

Social Security Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill amends the Social Security Act 1964 (“the principal Act”). It puts into effect the Working New Zealand: Work-Focused Support package of proposals to reform the social support system.

The objectives of the Working New Zealand: Work-Focused Support package of reforms are to—

- increase opportunities for people to participate in the labour market, where work is an appropriate outcome; and
- continue to provide social and financial support for people with temporary or long-term barriers to work.

The underlying purpose of the principal Act and principles underlying the provision of social support are not explicitly spelt out in the principal Act. As an aid to the interpretation, this Bill inserts purpose and principle statements into the principal Act.

This Bill’s main objectives are—

- to begin the movement towards a work-focused system by ensuring that requirements on recipients are aligned with the significant developments in service delivery and support; and
- to align and update a number of provisions in the principal Act.

This Bill achieves these objectives by—

- introducing a new pre-benefit activity requirement on applicants for the unemployment benefit, and enhancing the current requirements on people who are work-tested; and
- introducing planning and activity requirements for sickness and invalid’s beneficiaries; and

- introducing an activity requirement (education, training or employment) for young people receiving an independent youth benefit instead of the work test; and
- recognising that some people who have ill health or a significant disability need to be exempt from any work, planning or activity requirement; and
- aligning and updating provisions relating to—
 - the application process; and
 - residence criteria (including removing the “qualifying child” residence criteria for widows’ and domestic purposes benefits);
 - the maximum income stand-down period;
 - periods for which main benefits are paid;
- broadening a reference to hospital care (for the domestic purposes benefit for care of sick or infirm people) so other forms of equivalent full-time care are included.

Background

The emphasis of the Working New Zealand: Work Focused Support package of proposals is on providing the right services and support for people to enable them where appropriate to find, or move towards finding, employment. There are significant changes in service delivery under way aimed at providing the right service and support for people right from the start. In conjunction with these changes, improvements are being made to employment and training assistance to improve flexibility, responsiveness and outcomes so that the assistance is better able to meet the individual needs of people.

The initiatives planned in the package have a significant focus on Youth. The shared Government and Mayors Taskforce for Jobs goal is to have all 15-19 year olds engaged in employment, training, or education activities, or other activities that lead to their economic independence and well-being. Enhancements to the support and services to young people receiving a benefit will contribute to this goal.

In recent years there has been a significant decline in the numbers of people receiving the unemployment benefit. Action is needed to build on the progress made in reducing numbers by ensuring that people have the right work-focused services right from the start.

Increased services and support alongside new planning and activity requirements for people receiving sickness or invalid’s benefits will

help to ensure that they have the right support to plan their return to work, where this is feasible.

Although the emphasis of the Working New Zealand: Work-Focused Support package is on getting the right services and support in place for people, legislative change is necessary to support this outcome.

Measures to support a work-focused system

Summary of main measures

The emphasis of the proposed changes that this Bill introduces is on strengthening and supporting the improvements to service delivery that are being progressively introduced. Improvements in service delivery will see 3 distinct service streams. Although the support and services provided will vary depending on the stream, people will be able to access all services regardless of the stream that they are in. People in the work support stream (primarily those on the unemployment benefit) will be assisted to find and retain work, and the services to be provided are designed to do this. People in the work support development stream (most other beneficiaries except those exempt from any requirements) will be assisted to plan for work in the future, and the services to be provided are designed to assist with this and developing work-related skills. People in the community support stream (for example people receiving the domestic purposes benefit for the care of the sick or infirm and some invalid's benefit recipients), although having no specific planning requirements, may access services if they wish to.

Pre-benefit activities

At present the work-test requirements do not apply to a person applying for a work-tested benefit until after the benefit commences (or, for some work-tested beneficiaries, after the benefit is paid). After 23 September 2007, a pre-benefit requirement that a person must undertake a work-related activity or activities (for example, attend a work-related seminar) if directed by the Chief Executive will be introduced as part of the application process for the unemployment benefit only.

Strengthening requirements

In the principal Act, the requirements on benefit recipients vary depending on the type of benefit that a person is receiving. On 24 September 2007 the requirements will be strengthened as follows:

- applicants for unemployment benefit will be full-time work-tested, as at present, but must meet some additional activity requirements including:
 - undertaking planning, developing a job-seeker agreement if required, and undertaking activities included in the plan by agreement; and
 - undertaking, if required, a specific activity or programme included in the job-seeker agreement at the direction of the chief executive of the Ministry of Social Development (which, in the principal Act is referred to as **the department**) in order to enhance their prospects of obtaining employment; and
 - undertaking, if required, activities (including rehabilitation, but not medical treatment) to improve their work-readiness and prospects of obtaining employment, where they do not have a job-seeker agreement; and
- partners of beneficiaries will be part-time work-tested (15 hours per week) if their youngest dependent child is 6 or over, but under 18 (currently those with a youngest child over 14 have a full-time work test):
- provision will be made for some aspects of the work test to apply during weekends instead of over a 5-day working week as at present:
- applicants for domestic purposes (sole parents and women alone) and widow's benefits will continue to have the current requirements in relation to a Personal Development and Employment Plan (PDEP). These will be strengthened by an additional requirement that applicants may be required to undertake specific activities such as rehabilitation (these activities will not include work, work experience, or medical treatment):
- sickness and invalid's benefits clients, and spouses or partners of beneficiaries with a dependent child under 6 will not be work-tested (ie required to take up suitable employment) but will have the same planning and activity requirements as a

person on domestic purposes or widows benefits. These requirements may include:

- engaging with Work and Income as required:
 - undertaking planning, and developing a formal plan if required:
 - undertaking a work-related activity (if agreed in the PDEP):
 - reviewing the PDEP as required:
 - showing commitment to the plan:
 - undertaking specific activities such as rehabilitation (these activities will not include work, work experience or medical treatment):
- some invalid's benefit clients will be exempt from all work-related requirements.

Sanctions

When people fail to meet their requirements without good and sufficient reason, a sanction will be imposed. The sanction imposed will depend on the type of benefit that a person is receiving, and whether it is a first or second failure. For example,—

- failure of the work test by a person receiving the unemployment benefit may result in the suspension of the benefit:
- failure by a domestic purposes benefit recipient to meet planning and development requirements may result in a reduction of the benefit.

The current sanction regime for people on the unemployment benefit will be unchanged, except for a sanction that may be applied to couples with dependent children. At the moment, if both partners in a couple are on the unemployment benefit and both fail the work test, then the total benefit is suspended until one or other of them complies with the work test. On 24 September 2007 this will be amended so that where there are dependent children and each partner of a couple is sanctioned for failing the work test, a maximum penalty of 50% of the couple's total benefit will apply to avoid undue hardship.

The sanction regime for people on domestic purposes or widow's benefits is unchanged. Failure to meet their PDEP requirements results in a 20% reduction in benefit for the first 4 weeks and a further 30% reduction after that (ie 50% maximum) until they comply.

The introduction of similar requirements on sickness and invalid's benefits recipients requires the introduction of a sanction if a person fails to meet those requirements. As a person in any of these situations (unless exempt) has to meet the same requirements as a person on domestic purposes benefit, it is appropriate that the same sanction for failure to meet these requirements applies. After 23 September 2007, sickness and invalid's benefit clients, and all partners of beneficiaries with a youngest child under 6 who fail to meet their requirements (without good and sufficient reason) will have the graduated sanction for failure to meet the PDEP applied.

Currently, partners of beneficiaries with a child under 6 are subject to a greater sanction (that applying to failures of the work-test), so this sanction has been aligned with others subject to planning and activity requirements.

Young people

It is preferable for young people to be engaged in education and training, and separation from the opportunities these offer has a negative impact on their future ability to obtain and hold sustainable employment. It is proposed to work more actively with young people to require them to engage in activities that will further their current or future opportunities to work. On 24 September 2007 the current work test for the independent youth benefit will be replaced with a range of activity requirements. Recipients will be required—

- to participate in agreed approved activities for 30 to 40 hours per week; or
- to be available for and seeking full time employment; or
- if unable to do the above as a result of sickness, injury, disability or pregnancy, to participate in at least one developmental, training or education activity for a minimum of 3 hours per week.

Young people who fail to meet their requirements will have the work test sanctions applied (ie for the first or second failure, suspension of their benefit until they meet their expectations, and cancellation (and non-entitlement for 13 weeks) of their benefit for a third failure).

Sixteen and 17-year olds are able to access domestic purposes benefit for the care of the sick and infirm. In terms of long term outcomes, it is preferable for young people to be engaged in education or training. On 28 May 2007 the eligibility criteria for this benefit will

be tightened so that for 16 and 17-year olds, it is available only when there is no other carer available, after consideration has been given to alternative arrangements and family circumstances. Current recipients will be protected.

Aligning and updating benefit provisions

The existing benefit application process has been subject to a number of judicial decisions that have produced outcomes at variance with the original policy intent, and have resulted in administrative difficulties. On 24 September 2007 the principal Act will be amended to make it clear that an application for benefit must be in writing. Also, the date at which an application can be considered will be based on the date the client first contacts the department to seek financial assistance.

The current powers that the department has to take corrective action where a person has not made an application for a benefit are limited. From July 2007, provision will be made for payments of a benefit to commence earlier than the date of application where a person has not made the application because of some error on the part of the department.

The current eligibility requirements in relation to residence are complex, and differ widely across the various benefits. After 27 May 2007, the residence eligibility criteria will be aligned so that a person—

- must be a New Zealand citizen or permanent resident; and
- be ordinarily resident in New Zealand; and
- except in the case of a refugee with permanent residence, must have resided continuously in New Zealand for at least 2 years at any one time since becoming a citizen or permanent resident.

The current benefit stand-down provisions are complex and formula-based, and depend on the circumstances of the individual. Depending on these circumstances a person can face up to a 10-week stand-down. In practice, very few people have more than a 2 week stand-down imposed. On 28 May 2007 the current stand-down provisions will be reduced to a maximum income stand-down period of 2 weeks for all primary benefits. The current exemption from the stand-down for people applying for a domestic purposes benefit who have entered a refuge following a breakdown in their relationship will be extended to people applying for any of the following benefits

in the same circumstances: unemployment benefit, invalid's benefit, sickness benefit and independent youth benefit.

On 28 May 2007 the residence requirements in relation to the qualifying child criteria for the domestic purposes benefit and widows' benefit will be removed, so that eligibility in relation to the care of a child is determined by the applicant's meeting the new residence criteria, and the child's meeting the definition of "dependent child" in the principal Act. The eligibility criteria for the domestic purposes benefit and widows' benefit will also be amended, so that people who are caring for a dependent child not their own can qualify for those benefits (in the discretion of the chief executive, and subject to the additional requirement that the child's parents are unable, or in exceptional circumstances unwilling, to support the child).

The periods that benefits are paid currently vary depending on the type of benefit that a person is receiving. On 2 July 2007 the periods for all benefits will be aligned so that all benefits are paid in respect of a 7-day period.

Eligibility for domestic purposes benefit for the care of the sick or infirm requires the person being cared for to otherwise require hospital care. Change in service delivery in the health sector has meant that this definition is too restrictive. On 28 May 2007 the level of care requirement will be extended to include community residential services, rest homes, and equivalent levels of care in the community.

At present, only sole parents receiving the domestic purpose benefit or widows' benefit can continue to have their benefit paid for 8 weeks when they cease to have the care of a dependent child because of a sudden change in circumstances beyond their control. On 24 September 2007 this will be extended to all sole parents, regardless of the benefit they are receiving.

This Bill provides transitional protection for people financially disadvantaged at the point of change.

Other related amendments

A number of new regulations or amendments to existing regulations will need to be made separately.

Clause by clause analysis

Clause 1 states the Bill's title.

Clause 2 states when the Bill comes into force.

Part 1 (except for *sections 12 and 13*) and *Schedule 1* come into force on 28 May 2007.

Sections 12 and 13 and *Schedules 2 and 3* come into force on 2 July 2007.

Part 2 and *Schedules 4 and 5* come into force on 24 September 2007.

The rest of the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Social Security Act 1964 (“the principal Act”).

Part 1 **Provisions coming into force on 28 May or 2 July** **2007**

Amendments to principal Act

Clause 4 amends section 3 of the principal Act, which relates to interpretation. It—

- replaces the definition of **full employment or full-time employment** (which at present refers to working for “no less than an average of 30 hours each week”) with a redrafted definition that refers to “an average (when calculated over a period of 4 consecutive weeks) of at least 30 hours a week”;
- makes clear that the definition of **income** is subject to any regulations in force under proposed *new section 132H*.

It also corrects an erroneous cross-reference in the definition of **employment required to satisfy the work test**.

