculated by a prescribed means).
- “(4) The income-related rent for any HNZ housing must not exceed its market rent for the time being.
- “(5) Subsection (4) overrides subsection (1).
- “(6) For the purposes only of this Part, the calculation mechanism, and Schedule 3, the Social Security Act 1964 and the Social Welfare (Transitional Provisions) Act 1990 apply to a person who has a partner of the same sex as if they were married to each other.
- “47 **Assessable income**
- The assessable income of an applicable person is the company’s estimate of the person’s weekly income from all sources,—
- “(a) if the company considers that income tax is payable on any part of it, after the deduction of whichever of the following the company thinks fit in the particular case:
 - “(i) any income tax actually paid in respect of or deducted from that part; or
 - “(ii) the company’s estimate of the amount of income tax payable in respect of it; and
 - “(b) if the company considers that any premium is payable in respect of any part of it under section 283(1) of the Accident Insurance Act 1998, after the deduction of whichever of the following the company thinks fit in the particular case:
 - “(i) any premium actually paid in respect of that part; or
 - “(ii) the company’s estimate of the amount of premium payable in respect of it; and

- “(c) if the company considers that any levy is payable in respect of any part of it under section 283(2) of the Accident Insurance Act 1998, after the deduction of whichever of the following the company thinks fit in the particular case:
 - “(i) any levy actually paid in respect of that part; or
 - “(ii) the company’s estimate of the amount of levy payable in respect of it.

“48 Certain amounts included in weekly income

- “(1) For the purposes of section 47, a person’s weekly income includes—
 - “(a) the appropriate weekly proportion of any periodical payment, whether capital or not, made to the person on a regular basis by any other person for income-related purposes and used by the person for income-related purposes; and
 - “(b) the appropriate weekly proportion of the value of any goods, service, transport, or accommodation (other than accommodation provided by the company) supplied to the person on a regular basis by any other person.
- “(2) A person’s weekly income includes contributions from additional residents to the extent only required by the calculation mechanism.
- “(3) Subsection (1) does not limit the generality of section 47.
- “(4) Subsection (2) overrides subsection (1) and section 47.

“49 Calculation mechanism may include amounts in or exclude amounts from weekly income

- “(1) For the purposes of section 47, a person’s weekly income—
 - “(a) includes any amount or payment (or, as the case requires, the appropriate weekly proportion of any amount or payment) of a prescribed description:
 - “(b) does not include any amount or payment (or, as the case requires, the appropriate weekly proportion of any amount or payment) of a prescribed description.
- “(2) Subsection (1)(a) does not limit the generality of section 47.
- “(3) Subsection (1)(b) overrides sections 47 and 48(1).

*“Assessable assets, and deprivation of income
or property*

“50 Assessable assets

- “(1) Assessable assets generate imputed income at a rate of interest for the time being stated by the shareholding Ministers by notice in the *Gazette*; and, for the purposes of section 47,—
- “(a) the gross income from any person’s assessable assets is the greater of the actual income from those assets and the imputed income they generate; and
 - “(b) the person’s weekly income must be estimated accordingly.
- “(2) In subsection (1), **assessable assets** has the meaning prescribed.

“51 Assessable income may be adjusted in certain cases

- “(1) If satisfied that—
- “(a) an applicable person has directly or indirectly deprived himself or herself of any income or property; and
 - “(b) as a consequence of the deprivation, an income-related rent of any HNZ housing in respect of which the person is an applicable person is (or but for this section would be) lower than it would otherwise be,—
the company may treat the person’s assessable income as having been increased to the extent the company thinks necessary to reflect the deprivation, or any lesser extent.
- “(2) Subsection (1) overrides sections 46(1) and 52.

