

Social Security Amendment Bill

Government Bill

As reported from the committee of the whole House

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

New (unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act.)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

As reported from the committee of the whole House

New

Subject to this Act,

Text inserted

Hon David Benson-Pope

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The Parliament of New Zealand enacts as follows:

1 Title

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

2 Commencement

Struck out

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

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New

(1) **Part 1 and Schedules 1 to 3** come into force on 2 July 2007.

(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.

10

- (4) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

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

- (1) Section 3(1) is amended by repealing the *(definitions)* definition 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”
- “**employment required to satisfy the work test** means employment of a kind described in section 102(4)”.

Struck out (unanimous)

- “**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
- “(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
- “(ii) employment for any number of hours regarded as full-time employment for the purposes of an

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award, agreement, or contract relating to the employment; and

“(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”.

5

(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: 10

“(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— 15

“(a) the child—

“(i) is being maintained by the applicant; and

“(ii) was at any time maintained by the applicant's husband; or

“(b) section 28(a) or 29(b) applies to the child; or 20

“(c) the child's parents are unwilling to support the child because of circumstances the chief executive considers exceptional.”

6 Interpretation

Section 27A is amended by repealing subsections (1) to (3) and substituting the following subsection: 25

“(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— 30

“(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

“(b) section 28(a) or 29(b) applies to the child; or 35

“(c) the child’s parents are unwilling to support the child because of circumstances the chief executive considers exceptional.”

7 Domestic purposes benefits for care at home of the sick or infirm 5

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 home to some other person (other than the applicant’s spouse or partner) who would otherwise have to receive— 10
- “(a) hospital care, rest home care, or residential disability care, within the meaning of the Health and Disability Services (Safety) Act 2001; or 15
- “(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. 20
- “(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.” 25

8 Independent youth benefits: single persons

Section 60FA(2) is amended by inserting the following paragraph after paragraph (b):

- “(ba) because the person has ceased to be subject to— 30
- “(i) an agreement made under section 140 of the Children, Young Persons, and Their Families Act 1989; or
- “(ii) an order under section 78, 101, or 283(n) of that Act; or 35
- “(iii) a sole guardianship order under section 110 of that Act; or”.

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 132L**.”

5

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—

10

“(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

15

“(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.

20

“(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.”

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(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:

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“(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

35

- “(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”. 5
- (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: 10
- “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. 15
- “(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 20
- “(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 25
- “(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 30
- “(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. 35

- “(3) For the purposes of **subsection (2)**, examples of erroneous action or inaction are—
- “(a) giving wrong advice:
- “(b) erroneously failing or refusing to provide information, help, or some document or form. 5
- “(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.
- “(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. 10
- “(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.” 15
- (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): 20
- “(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.”
- (2) The principal Act is amended in the manner set out in **Schedule 3** of this Act. 25
- 14 Interpretation**
- (1) Section 88A is amended by—
- (a) repealing the definition of **activity in the community**; and 30
- (b) omitting “an activity in the community or” from the definition of **recognised community activity**.
- (2) Section 123C(1) is consequentially amended by—
- (a) omitting “or an activity in the community” from paragraph (a); and 35
- (b) inserting “or (*an*) activity in the community” after “activity” in paragraph (b).

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

- “(1) The Governor-General may, by Order in Council, make rules— 5
- “(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:
- “(i) self-employed people: 10
- “(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— 15
- “(A) a director and a shareholder; or
- “(B) an employee and a shareholder; or
- “(C) a director, a shareholder, and an employee:
- “(vi) people otherwise engaged in business or trade; 20
- and
- “(b) prescribing the circumstances in which those rules apply.
- “(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— 25
- “(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: 30
- “(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: 35
- “(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:
- “(i) the person’s drawings from a business or trade:
- “(ii) goods or services supplied to the person by a business or trade: 40

- “(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: 5
- “(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— 10
- “(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: 15
- “(i) distributions from a company:
- “(ii) retained profits of a company:
- “(i) the treatment of loss attributing qualifying companies (within the meaning of the Income Tax Act 2004). 20
- “(3) **Subsection (2)(d)** applies to businesses and trades however they are carried on.
- “(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. 25
- “132I Rules relating to determination by chief executive of deprivation of property or income**
- “(1) The Governor-General may, by Order in Council, for the purposes of section 74(1)(d) make rules— 30
- “(a) relating to the deprivation of property, income, or both; and
- “(b) prescribing the circumstances in which the rules apply.
- “(2) This section does not limit or affect the generality of section 132.” 35
- 16 Schedule 28 amended**
- (1) Item 1 of Schedule 28 is amended by—
- (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”.

