

Social Security (Working Towards Employment) Amendment Bill

Government Bill

As reported from the Social Services Committee

Commentary

Recommendation

The Social Services Committee has examined the Social Security (Working Towards Employment) Amendment Bill and recommends by majority that it be passed with the amendments shown.

Introduction

The Social Security (Working Towards Employment) Amendment Bill (the bill) amends the Social Security Act 1964 (the Act). It replaces the current work-test obligations for recipients of the domestic purposes benefit (DPB) and widow's benefit with an enhanced case management model, which aims to promote goal setting and planning. The bill also makes changes to the benefit debt policy and introduces a single abatement regime for those on the DPB and widow's benefit.

Amendments in the bill replacing work-test obligations are intended to assist the personal development of DPB and widow's benefit recipients, better preparing them to enter employment when circumstances make this appropriate. It is part of the Government's implementation of a new approach to social development for working-age beneficiaries.

Changes to work test obligations

Clauses 4(2) to 4(4) and 6 to 8 remove 'work test' obligations that people receiving the DPB and widow's benefit currently have under the Social Security Amendment Act 2001. Clauses 6 to 8 introduce a new requirement to participate in a planning process. This includes developing a 'working towards employment plan'. The plan will be developed by the beneficiary with the assistance of case managers.¹ It may include matters directly or not directly related to employment, but which support the move from benefit to work as the circumstances and responsibilities of beneficiaries allow. The definition of the plan and the planning process are set out in clause 11, which inserts new sections into the Act.

These changed obligations affect sole parents with dependent children and women with no dependent children, who receive the DPB and widow's benefit. It does not affect people receiving the DPB caring for the sick and infirm, who are currently not work tested.

Reflection of bill's proposed changes in the wording

During our consideration it became apparent that the intent of changes proposed by the bill is not adequately reflected in the wording of the bill. Submitters generally support the repeal of the work-test regime but many submitters are concerned the bill retains a focus on paid employment. They consider this devalues the role of parenting and care giving as a legitimate activity, and is contrary to the stated intention of the bill, that paid employment will only occur when 'family responsibilities' and 'individual circumstances' allow.

Name changes to better reflect bill's intent

The title of the bill and the title of the plan both explicitly focus on paid employment. The majority of us recommend changing these to better reflect the intent of the changes proposed by the bill. The majority of us recommend changing the name of the bill to the 'Social Security (Personal Development and Employment) Amendment Bill', and the name of working towards employment plans to 'personal development and employment plans'.

¹ The chief executive of the Ministry of Social Development has ultimate responsibility for decisions relating to provisions of this bill. In practice, this will usually be delegated to Work and Income officers.

Other changes to better reflect bill's intent

Submitters are concerned some circumstances, especially parenting, may not be interpreted as a legitimate activity for sole parents because they are not explicitly recognised in the bill.

The bill shifts the method of facilitating participation in employment from being based on age of the youngest child, to individual strengths and needs, taking into account family responsibilities and individual circumstances. Most of us consider the term 'individual circumstances' adequately covers the diversity of situations that beneficiaries may experience. However, the majority of us recommend the following amendments to clarify the intent of the bill with respect to parenting and caring responsibilities:

- replacing the phrase 'family responsibilities' with 'parenting responsibilities' (where appropriate) throughout the bill, to acknowledge the importance of parenting and caring responsibilities
- adding 'parenting responsibilities and 'individual circumstances' to the purpose clause
- amending new section 60Q(2)(a) to better reflect that individual circumstances or parenting responsibilities may affect a person's ability to move towards employment.

Most of us also agree with submitter concerns about the open-ended nature of the phrase 'cost-effective' in new section 60Q, in relation to specifying the support, training needs or Ministry of Social Development (the Ministry) assistance to which the beneficiary will be entitled. The majority of us recommend removing this phrase from new section 60Q and replacing it with the word 'effective'.

Objections to compulsory nature of changed obligations

New section 60Q provides that recipients of the DPB and widow's benefit 'may' be required to participate in the planning requirements set out in the bill. They will not, however, be required to accept an offer of employment. Use of the word 'may' in this section gives the Ministry some discretion to waive this requirement where it is not appropriate, although it is the policy intent that the majority of those receiving these benefits will be required to participate. Benefits will be reduced as a sanction where Ministry staff consider the planning requirements have not been met.

