

## FAMILY BENEFITS (HOME OWNERSHIP) AMENDMENT BILL

### EXPLANATORY NOTE

THIS Bill amends the Family Benefits (Home Ownership) Act 1958.

*Clause 2:* The principal Act provides that an advance for any housing purpose may be made to the beneficiary entitled to a family benefit, housing purposes being defined by regulations under that Act. This clause brings the definition of housing purposes into the principal Act itself, and re-enacts without any change in substance the existing provisions of the regulations, with the addition of the following:

- (a) The acquisition of land from the Crown with a dwelling thereon (e.g., the purchase of a State house), provided it will be used by the beneficiary as a home for the family of the beneficiary:
- (b) The repayment of an earlier advance made for a housing purpose. This would be applicable where an earlier advance became repayable by reason of an event occurring as a result of which the benefit ceased to be payable. In such a case the new provision will allow the substitution of a family benefit payable in respect of another child.

*Clause 3:* The principal Act makes provision for cases where an advance is made of the capitalised value of a benefit calculated in respect of the period until the child attains the age of 16 years, and on the child attaining that age the advance is deemed to be repaid and the family benefit will be reinstated in favour of the beneficiary. But it is possible for an advance to be made of an amount calculated with reference to the attainment of an earlier age by the child. This clause is intended to apply to such a case, so that on the attainment of the lower age by the child the benefit will recommence to be paid to the beneficiary.

*Clause 4:* The principal Act provides that the amount of any advance will be deemed to have been repaid in full if the child dies after one year from the date of the advance. The purpose of this clause is to ensure that a parent who is convicted of an offence which caused the death of a child will not profit by reason of the death of the child.

The clause provides that in such a case the Chairman of the Social Security Commission may apply to a Magistrate for an order declaring the unpaid balance of the advance to be repayable. On such an application the Magistrate, having regard to the conduct of the parents and to all the circumstances of the case, must make an order directing repayment, or any other order he thinks necessary to ensure that any parent whose conduct caused or contributed to the death of the child will not derive any benefit from the death of the child, or an order declaring the balance of the advance to have been repaid.

*Hon. Mr Shelton*

**FAMILY BENEFITS (HOME OWNERSHIP)  
AMENDMENT**

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ANALYSIS

Title  
1. Short Title  
2. Housing purposes

3. Application of family benefit in re-  
payment of advances  
4. Repayment of advance where death  
of child caused by parent

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**A BILL INTITULED**

**An Act to amend the Family Benefits (Home Ownership)  
Act 1958**

5 **BE IT ENACTED** by the General Assembly of New Zealand  
in Parliament assembled, and by the authority of the same,  
as follows:

10 **1. Short Title**—This Act may be cited as the Family Benefits  
(Home Ownership) Amendment Act 1961, and shall be read  
together with and deemed part of the Family Benefits (Home  
Ownership) Act 1958\* (hereinafter referred to as the prin-  
cipal Act).

15 **2. Housing purposes**—(1) The principal Act is hereby  
amended by inserting, after section 2, the following section:  
“2A. Subject to the provisions of section 6 of this Act, the  
following purposes are hereby declared to be housing purposes  
for the purposes of this Act and of any regulations under this  
Act, namely:

\*1958, No. 106  
Amendment: 1960, No. 61

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- “(a) The acquisition of land and the erection thereon of a new dwelling, to be used by the beneficiary as a home for the family of the beneficiary:
- “(b) The acquisition of land with a new dwelling thereon that has not previously been occupied, to be used by the beneficiary as a home for the family of the beneficiary: 5
- “(c) The acquisition of land from the Crown with a dwelling thereon, to be used by the beneficiary as a home for the family of the beneficiary: 10
- “(d) The erection of a new dwelling on land already owned, to be used by the beneficiary as a home for the family of the beneficiary:
- “(e) The making of alterations or additions to a dwelling to provide additional accommodation required for the needs of the family of the beneficiary: 15
- “(f) The repayment or partial repayment of money owing under an obligation incurred on or before the first day of January, nineteen hundred and fifty-nine, in— 20
- “(i) The acquisition of land with a dwelling thereon or the acquisition of land and the erection of a dwelling thereon or the erection of a dwelling on land already owned; or
- “(ii) The making of alterations or additions to a dwelling to provide additional accommodation required for the needs of the family of the beneficiary,— 25
- if the dwelling is being used and will continue to be used by the beneficiary as a home for the family of the beneficiary: 30
- “(g) The repayment or partial repayment of money owing under an obligation incurred on or after the first day of January, nineteen hundred and fifty-nine, where both the following conditions are satisfied: 35
- (i) The obligation was incurred for a housing purpose specified in paragraph (a) or paragraph (b) or paragraph (c) or paragraph (d) of this section; and
- (ii) An advance not exceeding the capitalised value of the family benefit could have been made if the child in respect of whom the benefit is payable had attained the age of one year at the time the obligation was incurred: 40