Clause 5 amends section 21 of the principal Act, which relates to widows’ benefits.

It repeals subsections (3) and (4), which—

- provide that in determining whether a woman has dependent children, no account is to be taken of children born overseas unless—
 - the woman was overseas only temporarily; or
 - both the child’s parents were ordinarily resident in New Zealand for the 3 years before her husband’s death; or
 - one of the child’s parents was ordinarily resident in New Zealand when her husband died and had resided continuously in New Zealand for at least 5 years; or

- the woman was ordinarily resident in New Zealand when she applied for a widow's benefit and had resided in New Zealand for at least 10 years at some time before her husband died; and
- provide that, for the purposes of section 21, a child born in New Zealand when neither parent was ordinarily resident in New Zealand is deemed to have been born overseas.

And it replaces subsection (6) (which provides that the chief executive of the department may regard any dependent child as being a child of an applicant for a widow's benefit if the child is being maintained by the applicant and was at any time maintained by the applicant's husband) with a redrafted subsection providing that the chief executive of the department may regard any dependent child as being a child of an applicant for a widow's benefit if—

- the child is being maintained by the applicant and was at any time maintained by the applicant's husband; or
- each of the child's biological or adoptive parents is dead, cannot be found, or suffers a serious long-term disablement that renders him or her unable to care for the child; or
- because of a breakdown in the child's family, no biological parent, adoptive parent, or step-parent of the child is able to care for the child or to provide fully for the child's support; or
- the child's parents are unwilling to support the child because of circumstances the chief executive of the department considers exceptional.

Clause 6 amends section 27A of the principal Act, which relates to the interpretation of sections 27B to 27H of the principal Act (which deal with the domestic purposes benefit).

It repeals a definition of **children** that is used in those sections (and also repeals subsection (2), which defines a term used in that definition). That definition has the effect that in determining whether a person has dependent children, no account is to be taken of children born overseas unless—

- the child's mother was overseas only temporarily; or
- both the child's parents were ordinarily resident in New Zealand for the 3 years before the qualifying date for the benefit; or
- one of the child's parents was ordinarily resident in New Zealand on the qualifying date for the benefit and had resided continuously in New Zealand for at least 5 years; or

- the parent applying for the benefit was ordinarily resident in New Zealand when he or she applied for it and had resided in New Zealand for at least 10 years at some time before the qualifying date for the benefit.

And it replaces subsection (3) (which provides that the chief executive of the department may regard any child as being a child of an applicant for a domestic purposes benefit if the child is being maintained by the applicant and was at any time maintained by the applicant's husband or wife or civil union partner) with a redrafted subsection providing that the chief executive of the department may regard any dependent child as being a child of an applicant if—

- the child is being maintained by the applicant and was at any time maintained by the applicant's spouse or partner; or
- each of the child's biological or adoptive parents is dead, cannot be found, or suffers a serious long-term disablement that renders him or her unable to care for the child; or
- because of a breakdown in the child's family, no biological parent, adoptive parent, or step-parent of the child is able to care for the child or to provide fully for the child's support; or
- the child's parents are unwilling to support the child because of circumstances the chief executive of the department considers exceptional.

Clause 7 amends section 27G of the principal Act, which relates to the granting of the domestic purposes benefit to people caring at home for the sick or infirm. It replaces subsection (2) (which provides that a person over 16 is entitled to receive a domestic purposes benefit under the section if he or she is required to give full time care and attention at home to a person (other than his or her husband or wife or civil union partner) who would otherwise have to receive hospital care) with *new subsections (2) and (2A)*.

New subsection (2) provides that a residentially qualified person over 16 is entitled to receive a domestic purposes benefit under the section if he or she is required to give full time care and attention at home to a person (other than his or her spouse or partner) who would otherwise have to receive—

- hospital care, rest home care, or residential disability care; or
- care of the kind referred to in section 141 of the Children, Young Persons, and Their Families Act 1989 (which is extended care provided for severely disabled children and young persons); or
- care of a kind equivalent to any of those kinds of care.

New subsection (2A) provides that a person under 18 must not be granted a domestic purposes benefit under the section unless the chief executive of the department is satisfied that no other caregiver is reasonably available to care for the other person concerned.

Clause 8 amends section 60FA of the principal Act, which relates to the granting of the independent youth benefit to single people, by stating 3 new reasons for which an independent youth benefit may be granted to a person—

- because the person has ceased to be subject to an agreement made under section 140 of the Children, Young Persons, and Their Families Act 1989; or
- because the person has ceased to be subject to an order under section 78, 101, or 283(n) of the Children, Young Persons, and Their Families Act 1989; or
- because the person has ceased to be subject to a sole guardianship order under section 110 of the Children, Young Persons, and Their Families Act 1989.

Clause 9 amends section 74 of the principal Act, which (among other things) gives the chief executive of the department power to refuse to grant a benefit, terminate or reduce a benefit already granted, or grant a benefit at a reduced rate, if a person has deprived himself or herself of income or property. The amendment has the effect that the power is subject to any rules made under proposed *new section 132I*.

Clause 10 inserts a *new section 74AA* into the principal Act. The section states residential requirements for certain benefits, by providing that a person is not eligible for them unless he or she—

- is a New Zealand citizen (or a person who holds or is deemed to hold a residence permit under the Immigration Act 1987, or is exempt from holding a residence permit under section 12 of that Act); and
- is ordinarily resident in New Zealand when he or she first applies for the benefit; and
- (except in the case of a person who has refugee status under the Immigration Act 1987) has resided continuously in New Zealand for a period of at least 2 years after the day on which he or she first became a New Zealand citizen (or became a person who holds or is deemed to hold a residence permit, or became exempt from holding a residence permit).

The benefits concerned are a domestic purposes benefit, an independent youth benefit, an invalid's benefit, a sickness benefit, an unemployment benefit, and a widow's benefit.

Clause 11 replaces section 80(2) of the principal Act (which provides that a work-tested benefit not subject to a non-entitlement period commences in accordance with section 80BA) with a redrafted subsection having the effect that section 80BA does not apply to the commencement of an independent youth benefit granted to a person undertaking employment-related training. This has the effect that an independent youth benefit granted to a person undertaking employment-related training commences on the later of—

- date the applicant became entitled to receive it; and
- the date the application for it was received.

It also extends the range of benefits to which no stand down will apply if a person enters a refuge after the break-up of a relationship.

Clause 12 inserts a *new section 80AA* into the principal Act.

The new section enables the Minister to consent in certain circumstances to the commencement of a benefit from a day before the day on which the applicant applied for it.

Consent can be given in relation to a particular applicant or applicants of a particular kind or description.

In the case of a particular applicant, the Minister cannot give consent unless satisfied that the applicant—

- could not reasonably have been expected to apply at the earlier time because of some erroneous action or inaction on the part of the department; or
- at or before the earlier time, tried to apply or applied incompletely, and did not proceed because of some erroneous action or inaction on the part of the department.

In the case of applicants of a particular kind or description, the Minister cannot give consent unless satisfied that—

- applicants of that kind or description could not reasonably have been expected to apply at earlier times because of some erroneous action or inaction on the part of the department; or
- at earlier times, some applicants of that kind or description tried to apply or applied incompletely, and did not proceed because of some erroneous action or inaction on the part of the department.

The power will also be available in relation to payments under the New Zealand Superannuation and Retirement Income Act 2001 or the War Pensions Act 1954:

Clause 13 amends section 82 of the principal Act to provide that domestic purposes benefits, independent youth benefits, invalids' benefits, sickness benefits, emergency benefits, unemployment benefits, and widows' benefits are paid in respect of a 7-day week.

Clause 14 repeals the definition of **activity in the community** in section 88A of the principal Act.

Clause 15 inserts *new sections 132H and 132I* into the principal Act.

New section 132H empowers the making by Order in Council of rules prescribing—

- how the chief executive is to assess and determine for the purposes of the principal Act the income of people engaged in business or trade; and
- the circumstances in which those rules apply.

Rules can also prescribe for the purposes of the principal Act—

- the kinds of deduction from income allowed under the Income Tax Act 2004 that are to be disregarded in determining income:
- how income is to be calculated where business accounts are presented in cash or accrual form:
- livestock valuation methods, and their treatment, in calculating income:
- the extent to which, and circumstances in which, the following are to be treated as a person's income:
 - the person's drawings from a business or trade:
 - goods or services supplied to the person by a business or trade:
 - distributions to the person from a business or trade:
 - income from a business or trade by the person:
- how it is to be determined whether a person has used assets of a business or trade for no consideration or inadequate consideration:
- how a person's income is to be determined where he or she has used assets of a business or trade for no consideration or inadequate consideration:
- the extent to which depreciation or other provision for replacement of capital assets is to be allowed as a deduction from income, or disregarded in calculating income:

- the extent to which, and circumstances in which, distributions from a company or retained profits of a company are to be treated as income;
- the treatment of loss attributing qualifying companies.

New section 132I empowers the making by Order in Council of rules for the purposes of section 74(1)(d) relating to the deprivation of property or income.

Clause 16 amends Schedule 28 of the principal Act (which prescribes periods of benefit stand down) so that—

- for a person who is married or in a civil union with average income less than the average wage plus \$80 for each dependent child, the stand down is 1 week;
- for any other person it is 2 weeks (instead of periods of 2, 3, 4, 5, 6, 7, 8, 9, and 10 weeks at present prescribed for various people).

Transitional

Clause 17 provides that a person who before the commencement of *clause 5* was in receipt of a widow's benefit on the ground of having the care of a dependent child is entitled to continue to receive the benefit as if *clause 5* had not been enacted.

Clause 18 provides that—

- a person who before the commencement of *clause 6* was in receipt of a domestic purposes benefit on the ground of having the care of a dependent child is entitled to continue to receive the benefit as if *clause 6* had not been enacted;
- a person who before the commencement of *clause 7* was in receipt of a domestic purposes benefit on the ground of having the care of a sick or infirm person is entitled to continue to receive the benefit as if *clause 7* had not been enacted.

Clause 19 gives to any person whose benefit is granted before 28 May 2007 (the day on which *clause 16* comes into force), but would otherwise be subject to a stand down delaying its commencement until after that day, the benefit of the changes effected by *clauses 11(3) and 16*.

Clause 20 enables the making of regulations authorising the provision of financial assistance to people who are financially disadvantaged as a result of the net effects of the amendments made by the Bill.

The regulations may have effect from a day earlier than the day on which they are made.

Validation

Clause 21 validates questionable past payments of the independent youth benefit without any stand down.

Part 2

Provisions coming into force on 24 September 2007

Clause 22 repeals the definitions in section 3(1) of the principal Act of **application**, **part-time work-tested beneficiary**, and **suitable employment**, and inserts—

- redrafted definitions of **application**, **part-time work-tested beneficiary** and **suitable employment**; and
- a new definition of **date of first contact**.

Clause 23 inserts into the principal Act (which does not at present have a purpose section) *new sections 1A and 1B*, which are, respectively, a purpose section and principles section.

New section 1A provides that the purpose of the principal Act is—

- to enable the provision of financial and other support as appropriate—
 - to help people to support themselves and their dependants while not in paid employment; and
 - to help people to find or retain paid employment; and
 - to help people for whom work may not currently be appropriate because of sickness, injury, disability, or caring responsibilities, to support themselves and their dependants:
- to enable in certain circumstances the provision of financial support to people to help alleviate hardship:
- to ensure that financial support is provided to people taking into account—
 - that where appropriate they should use the resources available to them before seeking financial support under the principal Act; and
 - any financial support that they are eligible for or already receive, otherwise than under the principal Act, from publicly funded sources:

- to impose administrative and, where appropriate, work-related requirements on people seeking or receiving financial support under the principal Act.

New section 1B provides that every person exercising or performing a function, duty, or power under the principal Act must have regard to the following general principles:

- work in paid employment offers the best opportunity for people to achieve social and economic well-being;
- the priority for people of working age should be to find and retain work;
- people for whom work may not currently be an appropriate outcome should be assisted to plan for work in the future and develop employment-focused skills;
- people for whom work is not appropriate should be supported in accordance with the principal Act.

Clause 24 inserts into the principal Act a *new section 11D*, prescribing an application process for benefits.

A benefit must not be granted to an applicant unless the department has received—

- an application form completed by or on behalf of the applicant and his or her spouse or partner; and
- any supporting evidence (for example, a medical certificate) reasonably required by the chief executive.

The chief executive is given power to—

- dispense with the provision of information if satisfied that the department already holds the information, or enough other information to determine the matter for which the information is needed; and
- dispense with the completion of an application form if satisfied that the department already holds a form relating to an application that has lapsed.