*“Estimating weekly income, and regulations for
purposes of calculation mechanism*

“52 Estimating weekly income

For the purposes of section 47, a person’s weekly income is the person’s estimated income for the prescribed period commencing on the day on which the estimation is made (or in the case of an application backdated under section 44 or a review under section 57 or action taken under section 58(4), the day from which the estimation is made), divided so as to equate to a weekly amount; but—

- “(a) that estimated income must be treated as an amount equal to—
 - “(i) the company’s estimate of the income received by the person for any period equal to the prescribed period (ending on a day before the day concerned) that the company decides, divided so as to equate to a weekly amount; or
 - “(ii) if the company thinks it more appropriate in all the circumstances, the company’s estimate of the income received by the person for any shorter period (ending on a day before the day concerned) that the company decides, divided so as to equate to a weekly amount; and
- “(b) there may be deducted from that amount any items by which the company is satisfied the income is likely to be reduced, and there may be added to that amount any items by which the company is satisfied the income is likely to be increased.

“53 **Regulations for purposes of calculation mechanism**

- “(1) The Governor-General may, by Order in Council, make regulations for any or all of the following purposes:
 - “(a) prescribing a definition of **assessable assets** for the purposes of section 50(2);
 - “(b) prescribing matters contemplated by sections 46 to 52;
 - “(c) providing for any other matters contemplated by sections 46 to 52, necessary for their administration, or necessary for giving them full effect.
- “(2) The regulations may—
 - “(a) prescribe a zero proportion (or a means for calculating proportions capable of producing a zero proportion) for the purposes of any provision;
 - “(b) prescribe a proportion or threshold (or a means for calculating a proportion or threshold) for the purposes of any provision by reference to any or all of the following matters:
 - “(i) the marital status of the tenant concerned;
 - “(ii) the marital status of the applicable persons concerned;

- “(iii) the number of dependent children of the tenant concerned:
- “(iv) the number of dependent children of the applicable persons concerned:
- “(v) the number of people living or intended to live in the housing concerned:
- “(c) prescribe a threshold (or a means for calculating a threshold) for the purposes of any provision by reference to the rate of a benefit within the meaning of section 3(1) of the Social Security Act 1964, or the rates of 2 or more such benefits.
- “(3) A means for calculating may comprise any number of mechanisms and parameters.
- “(4) Subsection (2) does not limit the generality of subsection (1).
- “(5) Subsection (2) overrides the Human Rights Act 1993.
- “(6) Subsection (5) is for the avoidance of doubt.

“Transitional matters

“54 Transitional arrangements for certain tenants

- “(1) This section and Schedule 3 apply to a tenant of HNZ housing if, but for the provisions of that schedule,—
 - “(a) the rent that the tenant would be required to pay for the first rent period commencing on or after the appointed day—
 - would be greater than—
 - “(b) the rent, after the deduction of any accommodation assistance (within the meaning of clause 1 of Schedule 3) to which the tenant was entitled, that the tenant was required to pay for the last rent period commencing before the appointed day.
- “(2) Schedule 3 overrides section 43.

“55 Department of Work and Income may verify entitlement

For the purposes of section 54 and Schedule 3,—

- “(a) the company may, with the consent of the applicable persons concerned, give the Department of Work and Income details of—

- “(i) those persons’ assessable incomes and the components of those incomes, and their cash assets, as supplied to the company under section 43(1); and
 - “(ii) the weekly market rent in relation to the housing; and
 - “(iii) the dates of the beginning and end of the rent period in respect of the housing that commenced immediately prior to the appointed day; and
- “(b) an officer or employee of the Department may, on the basis of the details given,—
- “(i) certify in writing to the applicable persons the kinds of accommodation assistance (within the meaning of clause 1 of Schedule 3) they were receiving and, in respect of assistance of each kind, whether they were receiving more than their entitlement, their entitlement, or less than their entitlement immediately before the appointed day; and
 - “(ii) give the company a copy of the certificate; and
- “(c) the company may rely on the certificate.

“Administration of income-related rents

“56 Tenant’s duty to advise changes of circumstances

- “(1) Every person to whom any HNZ housing is let at an income-related rent must promptly advise the company of—
- “(a) any change in the person’s circumstances likely to result in the payment of a higher income-related rent; and
 - “(b) any change known to the person in the circumstances of any other applicable person likely to result in the payment of a higher income-related rent.
- “(2) A person does not commit an offence by reason only of failing to comply with subsection (1).