Many submitters reject the (generally) compulsory requirement to develop a plan. They argue that an evaluation of the 1999 DPB and widow's benefit changes showed that people on these benefits are highly motivated to work and likely to become benefit recipients as a last resort. They consider a voluntary planning regime would be more beneficial and less intimidating. Submitters object to the possibility of children and beneficiaries themselves suffering hardship if sanctions were imposed because of a failure to comply.

Recipients of the DPB and widow's benefit should be expected to improve their capability to move from benefit to work, when this is appropriate according to their circumstances and responsibilities. Given this is the intent of plans, it is therefore appropriate for the bill to have core requirements relating to these plans. Associated sanctions are necessary to reinforce these expectations because an Act which contains requirements must also contain consequences for when requirements are not met.

Concerns about interpretation of factors leading to sanctions

Some submitters are concerned the criteria for imposing sanctions are not accurately defined. They are concerned this could lead to subjective and inconsistent decisions by case managers, who will conduct annual reviews with beneficiaries to determine progress in meeting the goals identified in their plan.

Under new section 60U, in situations where the Ministry considers a beneficiary has, without 'a good and sufficient reason,' failed to comply with planning requirements, or failed to demonstrate commitment to the goals in the plan (under new section 60S(5)), the benefit will be reduced as a sanction. Two specific 'good and sufficient reasons' are stated, both relating to a failure of the Ministry to provide assistance or take action committed to in a plan. It is made clear there will be other 'good and sufficient reasons' for failing to demonstrate commitment to a plan. In some cases a sanction may be avoided by completing a 'specified activity', which is defined in new section 60W(1)(b). Submitters suggest eliminating the possibility of differing interpretations of these criteria by listing in the bill reasons a beneficiary may fail to comply with the requirements.

Most of us do not consider it possible to detail all 'good and sufficient reasons', or all instances of failure to demonstrate commitment, because each plan will be different and tailored to individual situations by agreement with the beneficiaries themselves. Most of

us consider the definitions of discretionary terms generally provide adequate guidance for case managers to make appropriate and consistent decisions, provided they have appropriate guidelines and training to utilise the guidelines (training of staff is discussed later in this commentary).

However, the majority of us recommend adding greater clarity to new section 60S(5), by amending it to state that when deciding whether a person has demonstrated commitment to a plan, regard should be given to how realistically achievable the activities in the plan are.

The Ministry is currently developing guidelines covering all areas where discretionary decisions will be made. We will examine these when they are completed (estimated to be June 2002).

Lifting of sanctions

New section 60Z provides for a benefit reduced by sanctions to be increased to the full rate and backdated to when the reduction took place, when compliance has occurred.

The majority of us recommend this section be amended so the reduction in benefit can be lifted as soon as the person agrees to comply with a requirement. This will help avoid unnecessary financial hardship. It will also allow case managers to show trust towards clients, which is important for maintaining the client-case manager relationship. The majority of us recommend this reduction in benefit be immediately re-imposed if, for no good and sufficient reason, the person does not comply.

Concerns about the individual case management approach

A feature of the enhanced case management model proposed in the bill is a change in the working relationship between case managers and beneficiaries. Case managers will be in more frequent contact with beneficiaries and an enhanced role will be required to assist them in developing a plan. In the course of developing the plan, case managers will be expected to liaise with community groups and develop a network of community contacts to ensure their client is referred to appropriate professional and other government services and community groups. The case management model builds on the success of the COMPASS programme, where case managers have

demonstrated an ability to develop a constructive working relationship with their clients.

Capacity of case managers to perform their functions

Submitters generally support the concept of the Ministry providing assistance to beneficiaries in achieving their employment goals, but many have concerns about aspects of the relationship between the case manager and the beneficiary. Some submitters doubt that a relationship of mutual trust can be forged between a beneficiary and case manager. They consider some case managers are judgmental, with little regard for client dignity or their responsibilities in relation to child welfare. According to some submitters, this is part of a widespread 'culture problem' within Work and Income staff of the Ministry.

