

Social Security (Working Towards Employment) Amendment Bill 2001

Government Bill

Explanatory note

General policy statement

Overview

This Bill amends the Social Security Act 1964. The amendments in the Bill make changes in 2 main areas.

The current work-test obligations for recipients of the Domestic Purposes Benefit (**DPB**) or the Widow's Benefit (**WB**) are removed. These obligations are replaced by an enhanced case management model built on the success of the existing COMPASS scheme (which it replaces). The new case management model aims to promote goal setting and planning by recipients of the DPB or WB. Changes are also made to the benefit debt policy.

The amendments in this Bill relating to the changes to the DPB and WB form part of the wider work of implementing a new approach to social development for working-age beneficiaries in New Zealand. Social development is a concept that encompasses the notions of productive investment in people, inter-sectoral co-operation, and sustainable outcomes. Social welfare, in the past, has been aligned more closely with redistribution, notions of consumption, compartmentalised assistance, and short-term employment gains. Social development attempts to harmonise social policy with economic development, so that the 2 arms of development work together for sustainable outcomes and economic growth.

DPB/WB changes

This Bill—

- removes the current work-test obligations for recipients of the DPB or WB:
- introduces a planning environment that more effectively supports those beneficiaries to move from benefits into employment as their family responsibilities and individual circumstances allow:
- introduces a single abatement regime for recipients of the DPB or WB.

Benefit debt changes

This Bill—

- responds to issues raised in recent decisions of the High Court relating to the provisional write-off of overpayments that arise as a result of an error by the Ministry of Social Development (**MSD**):
- aims to prevent debts arising after the death of a recipient of New Zealand Superannuation (**NZS**) or a Veteran's Pension (**VP**):
- enables the suspension or write-off of debt to encourage employment that will help to reduce instances of social exclusion and poverty.

Other changes

This Bill—

- provides for regulations to exempt income and cash assets for social security assessment purposes; and
- remedies minor drafting errors.

Summary of key measures

Changes to DPB and WB

Removal of work-test obligations

The Bill provides that, on and after **26 August 2002**, the current work-test obligations will no longer apply to sole parents or former carers receiving the DPB or WB. Sole parents on these benefits will no

longer be required to seek part-time work when the youngest child reaches the age of 6 years or full-time work if the youngest child is aged 14 years or older. Women on the DPB (women alone, or women on the WB with no dependent children) will also not be required to seek full-time work.

While exceptions exist, the current focus on work-test status, based on the age of the youngest child, does not take into account other broader issues that may be acting as barriers or constraints to the person's participation in training or employment, apart from the age of the children. Nor does it fully take into account family responsibilities or individual circumstances. Neither does it sufficiently support those who are not yet work-tested to progress towards work if they choose.

The provisions of the Bill that give effect to this policy are *clauses 6 to 8 and 22*.

Introduction of planning process

On and after **26 August 2002**, new applicants for the DPB or WB will be required to participate in a new planning process. Existing sole parents and former carers on the DPB or WB will be transferred to the new planning process over a 12-month period.

The introduction of the planning process will be supported by enhanced case management. The planning process builds on the success of, and replaces, the existing COMPASS scheme, and aims to promote goal setting, planning, and increased opportunities for sole parents.

The provisions giving effect to these changes are set out in *clause 11* of the Bill (which inserts *new sections 60O to 60Z* into the Social Security Act 1964 ("the principal Act").

Recipients of the DPB or WB will be assigned a case manager who, from the time the benefit is granted, will work alongside the person to help them identify their immediate and long-term needs in relation to a broad range of issues. Once individual needs have been identified, the beneficiary, with the assistance of their case manager, will develop a goal-setting plan to address those needs as well as planning for the future. This will include referring the beneficiary, if necessary, to an appropriate person or agency skilled in particular areas such as budgeting advice, addressing family violence, providing parenting support, career counselling, or work-brokering.

This new approach is aimed at identifying, as early as possible, particular constraints for individuals, and more effective means of addressing these. (Currently, sole parents with children under the age of 6 can spend a year on a benefit before the first mandatory interview with their case manager.) The new approach can also be used to provide ongoing support as individuals make the transition into sustained employment.

Effective case management is contingent on case managers having sufficient time to spend with their clients. For each contact to be effective under the proposed model, sufficient time must be available for case managers to—

- identify and meet clients' immediate income and social needs and, if these needs are outside core MSD business, make referrals to appropriate agencies;
- work with clients to develop their Working Towards Employment (WTE) plans and attend to the MSD's obligations in respect of these plans;
- ensure continual revision of the plans through regular and frequent contact with clients.

The introduction of enhanced case management will be supported by reduced case loads for case managers working with recipients of the DPB or WB.

Working towards employment (WTE) plans

Recipients of the DPB and WB will be required, as soon as practical, to plan for their future through the development of a WTE plan with the assistance of the case manager. This goal-setting process will have an emphasis on building capability and accessing opportunities, including training and education, voluntary and community activities, and paid employment, as family responsibilities allow.

The matters to be included in a WTE plan will include, over time, both pre-employment and employment activities. This will reinforce the concept of the "right time" approach to supporting these beneficiaries into work as their circumstances, family responsibilities, or both, best allow.

The key elements of the beneficiary's WTE plan will include, as appropriate,—

- a set of goals for working towards employment and increasing economic and social participation (including pre-employment programmes, education and training, community participation, and employment):
- an action plan aimed at meeting the goals, which will include the actions that will be taken by both the beneficiary and the MSD to support the achievement of those goals:
- the information or assistance to be provided by MSD (for example, the provision of information on in-work assistance, training, education, and employment opportunities, and the Training Incentive Allowance (TIA), the Childcare Subsidy, and Student Loans).

The plan will be supported by a supplementary, individually focused, information pack that will include the relevant material the person might require to meet the agreed goals. The information pack could include, for example, details of the person's local labour market opportunities, lists of appropriate training courses, appropriate referrals to other agencies, and brochures or booklets on in-work assistance.

It is expected that there will be a great deal of variation in the content of the WTE plans. For some sole parents there are circumstances when it is appropriate that family responsibilities prevail, regardless of the age of the youngest child. They are therefore unlikely to have much by way of pre-employment activity in their initial plans. This is also likely to be the case for clients who have recently lost, or have separated from, their partners. Their WTE plans may focus on parenting goals and establishing family and community support networks. Others who wish to train or work may include pre-employment, training, and work-related goals and activities regardless of the age of the youngest child. The focus will be on looking to include these goals when the time is right for the particular beneficiary.

Mutual responsibilities

In order to achieve the expected positive outcomes of the new facilitative environment, participation in the planning process by the beneficiary needs to be maximised. Enhanced case management is the key to actively involving recipients of the DPB or WB in the planning process. MSD will also provide the assistance to which it

agrees to provide in each WTE plan, as part of its obligations to the beneficiary.

Central to the proposed facilitative environment is the relationship between the beneficiary and their case manager. This will be focused on encouraging and supporting beneficiaries to plan for their future. It is hoped that, because this relationship is one of mutual trust, the beneficiary will see the benefits of planning for their future and, therefore, willingly participate in the planning process.