“(h) The repayment, in whole or in part, of the unpaid balance of an advance previously made under this Act to the beneficiary for any of the aforesaid purposes.”

5 (2) Section 2 of the principal Act is hereby amended by inserting in subsection (1), after the definition of the term “beneficiary”, the following definition:

“‘Dwelling’ includes all necessary outbuildings and appurtenances in connection with a dwelling:”.

10 (3) The principal Act is hereby further amended—

(a) By omitting from section 3 the words “specified in those regulations”:

(b) By inserting in paragraph (a) of the proviso to section 3, after the words “the amount”, the words “of the

15 unpaid balance”:

(c) By omitting from subsection (3) of section 7 the words “by the beneficiary”:

(d) By inserting in subsection (3) of section 7, after the words “which the beneficiary is”, the words “or the beneficiary and the spouse of the beneficiary are”:

20 (e) By repealing paragraph (b) of subsection (2) of section 9.

(4) Section 3 of the principal Act is hereby further amended by repealing paragraph (b) of the proviso, and substituting

25 the following paragraph:  
“(b) No such advance shall be made of an amount which, together with the amount of any previous advance or advances under this Act, is less than two hundred pounds.”

30 **3. Application of family benefit in repayment of advances—**

The principal Act is hereby further amended—

(a) By inserting in the definition of the term “capitalised value” in subsection (1) of section 2, after the words “sixteen years”, the words “or, where that value is

35 calculated in respect of any earlier age, until the child attains that earlier age”:

(b) By omitting from paragraph (a) of subsection (1) of section 5 and also from subsection (2) of that section the words “of sixteen years”, and substituting

40 in each case the words “in respect of which the capitalised value of the benefit was calculated for the purposes of the advance”:

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- (c) By omitting from paragraph (c) of subsection (2) of section 9 the words "sixteen years of age", and substituting the words "the age in respect of which the capitalised value of the benefit was calculated for the purposes of the advance": 5
- (d) By repealing paragraph (d) of subsection (2) of section 9.

**4. Repayment of advance where death of child caused by parent**—The principal Act is hereby further amended by inserting, after section 5, the following section: 10

"5A. (1) Notwithstanding anything in section 5 of this Act, where the child in respect of whom an advance has been made under this Act dies after the expiration of one year from the date of the advance and before attaining the age in respect of which the capitalised value of the benefit was calculated for the purpose of the advance, and the death of the child is caused by an offence of which a parent of the child is convicted, being an offence which is culpable homicide within the meaning of the Crimes Act 1908, the Chairman of the Social Security Commission may apply to a Magistrate for an order declaring that the unpaid balance of the advance at the date of the death of the child became repayable on that date. 15

"(2) On any application under subsection (1) of this section, the Magistrate shall, having regard to the conduct of the parents of the child and to all the circumstances of the case,— 25

"(a) Make an order declaring that the unpaid balance of the advance became repayable on the death of the child; or 30

"(b) Make such other order as he thinks fit in order to ensure that any parent who was so convicted or whose conduct, in the opinion of the Magistrate, contributed to the death of the child will not derive any benefit from the death of the child; or 35

"(c) Make an order declaring that the unpaid balance of the advance shall be deemed to have been repaid on the death of the child.

"(3) Where the Magistrate makes an order under paragraph (a) of subsection (2) of this section, interest at the rate prescribed by regulations under this Act shall be payable on the unpaid balance of the advance from the date of the death of the child." 40