Transitional

- 17 Widows’ benefits** 5
- 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 be a dependent child of the person, be determined as if that section had not been enacted. 10
- 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. 15
- (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. 20
- 25

Struck out (unanimous)

- 19 Stand down periods** 30
- 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.

New (unanimous)

19 Stand down periods

- (1) This subsection applies to a benefit if—
- (a) it was granted before 28 May 2007; and
 - (b) by virtue of section 80BA of the principal Act would (but for **subsection (2)**) commence after 28 May 2007. 5
- (2) A benefit to which **subsection (1)** applies commences on the later of the following days:
- (a) 28 May 2007;
 - (b) the day on which it would have commenced if **sections 11(3) and 16** of this Act had come into force immediately before it was granted. 10

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. 15
- (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). 20
- (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—
- (a) in the amount, for the period, and in accordance with the criteria, prescribed by the regulations; and 25
 - (b) in accordance with any other requirements imposed by the regulations.

New

- (3A) After it has initially been granted, financial assistance provided under the regulations must for the purposes of the principal Act be treated as a benefit; and the principal Act applies accordingly. 30

New (unanimous)

- (4) A decision or determination made by the chief executive under the regulations is a decision or determination for the purposes of section 12J(1).

*Validation***21 Commencement of benefits**

5

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.

Part 2

10

Provisions coming into force on 24 September 2007**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 oral or written request for financial assistance that led to the making of the application

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“**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

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“**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**)”.

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- (2) Section 3(1) is amended by repealing—

(a) paragraph (e) of the definition of **work-tested beneficiary**; and

35

(b) paragraph (d) of the definition of **work-tested benefit**.

23 New sections 1A and 1B inserted

The following sections are inserted after section 1:

“1A Purpose

The purpose of this Act is— 5

- “(a) to enable the provision of financial and other support as appropriate—
 - “(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: 15
- “(b) to enable in certain circumstances the provision of financial support to people to help alleviate hardship:
- “(c) to ensure that the financial support referred to in **paragraphs (a) and (b)** is provided to people taking into account— 20
 - “(i) that where appropriate they should use the resources available to them before seeking financial support under this Act; and
 - “(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 30

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

- “(a) work in paid employment offers the best opportunity for people to achieve social and economic well-being: 35
- “(b) the priority for people of working age should be to find and retain work:

- “(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.”

5

24 New section 11D inserted

The following section is inserted after section 11C:

“11D Application process for benefits

- “(1) A benefit must not be granted to an applicant unless the requirement stated in **subsection (2)** has been complied with. 10
- “(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 15
- “(b) any supporting evidence (for example, a medical certificate) reasonably required by the chief executive.

New (unanimous)

- “(2A) The form referred to in **subsection (2)(a)** does not have to refer to a benefit of any particular kind. 20
- “(2B) The receipt by the department of a completed application form relating to a benefit of one kind is sufficient compliance with **subsection (2)(a)** to enable the granting of a benefit of another kind.
- “(3) The chief executive— 25
- “(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 30
- “(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)**. 35

- “(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. 5
- “(6) An application for a benefit lapses at the close of the period of 20 working days after the date of first contact (as from time to time extended under **subsection (6B)**) unless, within the period, the requirement stated in **subsection (2)** has been complied with.

New (unanimous)

- “(6A) **Subsection (6)** does not apply to an application for a benefit made by a person resident in an overseas country to the competent authority of that country pursuant to an agreement or convention given effect in relation to New Zealand by an Order in Council made pursuant to section 19 of the Social Welfare (Transitional Provisions) Act 1990. 10 15
- “(6B) Before or after the expiration of the period referred to in **subsection (6)**, the chief executive may extend that period, if in any particular case he or she thinks that there is a good and sufficient reason for non-compliance with the requirement stated in **subsection (2)** within that period. 20
- “(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

New (unanimous)

24A Investigation of claims and grant of benefits

Section 12 is amended by inserting the following subsection after subsection (1):

- “(1AA) If he or she thinks an investigation into an application for a benefit of kind A is unlikely to be completed quickly (for example, because of the need to obtain further medical evidence), the chief executive may grant the applicant a benefit of kind B to which the applicant is entitled, on the basis that a 30

New (unanimous)

benefit of kind A will be granted retroactively if it becomes apparent that the applicant is entitled to a benefit of kind A; and in that case, if (when the investigation has been completed) it becomes apparent that the applicant is in fact entitled to a benefit of kind A, the chief executive may—

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“(a) grant the applicant a benefit of kind A commencing on the date on which it would have commenced if the investigation had been completed before the benefit of kind B was granted; and

“(b) terminate the benefit of kind B on that date.”