However, despite the best efforts of skilled case managers, there may be a small number of beneficiaries for whom this approach may not be effective and who may be reluctant to plan for their future.

Requirement to co-operate in planning process and demonstrate commitment to goals in WTE plan on annual basis

There is a requirement to co-operate in the planning process and demonstrate commitment to the goals in the WTE plan on an annual basis. There is a requirement (contained in *new section 60Q* of the principal Act) to—

- attend a preliminary interview:
- develop the WTE plan, with the assistance of the case manager, and to sign the plan (in final form):
- co-operate in an annual review of the WTE plan, and develop a new WTE plan if necessary:
- demonstrate at the annual review a commitment during the year to the goals set out in the WTE plan.

Beneficiaries will be required to attend a preliminary interview to discuss their future plans. The case manager will work with the beneficiary to help identify goals and activities to achieve these plans. The goals and activities will be set out in a WTE plan.

Developing initial WTE plan

If a person does not attend the initial meeting, or does not co-operate in the development of their initial WTE plan, a review period of 6 weeks will be initiated. In that time, if the person responds to contact, it is proposed that discussions be held about the reasons why the beneficiary did not attend the initial meeting or did not develop their WTE plan. The beneficiary will be encouraged to have a beneficiary advocate or other supporter attend those discussions

with them. The case manager will also seek the support and assistance of a case manager colleague.

It may be found that the beneficiary has a good and sufficient reason for either not attending the initial interview or not developing their initial WTE plan. If so, no further action will be taken once they have attended the interview or have developed their WTE plan. Alternatively, the beneficiary may have no good and sufficient reason but then attends the initial meeting or develops a set of goals, activities, or both, for their WTE plan. Again, no further action will be taken.

However, if, after 6 weeks, the person has still not attended the initial interview or has still not developed their goals and activities for the WTE plan, the beneficiary will be given 4 weeks to comply with the requirement. If the beneficiary does not comply, the proposed reductions in benefit, set out in *new section 60Y* of the principal Act, will then be imposed.

Annual review of beneficiary's WTE plan

There will be a requirement for the beneficiary's WTE plan to be reviewed annually. At this stage the beneficiary must demonstrate a commitment to the goals set out in their WTE plan during the previous year. At the annual review, if the beneficiary cannot demonstrate any commitment to their WTE plan, a 6-week review period will be initiated. During this 6-week period, the reasons for the failure will be explored. If there is a good and sufficient reason why the beneficiary was unable to demonstrate commitment to their plan, the beneficiary and the case manager will acknowledge this and move on to develop a revised WTE plan for the coming year.

If, following the 6-week period, there is no good and sufficient reason why the beneficiary has not demonstrated commitment to their plan, and the beneficiary will not develop a new WTE plan, the case manager may require the beneficiary to undertake an activity in their existing WTE plan or, if necessary, a more suitable activity. This activity may be preparatory to paid employment, but must not involve direct job seeking or any paid or unpaid employment. The beneficiary will be given 4 weeks to comply with this requirement. The beneficiary, at this stage, may decide to develop a new WTE plan in which case they will not be required to undertake the activity and no further action will be taken.

If, at the end of the 4 weeks, the beneficiary has not undertaken the activity or developed a new WTE plan, the proposed reduction in benefit levels outlined in *new section 60Y* of the principal Act will be imposed.

Reduction in benefit

The consequences of failing to meet the procedural requirements in the planning process for the WTE plan or to have demonstrated commitment to the goals in the plan at the annual review are set out in proposed *new section 60Y* of the principal Act.

The proposed reductions in benefit due in cases of non-compliance are—

- a 20% reduction in benefit due for failure to comply with either—
 - the initial requirements to attend an interview, and to develop a WTE plan; or
 - any requirements imposed at the annual review to develop a revised WTE plan, or to undertake an activity set out in the existing WTE plan or a more appropriate activity;
- a 50% reduction in benefit due if, after a further 4 weeks, there is still no compliance with these requirements.

Compliance will result in immediate reinstatement of the full benefit, backdated to when the reduction took place, if the beneficiary is still eligible for the benefit. This is intended to ensure that recipients of the DPB do not increase their overall indebtedness.

The proposed 2-step potential reduction in benefit will be subject to the formal procedures of notification, giving the beneficiary 10 working days to respond, as well as full review and appeal rights.

The move to reduce the benefit is intended to be a measure of last resort. This approach has the advantage of adding integrity to the process of ongoing co-operation in the planning process. This will be particularly important for those recipients, considered to be a very small minority, who make little effort or progress towards improving their opportunities for employment. It should be noted that the present 50% reduction of benefit applied to sole parents for failure to comply with a work-test obligation has been applied only a total of 35 times in the 12-month period ending 1 July 2001.

Single abatement regime

On and after **26 August 2002**, all recipients of the DPB or WB will be subject to a single abatement regime based on the current part-time abatement regime.

Currently, a dual abatement regime is applied to the beneficiary's earnings based on the age of the youngest child. Those with work-test exemptions, or with a youngest child aged 14 years or less, have a part-time abatement regime. Those with no children or whose youngest child is over 14 years have a full-time abatement regime.

Abatement rates currently applying to the DPB and WB

Income level (\$ per week)	Full-time regime main benefit abatement	Part-time regime main benefit abatement
\$0-\$80	0%	0%
\$81-\$180	70%	30%
\$181 or over	70%	70%

With the removal of the work-test for recipients of the DPB or WB, it will no longer be practicable to operate a dual assessment regime based on the age of the youngest child or work-test status. The new approach will apply across the board to all sole parent beneficiaries, irrespective of the age of their children. It is inappropriate to continue to operate a more restrictive regime for those with no children or whose youngest child is aged 14 years or older.

A single abatement rate based on the part-time abatement regime better reflects the required outcomes for the proposed enhanced case management approach. It is the most equitable and is simple to understand and implement. Using the current part-time rate also offers the best encouragement to work while on a benefit, through making additional work pay. These changes are implemented by *clause 27* and the *Schedule* of the Bill (which substitutes *new Schedules 3 and 16* in the principal Act).

Benefit debt policy

The Bill also contains 3 main changes to benefit debt policy.

Preventing debt recovery as a result of error

Currently, if the MSD makes an error that results in a debt, section 86(9A) of the principal Act enables the debt to be provisionally written off, provided that the beneficiary—

- did not intentionally contribute to the error; and

- received the overpayment in good faith; and
- so altered the beneficiary's position in reliance on the validity of the payment that it would be inequitable in all the circumstances (including the beneficiary's financial circumstances) to require repayment.

Two recent High Court decisions (*Moody* and *Worrall*) have raised policy issues about the design of section 86(9A). The effect of those decisions is that error now includes any overpayment, not just those errors where MSD has contributed to the overpayment. The section, as currently drafted,—

- allows MSD to collect a debt, even when it has provided incorrect information in reliance on which the client has changed their circumstances. The *Worrall* case concerned the provision of incorrect information by the then Department of Work and Income, which caused the Worralls to alter their circumstances and to increase their indebtedness:
- is unclear about whether failing to investigate a claim for benefit properly is an error. The *Moody* case concerned a debt incurred by Moody who was incorrectly assessed as being eligible for the DPB.