Several submitters are concerned that case managers may not have the personal capacity to work with beneficiaries as required by the enhanced case management model. They are concerned that the success of the system will depend on a level of high personal capacity. They say some case managers will be unable to identify barriers to work and relate to the circumstances of their clients because of their age, background or lack of training. These submitters consider that specialised training, along with supervision and ongoing assessment, will be required in a number of areas before many case managers are able to perform their role adequately and consistently. Areas in which they say specialised training is needed include post-natal depression, alcoholism, family violence, high needs children, age-related issues, grief issues, complexity of the benefit system and mental health issues (discussed below).

The chief executive of the Ministry told us that staff will receive adequate training. A two-part training strategy has been developed for case managers as well as senior staff. The first part, lasting two days, will focus on the immediate training required to implement the changes. Attention will also be given to particular issues facing DPB and widow's benefit beneficiaries, such as mental health issues, domestic violence and those caring for a child with a disability. These issues will be followed up in more depth through the second part of the training strategy, which will be long-term training to address on-going training needs. The Ministry will consult specialised organisations, where appropriate, to help target this ongoing

training, and may also seek to deliver some training through these organisations.

We were extremely concerned that the needs of vulnerable groups must be effectively met under this legislation. Most of us have accepted the assurances of officials on this matter but believe these concerns must be subject to ongoing scrutiny.

Concerns about mental health sufferers

The Mental Health Commission has a particular concern that the requirement to develop a plan could be detrimental to DPB and widow's benefit recipients with mental health problems. It says the requirement to disclose personal information as barriers to employment (including mental health issues) is invasive to these beneficiaries. The fear of 'losing' their children would be a significant impediment to some beneficiaries practising open disclosure. A lack of training in mental health issues would increase the risk of Ministry staff acting with insensitivity. The Commission proposes amending the bill to require consultation with other agencies, given that some beneficiaries with mental illness may already have recovery plans with health services and be in contact with vocational services with a mental health focus.

Most of us do not consider this necessary because where case managers are aware that the client has an existing plan or is working closely with another organisation such as Workbridge, Women's Refuge or a mental health worker, this will form the basis of their plan. In these situations, it is anticipated the beneficiaries would develop their plans with the assistance of the other organisation.

Ensuring adequate case management resources

Another submitter concern is that staffing resources will be insufficient to implement changes proposed in the bill. They are concerned that case managers, who currently have average case loads of about 250 to 300 clients, will not have enough time to deliver an adequate service to clients once their role is enhanced. There is general scepticism amongst submitters that case managers could be fairly expected to take on the role of social worker and career profiler, while also taking into account the beneficiaries' broader social needs.

The Ministry accepts that effective support and productive planning are contingent on case managers having sufficient time to spend with their clients, and that existing staffing resources will not be able to manage under the enhanced case management approach. Modelling done by the Ministry has shown that caseloads of 1 to 150/155 are required for the enhanced case management approach to be successful. It says additional staffing resources will be applied to the new approach. The amount of increased resources is being considered as part of Budget 2002. We will examine this issue further during our 2002 Budget examination of Vote: Social Development.

Suggested separation of case management role

Some submitters consider the case manager role would be more effectively performed if it were separated into two parts: developing plans with beneficiaries, and assessing their income support needs. Another suggestion is that the plan be negotiated with support from a professional career counsellor.

Most of us consider that separating the administration of benefits and the planning support aspects of the role would generally fragment the flow of information and increase the number of people within the Ministry that the beneficiary would be required to deal with. It would also negate the benefit of the caseworker having an holistic overview of all the needs and circumstances by working alongside the beneficiary.

Concerns about extent of case manager influence

Some submitters are concerned that case managers will have too much influence over the circumstances of beneficiaries. Others are concerned about a lack of options available to beneficiaries who consider they have not been treated fairly by a case manager.

Case managers will not be able to decide unilaterally to impose sanctions. As set out under new sections 60U to 60Z, case managers are involved with encouraging compliance and providing an initial assessment on whether a formal review is necessary. An experienced senior staff member must then review the process that was followed by the case manager and make a final decision about whether a sanction is warranted. These reviews by senior staff limit the discretion available to case managers and should ensure a more consistent approach nation-wide than would be possible if the final decision rested with case managers.