“57 Reviews of income-related rents

- “(1) The company may at any time, of its own motion or on application by the tenant concerned, review any income-related rent to ascertain—

- “(a) whether it or some other income-related rent is now appropriate for the housing concerned; or
 - “(b) whether at some earlier time it or some other income-related rent was appropriate for the housing concerned; or
 - “(c) both.
- “(2) After reviewing the rent, the company,—
- “(a) if satisfied that some other income-related rent is now appropriate for the housing concerned, may calculate and charge that other rent for the tenant:
 - “(b) if satisfied that at some earlier time a higher income-related rent was appropriate for the housing concerned, may take action under section 60:
 - “(c) if satisfied that at some earlier time a lower income-related rent was appropriate for the housing concerned, must make any necessary refund.
- “(3) The company—
- “(a) does not have to act under subsection (2)(a) unless, in the company’s opinion, it would result in a material difference to the rent to be paid for the housing concerned; and
 - “(b) does not have to act under subsection (2)(b) unless, in the company’s opinion, there has been a material underpayment of rent for the housing concerned.
- “58 Investigation of applications, etc**
- “(1) The company may investigate—
- “(a) the present circumstances of—
 - “(i) any tenant of HNZ housing who is paying, or has applied to the company for the company to calculate, an income-related rent for the housing; or
 - “(ii) any person who is an applicable person in relation to the tenant:
 - “(b) to the extent that those circumstances might be relevant to the eligibility of a prospective tenant to be allocated HNZ housing, or to the housing need of a prospective tenant, the present circumstances of—
 - “(i) the prospective tenant; or

- “(ii) any person who would be an applicable person in relation to the prospective tenant:
 - “(c) the circumstances (as they existed immediately before the income-related rent concerned was calculated or during any period when it was applicable) of—
 - “(i) any tenant or former tenant of HNZ housing who was required to pay an income-related rent for the housing; or
 - “(ii) any person who was an applicable person in relation to the tenant or former tenant at the time concerned.
- “(2) For the purposes of subsection (1), the company—
 - “(a) may ask any person whose circumstances it may investigate under that subsection any relevant questions it thinks fit; and
 - “(b) may ask any person whose circumstances it may investigate under that subsection to verify by statutory declaration—
 - “(i) any information he or she has given when answering questions asked under paragraph (a); or
 - “(ii) any other information that he or she has at any time given to the company; or
 - “(iii) any information within his or her personal knowledge that any of the applicable persons concerned has at any time given to the company.
- “(3) The company may take the actions stated in subsection (4) if—
 - “(a) any person whose circumstances it may investigate under subsection (1)—
 - “(i) fails or refuses to answer (or, in the company’s opinion, fails or refuses to answer fully) any question asked under subsection (2)(a); or
 - “(ii) fails or refuses to verify any information by statutory declaration when asked to do so under subsection (2)(b); or
 - “(b) it believes on reasonable grounds that any person whose circumstances it may investigate under subsection (1) has wilfully given a false or misleading answer to any question asked under subsection (2)(a).
- “(4) The actions are—

- “(a) to the extent that the tenant is the person or people to whom any HNZ housing is let or to be let,—
 - “(i) calculate an income-related rent for the tenant for that housing on the basis of its own understanding of the circumstances; or
 - “(ii) treat the market rent for that housing as the income-related rent for the tenant for that housing;
- “(b) to the extent that the tenant is a prospective tenant only,—
 - “(i) suspend the process of determining whether to allocate, assign, or let any HNZ housing to the prospective tenant; or
 - “(ii) decline the tenant’s application to become a tenant of HNZ housing.

“59 Company may seek information

- “(1) For the purposes of a review under section 57 or an investigation under section 58, the company may request any person to—
 - “(a) answer questions; or
 - “(b) allow the company to inspect any document or other written information; or
 - “(c) give the company—
 - “(i) a copy of any document or other written information; or
 - “(ii) a print-out of any information stored digitally.
- “(2) The person does not have to comply with the request; but (for the purposes of section 7(1) of the Privacy Act 1993) this subsection authorises the person to make personal information available in response to the request.