New section 86(9B) of the principal Act defines the word **error** to address the policy issues raised by the 2 High Court decisions and also to make it clear that MSD can recover all overpayments that are not made in error and that **error** does not include the simple act of making an overpayment.

Under *clause 20* of the Bill, provided that other conditions of *new section 86(9A)* of the principal Act (set out above) are met, MSD would be prevented from recovering a debt if the Ministry has made an error beyond merely making an overpayment. This would include situations where MSD has—

- provided incorrect written information that has led a client to change their circumstances in reliance on that information; and
- not taken steps to investigate the application for a benefit and given the client their correct entitlement.

Consequential amendments are also included in *clauses 20 and 21* to ensure the law works more effectively by—

- rationalising the 4 descriptions of debt in the current section 86 of the principal Act to have a single consistent definition of debt; and
- removing the words “provisional” and “may, in the chief executive’s discretion” from section 86(9A) of the principal Act, as the proposed amendment would limit the recovery of debt, which is a final and not a provisional or discretionary process.

Preventing debt arising from death of single superannuitant or veterans pensioner

Under section 80BD of the principal Act, a single person who receives NZS or VP is only entitled to payment until the date of their death. If a single person receiving NZS or VP dies before the next pay-day, a debt arises because a single person receiving NZS or VP is not entitled to the additional day, or day’s payment.

In the case of all income-tested benefits, except NZS or VP, there is a discretion to extend payment for a single person for up to 4 weeks after death. The different treatment for those receiving NZS or VP who die from other single beneficiaries on income-tested benefits is considered to involve discrimination on the grounds of age. Accordingly the Bill (in *clause 17*) confers a discretion to extend benefit entitlement for up to 4 weeks after death for single persons receiving NZS or VP.

The discretion, as it applies to all other single beneficiaries, allows payment for up to 1 month if the extended family of the deceased is experiencing financial hardship but does not, as a general rule, prevent a debt being established. As part of this proposal, the guidelines for the exercise of this discretion would be amended to avoid benefit debts being established after death for both single beneficiaries and people on NZS or VP.

Enabling debt suspension or write-offs for social policy objectives

Current legislation limits the Government’s ability to use debt write-off or suspension as a mechanism to encourage employment and to tackle issues of social exclusion and poverty. This Bill, in *clause 26*, inserts a regulation-making power into the principal Act that will enable the making of regulations providing for the write-off or suspension of debt. Those powers are to be used to—

- prevent beneficiaries accumulating debt while on a benefit, so as to assist beneficiaries to reduce their levels of debt and to improve their ability to enter employment:
- assist with the transition to work, so that beneficiaries do not face increasing benefit debt levels when they enter the workforce:
- provide a positive incentive to enter work or to stay in work.

Miscellaneous amendments

The Bill (in *clauses 4 and 12*) enables the making of regulations exempting income or assets from assessment for social security purposes. This will allow beneficiaries to receive or to keep particular payments without a resultant impact on benefit and supplementary entitlements. Recent examples of the kinds of payments that are likely to be exempt as assets are ex gratia payments to Japanese ex-POWs, and lump sum payments from power companies.

The period of time for which an independent youth benefit is paid, and the stand down period applicable to conditional benefits granted under section 123B of the principal Act are clarified in amendments made by *clauses 9 and 14* in the manner indicated in the clause by clause analysis.

Clause by clause analysis

Clause 1 relates to the Title.

Part 1

Preliminary provisions

Clause 2 provides that *clauses 4(2) to (6), 6 to 8, 11, 13, 14(1), 24, 27, 29, and 31, and the Schedule* come into force on **26 August 2002**. Except as provided in *clause 22(1)*, the rest of the Act comes into force on the day after the date on which the Act receives the Royal assent. *Clause 22(2)* is to be brought into force by Order in Council because the repeal of the provisions of the principal Act effected by that clause can only occur once corresponding regulations are promulgated under *new section 132G* of the principal Act, and the commencement date of those regulations is not yet known.

Clause 3 sets out the purposes of the Bill.

Part 2

Amendments to principal Act

Clause 4 amends section 3(1) of the principal Act (which relates to interpretation). The clause amends the definition of **income**, repeals certain paragraphs of the definitions of **part-time work-tested beneficiary**, **work-tested beneficiary**, **work-tested benefit**, the definition of **work-tested domestic purposes beneficiary**, and the definition of **work-tested widow's beneficiary**, and adds a new definition, **working towards employment plan**.

Clause 5 amends section 10A(1) of the principal Act to reflect the fact that delegations made to enable a person exercising any function, power, or discretion under the principal Act are not made under the principal Act but under other enactments, and in particular the State Sector Act 1988.

Clause 6 repeals section 21(2A) to (2C) of the principal Act (which relate, in broad terms, to the work testing of recipients or applicants for a widow's benefit), and inserts a new subsection requiring those beneficiaries to comply with the obligations set out in *new sections 60Q to 60S* of the principal Act.

Clause 7 repeals section 27B(2A) to (2C) of the principal Act (which relate, in broad terms, to the work testing of recipients or applicants for a domestic purposes benefit for solo parents), and inserts a new subsection requiring those beneficiaries to comply with the obligations set out in *new sections 60Q to 60S* of the principal Act.

Clause 8 repeals section 27C(4) to (6) of the principal act (which relate, in broad terms, to the work testing of a recipient or applicant for a domestic purposes benefit for women alone), and inserts a new subsection requiring those beneficiaries to comply with the obligations set out in *new sections 60Q to 60S* of the principal Act.

Clause 9 clarifies the period for which payment of an independent youth benefit is made. This benefit is paid as a substitute for paid employment and, consistent with the period for which an unemployment benefit is paid, is paid for a 5-day working week. The amendments made by *clause 9* make no change to the actual rates of the independent youth benefit or to how the benefit is currently administered.

Clause 10 amends section 60H(7) of the principal Act to reflect amendments made by *clause 21* to section 86 of the principal Act.

Clause 11 inserts new sections 60O to 60Z into the principal Act. *New section 60O* of the principal Act relates to interpretation. It includes an extended definition of **chief executive** that applies for the purposes of new sections 60O to 60Z. *New section 60O* also defines the term **working towards employment plan**. *New section 60P* sets out the purpose of new sections 60Q to 60Z. *New section 60Q* empowers the chief executive to require a recipient of certain kinds of benefits (the widow's benefit, domestic purposes benefit for solo parents, or the domestic purposes benefit for women alone) to attend and participate in an interview for the purpose of completing an assessment, and to co-operate in the development of a working towards employment plan for that person. *New section 60R* describes the process to be used for developing a working towards employment plan and provides a beneficiary with a right to seek a review of the plan. *New section 60S* requires a beneficiary to demonstrate a commitment to the goals of his or her working towards employment plan at an annual review of that plan. *New section 60T* requires the department to explain to a beneficiary his or her rights and obligations in relation to a working towards employment plan. *New section 60U* requires the imposition of sanctions specified in *new section 60Y* if the chief executive considers that the beneficiary has, without good and sufficient reason,—

- failed to comply with a requirement related to the development of a working towards employment plan; or
- failed to demonstrate commitment to the goals in that plan.