We consider the Ministry's current formal systems, including its 'Service Charter' and Code of Conduct should be adequate to inform beneficiaries of their rights and enable complaints against case officers. Should the beneficiary not be totally satisfied with the services provided, an informal complaint can be made to the Service Centre Manager. However, if we become aware of incidents where this is not the case, we will pay close attention to them during the financial review and Estimates examinations.

Coverage under human rights and health and safety legislation

The majority of us recommend amendments to section 123C of the Social Security Act 1964 to extend the protections of the Human Rights Act 1993 and Health and Safety in Employment Act 1992 to DPB and widow's benefit recipients. This will provide these beneficiaries with the same protection under this legislation, when undertaking work or other development or community activities, as is accorded to work-tested beneficiaries and workers in paid employment.

Benefit debt changes

Section 86 of the Act currently provides for the recovery of overpayments and sums that are debts due to the Crown and sets out circumstances where overpayments and debts may not be recovered or provisionally written-off. The bill divides the current section 86 into two new sections. Clause 21 repeals the current section 86(1) to (1E) and introduces replacement provisions, while clause 20 inserts a new section 85A to set out payments or sums that are debts due to the Crown.

New clause 21 provides for an overpaid benefit or debt to be recovered, except where it has been caused by an error for which the debtor (beneficiary) is not responsible. New section 9B defines an 'error' as being where incorrect information has been given in writing by the Ministry, or where the Ministry has incorrectly investigated benefit eligibility, or any other error by the Ministry.

Submitters say inserting a definition of 'error' into the Act means recipients of overpaid benefits have to show culpability by the Ministry before they are able to raise the defence that the money was received in good faith. They consider this is contrary to recent High Court decisions, where any overpayment of a benefit was seen to be

an error (and therefore potentially unrecoverable), and means beneficiaries are treated differently with respect to overpayments than other citizens.² Some submitters are also concerned the bill excludes section 94B of the Judicature Act 1908 and prior case law relating to payment made in mistake.

The Moody and Worrall High Court decisions widened the definition of 'error' to include all overpayments, which was not the intent of the original legislation. Changes proposed in the bill restore the original policy intent of the legislation by clarifying that an 'error' is defined as an act or omission of an officer of the department. Including a definition of 'error' that includes failure to investigate a claim for benefit properly is consistent with the Moody High Court decision. Most of us consider the definition of error in new section 86(9B) is beneficial because it clarifies uncertainty created by the High Court decisions about which overpayments can and cannot be recovered.

Exclusion of verbal advice in the definition of 'error'

The definition of 'error' in the bill specifies that an error can include written advice by the Ministry, but not verbal advice.

We recommend removing the distinction between written and verbal advice from new section 86(9B), so that any incorrect information from the Ministry can be an error.

Changes to section 86(9A)

A number of submitters are concerned that changed wording in new section 86(9A) widens the concept of 'responsibility' for overpayment of a benefit, which they consider would allow debts to be more readily established than presently.

Most of us consider the wording in the existing section 86(9A) has the benefit of being well-understood, has stood the test of time and has been duplicated in other legislation.³ The majority of us therefore recommend the wording of new section 86(9A) inserted by clause 21(4) revert to the wording currently in the Act.

² *Moody vs Chief Executive of the Department of Work and Income* [2001] NZAR 608; *Worrall vs Chief Executive of the Department of Work and Income* [2001] NZAR 761.

³ Accident Insurance Act 1998 and the Injury Prevention, Rehabilitation and Compensation Act 2001, relating to overpayments of ACC.

Regulation making powers

Clause 12 gives provision for exempting cash assets in regulations while clause 4 gives provision for exempting income in regulations. A submitter concern with this is that proper public scrutiny would not occur prior to such changes being introduced.

Most of us consider the ability to exempt cash assets and income in regulations is desirable because it enables the Minister to respond to a situation requiring an exemption as it arises and quickly, without needing to go through the lengthy process of promoting and passing a bill to put the exemption into law. All regulations are subject to scrutiny by the Regulations Review Committee.