“60 Recovery where rate of rent too low

- “(1) Subsection (2) applies to a tenant of HNZ housing and a period of time if, at any later time, the company—
 - “(a) has in its possession information (whether or not obtained as a result of a review under section 57 or an investigation under section 58) that—
 - “(i) it did not have during that period, or had but did not have reasonable grounds to believe; and

- “(ii) it now believes on reasonable grounds; and
- “(b) is satisfied that, if it had had the information before the period and had had reasonable grounds to believe the information, it would have required the tenant to pay an income-related rent higher than the income-related rent the tenant was in fact required to pay for the housing in respect of the period.
- “(2) If this subsection applies to a tenant of HNZ housing and a period of time, the company may calculate, and recover as a debt due to the Crown, the difference between—
 - “(a) the higher income-related rent it would have required the tenant to pay for the housing in respect of the period; and
 - “(b) the income-related rent the tenant was in fact required to pay for the housing in respect of the period.
- “(3) Amounts recoverable under subsection (2) are not rent in arrear for the purposes of the Residential Tenancies Act 1986.

“**61 Allocation of HNZ housing**

- “(1) The things to which the company may have regard in doing either or both of the things stated in subsection (2) may include criteria that have, or are capable of having, the effect that people (including prospective tenants, people who might be applicable persons in relation to those prospective tenants, and other people who might reside in the housing concerned) are treated differently on the basis of—
 - “(a) their marital status, disability or absence of disability, age, or family status (as the terms **marital status**, **disability**, **age**, and **family status** are defined in paragraphs (b), (h), (i), and (l) of section 21(1) of the Human Rights Act 1993); or
 - “(b) whether or not they are resident, or ordinarily resident, or permanently resident, or lawfully resident, in New Zealand; or
 - “(c) their incomes; or
 - “(d) their property; or
 - “(e) 2 or more of those factors.
- “(2) The things are—

- “(a) assess the eligibility of prospective tenants to be allocated HNZ housing; and
 - “(b) allocate, assign, and let HNZ housing to prospective tenants.
- “(3) Subsection (1) overrides the Human Rights Act 1993.
- “(4) This section is for the avoidance of doubt.

“Other matters

“62 Rights of appeal

- “(1) This subsection applies to—
- “(a) any decision or determination of the company made under this Part, the calculation mechanism, or Schedule 3 (other than a decision under section 43(4) in respect of an income-related rent; and
 - “(b) any assessment by the company of—
 - “(i) the eligibility of any prospective tenant to be allocated HNZ housing; or
 - “(ii) the housing needs of any prospective tenant.
- “(2) At any time on or after the appointed day, a tenant may, in accordance with regulations made under section 63, appeal against a decision, determination, or assessment to which subsection (1) applies, if the company—
- “(a) has confirmed it (whether as originally made or as varied) under the process for the time being established by the company to review such decisions; or
 - “(b) has no such process for the time being established.
- “(3) In determining the appeal, the appeal body has all the powers, duties, functions, and discretions the company had in relation to the matter concerned; and may—
- “(a) confirm, modify, or reverse the decision or determination; or
 - “(b) refer all or any part of the matter back to the company for further consideration, together with—
 - “(i) any directions it thinks just relating to the reconsideration; and
 - “(ii) a written statement of its reasons for doing so.
- “(4) The appeal body—

- “(a) may award costs against the company in respect of any appeal if—
 - “(i) it is allowed in whole or in part; or
 - “(ii) all or any part of the matter is referred back to the company for further consideration; and
 - “(b) may award costs against the appellant in respect of any appeal that is refused, if the appeal body believes that it was frivolous or vexatious, or should not have been brought.
- “(5) If regulations under section 63(1)(a) establish a body to dispose of appeals under this section, any party to any appeal to the body who is dissatisfied with any determination of the body may appeal to a District Court; and in that case,—
- “(a) within 14 days after the date of the determination, the appellant must lodge a notice of appeal with the Court, and forthwith deliver or post a copy of the notice to every other party to the appeal:
 - “(b) the Court or a Judge may, on the application of the appellant or intending appellant, extend any time prescribed or allowed under this section for the lodging of a notice of appeal:
 - “(c) except as provided by this subsection, the case must be dealt with in accordance with the District Courts Rules 1992.
- “(6) Nothing in this section, or in any regulations under section 63, limits or affects the rights of any tenant of HNZ housing under the Residential Tenancies Act 1986.