Clause 25 amends section 42A of the principal Act, which imposes obligations on the spouse or partner of an invalid's beneficiary, so as to replace the obligation to comply with section 60HA of the principal Act with obligations to—

- comply with requirements under section 60Q; and
- comply with obligations arising under sections 60Q to 60S.

Clause 26 replaces section 54E of the principal Act, which imposes obligations on the spouse or partner of a sickness beneficiary, with a

redrafted section that replaces the obligation to comply with section 60HA of the principal Act with obligations to—

- comply with requirements under section 60Q; and
- comply with obligations arising under sections 60Q to 60S.

Clause 27 inserts *new sections 60GAB and 60GAC* into the principal Act.

New section 60GAB imposes various obligations on a person granted an independent youth benefit.

A person granted an independent youth benefit who, because of sickness, injury, or disability, has a limited capacity for work must when required participate in at least one approved educational, training or developmental activity for at least 3 hours a week.

Any other person granted an independent youth must—

- when required, participate, for at least 30 hours a week and not more than 40 hours a week, in any approved activities the person has previously agreed in writing to undertake; or
- be available for, and take reasonable steps to obtain, full-time employment to the satisfaction of the chief executive.

For the purposes of the section—

- **approved activities** are—
 - attending and participating in education or employment-related training;
 - taking reasonable steps to obtain suitable employment, including attending and participating in interviews, and undertaking work-focused activities;
 - attending and participating in activities intended to develop a person's capabilities for employment, including a social rehabilitation programme, or skills training.
- **work-focused activities** are:
 - attending and participating in employment-related seminars provided or approved by the department;
 - attending and participating in interviews for employment;
 - attending and participating in employment-related training approved by the chief executive;
 - attending and participating in interviews with officers of the department;
 - completing any self-assessment or planning required by the chief executive.

New section 60GAC requires the chief executive to take reasonable and appropriate steps to make people granted an independent youth benefit aware of—

- their obligations under *new section 60GAB*; and
- the consequences of failure to comply with the obligations.

Clause 28 amends section 60P of the principal Act, which states the purpose of sections 60Q to 60Z of the principal Act, so as to add to the list of people whose movement into ongoing employment it is a purpose of sections 60Q to 60Z to facilitate—

- the spouses and partners (other than work-tested spouses or partners) of emergency, invalids', sickness, and unemployment beneficiaries, as their parenting responsibilities and individual circumstances allow; and
- invalids' beneficiaries and sickness beneficiaries, as their disability-related or medical conditions, and circumstances, allow.

Clause 29 amends section 60Q of the principal Act, which relates to personal development and employment plans, so as to recast the list of things that the chief executive may require people to whom the section applies to do. They may now be required—

- to attend and participate in interviews with the chief executive for certain purposes:
- to undertake planning for personal development and employment:
- to develop a personal development and employment plan:
- to co-operate in the conduct of reviews of their personal development and employment plans:
- to undertake work-related activities or programmes included in their personal development and employment plans:
- to undertake any activity or any rehabilitation (other than an activity or rehabilitation involving participation in work, voluntary work, or unpaid work experience, or medical treatment) the chief executive considers suitable to improve their beneficiary's work-readiness or prospects for employment:
- to develop new plans if the chief executive considers that, because of a substantial change to their circumstances, their existing plan is inappropriate.

The clause also adds to section 60Q of the principal Act 2 new subsections, which—

- state the people to whom the section applies; and

- give the chief executive power, on the grounds of severe disability or sickness, to exempt a person in receipt of an invalid's benefit from the application of the section.

The section applies to every person who—

- is the recipient of the widow's benefit, the domestic purposes benefit for solo parents, the domestic purposes benefit for women alone, the invalid's benefit, or the sickness benefit; or
- is the spouse or partner of a person who—
 - is the recipient of an emergency benefit, an invalid's benefit, a sickness benefit, or an unemployment benefit; and
 - has a dependent child under 6.

Clause 30 amends section 60S of the principal Act, which requires beneficiaries to demonstrate commitment to personal development and employment plan at reviews.

At present, reviews are annual. The amendments enable reviews at any reasonable time.

Clause 31 adds to the list of things in section 60U(1) of the principal Act for which the chief executive must impose sanctions a failure to comply with a request under section 60HA to participate in a work preparation exercise.

Clause 32 amends section 60Y of the principal Act, which states the sanctions to be imposed for failure to comply with obligations in relation to a personal development and employment plan, by replacing subsection (2) with a redrafted subsection.

At present, subsection (2) provides that a reduction of benefit imposed as a sanction applies to the rate of benefit payable to the beneficiary after any abatement on account of income.

The new subsection provides that, after any abatement on account of income, a reduction of benefit imposed as a sanction—

- in the case of an emergency benefit, an invalid's benefit, a sickness benefit, or an unemployment benefit, that is payable at the rate for a person who is married or in a civil union or de facto relationship, applies to only half the benefit (but the beneficiary's spouse or partner is, subject to the appropriate Income Test applied at half its abatement rate, entitled to receive the other half of the benefit); and
- in any other case, applies to the whole of the benefit payable to the beneficiary.

Clause 33 amends section 61A of the principal Act, which states the obligations of the spouse or partner of a person granted an emergency benefit, so as to replace the obligation to comply with section 60HA of the principal Act with obligations to—

- comply with requirements under section 60Q; and
- comply with obligations arising under sections 60Q to 60S.

Clause 34 amends section 80 of the principal Act (which relates to the commencement of benefits) by—

- despite its no longer being a work-tested benefit, making the independent youth benefit subject to stand down; but
- continuing to exempt young people who are receiving the independent youth benefit from stand down if they are enrolled in a course of secondary instruction.

Clause 35 amends section 80BD of the principal Act (which relates to the ending of benefits) by replacing subsection (6) with *new subsections (6) and (6A)*.

At present, a widow's benefit or domestic purposes benefit (or a rate of such a benefit) ends 8 weeks after the beneficiary stops caring for a dependent child or a sick or infirm person if the beneficiary—

- is receiving the widow's benefit under section 21(1)(a) or the domestic purposes benefit under section 27B or section 27G; and
- either—
 - stops caring for a dependent child because of a sudden change of circumstances beyond the beneficiary's control; or
 - stops caring for a sick or infirm person who dies or is admitted to hospital.

New subsection (6) provides that every benefit payable to a sole parent or a rate of such a benefit ends 8 weeks after the beneficiary stops caring for the dependent child concerned if the beneficiary stops caring for the child because of a sudden change of circumstances beyond the beneficiary's control.

New subsection (6A) provides that a domestic purposes benefit under *section 27G* or a rate of that benefit ends 8 weeks after the beneficiary stops caring for the sick or infirm person concerned if the person dies, is admitted to hospital, or enters residential care.

Clause 36 inserts *new sections 96A and 96B* into the principal Act.

New section 96A relates to pre-benefit activities, and applies to a person who contacts the department asking for financial assistance on or after the commencement of *clause 36*.

If the chief executive considers that the appropriate financial assistance for the person would be an unemployment benefit, the person may be required to:

- undertake one or more stated pre-benefit activities (available not later than 10 working days after the date of first contact):
- at any time before an unemployment benefit commences, attend and participate in any interview for an opportunity of suitable employment to which the person is referred by the chief executive:
- at any time before an unemployment benefit commences, accept any offer of suitable employment.

The chief executive is not required to investigate the person's claim for an unemployment benefit unless satisfied that the person has undertaken any required pre-benefit activities.

If the person fails to undertake any required pre-benefit activities within 20 working days after the date of first contact, any application for an unemployment benefit the person has made lapses.

And if the person has, without a good and sufficient reason, failed to comply with any other requirement, the chief executive must,—

- refuse to grant an unemployment benefit; or
- terminate any grant of unemployment benefit already made.

If under the section the person's application for an unemployment benefit has lapsed or been terminated, or he or she has been refused an unemployment benefit, he or she cannot become entitled to an unemployment benefit without applying for it again and establishing his or her eligibility to receive it.

For the purposes of the section, a **pre-benefit activity** is—

- attending and participating in an employment-related seminar provided or approved by the department; or
- attending and participating in employment-related training approved by the chief executive; or
- attending and participating in an interview with an officer of the department; or
- completing a self-assessment or planning required by the chief executive; or
- any other activity specified in regulations under *section 132J*.

New section 96B requires the chief executive to take reasonable and appropriate steps to make people on whom requirements are placed under *section 96A(2)* applies aware of their obligations in relation to the requirements, and the consequences of failure to comply with the requirements.

Clause 37 amends section 97 of the principal Act so that the obligations of the spouse or partner of a person granted an unemployment benefit at a work-test married rate are—

- to comply with a requirement under section 60Q and any other obligation arising under any of sections 60Q to 60S; or
- if he or she is a work-tested spouse or partner, to comply with the work test.

Clause 38 amends section 102(2) of the principal Act, which states the work-test obligations.

It—

- adds a requirement to undertake planning for employment;
- replaces what is at present a requirement to select for inclusion in the beneficiary's job-seeker agreement at least one job-seeker development activity on a list the chief executive considers suitable with a requirement to include in the agreement a job-seeker development activity that the chief executive considers suitable;
- adds a new requirement—to undertake, when required by the chief executive, any activity (including rehabilitation but not medical treatment) the chief executive considers suitable for the beneficiary to improve the beneficiary's work-readiness or prospects for employment—for work-tested beneficiaries who—
 - have not been required to co-operate in developing a job-seeker agreement; or
 - have not signed, or have failed or refused to co-operate in developing or signing, a job-seeker agreement.

The clause also amends section 102 so that a work-test obligation set out in subsection (2) does not apply on any day unless—

- the day is a day between Monday and Friday; or
- regulations under this Act provide that it applies on that day of the week.

Clause 39 amends section 105A of the principal Act, which describes of job-seeker agreements and the responsibilities arising from them, so that a job-seeker agreement becomes a statutory

agreement *and plan for obtaining employment*, rather than just a statutory agreement.

Clause 40 inserts into the principal Act a *new section 115A*, requiring the sanctions stated in section 117 to be imposed on a person who is required to comply with one of the obligations placed by *new section 60GAB* on people granted an independent youth benefit if the chief executive considers that the person has, without a good and sufficient reason, failed to comply with it.

Clause 41 replaces section 120 of the principal Act (which relates to the effect of sanctions on rate of benefit for certain people who are married, in a civil union, or in a de facto relationship) with a new section.

At present, section 120 provides that where the payment of a person's benefit is to be suspended or the benefit is to be cancelled, and the benefit is payable at a rate for a person who is married or in a civil union,—

- the suspension or cancellation applies only to half the applicable rate of the benefit before any abatement on account of income; and
- the person's spouse or partner is entitled to receive half that rate of the benefit (with the appropriate Income Test applying to that rate, but at half the abatement rate).

Proposed *new section 120* provides that,—

- if the suspension or cancellation of a benefit payable at a work-test married rate results from the failure of one of the spouses or partners to comply with a work-test obligation—
 - it will apply to only half the applicable rate of the benefit before any abatement on account of income; and
 - the other spouse or partner is entitled to receive half of that rate (with the appropriate Income Test applying to that rate, but at half the abatement rate):
- if the suspension or cancellation of a benefit payable at a work-test married rate results from the failure of both work-tested spouses or partners to comply with work-test obligations, and they have one or more dependent children,—
 - the suspension or cancellation applies to only half the applicable rate of the benefit before any abatement on account of income; and

- the spouses or partners are entitled to receive half that rate (and the appropriate Income Test applies to that rate).

Clause 42 inserts into the principal Act a *new section 132J*, enabling the making of regulations stating pre-benefit activities for the purposes of *new section 96A*.

The Minister must not recommend the making of regulations unless, in his or her opinion, each pre-benefit activity concerned is likely to—

- increase the awareness of the people undertaking it of opportunities for employment; or
- strengthen incentives for the people undertaking it to move into employment; or
- facilitate the movement of the people undertaking it into employment.

Minister of Finance’s statement on the consultation process followed in the formulation of the amendments to the New Zealand Superannuation and Retirement Income Act 2001 in the Social Security Amendment Bill

Introduction

Section 73 of the New Zealand Superannuation and Retirement Income Act 2001 provides that the Minister must, on the introduction into the House of Representatives of a government Bill that proposes an amendment to the Act, bring to the attention of the House the consultation process that was followed in the formulation of the proposed amendment. The term **Minister**, for the purposes of section 73, is defined in section 5 of the Act as the Minister of Finance.