However, most of us consider that if the Minister is to have the ability to respond to a situation quickly, regulation-making powers should be expressed in a manner that enables the regulations to apply during periods before or after the regulations were made. Without such provision, the situation that gave rise to the exemption, and other similar cases, would not be covered by it for the period before the regulation came into force. The majority of us recommend inserting a new section, 25B, to this effect.

National Party and Act Party minority views

The National Party and ACT Party members of the select committee believe that the Social Security (Working Towards Employment) Amendment Bill is an ill conceived bill that will disadvantage sole parents and their children, increase the number of children living in poverty, and waste scarce taxpayer resources.

There is overwhelming evidence that children who grow up in families in which no one is ever employed have poorer outcomes in life.

This bill has the effect of making employment totally optional for recipients of the DPB. National and ACT members of the committee strongly oppose this approach because international experience has shown that strong employment expectations are critical if people are to be moved off welfare and encouraged to stay off.

This bill has been justified on the basis that most recipients of the DPB are highly motivated to find employment. The fact is that a third of DPB recipients stay on the DPB long term unless challenged to move on. This bill will cause more families to stay on welfare for longer and therefore more children to live in poverty. National and

ACT members of the committee believe these families deserve better.

A third of all recipients of the DPB are motivated and skilled enough to move off the benefit quite quickly without the need for further interventions. This bill will impose an expensive planning regime on all of those parents. National and ACT members of the committee believe that this is a wasteful and unnecessary imposition on those parents.

We agree with the concerns expressed by many submitters that Work and Income staff of the Ministry are already too stretched to deliver adequate support to their clients. This bill would require a very substantial increase in the number of case workers available to support recipients of the DPB. Like many submitters we do not believe that Department of Work and Income will be able to deliver the level of service this bill pretends. Even if a great increase in resources was possible much of this resource will be wasted if used in the way this bill envisages.

Work testing has worked. It has encouraged sole parents to move into the workforce and become independent of the state. Answers to written questions show that the numbers of people going off the DPB or reducing their DPB because they have achieved employment have gone up significantly in the last five years. This supports the view that work testing is a successful policy regime if reducing benefit dependency is the goal of government.

No evidence has been presented to suggest this bill will make it more likely that people will move from the DPB to employment. Indeed there is much evidence that it will do precisely the reverse. Therefore National Party and ACT Party members of the committee strongly oppose this bill.

Green Party minority views

The Green Party rejects what appears to be the fundamental assumption of this bill, that from the time single parents and widows are first on the benefit they should be doing everything they can to maximise their chances of securing paid employment at the earliest opportunity. We object to the sanctions placed by the bill on the planning process to which DPB and widows' beneficiaries will be subjected, as we believe that a voluntary scheme would be less threatening and more effective in achieving the Government's commitment to 'social development'.

In regards to changes to the benefit debt regime, the Green Party wishes to disassociate itself from moves in this legislation which we believe impose a much more restrictive regime for irrecoverability of payments made in error than for similar payments in other spheres (for example, ACC, commercial). We disagree with the exclusion of section 94B of the Judicature Act 1908 and prior case law re estoppel, as we believe beneficiaries should be treated the same under law in this regard as any other creditor.

Appendix

Committee process

The Social Security (Working Towards Employment) Amendment Bill was referred to the committee on 18 December 2001. The closing date for submissions was 15 February 2002. We received and considered 38 submissions from interested groups and individuals. We heard 25 submissions orally. Hearing evidence and consideration took 11 hours and 38 minutes.

We received advice from the Ministry of Social Development and the Department of Labour.