“**63 Regulations for purposes other than calculation mechanism**

- “(1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
- “(a) for the purposes of section 62,—
 - “(i) establishing a body to dispose of appeals under that section, prescribing how its members are to be appointed, and prescribing how it is to hear and dispose of appeals; or
 - “(ii) providing that such appeals are to be made to the Social Security Appeal Authority established by

- the Social Security Act 1964 as if they were appeals against decisions or determinations under that Act, and providing that sections 12J to 12N, and 12P to 12R of that Act apply, with or without modification, to the hearing and disposal of appeals; or
- “(iii) providing that such appeals are to be made to a District Court, and providing that the District Courts Act 1947 and rules made under it apply, with or without modification, to the hearing and disposal of appeals; or
 - “(iv) providing that such appeals are to be made to the Tenancy Tribunal established by the Residential Tenancies Act 1986 as if they were applications under that Act, and providing that sections 86 to 120 of that Act apply, with or without modification, to the hearing and disposal of appeals:
- “(b) providing for any other matters contemplated by the provisions of this Part (other than sections 46 to 52), necessary for their administration, or necessary for giving them full effect.
- “(2) Any body established under subsection (1)(a)(i) is a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951; and every member of it is entitled to—
- “(a) remuneration by way of fees, salary, or allowances, for the member’s services as a member of it:
 - “(b) payment of travelling allowances and expenses in respect of time spent travelling in its service.
- “**64 Delegation of powers under this Part**
- “(1) The company—
- “(a) cannot delegate a power under section 57(2)(b), any of subsections (2)(b), (3), or (4) of section 58, or section 60, except to a person who is an employee of the company; and
 - “(b) cannot delegate any other power under this Part, the calculation mechanism, or Schedule 3, except to a person who is—
 - “(i) an employee of the company; or

- “(ii) a person engaged by the company under a contract for services providing for the person to exercise that power.
- “(2) If the company delegates a power under this Part, the calculation mechanism, or Schedule 3 (not being a power referred to in subsection (1)(a)) to a body corporate engaged by the company under a contract for services,—
- “(a) the body corporate cannot subdelegate it except to a person who is an employee of the body corporate; and
- “(b) an employee of the body corporate to whom it is sub-delegated cannot subdelegate it further.
- “(3) Subsections (1) and (2) override section 130(1) of the Companies Act 1993.

“65 Reimbursement of company

Section 7 has effect as if—

- “(a) this Part, the calculation mechanism, and Schedule 3 were a requirement by the Crown for the company to enter into agreements (as the circumstances from time to time require) for the provision by the company of housing and related services to persons who are required to pay income-related rents rather than market rents for the housing, in return for the payment by the Crown of the price to the company of doing so; and
- “(b) that price were the difference between the amounts of market rents for the housing and the income-related rents charged.”

6 New Schedules 2 and 3 added

The principal Act is amended by adding, as Schedules 2 and 3, the schedules set out in Schedule 1 of this Act.

7 Consequential amendments, repeals, and revocations

- (1) The enactments specified in Schedule 2 are amended in the manner indicated in that schedule.
- (2) Sections 12J(2)(c), 53A(1)(d), and 61FA to 61FD, and Part 3 of Schedule 18, of the Social Security Act 1964 are repealed.

- (3) Subparagraphs (xii) and (xiii) of paragraph (a) of the definition in section 80B of the Social Security Act 1964 of **income** are repealed.
- (4) Regulation 9(2) of the Student Allowances Regulations 1998 is amended by inserting, before paragraph (a), the following paragraph:
“(aa) students who are applicable persons in respect of HNZ housing (as the terms **applicable person** and **HNZ housing** are defined in section 42(1) of the Housing Restructuring Act 1992).”
- (5) The Social Security (Rent Rebate) Order 1992 (SR 1992/296) is revoked.
- (6) Until the first day on or after the appointed day that is the first day of a rent period, the following enactments continue to apply to a tenant of HNZ housing as if they were still in force in relation to the tenant:
 - (a) sections 61E to 61EC, 61FC, and 61FD, and the Eighteenth Schedule, of the Social Security Act 1964:
 - (b) regulation 9 of the Student Allowances Regulations 1998.
- (7) In subsection (6), terms defined in section 42(1) of the principal Act have the meanings given to them by that section.