That statement must include (without limitation)—

- (a) whether consultation has taken place with the parties that are in agreement with the Part proposed to be amended (as listed in Schedule 4 of the Act);
- (b) whether consultation has taken place with the Guardians (to the extent that the amendment relates to Part 2 of the Act);
- (c) the results of the consultation.

The Social Security Amendment Bill proposes to consequentially amend Part 1 of the Act. It does not propose to amend Part 2, Part 3, Part 4 or any of the schedules of the Act.

Consultation process

No consultation was undertaken in relation to the proposed amendments to Part 1 of the New Zealand Superannuation and Retirement Income Act 2001 as the amendments are purely consequential. The Social Security Amendment Bill includes a proposed new section 80AA of the Social Security Act 1964 which will allow the Minister responsible for the Act to consent to payments of a benefit commencing earlier than the date of application where a person has not made the application because of some error on the part of the Ministry of Social Development. As the definition of **benefit** in section 3(1) of the Social Security Act includes New Zealand superannuation and living alone payments, the consequential amendments will make the commencement provisions for New Zealand superannuation and living alone payments subject to the new section 80AA.

No consultation was undertaken with the Guardians of New Zealand Superannuation as the Bill does not propose to amend Part 2 of the New Zealand Superannuation and Retirement Income Act 2001.

Results of the Consultation

Not applicable.

Hon Dr Michael Cullen

Minister of Finance

Regulatory impact and compliance cost statement

Statement of the nature and magnitude of the problem and the need for government action

The reform of our social support system is necessary for the following reasons:

- the social and economic well-being of New Zealand - we have one of the lowest unemployment rates in the OECD but one in eight households has no-one in work:
- a number of individuals and their families do not currently have the same opportunities to participate in the labour market and society as others, and their living standards are compromised by long-term benefit dependency.

Statement of the public policy objectives

The proposals contained in Phase One - Support and Services are part of a broader package of reforms to introduce a comprehensive work-focused social support system for working-age people.

The objectives of the Working New Zealand: Work-Focused Support package of reforms are to:

- increase opportunities for people to participate in the labour market, where work is an appropriate outcome;
- continue to provide social and financial support for people with temporary or long-term barriers to work.

Phase One - Support and Services will contribute to these objectives by getting the right services and support in place to help people participate or prepare for a return to the labour market.

Statement of feasible options (regulatory and/or non-regulatory) that may constitute viable means for achieving the desired objectives

Phase One - Support and Services will include the following components:

Providing the right services, right from the start

I propose to:

- progressively roll out from September 2006 a Job Search Service for people in the Work Ready Support service stream (and others who volunteer), comprising intensive job search activity and support, regular contact with Work and Income, and access to more intensive assistance where required;
- further develop appropriate packages of case management and targeted services for people in the Work Development Support and Community Support service streams, with a view to a progressive rollout throughout 2007;
- develop a new assessment framework for people with ill health and people with disability, which will collect better information about what people are capable of doing and the barriers they face, particularly health- or disability-related barriers, in achieving their goals and potential;
- provide additional guidance to doctors on how to interpret eligibility for Sickness Benefit and Invalid's Benefit.

Providing wider access to employment and training assistance

Training Incentive Allowance

I propose to retain the Training Incentive Allowance but modify the programme to focus more tightly on identified quality and relevance standards [CAB Min (06) 10/3 refers]. With the exception of this change the Allowance will continue to be available under current rules and maxima to meet the financial costs associated with participating in training and work-related skills development programmes.

Course Participation Assistance Grant

I propose to introduce a Course Participation Assistance Grant to replace the Occupational Training Course Special Needs Grant. The Grant will assist people on benefit or a stand-down for benefit with the costs incurred through participation in short-term employment and training assistance programmes.

The Course Participation Assistance Grant will provide a contribution towards transport and care costs (including childcare, care for people with disabilities, and care for older people) for those who participate in employment and training programmes. Up to \$1,000 will be available over a 52-week period. This will include up to \$200 for occupational training course fees currently covered in the Occupational Training Course Special Needs Grant.

Wage Subsidies

I propose that the current wage subsidies and skills training programmes be consolidated into two subsidies:

- a Skills Investment Subsidy that invests in the job-seeker and contributes to a person's wages for up to 52 weeks, with the maximum limit set at Ministerial level (currently \$16,900 per annum). The Skills Investment Subsidy will replace the current placement wage subsidies and the Job Plus Training programme. This subsidy will continue for up to 52 weeks (within the annual maximum limit):
- a Time-limited Project Subsidy that focuses on those who are furthest from achieving sustainable employment and enables participation in project-based work of less than six months duration, for example Taskforce Green, that will help people develop work habits and skills and progress towards sustainable employment.

Transition to Work

I propose that the Work Start Grant, the Pathways Payment programme and the Pathways Debt Recovery Suspension be merged into a single programme, called the Transition to Work Grant that will provide flexible financial assistance to meet the additional costs of entering into employment. Up to \$1,500 per year will be available per person, including up to \$300 for job search costs, up to \$500 in bridging finance, and job placement costs as required.

Work Experience and Activity in the Community

I propose that:

- the Work Experience programme be modified to enhance access, increase its effectiveness, and further mitigate the risks associated with it:
- Activity in the Community be discontinued as an employment intervention and not be available to people who are expected to return to work immediately or in the short term. The programme will continue to be available to people who are likely to take longer to return to work, or who are unlikely to return to work at all, in order to contribute to their social development outcomes.

Guidelines Framework

I propose that:

- Cabinet guidelines comprise one set of high-level guidelines outlining key objectives for all employment and training assistance, including:
 - the key expected outcome
 - key principles to guide programme development and delivery.
- Ministerial guidelines build on the Cabinet guidelines and may include restrictions on eligibility, funding and type of assistance that can be provided:
- operational guidelines provide detail needed to ensure that assistance is provided appropriately.

Enhancing Expectations

I propose to enhance expectations for benefit recipients within the existing benefit structure as follows:

- applicants for Unemployment Benefit will be full-time work-tested, as at present, but must meet some additional activity requirements including:
 - attend interviews with Work and Income as required:
 - attend and participate in job interviews:
 - as part of their Job-seeker Agreement, undertake planning, develop a formal plan if required and undertake activities included in the plan by agreement:
 - undertake a specific activity or programme included in the Job-seeker Agreement at the direction of the Chief Executive of the Ministry of Social Development in order to enhance their prospects of obtaining employment:
 - undertake activities including rehabilitation, but not medical treatment, to improve their work-readiness and prospects of obtaining employment (where the person does not have a Job-seeker Agreement):
- age related work-test exemptions will be removed (these are currently available for Unemployment Benefit clients aged 60 years and over and all partners of beneficiaries from age 55 years and over):
- partners of beneficiaries will be part-time work-tested (15 hours per week) if they have a youngest child aged six years or over (currently those with a youngest child over the age of 14 years have a full-time work test):
- Sickness Benefit and Invalid's Benefit clients (unless exempt) will have planning and activity requirements, which may include:
 - engaging with Work and Income as required:
 - undertaking planning and developing a formal plan if required:
 - undertaking a work-related activity (if agreed in the plan):
 - reviewing plan as required:
 - showing commitment to the plan:
 - undertaking specific activities such as rehabilitation (these activities will not include work, work experience or medical treatment):
- some Invalid's Benefit clients (for example those who are terminally ill or who have very severe physical or intellectual disabilities) will be exempt from all work-related obligations:

- Domestic Purposes Benefit and Widow's Benefit clients (except Care of Sick or Infirm clients) will have the enhanced planning and activity requirements set out above.

Sanctions

I propose to apply the following sanctions regime to benefit recipients within the existing benefit structure:

- Sickness and Invalid's Benefit clients and partners with a youngest child under six years will have the current Personal Development and Employment Plan sanctions regime with graduated sanctions and lesser penalties (a 20% reduction of benefit until compliance with a further 30% after four weeks of non-compliance):
- where there are dependent children and each partner in couple is sanctioned, a maximum penalty of 50% of the couples total benefit would apply to avoid undue hardship for all families (currently this provision is available to sole parents only).

Disclosure of information

Subject to further work, I propose to introduce a requirement for people seeking benefit (and third parties) to disclose information on health status, health treatment, social participation and engagement in study or training, for the purposes of ascertaining any barriers to work that need to be taken into account in assessing eligibility for benefit or in the planning process, when applying for benefit and while in receipt of benefit. This will also provide the Ministry of Social Development with information on which types of study and training are effective, helping Work and Income to direct people towards options that are relevant and of high quality.

I propose to use information gathered on study and training to assist a report to Cabinet Policy Committee with an evaluation on training and study undertaken by people on benefit once two years worth of data is collected.

Pre-benefit activity

I propose to introduce a pre-benefit requirement that as part of the application process for Unemployment Benefit, a person must undertake a work-related activity or activities (for example a WRK4U seminar) if directed by the Chief Executive. This proposal

will strengthen the Job Search Service discussed in paragraphs 43 to 60 of this paper.

Finalising minor technical policy issues

The detail of these proposals will be decided by Joint Ministers (including the Minister of Finance, the Lead Minister for Families - Young and Old theme, the Minister of Health, the Minister for Disability Issues and the Minister for Social Development and Employment), with delegated authority for finalising minor technical policy issues, which may arise in the drafting the proposed amendment Bill. These areas include:

- applying aspects of the expectations for work-tested clients over seven days:
- any new or updated work test exemptions:
- administrative guidelines covering exemptions from all work-related obligations where it is not reasonable to require planning or activities:
- any aspects of the changes to planning and activity requirements that need to be further specified in regulation or operational guidelines:
- a requirement for people seeking benefit (and third parties) to disclose information for the purposes of ascertaining any barriers to work that need to be taken into account in assessing eligibility for benefit or in the planning process:
- circumstances where financial assistance can be granted without an application for benefit.

Officials will also report to Joint Ministers (including the Minister for Social Development and Employment, the Minister of Women's Affairs and the Minister of Revenue) in December 2006 on proposals relating to parents with shared- and split-care custody arrangements in consultation with the Inland Revenue Department.

Aligning eligibility criteria

Residence and qualifying child criteria

I propose to align the residence eligibility criteria for Unemployment Benefit, Domestic Purposes Benefit: Sole Parent, Domestic Purposes Benefit: Care of Sick or Infirm, Domestic Purposes Benefit: Women Alone, Invalid's Benefit, Sickness Benefit, Widow's Benefit and Independent Youth Benefit so that a person must:

- be a New Zealand citizen or permanent resident; and

- be ordinarily resident in New Zealand; and
- have resided continuously in New Zealand for at least two years at any one time since becoming a citizen or permanent resident.

Refugees with permanent residence will be exempt from the two-year residence requirement.

I propose that “ordinarily resident” be clarified in operational guidelines.

I propose to remove the qualifying child criteria for Domestic Purposes Benefit and Widow’s Benefit so that eligibility in relation to the care of a child is determined by the child meeting the definition of “dependent child” under the Social Security Act 1964.

I propose to broaden the eligibility criteria for Domestic Purposes Benefit and Widow’s Benefit so that people who are caring for a dependent child not their own can qualify for those benefits at the discretion of the Chief Executive and subject to the additional requirement that the child’s parents are unable, or in exceptional circumstances unwilling, to support the child.

The above initiatives are further detailed in Annexe C: Residence and Qualifying Child Criteria, a copy of which can be obtained from my office.

Full-time carers of people with ill health and people with disabilities

I propose to:

- update the eligibility requirement for carers receiving Domestic Purposes Benefit: Care of Sick or Infirm so that those who would otherwise require full-time care by hospitals, community residential services or rest homes, or equivalent levels of care in the community meet the criteria for being a care recipient;
- develop, in consultation with health and disability stakeholders and other agencies, new assessment processes for people requiring full-time care. This assessment process will be piloted in one or two regions from 2008. In the interim existing general practitioner-based processes will be adjusted to reflect the new definition.