New sections 60V and 60W set out a procedure that must be followed and the criteria that must be applied in determining whether the beneficiary has good and sufficient reason to comply with his or her obligations.

New section 60X requires the chief executive to give the beneficiary a written notice explaining the nature of any compliance failure and containing a statement of the beneficiary's rights before imposing sanctions under *new section 60Y*.

New section 60Y sets out the sanctions that must be imposed by the chief executive for a compliance failure. These sanctions are—

- a reduction of the benefit by 20% until the person complies;
- if the person has not complied after 4 weeks, a further reduction of the benefit by 30% (making a total reduction of 50%) until the person complies.

New section 60Z provides that, if a beneficiary remedies the relevant failure the reduction ceases to apply and he or she is entitled to be paid the benefit at the ordinary rate on and after the date the benefit is first reduced. (In other words, the beneficiary is entitled to arrears.)

Clause 12 amends section 61E(1) of the principal Act by replacing the definition of **cash assets** with a new definition that excludes any item or amount declared by regulations not to be cash assets for the purposes of the principal Act.

Clause 13 amends section 77 of the principal Act to provide that a widow's benefit or domestic purposes benefit is payable in respect of the first 4 weeks of any absence of the beneficiary from New Zealand if the chief executive is satisfied that the absence does not affect the beneficiary's eligibility for the benefit.

Clause 14 amends section 80 of the principal Act (which relates to the commencement of benefits). *Clause 14(2)* of the Bill is intended to clarify that a conditional benefit granted under section 123B of the principal Act to a person whose non-entitlement period was imposed under section 60H of the principal Act is subject to the standard stand down provisions under section 80BA of the principal Act. Section 60H imposes a 13-week period of non-entitlement to a benefit for those who have become voluntary unemployed or who have been dismissed through misconduct. A conditional benefit may be granted under section 123B of the principal Act to a person who is subject to a non-entitlement period if the person undertakes an activity for a continuous period of 6 weeks. This change is intended to make clear that the conditional benefit is subject to a stand down period (which can be for up to 10 weeks if the person has a high income from employment).

Clauses 15 and 16 amend sections 80BB(4) and 80BC(2) of the principal Act to reflect amendments made by *clause 21* to section 86 of the principal Act.

Clause 17 amends section 80BD of the principal Act by enabling the chief executive to set a date of up to 4 weeks after the date of death of a beneficiary as the date on which the benefit ceases to be payable.

Clause 18 amends section 82(6) of the principal Act to reflect amendments made by *clause 21* to section 86 of the principal Act.

Clause 19 amends section 83(2) of the principal Act to correct an erroneous cross-reference.

Clause 20 inserts a new *section 85A* into the principal Act (which defines, for the purposes of the principal Act which payments are debts due to the Crown).

Clause 21 amends section 86 of the principal Act by altering the principles applicable to the recovery of overpayments and other debts.

Clause 22 repeals section 86(1E) and (1F) of the principal Act on a date to be appointed by Order in Council. It is intended that these subsections be replaced by regulations made under *new section 132G* of the principal Act (which is inserted by *clause 26*). The repeal of those subsections will not take place until those new regulations are in force.

Clause 23 amends section 102 of the principal Act to clarify when obligations arising under the work-test apply in the case of a person who is granted the independent youth benefit (other than a person who is enrolled in a course of secondary instruction).

Clause 24 repeals section 104 of the principal Act (which is no longer required as a consequence of the abolition of work-testing for widows and domestic purposes beneficiaries).

Clause 25 amends section 123B(7) of the principal Act to reflect amendments made by *clause 21* to section 86 of the principal Act.

Clause 26 inserts *new section 132G* into the principal Act. *New section 132G* provides for the making of regulations providing for the remittance or suspension of debt.

Clause 27 inserts the *Schedule* that substitutes *new Schedules 3 and 16* in the principal Act.

Part 3

Transitional provisions and consequential amendments to other enactments

Transitional provisions

Clause 28 contains transitional provisions relating to the review of decisions made under delegated authority.

Clause 29 contains transitional provisions relating to the cessation of work testing for certain benefits.

Clause 30 contains a transitional provision relating to the recovery of debt.

Consequential amendments to other enactments

Clause 31 consequentially amends regulation 5 of the Social Security (Exemption Under Section 105) Regulations 1998 (SR 1998/270).

The *Schedule* substitutes a *new Schedule 3* in the principal Act (which relates to rates of widows benefits) and a *new Schedule 16* in the principal Act (which relates to rates of domestic purposes benefits).

Hon Steve Maharey

Social Security (Working Towards Employment) Amendment Bill 2001

Government Bill

Contents

1	Title	60V	Procedure for determining whether failure is without good and sufficient reason
	Part 1	60W	Failure without good and sufficient reasons
	Preliminary provisions	60X	Procedure for imposing sanctions
2	Commencement	60Y	Sanctions for failure to comply with obligations in relation to working towards employment plan
3	Purpose	60Z	Effect of compliance
	Part 2	12	Interpretation
	Amendments to principal Act	13	Effect of absence of beneficiary from New Zealand
4	Interpretation	14	Commencement of benefits
5	Review of decisions	15	Delayed redundancy and retirement payments
6	Widows' benefits	16	Seasonal workers made redundant after benefit commences
7	Domestic purposes benefits for solo parents	17	Ending of benefits
8	Domestic purposes benefits for women alone	18	Payment of benefits
9	New section 60GAA inserted	19	Apportionment of benefit between spouses
	60GAA Period for which independent youth benefit payable	20	New section 85A inserted
10	Voluntary unemployment or loss of employment through misconduct, etc	85A	Payments that are debts due to the Crown
11	New sections 60O to 60Z inserted	21	Recovery of payments made in excess of authorised rates
	60O Interpretation	22	Section 86(1E) and (1F) repealed
	60P Purpose of sections 60Q to 60Z	23	Application and obligations of work test
	60Q Working towards employment plans	24	Section 104 repealed
	60R Developing and reviewing working towards employment plans	25	Effect of participation in certain activities on non-entitlement period
	60S Beneficiary must demonstrate commitment to plan at annual review	26	New section 132G inserted
	60T Department must explain rights and obligations in relation to working towards employment plans	132G	Regulations providing for remittance or suspension of debt
	60U Failure to comply with working towards employment plan obligations		

27	New Schedules 3 and 16 substituted	<i>Consequential amendments to other enactments</i>	31	Exemption from work test: work-tested spouses, domestic purposes beneficiaries, and widows
	Part 3			
	Transitional provisions and consequential amendments to other enactments			
	<i>Transitional provisions</i>			—————
28	Transitional provisions relating to review of decisions			Schedule
29	Transitional provisions for cessation of work testing for certain benefits			New Schedules 3 and 16 of the principal Act
30	Transitional provision relating to recovery of debt			

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Social Security (Working Towards Employment) Amendment Act **2001**.
 - (2) In this Act, the Social Security Act 1964¹ is called “the principal Act”.
- ¹ 1964 No 136

Part 1
Preliminary provisions

2 Commencement

- (1) **Sections 4(2) to (6), 6 to 8, 11, 13, 14(1), 24, 27, 29, and 31 and the Schedule** come into force on **26 August 2002**.
- (2) Except as provided in **section 22(1)**, the rest of this Act comes into force on the day after the date on which this Act receives the Royal assent.