Schedule 1

s 6

New Schedules 2 and 3 of principal Act

Schedule 2

Prescribed elements of calculation mechanism

Prescribed proportions, thresholds, and amounts

1 Proportion of income up to threshold

The proportion of 25% is prescribed for the purposes of section 46(2)(a).

2 Thresholds

The following thresholds are prescribed for the purposes of paragraphs (a) and (b) of section 46(2):

Schedule 2—*continued*

- (a) in the case of a sole tenant who has no partner and no dependent children (within the meaning of section 3(1) of the Social Security Act 1964), is the rate stated in clause 1(a) of the First Schedule of the Social Welfare (Transitional Provisions) Act 1990, after deduction of standard tax; and
- (b) in every other case, is the rate stated in clause 1(c) of the First Schedule of the Social Welfare (Transitional Provisions) Act 1990, after deduction of standard tax, multiplied by 2.

3 Proportion of income above threshold

The proportion of 50% is prescribed for the purposes of section 46(2)(b).

4 Proportion of family support

The proportion of 25% is prescribed for the purposes of sections 46(2)(c) and 46(3)(b).

5 Prescribed amount of family support

The maximum rate of child support payable under Subpart KD of the Income Tax Act 1994 in respect of an eldest dependent child who is under 16 is prescribed for the purposes of sections 46(2)(c)(ii) and 46(3)(b)(ii).

6 Proportion of benefit

The proportion of 25% is prescribed for the purposes of section 46(3)(a).

Contributions by additional residents**7 Application**

This clause applies to HNZ housing if, and only if, in the company's opinion, the applicable persons' principal source of income is contributions from additional residents.

Schedule 2—*continued***8 Extent to which contributions included in income**

For the purposes of section 48(2),—

- (a) if clause 7 applies to HNZ housing, the weekly income of the applicable persons includes all contributions from additional residents:
- (b) if clause 7 does not apply to HNZ housing and the applicable persons receive contributions from fewer than 3 additional residents, their weekly income does not include any contributions from additional residents:
- (c) if clause 7 does not apply to HNZ housing and the applicable persons receive contributions from 3 or more additional residents, their weekly income—
 - (i) does not include any contributions from the 2 additional residents making the greatest contributions; and
 - (ii) includes only 62% of the sum of the contributions from the other additional resident or residents.

Payments included in or excluded from income**9 Certain payments to be income**

For the purposes of section 49(1)(a), a person's weekly income includes—

- (a) the appropriate weekly proportion of every amount or payment received as—
 - (i) an income-tested benefit (within the meaning of section 3(1) of the Social Security Act 1964) other than an orphan's benefit or an unsupported child's benefit; or
 - (ii) New Zealand superannuation or a veteran's pension under the Social Welfare (Transitional Provisions) Act 1990; or
 - (iii) a study grant; and
- (b) amounts received from an insurer under the Accident Insurance Act 1998 as weekly compensation for loss of earnings or potential earning capacity; and

Schedule 2—*continued*

- (c) any family tax credit the person is eligible for under Subpart KD of the Income Tax Act 1994.

10 Certain payments not to be income

For the purposes of section 49(1)(b), a person's weekly income does not include—

- (a) an amount or payment—
 - (i) received as a benefit, allowance, or other payment under the Social Security Act 1964 not referred to in clause 9(a); or
 - (ii) received as a parental tax credit or child tax credit under Subpart KD of the Income Tax Act 1994; or
 - (iii) of a kind stated in any of subparagraphs (ii) to (xv) of paragraph (f) of the definition of **income** in section 3(1) of the Social Security Act 1964; or
- (b) in the case of a person with a disability, the value of any regular disability support services supplied to the person; or
- (c) the value of any regular disability support services supplied to any dependent child of the person who—
 - (i) is residing in the HNZ housing concerned; and
 - (ii) is a person with a disability.

11 Assessable assets

For the purposes of section 50(2), **assessable assets**,—

- (a) in the case of a person with a partner or a single person with a dependent child or children, means any cash assets (within the meaning of section 61E of the Social Security Act 1964) in excess of \$5,400;
- (b) in any other case, means any cash assets (within the meaning of section 61E of the Social Security Act 1964) in excess of \$2,700.