Aligning weekly assessment, payment periods and application process

I propose that:

- the maximum income stand-down period be reduced to two weeks for Unemployment Benefit, Domestic Purposes Benefit: Sole Parent, Domestic Purposes Benefit: Care of Sick or Infirm, Domestic Purposes Benefit: Women Alone, Invalid's Benefit, Sickness Benefit, Widow's Benefit and Independent Youth Benefit:
- the exemption from the stand-down for people applying for Domestic Purposes Benefit who have entered a refuge following a breakdown in their relationship be extended to Unemployment Benefit, Invalid's Benefit, Sickness Benefit and Independent Youth Benefit in the same circumstances:
- the exemption from the stand-down for people who become entitled to benefit after receiving payments under a government-assisted scheme analogous to the benefit be removed:
- all new applications for benefits initially have weekly income assessments, with rules to allow people to move to annual assessment to be decided by Joint Ministers (including the Minister of Finance, the Lead Minister for Families - Young and Old theme, the Minister of Health, the Minister for Disability Issues and the Minister for Social Development and Employment):
- an application for a benefit be defined as a written application but the date at which the application can be considered be the date of first contact except in some circumstances (to be decided by Joint Ministers including the Minister of Finance, the Lead Minister for Families - Young and Old theme, the Minister of Health, the Minister for Disability Issues and the Minister for Social Development and Employment) where financial assistance can be granted without an application:
- benefit payment periods be aligned to weekly by removing the 14 and five-day payment periods for some benefit types:
- Unemployment Benefit, Domestic Purposes Benefit: Sole Parent, Domestic Purposes Benefit: Care of Sick or Infirm, Domestic Purposes Benefit: Women Alone, Invalid's Benefit, Sickness Benefit, Widow's Benefit and Independent Youth Benefit be paid according to a seven-day weekly pay period:
- change-in-circumstances rules for sole parents be aligned so that they can continue to receive a benefit for up to eight

weeks in some situations (the current rules apply to Domestic Purposes Benefit and Widow's Benefit only):

- the definition of full-time employment be amended to make it clear that an average of 30 hours or more per week is calculated over a consecutive four-week period:
- regulation-making provisions be introduced for dealing with technical issues around income determinations for self-employed persons and deprivation of income.

Transitional protection

I propose to:

- continue to pay Domestic Purposes Benefit and Widow's Benefit to people who at the point of change are receiving these benefits but would not qualify in the future, as they have not been resident in New Zealand continuously for two years or more:
- protect people who at the point of change are receiving Domestic Purposes Benefit and Widow's Benefit and are caring for a child not their own but who do not meet the additional requirement that the child's parents are unable, or in exceptional circumstances unwilling, to support the child:
- use lump-sum payments of non-recoverable Special Needs Grants to reimburse any shortfall caused by the change from a 14- to a seven-day payment period:
- at the point of change continue to pay the Domestic Purposes Benefit: Care of Sick or Infirm to 16- and 17-year-olds who are receiving the benefit but who would not qualify in the future because there are other available carers or alternative care arrangements.

Improving support and services for young people aged 16 to 19

Improving the support and services for young people receiving a benefit will contribute to the Government's and the Mayor's Taskforce for Jobs shared goal that by 2007 all 15 to 19 year olds will be engaged in appropriate education, training, work or other options which will lead to long-term economic independence and well-being.

Independent Youth Benefit initiatives

I propose to introduce initiatives such as:

- intensive one-to-one case management (including, where appropriate, joint case management between Work and Income, Child, Youth and Family, Youth Transition Services, and other providers of Youth Services):
- expanding the services to include treatment of substance abuse problems:
- increasing use of existing services such as Youth Transition Services where they exist:
- commencing a review of the assessment process for determining whether a family breakdown exists:
- replacing the existing work-test with new activity expectations (including seeking full-time work and participating in agreed activities of between 30 and 40 hours per week) for Independent Youth Benefit recipients:
- making technical amendments to legislation for young people being discharged from custody under the Children, Young Persons and their Families Act 1989 and to existing stand-down provisions.

Unemployment Benefit

Work and Income will also introduce an enhanced service for 18-and-19 year old Unemployment Benefit recipients, including:

- intensive one-to-one case management:
- key intervention points at three and six month intervals:
- attendance at Job Search Services and Seminars:
- introducing a coaching model (including quality mentoring, job search advice and support and post-placement support for up to six months):
- use of contracted services, including career advice where needed:
- a School Leaver Strategy in conjunction with the Ministry of Education.

Other initiatives

I also propose to:

- tighten eligibility for 16 and 17 year-old carers applying for Domestic Purposes Benefit: Care of Sick or Infirm, so that it is

only available where there is no other carer, after consideration has been given to alternative arrangements and with regard to family circumstances:

- apply the enhanced planning and activity requirements for people in receipt of non-work-tested benefits to 16 to 19 year-olds receiving those benefits.

Improving Employment Outcomes for Maori job-seekers

From December 2006 I propose to introduce initiatives to improve sustainable employment outcomes for Maori on Unemployment Benefit, including:

- developing a Trade Training programme in co-operation with Te Puni Kokiri, Housing New Zealand Corporation and other government agencies to create sustainable employment schemes that will contribute to the growth of on-going jobs in these local communities and will develop the skill levels of people in those communities, particularly in provincial or rural locations:
- development by the Ministry of Social Development, the Department of Building and Housing and the Housing New Zealand Corporation of stronger links with the Rural Housing Programme so that local unemployed Maori can develop skill sets that will be of long-term benefit to their local communities and enabling the Housing New Zealand Corporation to improve and develop its housing stocks and rural living conditions:
- developing employment opportunities with District Health Boards to provide entry points for Maori in the care and social services sector:
- the Ministry of Social Development working actively with local and regional councils to create employment schemes that will be of benefit to local communities and will develop the skills of clients in those communities, particularly in provincial or rural communities:
- development by the Ministry of Social Development of enhanced relocation assistance to enable individuals to maximise employment opportunities:
- continuing and further developing initial work between Ministry of Social Development Regional Commissioners and Regional Directors of Te Puni Kokiri on a joint work

- programme that includes reducing unemployment numbers to provide more sustainable employment outcomes for Maori.
- assessment of need should take account of any other government financial support that the person is eligible for or receives.

Statement of the net benefit of the proposal, including the total regulatory costs (administrative, compliance and economic costs) and benefits (including non-quantifiable benefits) of the proposal, and other feasible options

Costs

The Ministry of Social Development has estimated the cost of the Phase One - Support and Services package and the likely savings that could be achieved through the reduction of numbers on benefit. The costs and savings are based on a number of assumptions and forecasts about the growth of beneficiary numbers over time, inflation and economic pressures, and the extent of capacity of the social sector to deliver services. The profile of spending over time is also dependent on the decisions on the legislative timetable.

The estimated cost of Phase One - Support and Services across all years is set out in the table below.

Vote Social Development	\$m - increase/(decrease)				
	2006/ 07	2007/ 08	2008/ 09	2009/ 10	2010/ 11 & Out- years
Phase One - Support and Services implementation costs	14.7	16.9	3.9	0.2	0
Phase One - Support and Services costs	0	3.7	9.1	9.1	9.1
Employment and Training Assistance Costs (net impact including implementation costs)	-5.4	2.4	2.4	2.4	2.4
Policy contingency	0	3.6	7	7	7
Estimate of total operating	9.3	26.6	22.4	18.8	18.6

Note: Numbers may not add due to rounding

Benefits

The Working New Zealand: Work-Focused Support package (Phase One) is expected to reduce numbers applying for benefit and shorten the duration of benefit receipt.

In addition, initiatives to reduce the number of Maori job-seekers on Unemployment Benefit and 18- and 19-year-old Unemployment Benefit recipients are forecast to reduce benefit expenditure by up to \$75 million per year.

There may be other small reductions in benefit numbers from the changes in this package (such as the removal of the age exemption for work-testing) but they are not able to be quantified.

Statement of consultation undertaken

This paper has been distributed to the following agencies for comment: Department of the Prime Minister and Cabinet, Office for Disability Issues, Ministry of Health, Department of Labour, Treasury, Ministry of Women's Affairs, Te Puni Kokiri, and Accident Compensation Corporation, Inland Revenue Department, Ministry of Education, Department of Internal Affairs, State Services Commission, Ministry of Foreign Affairs and Trade, Families Commission, Tertiary Education Commission, Housing New Zealand Corporation, Department of Corrections, Ministry of Economic Development, Ministry of Pacific Island Affairs, Ministry of Justice, Statistics New Zealand. Where comments have been provided, these have been incorporated into this paper.

Business compliance cost statement

There are no compliance costs for businesses associated with this proposal.

Hon David Benson-Pope

Social Security Amendment Bill

Government Bill

Contents

	Page
1 Title	3
2 Commencement	3
3 Principal Act amended	3

Part 1

Provisions coming into force on 28 May or 2 July 2007

Substantive amendments

4 Interpretation	4
5 Widows' benefits	5
6 Interpretation	5
7 Domestic purposes benefits for care at home of the sick or infirm	5
8 Independent youth benefits: single persons	6
9 Limitation in certain other cases	6
10 New section 74AA inserted	6
74AA Residential requirements for certain benefits	6
11 Commencement of benefits	7
12 New section 80AA inserted	7
80AA Minister may allow back-dating of benefit where earlier failure to grant it based on error	8
13 Payment of benefits	9
14 Interpretation	9
15 New sections 132H and 132I inserted	9
132H Rules providing for determination of incomes of certain people by chief executive	9
132I Rules relating to determination by chief execu- tive of deprivation of property or income	11
16 Schedule 28 amended	11

Transitional

17 Widows' benefits	11
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Social Security Amendment

18	Domestic purposes benefits	12
19	Stand down periods	12
20	Transitional arrangements for financially disadvantaged people	12
	<i>Validation</i>	
21	Commencement of benefits	13
	Part 2	
	Provisions coming into force on 24 September 2007	
22	Interpretation	13
23	New sections 1A and 1B inserted	14
	1A Purpose	14
	1B Principles	14
24	New section 11D inserted	15
	11D Application process for benefits	15
25	Obligations on spouse or partner of invalid's beneficiary	16
26	New section 54E substituted	16
	54E Obligations of spouse or partner of sickness beneficiary	16
27	New sections 60GAB and 60GAC inserted	16
	60GAB Independent youth benefits: obligations	16
	60GAC Department to explain obligations to beneficiaries	18
28	Purpose of sections 60Q to 60Z	18
29	Personal development and employment plans	18
30	Beneficiary must demonstrate commitment to personal development and employment plan at annual review	20
31	Failure to comply with personal development and employment plan obligations	20
32	Sanctions for failure to comply with obligations in relation to personal development and employment plan	20
33	Obligations of spouse or partner of person granted emergency benefit	21
34	Commencement of benefits	21
35	Ending of benefits	21
36	New sections 96A and 96B inserted	22
	96A Unemployment benefit: pre-benefit activities	22
	96B Department must explain obligations in relation to pre-benefit activities	23
37	Unemployment benefit: obligations on beneficiaries	23
38	Application and obligations of the work test	24
39	Description of job-seeker agreement and responsibilities arising from it	25

40	New section 115A inserted	25
	115A Failure to comply with obligations under section 60GAB	25
41	New section 120 substituted	26
	120 Modified effect in some cases of sanctions on rate of benefit for people married or in civil union or de facto relationship	26
42	New section 132J inserted	27
	132J Regulations stating pre-benefit activities	27
	Schedule 1	28
	Amendments consequential on section 10	
	Schedule 2	29
	Amendments consequential on section 12	
	Schedule 3	30
	Amendments consequential on section 13	
	Schedule 4	31
	Amendments consequential on section 29	
	Schedule 5	32
	Amendments consequential on section 40	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Social Security Amendment Act **2006**.

2 Commencement

- (1) **Part 1** (except **sections 12 and 13**) and **Schedule 1** come into force on 28 May 2007. 5
- (2) **Sections 12 and 13** and **Schedules 2 and 3** come into force on 2 July 2007.
- (3) **Part 2 and Schedules 4 and 5** come into force on 24 September 2007.
- (4) The rest of this Act comes into force on the day after the date on which it receives the Royal assent. 10

3 Principal Act amended

This Act amends the Social Security Act 1964.

Part 1
Provisions coming into force on 28 May
or 2 July 2007

Substantive amendments

- 4 Interpretation** 5
- (1) Section 3(1) is amended by repealing the definitions of **employment required to satisfy the work test** and **full employment** or **full-time employment** and inserting the following definitions in their appropriate alphabetical order:
- “**activity in the community** means an activity associated with a community project under the supervision of a sponsor who is contracted by the chief executive to provide the activity 10
- “**employment required to satisfy the work test** means employment of a kind described in section 102(4) 15
- “**full employment** or **full-time employment**, in relation to a person,—
- “(a) means—
- “(i) employment under a contract of service or apprenticeship requiring him or her to work, whether on time or piece rates, an average (when calculated over a period of 4 consecutive weeks) of at least 30 hours a week; or 20
- “(ii) self-employment in a business, profession, trade, manufacture, or undertaking carried on for pecuniary profit for an average (when calculated over a period of 4 consecutive weeks) of at least 30 hours a week; or 25
- “(ii) employment for any number of hours regarded as full-time employment for the purposes of an award, agreement, or contract relating to the employment; and 30
- “(b) at any time, includes employment under one or more contracts of service for at least 120 hours over the period of 4 weeks immediately before that time”. 35
- (2) The following subsection is added to section 3:
- “(6) The definition of **income** in subsection (1) is at any time subject to any rules then in force under **section 132H**.”