3 Purpose

- The purpose of this Act is—
- (a) to facilitate the movement of domestic purpose beneficiaries and widows beneficiaries from reliance on benefits to employment; and
 - (b) to introduce a requirement for those beneficiaries to prepare plans that will assist them to work towards employment and to demonstrate commitment to the goals set out in those plans; and
 - (c) to amend the provisions of the principal Act relating to the establishment and recovery of debts; and

- (d) to make miscellaneous amendments to the principal Act.

Part 2 Amendments to principal Act

- 4 Interpretation** 5
- (1) The definition of **income** in section 3(1) of the principal Act is amended by adding to paragraph (f) the following subparagraph:
- “(xvii) any specified item or amount of income, or income from a specified source, that is declared not to be income for the purposes of this Act by regulations made under section 132.” 10
- (2) The definition of **part-time work-tested beneficiary** in section 3(1) of the principal Act is amended by repealing paragraph (b). 15
- (3) The definition of **work-tested beneficiary** in section 3(1) of the principal Act is amended by repealing paragraphs (c) and (d).
- (4) The definition of **work-tested benefit** in section 3(1) of the principal Act is amended by repealing paragraphs (b) and (c). 20
- (5) Section 3(1) of the principal Act is amended by repealing the definitions of **work-tested domestic purposes beneficiary** and **work-tested widow’s beneficiary**.
- (6) Section 3(1) of the principal Act is amended by adding the following definition: 25
- “**working towards employment plan** has the meaning specified in **section 600**.”
- 5 Review of decisions**
- Section 10A(1) of the principal Act is amended—
- (a) by omitting from paragraph (a) the words “under this Act”; and 30
- (b) by omitting from paragraph (b) the words “under that Act”.

- 6 Widows' benefits**
Section 21 of the principal Act is amended by repealing subsections (2A) to (2C), and substituting the following subsection:
“(2A) A woman who receives 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.**”
- 7 Domestic purposes benefits for solo parents**
Section 27B of the principal Act is amended by repealing subsections (2A) to (2C), and substituting the following subsection: 10
“(2A) A person who receives a benefit under this section must—
“(a) comply with a requirement under **section 60Q**:
“(b) comply with any other obligation arising under any of **sections 60Q to 60S.**” 15
- 8 Domestic purposes benefits for women alone**
Section 27C of the principal Act is amended by repealing subsections (4) to (6), and substituting the following subsection: 20
“(4) A woman who receives a benefit under this section must—
“(a) comply with a requirement under **section 60Q**:
“(b) comply with any other obligation arising under any of **sections 60Q to 60S.**”
- 9 New section 60GAA inserted** 25
The principal Act is amended by inserting, after section 60G, the following section:
“60GAA Period for which independent youth benefit payable
“(1) An independent youth benefit is paid in respect of a 5-day working week. 30
“(2) The days of the week to be included in the working week of a person granted an independent youth benefit are determined by the chief executive after consultation with the beneficiary, but must not include—
“(a) a Saturday except with the agreement of the beneficiary; or 35

“(b) a Sunday.”

10 Voluntary unemployment or loss of employment through misconduct, etc

Section 60H(7) of the principal Act is amended by omitting the expression “86(1A)”, and substituting the expression “**86(1)**”. 5

11 New sections 60O to 60Z inserted

The principal Act is amended by inserting, before the heading “*Emergency benefits*” (which appears before section 61), the following sections: 10

“60O Interpretation

In **sections 60P to 60Z**, unless the context otherwise requires,—

“**chief executive** includes—

“(a) an officer of the department acting under a delegation from the chief executive; and 15

“(b) a person acting on behalf of the chief executive (except in **sections 60U to 60Y**)

“**working towards employment plan** or **plan** means a plan that—

“(a) has goals— 20

“(i) to assist the beneficiary to work towards employment; and

“(ii) designed to support the economic and social participation of the beneficiary who developed it:

“(b) sets out a plan of action designed to meet the goals referred to in **paragraph (a)**, including the activities that 25

will be taken to facilitate achievement of those goals by—

“(i) the beneficiary; and

“(ii) if agreed by the chief executive, the department: 30

“(c) includes a statement of the information and (if agreed by the chief executive) the assistance that the department will give to assist the beneficiary to do 1 or more of the following:

“(i) develop his or her capabilities; or 35

“(ii) improve his or her employment prospects; or

“(iii) obtain employment.

“60P Purpose of sections 60Q to 60Z

The purpose of **sections 60Q to 60Z** is—

- “(a) to facilitate the movement of domestic purposes beneficiaries and widows’ beneficiaries into ongoing employment as their family responsibilities and individual circumstances allow: 5
- “(b) to provide opportunities for those beneficiaries to improve their capabilities for employment:
- “(c) to improve social and economic outcomes for those beneficiaries and their dependent children. 10

“60Q Working towards employment plans

“(1) The chief executive may, from time to time, require a person to whom this section applies—

- “(a) to attend and participate in 1 or more interviews with the chief executive for the purpose of identifying the matters referred to in **subsection (2)**: 15
- “(b) to develop, in co-operation and with the assistance of the chief executive, a working towards 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 an annual review of the person’s working towards employment plan:
- “(d) to develop, in co-operation and with the assistance of the chief executive, a new plan for the person, if, as a result of a review of the person’s working towards employment plan, the chief executive considers the person requires a new working towards employment plan. 25

“(2) The matters referred to in **subsection (1)** are—

- “(a) any features of the person’s individual or family circumstances that may be a barrier to the person obtaining employment; and 30
- “(b) any specific constraints arising from those circumstances that the person may have in obtaining and sustaining employment; and 35
- “(c) any practical assistance the person requires to enable the person to support himself or herself through employment; and
- “(d) the person’s skills and experience (including those developed through unpaid work) that are relevant to 40

facilitating the most cost-effective path to enable the person to obtain employment.

- “(3) For the purposes of this section and **sections 60R to 60Z**, unless the context otherwise requires,—
- “(a) a person who is required to develop a working towards employment plan does not complete his or her development of the plan unless the person signs it: 5
 - “(b) a document developed by any person as his or her working towards employment plan is not a working towards employment plan unless he or she signs it: 10
 - “(c) a working towards employment plan developed in accordance with **section 60W(3)** or **section 60Y(4)(b)** is, unless the context otherwise requires, to be treated as a plan developed under **subsection (1)(d)**.
- “(4) A working towards employment plan does not create any rights or obligations that are enforceable in a court or tribunal. 15
- “(5) Nothing in **subsection (4)** affects section 10A or sections 12J to 12R.
- “(6) This section applies to a person who is the recipient of—
- “(a) a benefit under section 21 (the widows’ benefit): 20
 - “(b) a benefit under section 27B (the domestic purposes benefit for solo parents):
 - “(c) a benefit under 27C (the domestic purposes benefit for women alone).
- “**60R Developing and reviewing working towards employment plans** 25
- “(1) A working towards employment plan should be—
- “(a) developed by the beneficiary with the assistance of the chief executive:
 - “(b) a plan that is acceptable to the beneficiary and that the beneficiary is willing to sign. 30
- “(2) If, despite reasonable efforts by the chief executive, the beneficiary does not co-operate in the prompt development of a working towards employment plan or does not sign it, the chief executive may conclude that the beneficiary has failed to comply with a requirement under **section 60Q(1)**. 35
- “(3) At any time after a working towards employment plan is signed, a beneficiary or, if the beneficiary agrees, the chief executive, may ask for a review of the plan, but, until a review

is completed, the beneficiary must demonstrate commitment to the plan in its current form.