Schedule 2—*continued***Period for estimating income****12 Period for estimating income**

The period of 52 weeks is prescribed for the purposes of section 52.

Schedule 3
Transitional matters

s 54

1 Interpretation

In this schedule, unless the context otherwise requires,—

55+ rent protection programme means the programme for the protection of rents applied by the company on and after 1 July 1995 to any tenant of HNZ housing who on that day—

- (a) did not qualify for the tenure protection allowance; and
- (b) had been a tenant of that housing continuously since at least 30 July 1991; and
- (c) either was, or had a partner who was, aged 55 or more

accommodation assistance, in relation to any HNZ housing, means accommodation benefit, accommodation supplement, tenure protection allowance, or special transfer allowance, payable in respect of that housing

accommodation benefit means an accommodation benefit under regulation 9 of the Student Allowance Regulations 1998

accommodation supplement means an accommodation supplement under section 61EA of the Social Security Act 1964

affected tenant means a tenant of HNZ housing to whom this schedule (by virtue of section 54(1)) applies

special transfer allowance means an amount payable by way of special assistance under the special transfer allowance programme approved under section 124(1)(d) of the Social Security Act 1964

Schedule 3—*continued*

tenure protection allowance means the tenure protection allowance formerly payable under the sections 61FC and 61FD of the Social Security Act 1964.

2 Saving in respect of tenure protection allowance and special transfer allowance

- (1) This clause applies to an affected tenant who, immediately before the appointed day, was receiving in respect of the housing a tenure protection allowance or special transfer allowance that the tenant was entitled to receive.
- (2) The income-related rent for any HNZ housing occupied immediately before the appointed day by an affected tenant to whom subclause (1) applies must be calculated by deducting from the rent otherwise payable under the calculation mechanism the appropriate rebate (if any) calculated under subclause (3).
- (3) The rebate is the amount (if any) by which—
 - (a) the weekly income-related rent for the housing calculated in accordance with the calculation mechanism—exceeds—
 - (b) the weekly market rent for the housing immediately before the appointed day (after the deduction of the sum of—
 - (i) the total of the weekly amounts of accommodation supplement or accommodation benefit the applicable persons in relation to the housing were entitled to receive immediately before the appointed day; and
 - (ii) the weekly amount of tenure protection allowance or special transfer allowance the tenant was entitled to receive in relation to the housing immediately before the appointed day).

3 Saving in respect of 55+ rent protection programme

- (1) this clause applies to an affected tenant who, immediately before the appointed day, was receiving, and was entitled to receive, the protection of the 55+ rent protection programme.

Schedule 3—*continued*

- (2) The income-related rent for any HNZ housing occupied immediately before the appointed day by an affected tenant to whom subclause (1) applies must be calculated by deducting from the rent otherwise payable under the calculation mechanism the appropriate rebate (if any)—
 - (a) calculated under subclause (3); and
 - (b) where appropriate, reduced under subclause (4).
- (3) The rebate is the amount (if any) by which—
 - (a) the weekly income-related rent for the housing calculated in accordance with the calculation mechanism—exceeds—
 - (b) the weekly amount of the rent that applied to the tenant immediately before the appointed day under the 55+ rent protection programme (after the deduction of the total of the weekly amounts of any accommodation supplement or accommodation benefit the applicable persons concerned were entitled to receive immediately before the appointed day).
- (4) The company must reduce the amount of the rebate by \$5 a week if—
 - (a) It reviews the tenant's income-related rent under section 57 at a time after 30 June 2001; and
 - (b) the rebate has not been reduced under this subclause during the 12 months before that time.