5 Widows' benefits

Section 21 is amended by repealing subsections (3) to (6) and substituting the following subsection:

- “(6) For the purposes of this section, the chief executive may, in the chief executive’s discretion, regard a dependent child as being a child of an applicant, and the applicant as being the mother of the child, if—
- 5
- “(a) the child—
- “(i) is being maintained by the applicant; and
- “(ii) was at any time maintained by the applicant’s husband; or
- 10
- “(b) section 28(a) or 29(b) applies to the child; or
- “(c) the child’s parents are unwilling to support the child because of circumstances the chief executive considers exceptional.”
- 15

6 Interpretation

Section 27A is amended by repealing subsections (1) to (3) and substituting the following subsection:

- “(3) For the purposes of sections 27B to 27D and Schedule 16, the chief executive may, in the chief executive’s discretion, regard a dependent child as being a child of an applicant, and the applicant as being the mother or father of the child, if—
- 20
- “(a) the child—
- “(i) is being maintained by the applicant; and
- “(ii) was at any time maintained by the applicant’s spouse or partner; or
- 25
- “(b) section 28(a) or 29(b) applies to the child; or
- “(c) the child’s parents are unwilling to support the child because of circumstances the chief executive considers exceptional.”
- 30

7 Domestic purposes benefits for care at home of the sick or infirm

Section 27G is amended by repealing subsection (2) and substituting the following subsections:

- “(2) Subject to the provisions of this Act, an applicant who has attained the age of 16 years and meets the residential requirements in **section 74AA** is entitled to receive a domestic purposes benefit under this section if the chief executive is satisfied that the applicant is required to give full time care and attention at
- 35

- home to some other person (other than the applicant’s spouse or partner) who would otherwise have to receive—
- “(a) hospital care, rest home care, or residential disability care, within the meaning of the Health and Disability Services (Safety) Act 2001; or 5
 - “(b) care of the kind referred to in section 141 of the Children, Young Persons, and Their Families Act 1989; or
 - “(c) care of a kind equivalent to any of those kinds of care.
- “(2A) An applicant aged 16 or 17 years must not be granted a domestic purposes benefit under this section unless the chief executive is satisfied, having regard to the circumstances of the applicant, the person he or she is giving care and attention to, and their families, that no other caregiver is reasonably available to care for the other person.” 10
- 8 Independent youth benefits: single persons 15**
- Section 60FA(2) is amended by inserting the following paragraph after paragraph (b):
- “(ba) because the person has ceased to be subject to—
 - “(i) an agreement made under section 140 of the Children, Young Persons, and Their Families Act 1989; or 20
 - “(ii) an order under section 78, 101, or 283(n) of that Act; or
 - “(iii) a sole guardianship order under section 110 of that Act; or” 25
- 9 Limitation in certain other cases**
- Section 74 is amended by inserting the following subsection after subsection (1):
- “(1A) Subsection (1)(d) is subject to any rules prescribed by rules under **section 132I**.” 30
- 10 New section 74AA inserted**
- (1) The following section is inserted after section 74:
- “74AA Residential requirements for certain benefits**
- “(1) A person who applies for a benefit of a kind stated in **subsection (2)** after 27 May 2007 is not eligible for it unless he or she— 35
- “(a) is a New Zealand citizen, or is a person who—

- “(i) holds or is deemed to hold a residence permit under the Immigration Act 1987; or
“(ii) is exempt from holding a residence permit under section 12 of that Act; and
“(b) is ordinarily resident in New Zealand when he or she first applies for the benefit; and
“(c) except in the case of a person who has refugee status under the Immigration Act 1987, has resided continuously in New Zealand for a period of at least 2 years at any one time after the day on which **paragraph (a)** first applied to him or her.
- “(2) The benefits referred to in **subsection (1)** are a domestic purposes benefit, an independent youth benefit, an invalid’s benefit, a sickness benefit, an unemployment benefit, and a widow’s benefit.”
- (2) The principal Act is consequentially amended in the manner set out in **Schedule 1** of this Act.
- 11 Commencement of benefits**
- (1) Section 80 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) A benefit is subject to a stand down, and commences on a date calculated in accordance with section 80BA, if—
“(a) the benefit is a work-tested benefit (other than an independent youth benefit granted to a person undertaking employment-related training) and the applicant is not subject to a non-entitlement period; or
“(b) the benefit is a widow’s benefit, a domestic purposes benefit, a sickness benefit, or an invalid’s benefit.”
- (2) Section 80(3) is amended by omitting “unless subsection (11) applies”.
- (3) Section 80(5)(b) is amended by inserting “, an independent youth benefit, an invalid’s benefit, a sickness benefit, or an unemployment benefit” after “purposes benefit”.
- (4) Subsections (9), (11), and (12) of section 80 are repealed.
- 12 New section 80AA inserted**
- (1) The following section is inserted after section 80:

- “80AA Minister may allow back-dating of benefit where earlier failure to grant it based on error**
- “(1) With the consent of the Minister (given in relation to a particular applicant or applicants of a stated kind or description) a benefit (or a benefit of a stated kind) may commence at a time earlier than the time an application for it was made. 5
- “(2) The Minister must not give consent unless satisfied that—
- “(a) in the case of a particular applicant, the particular applicant—
- “(i) could not reasonably have been expected to apply at the earlier time because of some erroneous action or inaction on the part of the department; or 10
- “(ii) at or before the earlier time, tried to apply or applied incompletely, and did not proceed because of some erroneous action or inaction on the part of the department; or 15
- “(b) in the case of applicants of a stated kind or description,—
- “(i) applicants of that kind or description could not reasonably have been expected to apply at earlier times because of some erroneous action or inaction on the part of the department in relation to applicants of that kind or description; or 20
- “(ii) at earlier times, some applicants of that kind or description tried to apply or applied incompletely, and did not proceed because of some erroneous action or inaction on the part of the department. 25
- “(3) For the purposes of **subsection (2)**, examples of erroneous action or inaction are— 30
- “(a) giving wrong advice;
- “(b) erroneously failing or refusing to provide information, help, or some document or form.
- “(4) Consent given under **subsection (1)** in relation to applicants of a stated kind or description does not necessarily allow all the benefits concerned to commence at the same time. 35
- “(5) **Subsection (1)** does not enable the commencement of a benefit at a time at which the person to whom it is granted was not eligible for it. 40

- “(6) If the Minister delegates to the chief executive the exercise of the power to consent conferred by **subsection (1)**, its exercise by the chief executive (or a refusal by the chief executive to exercise it) is a decision under this Part for the purposes of section 12J.” 5
- (2) The enactments specified in **Schedule 2** are amended in the manner indicated in that schedule.
- 13 Payment of benefits**
- (1) The following subsection is inserted after section 82(2):
- “(2A) The following benefits are paid in respect of a 7-day week: a domestic purposes benefit, an independent youth benefit, an invalid’s benefit, a sickness benefit, an emergency benefit, an unemployment benefit, and a widow’s benefit.” 10
- (2) The principal Act is amended in the manner set out in **Schedule 3** of this Act. 15
- 14 Interpretation**
- (1) Section 88A is amended by—
- (a) repealing the definition of **activity in the community**; and
- (b) omitting “an activity in the community or” from the definition of **recognised community activity**. 20
- (2) Section 123C(1) is consequentially amended by—
- (a) omitting “or an activity in the community” from paragraph (a); and
- (b) inserting “or an activity in the community” after “activity” in paragraph (b). 25
- 15 New sections 132H and 132I inserted**
- The following sections are inserted after section 132G:
- “132H Rules providing for determination of incomes of certain people by chief executive”** 30
- “(1) The Governor-General may, by Order in Council, make rules—
- “(a) prescribing how the chief executive is to assess and determine for the purposes of this Act the income of any or all of the following: 35
- “(i) self-employed people:
- “(ii) people carrying on business in a partnership:

- “(iii) people trading as a small business:
- “(iv) directors of a company:
- “(v) people carrying on business or trade through a company of which they are—
 - “(A) a director and a shareholder; or 5
 - “(B) an employee and a shareholder; or
 - “(C) a director, a shareholder, and an employee:
- “(vi) people otherwise engaged in business or trade; and
- “(b) prescribing the circumstances in which those rules apply. 10
- “(2) Rules under **subsection (1)** may prescribe for the purposes of this Act any or all of the following:
 - “(a) the kinds of deduction from income allowed under the Income Tax Act 2004 that are to be disregarded in determining income, and— 15
 - “(i) the circumstances in which the deductions are to be disregarded; and
 - “(ii) whether the deductions are to be disregarded wholly or in part only: 20
 - “(b) how income is to be calculated where business accounts are presented in cash or accrual form:
 - “(c) livestock valuation methods, and their treatment, in calculating income:
 - “(d) the extent (if any) to which, and circumstances in which, any or all of the following are to be treated as a person’s income: 25
 - “(i) the person’s drawings from a business or trade:
 - “(ii) goods or services supplied to the person by a business or trade: 30
 - “(iii) distributions to the person from a business or trade:
 - “(iv) income from a business or trade by the person:
 - “(e) how it is to be determined whether a person has used assets of a business or trade for no consideration or inadequate consideration: 35
 - “(f) how a person’s income is to be determined where he or she has used assets of a business or trade for no consideration or inadequate consideration:
 - “(g) the extent (if any) to which depreciation or other provision for replacement of capital assets is to be— 40
 - “(i) allowed as a deduction from income; or

- “(ii) disregarded in calculating income:
- “(h) the extent (if any) to which, and circumstances in which, either or both of the following are to be treated as income:
- “(i) distributions from a company: 5
- “(ii) retained profits of a company:
- “(i) the treatment of loss attributing qualifying companies (within the meaning of the Income Tax Act 2004).
- “(3) **Subsection (2)(d)** applies to businesses and trades however they are carried on. 10
- “(4) **Subsection (3)** does not limit or affect the generality of **subsection (1)**.
- “(5) This section does not limit or affect the generality of section 132.
- “132I Rules relating to determination by chief executive of deprivation of property or income 15**
- “(1) The Governor-General may, by Order in Council, for the purposes of section 74(1)(d) make rules—
- “(a) relating to the deprivation of property, income, or both; and 20
- “(b) prescribing the circumstances in which the rules apply.
- “(2) This section does not limit or affect the generality of section 132.”
- 16 Schedule 28 amended**
- (1) Item 1 of Schedule 28 is amended by— 25
- (a) repealing paragraphs (b) to (i); and
- (b) omitting from paragraph (j) “10” and substituting “2”.
- (2) Item 2 of Schedule 28 is amended by—
- (a) repealing paragraphs (b) to (i); and
- (b) omitting from paragraph (j) “10” and substituting “2”. 30

Transitional

17 Widows’ benefits

If, immediately before the commencement of **section 5**, a person was receiving a widow’s benefit on the ground of having the care of a dependent child, the person’s entitlement to continue to receive the benefit must, until the child ceases to 35

be a dependent child of the person, be determined as if that section had not been enacted.

18 Domestic purposes benefits

- (1) If, immediately before the commencement of **section 6**, a person was receiving a domestic purposes benefit on the ground of having the care of a dependent child, the person's entitlement to continue to receive the benefit must, until the child ceases to be a dependent child of the person, be determined as if that section had not been enacted. 5
- (2) If, immediately before the commencement of **section 7**, a person aged 16 or 17 years was receiving a domestic purposes benefit on the ground of having the care of a sick or infirm person, the person's entitlement to continue to receive the benefit must, until he or she ceases to have the care of the sick or infirm person, be determined as if that section had not been enacted. 10 15

19 Stand down periods

If, by virtue of section 80BA of the principal Act, a benefit granted before 28 May 2007 would otherwise commence after that day, its commencement must be determined as if **sections 11(3) and 16** of this Act had come into force immediately before it was granted. 20

20 Transitional arrangements for financially disadvantaged people

- (1) The Governor-General may, by Order in Council, make regulations authorising the provision of financial assistance to any people who are financially disadvantaged as a result of the net effects of the amendments made by this Act. 25
- (2) The regulations must state the day on and after which they have effect (which may be earlier than the day on which they were made). 30
- (3) The chief executive may provide financial assistance of the kind prescribed by the regulations to a person disadvantaged as a result of the net effects of the amendments made by this Act— 35
- (a) in the amount, for the period, and in accordance with the criteria, prescribed by the regulations; and

- (e) in accordance with any other requirements imposed by the regulations.