Committee membership

Taito Phillip Field (Chairperson)

Mahara Okeroa (Deputy Chairperson)

Sue Bradford

Helen Duncan

Dr Liz Gordon

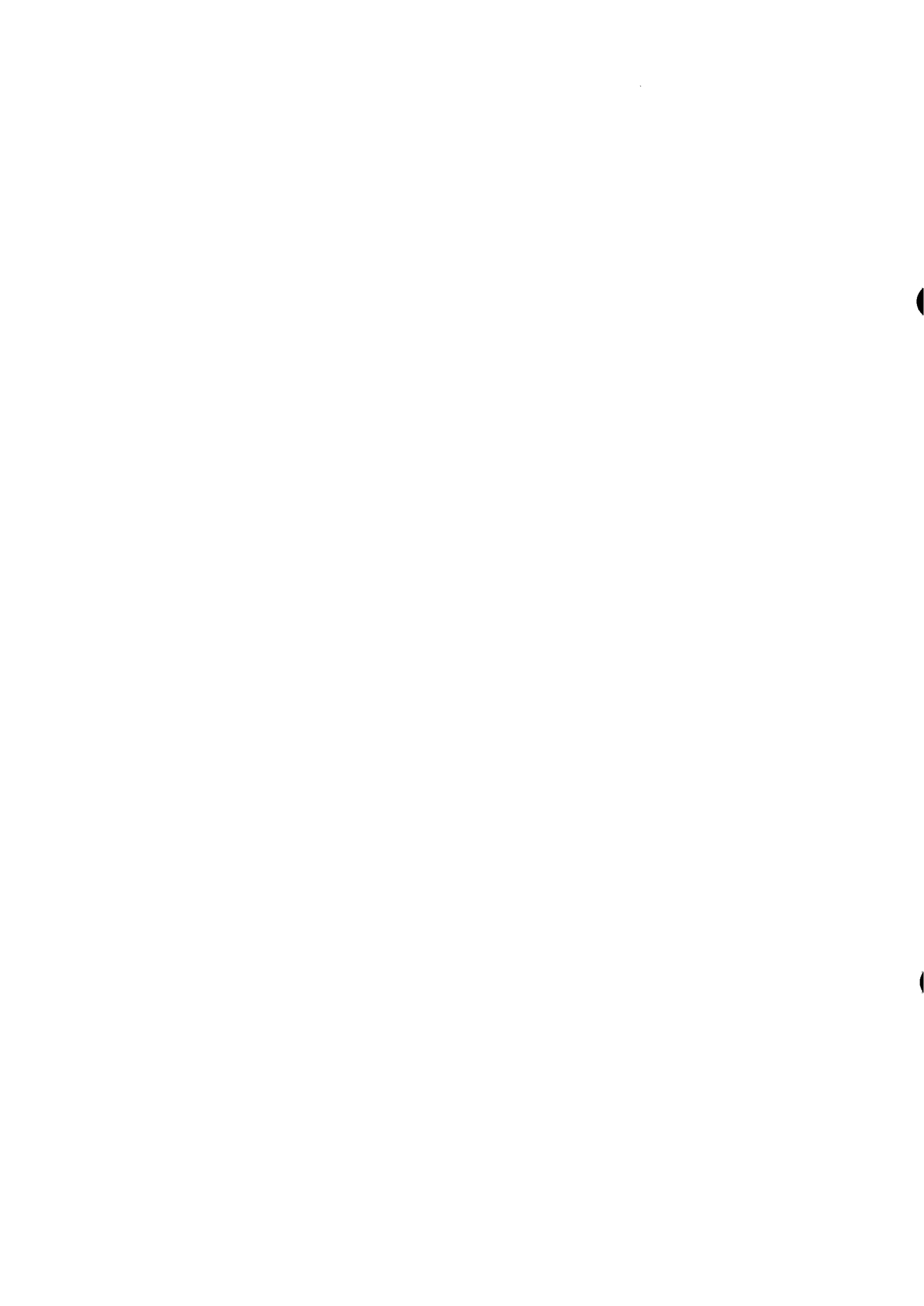
Dr Muriel Newman

Jill Pettis

Katherine Rich

Bob Simcock

Anne Tolley



Key to symbols used in reprinted bill

As reported from a select committee

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Subject to this Act,

Text struck out by a majority

New (majority)