- “(4) If a beneficiary asks for, or agrees to, a review of the beneficiary’s working towards employment plan,—
 - “(a) the beneficiary, in co-operation and with the assistance of the chief executive, must review the plan as soon as practicable; and
 - “(b) the beneficiary may confirm or amend the plan in writing, signed by the beneficiary.

“60S **Beneficiary must demonstrate commitment to plan at annual review** 10

- “(1) This section applies to a beneficiary who has signed a working towards employment plan developed in accordance with a request under **60Q(1)**.
- “(2) The chief executive must review the plan annually with the beneficiary. 15
- “(3) If the plan has been replaced by a new working towards employment plan developed under **section 60Q(1)(d)**, the chief executive must review that plan when the chief executive would have reviewed the original plan under **subsection (2)**. 20
- “(4) At the annual review of the plan, the chief executive may require the beneficiary to demonstrate that, during the preceding year, the beneficiary has had a commitment to the goals set out in the plan and in any other plan in effect during that year.
- “(5) The chief executive determines whether a beneficiary has demonstrated a commitment to achieving the goals set out in a plan during any period by considering the overall response of the beneficiary to those goals and to the action plan included in the plan, having regard to the extent to which the beneficiary has— 25
 - “(a) undertaken the activities set out in that plan; or
 - “(b) undertaken any other activities relevant to the goals set out in that plan. 30

“60T **Department must explain rights and obligations in relation to working towards employment plans** 35

The chief executive must take reasonable and appropriate steps to make every beneficiary aware, before the beneficiary signs a working towards employment plan, of—

- “(a) the beneficiary’s obligations that arise from payment of a benefit and the beneficiary’s right to assistance to develop or review a working towards employment plan; and
- “(b) the effect and consequences of signing a working towards employment plan; and 5
- “(c) the consequences of failure to comply with a requirement under **section 60Q(1)** or to demonstrate commitment to the goals of the plan and, in particular, the sanctions that may be imposed under **section 60Y**; and 10
- “(d) the beneficiary’s right under **section 60R(3)** to ask for a review of his or her working towards employment plan; and
- “(e) the beneficiary’s right under sections 10A and 12J to review and appeal decisions relating to the working towards employment plan. 15

60U Failure to comply with working towards employment plan obligations

- “(1) The chief executive must impose the sanctions set out in **section 60Y** on a beneficiary if the chief executive considers that a beneficiary has, without a good and sufficient reason,— 20
 - “(a) failed to comply with a requirement under **section 60Q(1)**; or
 - “(b) failed to demonstrate commitment to the goals in the beneficiary’s working towards employment plan. 25
- “(2) Before determining that there is a failure by the beneficiary and that the failure is a failure without good and sufficient reason, the chief executive must—
 - “(a) review the beneficiary’s plan (if the beneficiary has one) to determine whether it is appropriate; and 30
 - “(b) apply the procedure in **section 60V**.
- “(3) For the purposes of this section and **sections 60V and 60W**, a beneficiary has a good and sufficient reason for failing to demonstrate commitment to achieving the goals set out in a plan if— 35
 - “(a) the undertaking by the beneficiary of any activities set out in the plan was dependent on the department taking any action or providing any assistance specified in the plan; and

- “(b) the department did not take that action or supply that assistance, or did not do so to the extent or in the manner specified in the plan.
- “(4) **Subsection (3)** does not limit the circumstances in which a beneficiary has a good and sufficient reason for failing to demonstrate commitment to the goals set out in a plan. 5
- “60V **Procedure for determining whether failure is without good and sufficient reason**
- “(1) This section applies if the chief executive is considering whether sanctions must be imposed on a beneficiary under **section 60Y**. 10
- “(2) If this section applies, the chief executive must set a review period of 30 working days during which the chief executive must give the beneficiary (and any support person of the beneficiary’s choice) an opportunity to meet with the chief executive. 15
- “(3) The purposes of the meeting and review period under **subsection (2)** are—
- “(a) to ascertain whether there is a failure by the beneficiary and, if so, the reasons for the beneficiary’s failure, and whether those reasons are good and sufficient reasons: 20
- “(b) in the case of a failure to comply with a requirement under **section 60Q(1)**, to give the beneficiary a further opportunity to remedy the failure within that period:
- “(c) in the case of a failure to demonstrate commitment to the goals set out in the beneficiary’s working towards employment plan, to give the beneficiary the opportunity to co-operate in developing a new working towards employment plan within that period. 25
- “60W **Failure without good and sufficient reasons** 30
- “(1) If, during the review period set under **section 60V(2)**, the beneficiary fails to take advantage of the opportunity given to him or her, and the chief executive considers that the reasons (if any) given by the beneficiary for the failure to remedy an initial failure are not good and sufficient reasons, the chief executive may,— 35

- “(a) in the case of a beneficiary who has failed to comply with a requirement under **section 60Q(1)**, require the beneficiary to remedy the failure to comply within a further period of 20 working days; or
- “(b) in the case of a beneficiary who has failed to demonstrate commitment to the goals in the beneficiary’s working towards employment plan, require the beneficiary to undertake to the satisfaction of the chief executive, within a further period of 20 working days, a specified activity that the chief executive considers suitable. 5
- “(2) If the beneficiary does not comply with a requirement under **subsection (1)(a)** within the required period, the chief executive may consider that the beneficiary has failed without good and sufficient reason to comply with a requirement under **section 60Q(1)**. 15
- “(3) If the beneficiary does not comply with a requirement under **subsection (1)(b)** within the required period, the chief executive may consider the beneficiary has failed to demonstrate commitment to the goals in the beneficiary’s working towards employment plan unless, within the period, the beneficiary develops a new working towards employment plan. 20
- “(4) In this section, **specified activity**—
- “(a) means—
- “(i) an activity in the beneficiary’s current working towards employment plan; or 25
- “(ii) a pre-employment activity (being an activity designed to prepare a person for employment); but
- “(b) does not include any activity that requires the beneficiary to seek employment or undertake any work. 30
- “60X **Procedure for imposing sanctions**
- “(1) This section applies if a sanction is to be imposed on a beneficiary under **section 60Y**.
- “(2) If this section applies, the chief executive must not reduce a benefit payable to a beneficiary unless the chief executive has first given the beneficiary written notice— 35
- “(a) stating that the beneficiary has failed to comply with a specified obligation under this Act; and