4 Saving in other circumstances

- (1) The following provisions apply to an affected tenant who is not and never has been entitled to a rebate under clause 2 or clause 3:
 - (a) the income-related rent for the housing must be calculated by applying the calculation mechanism, if—
 - (i) not all the applicable persons have consented for the purposes of section 55; or
 - (ii) the company is satisfied that the tenant is an affected tenant because of receiving more than the amount of accommodation assistance to which the tenant was entitled:

Schedule 3—*continued*

- (b) in any other case, the income-related rent for the housing must be calculated by deducting from the rent otherwise payable under the calculation mechanism the appropriate rebate (if any)—
 - (i) calculated under subclause (2); and
 - (ii) where appropriate, reduced under subclause (3).
- (2) The rebate is the amount (if any) by which—
 - (a) the weekly income-related rent for the housing calculated in accordance with the calculation mechanism—exceeds
 - (b) the weekly amount of the rent that applied to the tenant immediately before the appointed day (after the deduction of the sum of the accommodation assistance the applicable persons in relation to the housing were entitled to receive immediately before the appointed day).
- (3) The company must reduce the amount of the rebate by \$5 a week if—
 - (a) it reviews the tenant's income-related rent under section 57 at a time after 30 June 2001; and
 - (b) the rebate has not been reduced under this subclause during the 12 months before that time.

5 Ending of rebates

- (1) Clauses 2 to 4 cease to apply to a tenant who—
 - (a) ceases to occupy the HNZ housing in respect of which the rebate applied (otherwise than by beginning to occupy replacement HNZ housing); or
 - (b) in the case of a sole tenant, dies.
- (2) In subclause (1)(a), **replacement HNZ housing**, in relation to any HNZ housing in respect of which a rebate applied, means any HNZ housing a tenancy of which replaced—
 - (a) a tenancy of that housing; or
 - (b) a tenancy of some other HNZ housing that was replacement HNZ housing in relation to that housing.

Schedule 2

s 7(1)

Enactments amended**Residential Tenancies Act 1986 (1986 No 120)**

Insert in section 25(3), after the words “rents”, the words “(other than income-related rents within the meaning of section 42(1) of the housing Restructuring Act 1992)”.

Social Security Act 1964 (1964 No 136)

Repeal subparagraphs (va) to (viii) of the definition in section 3(1) of **benefit** and substitute:

“(v) a disability allowance payable under section 69C; but.”

Omit from paragraph (d) of the definition in section 3(1) of **financially independent** the words “this Part of”.

Add to paragraph (f) of the definition in section 3(1) of **income**

“(xvi) any income-related rent within the meaning of section 42(1) of the Housing Restructuring Act 1992:.”

Omit from section 61E(1) the expression “61EC, 61FA, 61FB, 61FC, and 61FD” and substitute the expression “and 61EC”.

Omit from section 61H(1) the words “average regional rental,”.

Omit from section 61H(2) the words “average regional rentals,”.

Repeal paragraphs (a) and (aa) of the definition in section 61E(1) of **accommodation costs** and substitute:

“(a) in relation to premises rented by the person, the total cost, excluding arrears, of the premises to the person:.”

Repeal section 61EA(2) and substitute:

“(2) No person is eligible for an accommodation supplement whose accommodation costs include—

“(a) payments, required to be made under a mortgage security to the Housing Corporation of New Zealand or the Crown in right of the Ministry of Maori Development, that in the chief executive’s opinion are required to be made at a concessionary rate; or

“(b) rent paid in respect of premises (whether owned by the Crown, the company, or any other person) let by or on

behalf of the company for occupation by any person as
a place of residence.

“(2A) In subsection (2), **company** has the same meaning as in the
Housing Restructuring Act 1992.”

Omit from section 72(a) the expression “61FA, 61FC”.

The item relating to section 61H(2) Social Security Act 1964 was amended, as from 9 August 2000, by section 24(6) Housing Corporation Amendment Act 2001 (2001 No 37) by substituting the word “regional” for the word “retail”.

Social Welfare (Transitional Provisions) Act 1990 (1990 No 26)
[Repealed]

Schedule 2 was amended, as from 15 April 2003, by section 12(1) War Pensions Amendment Act 2003 (2003 No 18) by repealing so much as relates to the Social Welfare (Transitional Provisions) Act 1990.

history

22 May 2000	Introduction (Bill 29–1)
25 May 2000	First reading and referral to Social Services Committee
24 July 2000	Reported from Social Services Committee
27 July, 1 August 2000	Second reading
1 August 2000	Committee of the whole House
3 August 2000	Third reading