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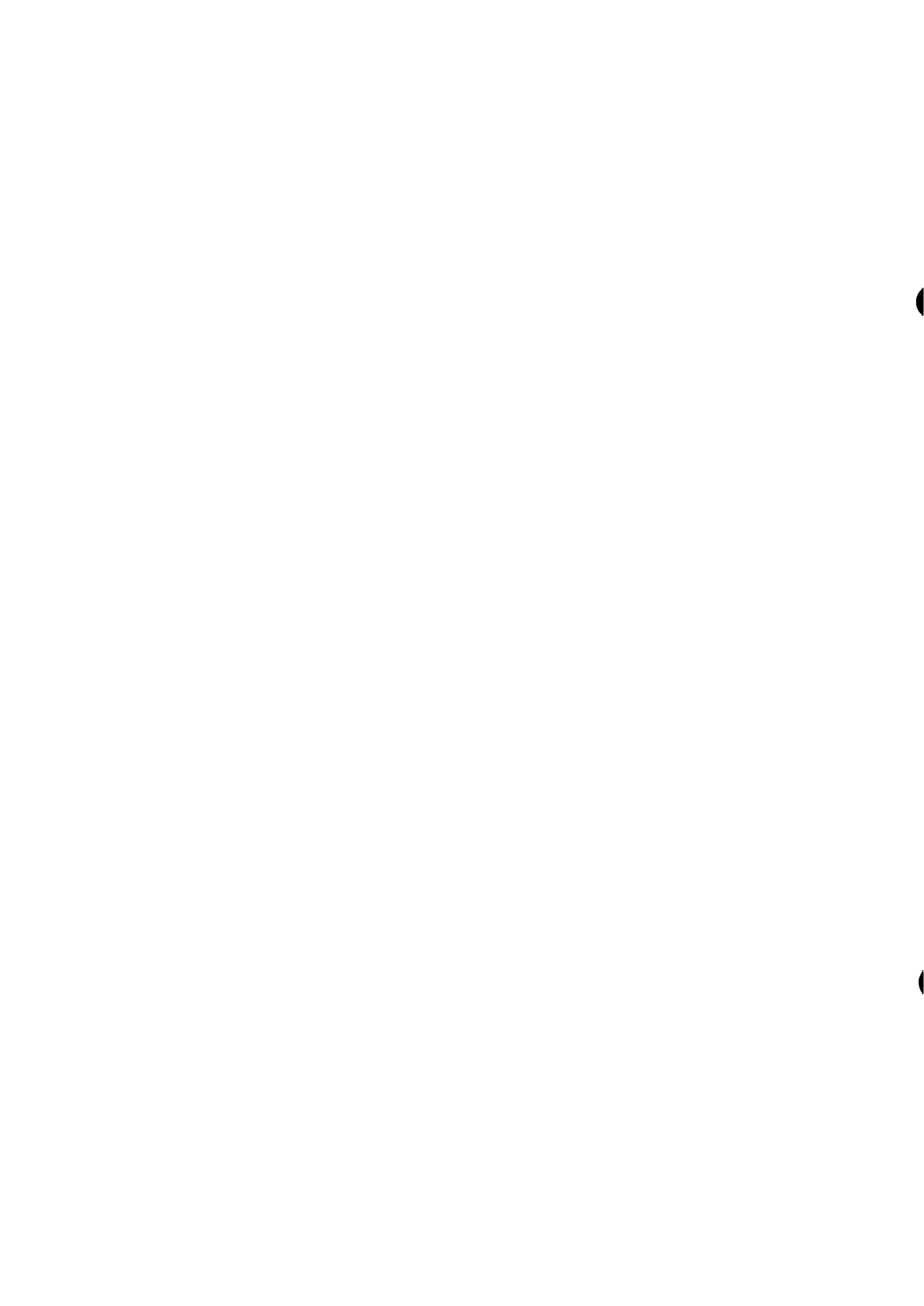
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Hon Steve Maharey

**Social Security *<(Working Towards
Employment)>* *<(Personal Development and
Employment)>* Amendment Bill**

Government Bill

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**Social Security <(Working Towards
Employment)> <(Personal Development
and Employment)> Amendment**