10

25 Obligations on spouse or partner of invalid’s beneficiary

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

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

“(a) must comply with—

15

“(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.”

20

26 New section 54E substituted

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

“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—

25

“(a) must comply with—

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

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

30

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

27 New sections 60GAB and 60GAC inserted

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

“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. 5
- “(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 10
 - “(b) to be available for, and take reasonable steps to obtain, full-time employment, to the satisfaction of the chief executive. 15
- “(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. 20
- “(4) A failure without good and sufficient reason to comply with obligations under this section is subject to sanctions, as provided in **section 115A**.
- “(5) In this section—
 - “**approved activity**, in relation to a person, means— 25
 - “(a) attending and participating in education or employment-related training; or
 - “(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; or 30
 - “(c) attending and participating in an activity (other than activity in the community) intended to develop the person’s capabilities for employment, including a social rehabilitation programme, *(or skills training)*; or 35

New (unanimous)

“(ca) attending and participating in skills training; or

“(d) a combination of any of the activities described in paragraphs (a) to ((c)) (ca)

“**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: 5
- “(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: 10
- “(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. 15

“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— 20

- “(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**.” 25
- (2) Section 60F(3)(c) is consequentially repealed.
- (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”. 30

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”. 35
- (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:”.

- 29 Personal development and employment plans** 5
- (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: 10
 - “(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)**:
 - “(iii) any other purpose related to either of those purposes: 15
 - “(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): 20
 - “(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**: 25
 - “(ca) to undertake a work-related activity or programme included in the person’s personal development and employment plan:
 - “(cb) to undertake any activity or any rehabilitation (other than an activity or rehabilitation involving participation in work, voluntary work, activity in the community, 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:” 30 35

New (unanimous)

(1A) The following subsections are inserted in section 60Q after subsection (3):

New (unanimous)

- “(3A) A person—
- “(a) cannot be required to include in his or her personal development and employment plan provisions relating to his or her undertaking activity in the community; and
 - “(b) cannot be required under subsection (1) to undertake activity in the community (whether or not it is included in his or her personal development and employment plan). 5
- “(3B) **Subsection (3A)(a)** does not prevent the inclusion in a person’s personal development and employment plan of provisions relating to his or her undertaking activity in the community.” 10
- (2) Section 60Q(6) is repealed and the following subsections are substituted:
- “(6) This section applies to every person (other than a person for the time being exempted under **subsection (7)**) who— 15
- “(a) is the recipient of—
 - “(i) a benefit under section 21 (the widow’s benefit); or
 - “(ii) a benefit under section 27B (the domestic purposes benefit for solo parents); or 20
 - “(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
 - “(v) a benefit under section 54 (the sickness benefit); 25
 - “(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 30
 - “(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.”
- (3) The principal Act is consequentially amended in the manner set out in **Schedule 4** of this Act. 35

- 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”.
 - (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.”
 - (3) Section 60S(4) is amended by omitting “the annual” and substituting “any”.

New (unanimous)

- (3A) Section 60S is amended by inserting the following subsection after subsection (5):
 - “(5A) When considering whether a beneficiary has demonstrated commitment to the goals in their plan, the chief executive must not have any regard to whether the beneficiary has failed or refused to undertake activity in the community”.

- (4) Section 60S(6) is repealed.

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”.
- (2) The following provisions are consequentially repealed:
 - (a) paragraph (c) of the definition in section 3(1) of **non-entitlement period**;
 - (b) section 116.

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)* inserting the following subsection after subsection (1):

Struck out (unanimous)

“(2) After any abatement on account of income, a reduction under subsection (1)—

“(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 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.”

New (unanimous)

“(1A) A reduction under subsection (1),—

“(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 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

Section 61A(2) is repealed and the following subsection is substituted:

“(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

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

New

33A Effect of absence of beneficiary from New Zealand

Section 77(4) is amended by repealing paragraph (b) and substituting the following paragraph:

- “(b) the person is in receipt of an invalid’s benefit granted on the grounds of his or her sickness, injury, disability, or total blindness, and is absent from New Zealand in order to receive vocational training or disability assistance-dog training; and the chief executive is satisfied that—
- “(i) the training is an activity, or is linked to a goal, included in the person’s personal development and employment plan; and
- “(ii) the person could not obtain the training in New Zealand during the period or periods of absence.”