Validation

21 Commencement of benefits

The validity of the making of a payment of an independent youth benefit before the commencement of **section 11** must be determined as if **subsection (1)** of that section had come into force immediately before the payment was made. 5

Part 2

Provisions coming into force on 24 September 2007 10

22 Interpretation

- (1) Section 3(1) is amended by repealing the definitions of **application**, **part-time work-tested beneficiary**, and **suitable employment**, and inserting, in their appropriate alphabetical order, the following definitions: 15
- “**application** means an application for a benefit
- “**date of first contact**, in relation to a person’s application for a benefit, means the date on which the department first received from the person (or some other person acting on the person’s behalf) the request for financial assistance that led to the making of the application 20
- “**part-time work-tested beneficiary** means a person—
- “(a) who is a work-tested spouse or partner; and
- “(b) whose youngest dependent child is aged 6 years or older, but under 18 years 25
- “**suitable employment**, in relation to a person, means employment that the chief executive is satisfied is suitable for the person to undertake for a number of hours a week that is at least the employment required to satisfy the work test for that person (or, as the case may be, the person’s obligations under **section 60GAB**)”. 30
- (2) Section 3(1) is amended by repealing—
- (a) paragraph (e) of the definition of **work-tested beneficiary**; and
- (b) paragraph (d) of the definition of **work-tested benefit**. 35

23 New sections 1A and 1B inserted

The following sections are inserted after section 1:

“1A Purpose

The purpose of this Act is—

- “(a) to enable the provision of financial and other support as appropriate— 5
 - “(i) to help people to support themselves and their dependants while not in paid employment; and
 - “(ii) to help people to find or retain paid employment; and 10
 - “(iii) to help people for whom work may not currently be appropriate because of sickness, injury, disability, or caring responsibilities, to support themselves and their dependants:
- “(b) to enable in certain circumstances the provision of financial support to people to help alleviate hardship: 15
- “(c) to ensure that the financial support referred to in **paragraphs (a) and (b)** is provided to people taking into account—
 - “(i) that where appropriate they should use the resources available to them before seeking financial support under this Act; and 20
 - “(ii) any financial support that they are eligible for or already receive, otherwise than under this Act, from publicly funded sources: 25
- “(d) to impose administrative and, where appropriate, work-related requirements on people seeking or receiving financial support under this Act.

“1B Principles

Every person exercising or performing a function, duty or power under this Act must have regard to the following general principles: 30

- “(a) work in paid employment offers the best opportunity for people to achieve social and economic well-being:
- “(b) the priority for people of working age should be to find and retain work: 35
- “(c) people for whom work may not currently be an appropriate outcome should be assisted to plan for work in the future and develop employment-focused skills:

“(d) people for whom work is not appropriate should be supported in accordance with this Act.”

24 New section 11D inserted

The following section is inserted after section 11C:

- “11D Application process for benefits** 5
- “(1) A benefit must not be granted to an applicant unless the requirement stated in **subsection (2)** has been complied with.
- “(2) The requirement referred to in **subsection (1)** is that the department has received—
- “(a) an application form (provided by the chief executive for the purpose) completed by or on behalf of the applicant and his or her spouse or partner (if any) to the chief executive’s satisfaction; and 10
- “(b) any supporting evidence (for example, a medical certificate) reasonably required by the chief executive. 15
- “(3) The chief executive—
- “(a) may waive all or part of a requirement to provide information under this section if satisfied that the department—
- “(i) already holds the information concerned; or 20
- “(ii) already holds enough other information to determine the matter for which the information concerned is needed; and
- “(b) may waive the requirement to complete an application form if satisfied that the department already holds a form relating to an application for the benefit concerned that has lapsed under **subsection (6)**. 25
- “(4) **Subsection (1)** is subject to **subsection (3)** and to section 81(3).
- “(5) If the requirement stated in **subsection (2)** has been complied with, an application for a benefit must for the purposes of sections 80 and 80BA be treated as having been received on the date of first contact. 30
- “(6) An application for a benefit lapses at the close of the period of 20 working days after the date of first contact unless, within the period, the requirement stated in **subsection (2)** has been complied with. 35
- “(7) The combined effect of **subsections (1) and (6)** is that an applicant whose application for a benefit has lapsed cannot become

entitled to the benefit without applying for it again and establishing his or her eligibility to receive it.

“(8) This section is subject to **section 96A.**”

25 Obligations on spouse or partner of invalid’s beneficiary

Section 42A(2) is repealed and the following subsection is substituted:

5

“(2) A person to whom this section applies—

“(a) must comply with—

“(i) a requirement under section 60Q; and

“(ii) any other obligation arising under any of sections 60Q to 60S; or

10

“(b) if he or she is a work-tested spouse or partner, must comply with the work test.”

26 New section 54E substituted

Section 54E is repealed and the following section is substituted:

15

“54E Obligations of spouse or partner of sickness beneficiary

From the time that payment of the sickness benefit commences, the spouse or partner of a person granted a sickness benefit at a work-test married rate—

20

“(a) must comply with—

“(i) a requirement under section 60Q; and

“(ii) any other obligation arising under any of sections 60Q to 60S; or

“(b) if he or she is a work-tested spouse or partner, must comply with the work test.”

25

27 New sections 60GAB and 60GAC inserted

(1) The following sections are inserted after section 60GA:

“60GAB Independent youth benefits: obligations

“(1) A person granted an independent youth benefit is subject to the obligations set out in **subsection (2) or (3)** from the day on which the benefit is first paid.

30

“(2) Unless **subsection (3)** applies, the obligations are—

“(a) when required by the chief executive, to participate, for at least 30 hours a week and not more than 40 hours a week, in any approved activities the person has previously agreed in writing to undertake; or

35

- “(b) to be available for, and take reasonable steps to obtain, full-time employment, to the satisfaction of the chief executive.
- “(3) The obligations of a person granted an independent youth benefit on the grounds stated in section 60F(6) are to participate when required by the chief executive in at least one approved activity (being an educational, training, or developmental activity) for at least 3 hours a week. 5
- “(4) A failure without good and sufficient reason to comply with obligations under this section is subject to sanctions, as provided in **section 115A**. 10
- “(5) In this section—
- “**approved activity**, in relation to a person, means—
- “(a) attending and participating in education or employment-related training: 15
- “(b) taking reasonable steps to obtain suitable employment, including attending and participating in any interview for any opportunity of suitable employment to which the person is referred by the chief executive, and undertaking work-focused activities: 20
- “(c) attending and participating in an activity intended to develop the person’s capabilities for employment, including a social rehabilitation programme, or skills training:
- “(d) a combination of any of the activities described in **paragraphs (a) to (c)** 25
- “**work-focused activity** means any of the following:
- “(a) attending and participating in an employment-related seminar provided by the department, or by any other person approved by the chief executive for the purpose: 30
- “(b) attending and participating in an interview for an opportunity of suitable employment to which the person concerned is referred by the chief executive:
- “(c) attending and participating in employment-related training approved by the chief executive for the purpose: 35
- “(d) attending and participating in an interview with an officer of the department:
- “(e) completing any self-assessment or planning required by the chief executive. 40

“60GAC Department to explain obligations to beneficiaries

The chief executive must take reasonable and appropriate steps to make every person granted an independent youth benefit aware, as soon as is practicable after the benefit is granted, of—

“(a) his or her obligations under **section 60GAB**; and

“(b) the consequences of failure to comply with the obligations and, in particular, the sanctions that may be imposed under **section 115A**.”

- (2) Section 60F(3)(c) is consequentially repealed. 10
- (3) Sections 77(2) and (3) are consequentially amended by omitting “an independent youth benefit, or invalid’s benefit, for a work-tested beneficiary” and substituting “or an invalid’s benefit, for a work-tested beneficiary, or an independent youth benefit”. 15

28 Purpose of sections 60Q to 60Z

- (1) Section 60P(a) is amended by inserting “, and the spouses and partners (other than work-tested spouses or partners) of emergency, invalids’, sickness, and unemployment beneficiaries,” after “widows’ beneficiaries”. 20
- (2) Section 60P is amended by inserting the following paragraph after paragraph (a):
- “(ab) to facilitate the movement of invalids’ beneficiaries and sickness beneficiaries into employment as their disability-related or medical conditions, and circumstances, allow:”. 25

29 Personal development and employment plans

- (1) Section 60Q(1) is amended by repealing paragraphs (a) to (c) and substituting the following paragraphs:
- “(a) to attend and participate in one or more interviews with the chief executive for any or all of the following purposes: 30
- “(i) identifying the matters referred to in subsection (2):
- “(ii) carrying out any of the activities referred to in any of **paragraphs (ab) to (d)**: 35
- “(iii) any other purpose related to either of those purposes:

- “(ab) to undertake planning for personal development and employment:
- “(b) to develop, in co-operation with and with the assistance of the chief executive, a personal development and employment plan for the person based on the matters referred to in subsection (2): 5
- “(c) to co-operate with the chief executive in the conduct of any review of the person’s personal development and employment plan under **section 60S**:
- “(ca) to undertake a work-related activity or programme included in the person’s personal development and employment plan: 10
- “(cb) to undertake any activity or any rehabilitation (other than an activity or rehabilitation involving participation in work, voluntary work, or unpaid work experience, or medical treatment) the chief executive considers suitable for the beneficiary to improve the beneficiary’s work-readiness or prospects for employment.”: 15
- (2) Section 60Q(6) is repealed and the following subsections are substituted: 20
- “(6) This section applies to every person (other than a person for the time being exempted under **subsection (7)**) who—
- “(a) is the recipient of—
- “(i) a benefit under section 21 (the widow’s benefit); or 25
- “(ii) a benefit under section 27B (the domestic purposes benefit for solo parents); or
- “(iii) a benefit under section 27C (the domestic purposes benefit for women alone); or
- “(iv) a benefit under section 40 (the invalid’s benefit); or 30
- “(v) a benefit under section 54 (the sickness benefit); or
- “(b) is the spouse or partner of a person who—
- “(i) is the recipient of an emergency benefit, an invalid’s benefit, a sickness benefit, or an unemployment benefit; and 35
- “(ii) has a dependent child aged under 6.
- “(7) The chief executive may, on the grounds of severe disability or sickness, exempt a person receiving an invalid’s benefit from the application of this section.” 40

- (3) The principal Act is consequentially amended in the manner set out in **Schedule 4** of this Act.
- 30 Beneficiary must demonstrate commitment to personal development and employment plan at annual review**
- (1) The heading to section 60S is amended by omitting “annual”. 5
- (2) Section 60S is amended by repealing subsections (2) and (3) and substituting the following subsection:
- “(2) The chief executive may, at any reasonable time after the beneficiary’s current personal development and employment plan was signed or last reviewed, review it with the beneficiary.” 10
- (3) Section 60S(4) is amended by omitting “the annual” and substituting “any”.
- (4) Section 60S(6) is repealed. 15
- 31 Failure to comply with personal development and employment plan obligations**
- (1) Section 60U(1) is amended by inserting the following paragraph after paragraph (a):
- “(ab) failed to comply with a request under section 60HA; or” 20
- (2) The following provisions are consequentially repealed:
- (a) paragraph (c) of the definition in section 3(1) of **non-entitlement period**;
- (b) section 116. 25
- 32 Sanctions for failure to comply with obligations in relation to personal development and employment plan**
- Section 60Y is amended by repealing subsection (2) and substituting the following subsection:
- “(2) After any abatement on account of income, a reduction under subsection (1)— 30
- “(a) in the case of an emergency benefit, an invalid’s benefit, a sickness benefit, or an unemployment benefit, that is payable at the rate for a person who is married or in a civil union or de facto relationship, applies to only half the benefit (but the beneficiary’s spouse or partner is, subject to the appropriate Income Test applied at half its 35

abatement rate, entitled to receive the other half of the benefit); and

“(b) in any other case, applies to the whole of the benefit payable to the beneficiary.”