- “(b) specifying the nature of that failure; and
- “(c) stating that, because of that failure, the chief executive is reducing the benefit payable to the beneficiary; and
- “(d) specifying a date on which the reduction is to take effect, and the nature and duration of the reduction; and 5
- “(e) stating that the beneficiary has 10 working days from the giving of the notice to dispute the reduction; and
- “(f) advising the beneficiary to contact the department if the beneficiary wants to dispute or discuss the decision to reduce the benefit; and 10
- “(g) containing a clear statement of the beneficiary’s right, under section 10A, to apply for a review of the decision, and of the procedure for applying for a review.
- “(3) Section 114 applies with all necessary modifications to notices under this section. 15
- “60Y **Sanctions for failure to comply with obligations in relation to working towards employment plan**
- “(1) The sanctions that the chief executive must apply in respect of a failure under **section 60U** are:
- “(a) the person’s benefit must be reduced by 20% until the person complies; and 20
- “(b) if, after 4 weeks from the date on which the reduction under **paragraph (a)** takes effect, the person has not complied, the benefit must be reduced by a further 30% (so that the total reduction is 50%) until the person complies. 25
- “(2) A reduction under **subsection (1)** applies to the rate of benefit payable to the beneficiary after any abatement on account of income.
- “(3) The reduction of the benefit must not take effect before the close of the 10 working days specified in the notice under **section 60X(2)(e)**. 30
- “(4) For the purposes of this section and **section 60Z**, a person **complies** if the person—
- “(a) remedies the relevant failure; or 35
- “(b) if the person has been required to undertake an activity specified by the chief executive, undertakes that activity to the satisfaction of the chief executive, or develops a new working towards employment plan.

60Z Effect of compliance

If a person complies, the reduction applied to the person's benefit ceases and the person is entitled to be paid the benefit at the rate otherwise payable on and after the date that the person's benefit was first reduced under **section 60Y**."

5

12 Interpretation

Section 61E(1) of the principal Act is amended by repealing the definition of **cash assets**, and substituting the following definition:

cash assets—

10

“(a) means—

“(i) money saved, invested, or banked with a bank or other institution:

“(ii) money invested in securities, bonds, or debentures, or advanced on mortgage:

15

“(iii) money invested in shares in a partnership or limited liability company or other incorporated or unincorporated body; but

“(b) does not include any specified item or amount of cash assets, or cash assets of a specified kind, that is declared not to be cash assets for the purposes of this Act by regulations made under section 132”.

20

13 Effect of absence of beneficiary from New Zealand

Section 77 of the principal Act is amended by omitting from subsections (2) and (3) the words “or a widow's benefit or domestic purposes benefit”.

25

14 Commencement of benefits

(1) Section 80(2)(b) of the principal Act is amended by omitting the words “a domestic purposes benefit under section 27G of this Act”, and substituting the words “a widow's benefit, a domestic purposes benefit”.

30

(2) Section 80 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:

“(4) If the applicant is subject to a non-entitlement period,—

“(a) a work-tested benefit granted conditionally under section 123B is subject to a stand down and commences

35

- on a date calculated in accordance with section 80BA
if—
- “(i) the applicant is subject to the non-entitlement
period because of the application of section 60H;
and 5
 - “(ii) that section applies to the applicant because he or
she is a person described in section 60H(2)(a):
- “(b) any other work-tested benefit commences on the later
of—
- “(i) the date the applicant became entitled to receive 10
it; or
 - “(ii) the date the application for it was received.”
- 15 Delayed redundancy and retirement payments**
Section 80BB(4) of the principal Act is amended by omitting
the expression “86(1A)”, and substituting the expression 15
“**86(1)**”.
- 16 Seasonal workers made redundant after benefit
commences**
Section 80BC(2) of the principal Act is amended by omitting
the expression “86(1A)”, and substituting the expression 20
“**86(1)**”.
- 17 Ending of benefits**
Section 80BD(5) of the principal Act is amended by—
- (a) repealing paragraph (a); and
 - (b) omitting from paragraph (b) the word “other”. 25
- 18 Payment of benefits**
Section 82(6) of the principal Act is amended by omitting the
expression “86(1D)”, and substituting the expression “**86(1)**”.
- 19 Apportionment of benefit between spouses**
Section 83(2) of the principal Act is amended by omitting the 30
words “section 15(2) of this Act”, and substituting the words
“section 12(2) of the New Zealand Superannuation Act
2001”.

20 New section 85A inserted

The principal Act is amended by inserting, before section 86, the following section:

“85A Payments that are debts due to the Crown

The following payments or other sums are debts due to the Crown: 5

- “(a) any penalty payable under this Act:
- “(b) any benefit paid conditionally or provisionally under this Act that a person has become liable to repay (by direction of the chief executive or otherwise): 10
- “(c) any advance payment of a benefit made to a person under section 82(6):
- “(d) any money paid to or for the credit of a person as a grant of special assistance under a welfare programme approved under section 124(1)(d) that is— 15
 - “(i) paid as a recoverable grant of assistance; or
 - “(ii) otherwise recoverable from that person under the terms and conditions of the programme:
- “(e) any amount described by this Act as a debt due to the Crown from the person: 20
- “(f) a sum (an **overpayment**), paid or advanced under this Act or the Social Welfare (Transitional Provisions) Act 1990 or Part 1 of the New Zealand Superannuation Act 2001 to or for the credit of a person—
 - “(i) that is in excess of the amount to which the person is entitled; or 25
 - “(ii) to which the person has no entitlement.”

21 Recovery of payments made in excess of authorised rates

(1) Section 86 of the principal Act is amended by repealing subsections (1) to (1D), and substituting the following subsections: 30

- “(1) The chief executive may—
 - “(a) recover a debt referred to in **section 85A** by way of proceedings taken in the name of the chief executive; or
 - “(b) deduct all or part of that debt from any amount payable to that person by the department as a benefit or a student allowance; or 35
 - “(c) in the case of a debt referred to in **section 85A(d)**, deduct all or part of that debt from any payment of a grant of

special assistance under a welfare programme approved under section 124(1)(d).

- “(1A) **Subsection (1)** is subject to **subsections (9A) and (9B)**, and to any regulations made under **section 132G**.
- “(1B) Nothing in section 94B of the Judicature Act 1908 or any rule of law relating to payment by or under mistake prevents recovery of a debt under **subsection (1)**.” 5
- (2) Section 86(1E) of the principal Act is amended by omitting the words “any of subsections (1) to (1D)”, and substituting the expression “**subsection (1)**”. 10
- (3) Section 86(2) of the principal Act is amended by omitting the words “any of subsections (1) to (1C) of this section”, and substituting the expression “**section 85A**”.
- (4) Section 86 of the principal Act is amended by repealing subsection (9A), and substituting the following subsections: 15
- “(9A) The chief executive may not recover any part of a debt that was caused or contributed to by an error for which the debtor is not responsible if—
- “(a) the debtor—
- “(i) received the sum comprising the debt in good faith; and 20
- “(ii) changed his or her position in the belief that he or she was entitled to the sum comprising the debt and would not have to pay or repay that sum to the chief executive; and 25
- “(b) it would be inequitable in all the circumstances, including the debtor’s financial circumstances, to permit recovery.
- “(9B) In **subsection (9A), error**— 30
- “(a) means—
- “(i) the provision of incorrect information in writing by an officer of the department: 30
- “(ii) any erroneous act or omission of an officer of the department that occurs during an investigation under section 12: 35
- “(iii) any other erroneous act or omission of an officer of the department; but
- “(b) does not include—
- “(i) the simple act of making a payment to which the recipient is not entitled if that act is not caused, or 40

contributed to, by any erroneous act or omission
of an officer of the department:

- “(ii) the provision of incorrect or incomplete information by an officer of the department, if the information is conveyed verbally and is not of a kind required to be conveyed in writing.” 5

22 Section 86(1E) and (1F) repealed

- (1) **Subsection (2)** comes into force on a date to be appointed by the Governor-General by Order in Council.
- (2) Section 86(1E) and (1F) of the principal Act (as amended by **section 21(2)** of this Act) are repealed. 10

23 Application and obligations of work test

Section 102(6) of the principal Act is amended by inserting, after paragraph (a), the following paragraph:

- “(aa) in the case of a person granted an independent youth benefit (other than a person who is enrolled in a course of secondary instruction), on the same days as are included in the person’s working week under **section 60GAA**; and” 15

24 Section 104 repealed

Section 104 of the principal Act is repealed. 20

25 Effect of participation in certain activities on non-entitlement period

Section 123B(7) of the principal Act is amended by omitting the expression “86(1A)”, and substituting the expression “**86(1)**”. 25

26 New section 132G inserted

The principal Act is amended by inserting, after section 132F, the following section:

- “**132G Regulations providing for remittance or suspension of debt** 30
- “(1) The Governor-General may, from time to time, by Order in Council, make regulations requiring or permitting—
- “(a) the recovery of amounts recoverable under **section 86(1) to (1B)** and (3) to (5) to be suspended; or 35

- “(b) those amounts to be remitted.
- “(2) Regulations under **subsection (1)** may require or permit the suspension of recovery of amounts, or the remission of amounts,—
- “(a) of a particular kind or from persons of a particular kind: 5
- “(b) of a particular value (which may differ between persons of a particular kind):
- “(c) in the case of suspension, for periods that may differ for amounts of a particular kind or value, or between persons of a particular kind. 10
- “(3) Regulations may not be made under **subsection (1)** unless the Minister advises that he or she is satisfied that the regulations are likely to—
- “(a) prevent accumulation of debt by any category of beneficiary and assist those beneficiaries to reduce their levels of debt while on a benefit; or 15
- “(b) assist any category of beneficiary to move from dependence on a benefit to self-support through employment by ensuring that those beneficiaries do not face increasing benefit debt repayments when they enter the workforce; or 20
- “(c) provide a positive incentive for beneficiaries to enter employment or stay in employment; or
- “(d) achieve more than 1 of the objectives set out in **paragraphs (a) to (c)**. 25
- “(4) This section does not limit the power to make regulations conferred by section 132.”

27 New Schedules 3 and 16 substituted

The principal Act is amended by repealing Schedules 3 and 16, and substituting the Schedules 3 and 16 set out in the Schedule. 30

Part 3 Transitional provisions and consequential amendments to other enactments

Transitional provisions

- 28 Transitional provisions relating to review of decisions** 5
- No application for a review made under section 10A of the principal Act before the commencement of **section 5** of this Act is invalid by reason that the decision to which the application relates was made under a delegation pursuant to an enactment or authority (other than an enactment referred to in section 10A(1) of the principal Act as it read before the commencement of **section 5** of this Act). 10
- 29 Transitional provisions for cessation of work testing for certain benefits**
- (1) **Subsection (2)** applies to a person who, immediately before this section comes into force, is in receipt of a widow's benefit or a domestic purposes benefit (other than a domestic purposes benefit granted under section 27G of the principal Act). 15
- (2) On the date that this section comes into force,—
- (a) a person to whom this subsection applies— 20
- (i) ceases to be subject to the work test or, as the case requires, the obligation to comply with section 60HA of the principal Act; and
- (ii) ceases to be subject to any sanctions to which the person was subject under section 117 of the principal Act; and 25
- (b) a benefit granted to a person to whom this subsection applies,—
- (i) if granted to the person under section 60H(6)(b) of the principal Act, ceases to be subject to the condition referred to in that paragraph; and 30
- (ii) if granted to the person under section 123B of the principal Act, ceases to be subject to the condition referred to in subsection (4) of that section.
- (3) **Subsection (4)** applies to a person who, immediately before this section came into force, was a person who had applied for a widow's benefit or a domestic purposes benefit and was subject to a non-entitlement period under section 60H(4) of the principal Act. 35

- (4) On the date that this section comes into force, a person to whom this subsection applies—
- (a) ceases to be subject to the non-entitlement period, and that period lapses; and
 - (b) is entitled to be granted the benefit applied for if he or she otherwise qualifies for it. 5
- (5) Nothing in **subsection (4)** limits the application of section 80BA of the principal Act.
- 30 Transitional provision relating to recovery of debt** 10
- If, immediately before the commencement of this section, any amount is recoverable from any person under any of section 86(1) to (1D) of the principal Act (as those subsections read immediately before the commencement of **section 21** of this Act), after the commencement of this section—
- (a) that amount continues to be recoverable under **section 86(1)** of the principal Act (as substituted by **section 21(1)**); and 15
 - (b) any proceedings taken in respect of its recovery before the commencement of this section continue as if brought under **section 86(1)(a)** of the principal Act (as so substituted). 20
- Consequential amendments to other enactments*
- 31 Exemption from work test: work-tested spouses, domestic purposes beneficiaries, and widows**
- (1) The heading to regulation 5 of the Social Security (Exemptions Under Section 105) Regulations 1998 (SR 1998/270) is amended by omitting the words “, **and domestic purposes beneficiaries, and widows**”. 25
 - (2) Regulation 5(1) of the Social Security (Exemption Under Section 105) Regulations 1998 is amended by omitting the words “, a work-tested domestic purposes beneficiary, or a work-tested widow’s beneficiary”. 30
-

Schedule s 27
New Schedules 3 and 16 of the principal Act

Schedule 3 ss 21, 24
Rates of widows' benefits

1	(a)	To a beneficiary with 1 dependent child	\$221.37 a week, subject to Income Test 1	5
	(b)	To a beneficiary with 2 or more dependent children	\$241.51 a week, subject to Income Test 1	10
2		To a beneficiary without any dependent children	\$160.99 a week, subject to Income Test 1	
3		For the purposes of clause 1 , the chief executive may, in his or her discretion, disregard up to \$20 a week of the beneficiary's personal earnings used to meet the cost of child care for any of the beneficiary's dependent children.		15

ss 27B, 27C, 27H

Schedule 16

Rates of domestic purposes benefits

1	(a)	To a beneficiary with 1 dependent child	\$221.37 a week, subject to Income Test 1	5
	(b)	To a beneficiary with 2 or more dependent children	\$241.51 a week, subject to Income Test 1	
2		To a beneficiary without any dependent children	\$160.99 a week, subject to Income Test 1	10
3		For the purposes of clause 1 , the chief executive may, in his or her discretion, disregard up to \$20 a week of the beneficiary's personal earnings used to meet the cost of child care for any of the beneficiary's dependent children.		15