34 Commencement of benefits 15

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)**).
- “(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)**; or

New (unanimous)

- “(c) his or her grant of unemployment benefit has been terminated under **subsection (10)(b)**.

“(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.

Struck out (unanimous)

“(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**.

New (unanimous)

“(13) In this section, **pre-benefit activity**—

- “(a) means any of the following:

New (unanimous)

	“(i) 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:	
	“(ii) attending and participating in employment-related training approved by the chief executive for the purpose:	5
	“(iii) attending and participating in any interview with an officer of the department:	
	“(iv) completing any self-assessment or planning required by the chief executive:	10
	“(v) any other activity specified in regulations under section 132J ; but	
	“(b) does not include activity in the community.	
	“96B Department must explain obligations in relation to pre-benefit activities	15
	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	20
	“(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:	25
	“(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—	30
	“(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.”	35

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 5
 - “(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 10
 - “(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 15
 - “(iii) to undertake and complete any other activities set out in the agreement; and 20
 - “(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.” 25

- (2) The following subsections are inserted after section 102(2):

New (unanimous)

- | | |
|---|----|
| “(2AA) A person— | 30 |
| “(a) cannot be required to include in his or her job seeker agreement provisions relating to his or her undertaking activity in the community; and | |
| “(b) cannot be required under subsection (1) to undertake activity in the community (whether or not it is included in his or her job seeker agreement). | 35 |

“(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

“(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)**.”

New (unanimous)

(2A) Section 102(3) is amended by inserting “or activity in the community” after “activity”.

(3) Section 102(6) is repealed and the following subsection is substituted:

“(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) 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”.

40 New section 115A inserted

(1) The following section is inserted after section 115:

“115A Failure to comply with obligations under section 60GAB

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.”

(2) Section 117(1) is consequentially amended by (*inserting “or **section 115A**” after “115”*) omitting “116” and substituting “115A”.

(3) Section 119(2) is amended by—

Struck out (unanimous)

(a) inserting “or **section 115A**” after “115”; and

New (unanimous)

(a) omitting “116” and substituting “**115A**”; and

(b) inserting “or other obligation imposed by this Act” after “obligation”.

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(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”)* omitting “116” and substituting “**115A**”.

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(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:

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“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—

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“(a) it applies to only half the applicable rate of the benefit before any abatement on account of income; and

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“(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).

“(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

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benefit is paid to comply with work-test obligations, and they have one or more dependent children,—

- “(a) the suspension or cancellation applies to only half the applicable rate of the benefit before any abatement on account of income; and
- “(b) the spouses or partners are entitled to receive half that rate (and the appropriate Income Test applies to that rate).

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“(3) **Section (2)(b)** is subject to section 83.”

42 **New section 132J inserted**

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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**.
- “(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—
 - “(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.
- “(3) This section does not limit section 132.”

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Schedule 1 s 10(2)
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”.

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**”.

s 12(2)

Schedule 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.”

Schedule 3
Amendments consequential on section 13

s 13(2)

Section 54C

Repeal.

Section 60GAA

Repeal.

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Section 98

Repeal subsections (3) and (4).

Section 102(6)

Repeal paragraphs (a) and (aa).

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s 29(3)

Schedule 4

Amendments consequential on section 29

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.

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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 sections 60Q to 60S.” 20

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”.

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Schedule 5 Amendments consequential on section 40

s 40(6)

Section 3(1)	5
Add to definition of non-entitlement period :	
“(e) failed to comply with an obligation under section 60GAB ”.	
Section 99(4)(ab)	
Insert “or other obligations” after “work test”.	
Section 122(b)	10
Omit “60HA” and substitute “ 60GAB(5) ”.	
Section 123	
Insert “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.	
Section 123B(5)(a)	15
Insert “or obligations under section 60GAB ” after “section 60HA”.	
Section 123C(1)	
Insert “or a requirement under section 60GAB ” after “employment plan”.	
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Legislative history

4 December 2006	Introduction (Bill 101-1)
12 December 2006	First reading and referral to Social Services Committee
11 April 2007	Reported from Social Services Committee (Bill 101-2)
3, 8 May 2007	Second reading
9, 15 May, 12 June 2007	Committee of the whole House (Bill 101-3)