- 33 Obligations of spouse or partner of person granted emergency benefit** 5
- Section 61A(2) is repealed and the following subsection is substituted:
- “(2) A person to whom this section applies—
- “(a) must comply with— 10
- “(i) a requirement under section 60Q; and
- “(ii) any other obligation arising under any of sections 60Q to 60S; or
- “(b) if he or she is a work-tested spouse or partner, must comply with the work test.” 15
- 34 Commencement of benefits**
- Section 80(2)(a)** is amended by—
- (a) inserting “or an independent youth benefit” after “work-tested benefit”; and
- (b) inserting “or who is enrolled in a course of secondary instruction” after “training”. 20
- 35 Ending of benefits**
- Section 80BD is amended by repealing subsection (6) and substituting the following subsections:
- “(6) A benefit or a rate of benefit payable to a sole parent ends 8 weeks after the beneficiary stops caring for the dependent child concerned if the beneficiary stops caring for the child because of a sudden change of circumstances beyond the beneficiary’s control. 25
- “(6A) A domestic purposes benefit under **section 27G** or a rate of that benefit ends 8 weeks after the beneficiary stops caring for the sick or infirm person concerned if the beneficiary stops caring for the sick or infirm person because the person dies, or is admitted to hospital, or enters residential care.” 30

36 New sections 96A and 96B inserted

The following sections are inserted before section 97:

“96A Unemployment benefit: pre-benefit activities

- “(1) This section applies to a person who contacts the department requesting financial assistance on or after the commencement of this section. 5
- “(2) If the chief executive considers that the appropriate financial assistance for the person would be an unemployment benefit, the chief executive may (for the purpose stated in **section 1A(a)(ii)**) require him or her to do any or all of the following: 10
- “(a) undertake one or more stated pre-benefit activities:
- “(b) at any time before an unemployment benefit commences, attend and participate in any interview for an opportunity of suitable employment to which the person is referred by the chief executive: 15
- “(c) at any time before an unemployment benefit commences, accept any offer of suitable employment (whether or not the offer results from an interview of the kind described in **paragraph (b)**). 20
- “(3) A requirement under **subsection (2)** may be oral or written. 20
- “(4) A pre-benefit activity stated under **subsection (2)(a)** must be available for the person to undertake not later than 10 working days after the date of first contact.
- “(5) The chief executive is not required to investigate the person’s claim for an unemployment benefit under section 12 unless satisfied that the person has undertaken any required pre-benefit activities. 25
- “(6) **Subsection (5)** applies whether or not the person has completed the form of application for an unemployment benefit.
- “(7) If the person fails to undertake any required pre-benefit activities within 20 working days after the date of first contact, any application for an unemployment benefit the person has made lapses. 30
- “(8) **Subsection (7)** overrides **section 11D(5)**.
- “(9) This subsection applies to a person if the chief executive considers that he or she has, without a good and sufficient reason, failed to comply with a requirement under **paragraph (b) or (c) of subsection (2)**. 35
- “(10) If **subsection (9)** applies to a person, the chief executive must, as the case requires,— 40

- “(a) refuse to grant the person an unemployment benefit; or
“(b) terminate any grant of unemployment benefit already made to the person.
- “(11) This subsection applies to a person if—
“(a) his or her application for an unemployment benefit has lapsed under **subsection (7)** or been terminated under **subsection (10)(b)**; or
“(b) he or she has been refused an unemployment benefit under **subsection (10)(a)**.
- “(12) A person to whom **subsection (11)** applies cannot become entitled to an unemployment benefit without applying for it again and establishing his or her eligibility to receive it.
- “(13) In this section **pre-benefit activity** means any of the following:
“(a) attending and participating in an employment-related seminar provided by the department, or by any other person approved by the chief executive for the purpose;
“(b) attending and participating in employment-related training approved by the chief executive for the purpose;
“(c) attending and participating in any interview with an officer of the department;
“(d) completing any self-assessment or planning required by the chief executive;
“(e) any other activity specified in regulations under **section 132J**.
- “**96B Department must explain obligations in relation to pre-benefit activities**
The chief executive must take reasonable and appropriate steps to make every person on whom requirements are placed under **section 96A(2)** aware of—
“(a) the person’s obligations in relation to the requirements; and
“(b) the consequences of failure to comply with the requirements.”
- 37 Unemployment benefit: obligations on beneficiaries**
Section 97(2) is repealed and the following subsection is substituted:

- “(2) From the time that payment of an unemployment benefit commences, the spouse or partner of a person granted an unemployment benefit at a work-test married rate—
- “(a) must comply with— 5
- “(i) a requirement under section 60Q; and
- “(ii) any other obligation arising under any of sections 60Q to 60S; or
- “(b) if he or she is a work-tested spouse or partner, must comply with the work test.” 10

38 Application and obligations of the work test

- (1) Section 102(2) is amended by repealing paragraphs (e) to (g) and substituting the following paragraphs:
- “(da) to undertake planning for employment:
- “(e) if required by the chief executive, to co-operate to the satisfaction of the chief executive in developing a job-seeker agreement and then to sign it; and 15
- “(f) if required to by the chief executive, to include in the beneficiary’s job-seeker agreement a job-seeker development activity that the chief executive considers is suitable for the beneficiary; and 20
- “(g) once the person has signed a job-seeker agreement,—
- “(i) to undertake the job-search activities set out in the agreement; and
- “(ii) to undertake and complete any job-seeker development activity or recognised community activity described in the agreement (subject to the chief executive’s taking reasonable steps to arrange for the person to undertake the activity); and 25
- “(iii) to undertake and complete any other activities set out in the agreement; and 30
- “(h) in the case of a beneficiary to whom **subsection (2B)** applies, to undertake, when required by the chief executive, any activity (including rehabilitation but not medical treatment) the chief executive considers suitable for the beneficiary to improve the beneficiary’s work-readiness or prospects for employment.” 35
- (2) The following subsections are inserted after section 102(2):

- “(2A) **Subsection (2)(h)** applies whether or not a beneficiary is subject to a sanction for failing to comply with the work test.
- “(2B) This subsection applies to a work-tested beneficiary who—
- “(a) has not been required to co-operate in developing a job-seeker agreement in accordance with **subsection (2)(e)**; or 5
 - “(b) has not signed, or has failed or refused to co-operate in developing or signing, a job-seeker agreement in accordance with **subsection (2)(e)**.”
- (3) Section 102(6) is repealed and the following subsection is substituted: 10
- “(6) A work test obligation set out in **subsection (2)** does not apply on any day unless—
- “(a) the day is a day between Monday and Friday (inclusive); or
 - “(b) regulations under this Act provide (in relation to the obligation, obligations that include it, or all obligations) 15 that it applies on that day of the week.”
- 39 Description of job-seeker agreement and responsibilities arising from it**
- Section 105A(1) is amended by inserting “and plan for obtaining employment” after “statutory agreement”. 20
- 40 New section 115A inserted**
- (1) The following section is inserted after section 115:
- “115A Failure to comply with obligations under section 60GAB** 25
- The sanctions stated in section 117 must be imposed on a person who is required to comply with an obligation under **section 60GAB** if the chief executive considers that the person has, without a good and sufficient reason, failed to comply with it.” 30
- (2) Section 117(1) is consequentially amended by inserting “or **section 115A**” after “115”.
- (3) Section 119(2) is amended by—
- (a) inserting “or **section 115A**” after “115”; and
 - (b) inserting “or other obligation imposed by this Act” 35 after “obligation”.

- (4) Section 119(4) is amended by omitting “work test” and substituting “the appropriate work test obligation or other obligation imposed by this Act”.
- (5) Section 122 is consequentially amended by inserting “or **section 115A**” after “115”. 5
- (6) The principal Act is amended in the manner set out in **Schedule 5** of this Act.

41 New section 120 substituted

Section 120 is repealed and the following section is substituted 10

“120 Modified effect in some cases of sanctions on rate of benefit for people married or in civil union or de facto relationship

- “(1) If the suspension or cancellation under section 117 of a benefit payable at a work-test married rate results from the failure of one of the spouses or partners in respect of whom the benefit is paid to comply with a work-test obligation— 15
- “(a) it applies to only half the applicable rate of the benefit before any abatement on account of income; and
- “(b) the other spouse or partner is entitled to receive half of that rate (and the appropriate Income Test applies to that rate, but at half the abatement rate in that test). 20
- “(2) If the suspension or cancellation under section 117 of a benefit payable at a work-test married rate results from the failure of both work-tested spouses or partners in respect of whom the benefit is paid to comply with work-test obligations, and they have one or more dependent children,— 25
- “(a) the suspension or cancellation applies to only half the applicable rate of the benefit before any abatement on account of income; and 30
- “(b) the spouses or partners are entitled to receive half that rate (and the appropriate Income Test applies to that rate).
- “(3) **Section (2)(b)** is subject to section 83.”

42 New section 132J inserted

The following section is inserted before section 133:

“132J Regulations stating pre-benefit activities

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations stating pre-benefit activities for the purposes of **section 96A**. 5
- “(2) The Minister must not recommend the making of regulations under **subsection (1)** unless, in his or her opinion, each pre-benefit activity concerned is likely to— 10
- “(a) increase the awareness of the people undertaking it of opportunities for employment; or
 - “(b) strengthen incentives for the people undertaking it to move into employment; or
 - “(c) facilitate the movement of the people undertaking it into employment. 15
- “(3) This section does not limit section 132.”
-

s 10(2)

Schedule 1

Amendments consequential on section 10

Section 21(2)

Repeal and substitute:

“(2) An applicant for a widow’s benefit must meet the residential requirements in **section 74AA**.” 5

Section 27B(2)

Insert the following paragraph before paragraph (a):

“(aa) the applicant meets the residential requirements in section 74AA; and”. 10

Section 27D

Repeal and substitute:

“**27D Applicants for domestic purposes benefits for women alone to meet residential qualifications in section 74AA**
An applicant for a benefit under section 27C must meet the residential requirements in **section 74AA**.” 15

Section 40(1)

Insert the following paragraph before paragraph (a):

“(aa) the applicant meets the residential requirements in **section 74AA**; and”. 20

Section 41

Repeal.

Section 54(3)

Repeal and substitute:

“(3) An applicant for a sickness benefit must meet the residential requirements in **section 74AA**.” 25

Section 60F(2)

Repeal paragraph (c) and substitute:

“(c) meets the residential requirements in **section 74AA**; and”. 30

Section 89(3)

Omit “have resided continuously in New Zealand for 2 years at any time” and substitute “meet the residential requirements in **section 74AA**”.

Schedule 2 s 12(2)
Amendments consequential on section 12

**New Zealand Superannuation and Retirement Income Act
2001 (2001 No 84)**

Add (as subsection (2)) to section 11: 5

“(2) This section is subject to **section 80AA** of the Social Security Act 1964.”

Add to section 14:

“(3) This section is subject to **section 80AA** of the Social Security Act 1964.” 10

Add to section 28:

“(3) Subsection (2) is subject to **section 80AA** of the Social Security Act 1964.”

War Pensions Act 1954 (1954 No 54)

Add to section 73: 15

“(4) This section is subject to **section 80AA** of the Social Security Act 1964.”

Add to section 74L:

“(3) Subsection (2) is subject to **section 80AA** of the Social Security Act 1964.” 20

Add to section 74V:

“(3) This section is subject to **section 80AA** of the Social Security Act 1964.”

s 13(2)

Schedule 3
Amendments consequential on section 13

Section 54C

Repeal.

Section 60GAA

Repeal.

5

Section 98

Repeal subsections (3) and (4).

Section 102(6)

Repeal paragraphs (a) and (aa).

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Schedule 4
Amendments consequential on section 29

s 29(3)

Section 40

Add the following subsection:

- “(6) A person who is granted a benefit under this section must— 5
 “(a) comply with a requirement under section 60Q; and
 “(b) comply with any other obligation arising under any of
 sections 60Q to 60S.”

Section 45

Repeal.

10

Section 53A(1)

Insert before paragraph (e) the following paragraph:

- “(da) under **section 60Q(7)**, the chief executive refuses to
 exempt a person receiving an invalid’s benefit from the
 application of section 60Q; or”. 15

Section 54

Add the following subsection:

- “(7) A person who is granted a benefit under this section must—
 “(a) comply with a requirement under section 60Q; and
 “(b) comply with any other obligation arising under any of 20
 sections 60Q to 60S.”

Section 60R

Omit from subsection (3) “, if the beneficiary agrees,”.

Omit from subsection (4) “asks for, or agrees to,” and substitute “or the chief executive asks for”.

25

s 40(6)

Schedule 5

Amendments consequential on section 40

Section 3(1)Add to definition of **non-entitlement period**:

5

“(e) failed to comply with an obligation under **section 60GAB**”.

Section 99(4)(ab)

Insert “or other obligations” after “work test”.

Section 122(b)Omit “60HA” and substitute “**60GAB(5)**”.

10

Section 123Insert “or obligations under **section 60GAB**” after “section 60HA” in subsection (1)(b)(ia).Insert “**or obligations under section 60GAB**” after “**section 60HA**” in the heading.

15

Section 123B(5)(a)Insert “or obligations under **section 60GAB**” after “section 60HA”.**Section 123C(1)**Insert “or a requirement under **section 60GAB**” after “employment plan”.

20