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<p>26 New section 132G inserted 132G Regulations providing for remittance or suspension of debt</p> <p>27 New Schedules 3 and 16 substituted</p> <p style="text-align: center;">Part 3</p> <p>Transitional provisions and consequential amendments to other enactments</p> <p style="text-align: center;"><i>Transitional provisions</i></p> <p>28 Transitional provisions relating to review of decisions</p> <p>29 Transitional provisions for cessation of work testing for certain benefits</p>	<p>30 Transitional provision relating to recovery of debt</p> <p style="text-align: center;"><i>Consequential amendments to other enactments</i></p> <p>31 Exemption from work test: work- tested spouses, domestic purposes beneficiaries, and widows</p> <hr style="width: 10%; margin: 10px auto;"/> <p style="text-align: center;">Schedule</p> <p style="text-align: center;">New Schedules 3 and 16 of principal Act substituted</p>
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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Social Security <(Working Towards Employment)> <(Personal Development and 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 <as their parenting responsibilities and individual circumstances allow>; and
- (b) to introduce a requirement for those beneficiaries to prepare plans that will assist them to <work> <move>

- 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. 5

Part 2 Amendments to principal Act

4 Interpretation

- (1) The definition of **income** in section 3(1) of the principal Act is amended by adding to paragraph (f) the following subparagraph: 10
 - “(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.” 15
- (2) The definition of **part-time work-tested beneficiary** in section 3(1) of the principal Act is amended by repealing paragraph (b).

New (majority)

- (2A) Section 3(1) of the principal Act is amended by inserting, after the definition of **periodical**, the following definition: 20

“**personal development and employment plan** has the meaning specified in **section 600**.”
- (3) The definition of **work-tested beneficiary** in section 3(1) of the principal Act is amended by repealing paragraphs (c) and (d). 25
- (4) The definition of **work-tested benefit** in section 3(1) of the principal Act is amended by repealing paragraphs (b) and (c).
- (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**. 30

Struck out (majority)

- (6) Section 3(1) of the principal Act is amended by adding the following definition:
- “working towards employment plan** has the meaning specified in **section 600.**”

- 5 Review of decisions** 5
- Section 10A(1) of the principal Act is amended—
- (a) by omitting from paragraph (a) the words “under this Act”; and
- (b) by omitting from paragraph (b) the words “under that Act”. 10
- 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— 15
- “(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** 20
- Section 27B of the principal Act is amended by repealing subsections (2A) to (2C), and substituting the following subsection:
- “(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.**” 25
- 8 Domestic purposes benefits for women alone** 30
- Section 27C of the principal Act is amended by repealing subsections (4) to (6), and substituting the following subsection:
- “(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

The principal Act is amended by inserting, after section 60G,
the following section:

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“60GAA Period for which independent youth benefit payable

“(1) An independent youth benefit is paid in respect of a 5-day
working week.

“(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—

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“(a) a Saturday except with the agreement of the bene-
ficiary; or

“(b) a Sunday.”

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**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)**”.

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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:

“60O Interpretation

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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

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

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“<*working towards employment plan*> <**personal develop-
ment and employment plan**> or **plan** means a plan that—

“(a) has goals—

“(i) to assist the beneficiary to <*work*> <move>
towards employment; and

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- “(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 will be taken to facilitate achievement of those goals by— 5
- “(i) the beneficiary; and
- “(ii) if agreed by the chief executive, the department:
- “(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: 10
- “(i) develop his or her capabilities; or
- “(ii) improve his or her employment prospects; or
- “(iii) obtain employment. 15
- “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>* *<parenting>* responsibilities and individual circumstances allow: 20
- “(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. 25
- “60Q <Working towards employment plans><Personal development and 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)**: 30
- “(b) to develop, in co-operation and with the assistance of the chief executive, a *<working towards employment plan>* *<personal development and employment plan>* for the person based on the matters referred to in **subsection (2)**: 35

- “(c) to co-operate with the chief executive in the conduct of an annual review of the person’s *<working towards employment plan>* <personal development and 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,>* <personal development and employment plan,> the chief executive considers the person requires a new *<working towards employment plan>* <plan>. 5 10
- “(2) The matters referred to in **subsection (1)** are—
- “(a) any features of the person’s individual *<or family>* circumstances <or parenting responsibilities> that may *<be a barrier to the person obtaining employment>* <affect the ability of the person to obtain employment>; and 15
- “(b) any specific constraints arising from those circumstances *<or responsibilities>* that the person may have in obtaining and sustaining employment; and 20
- “(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 facilitating the most *<cost-effective>* <effective> path to enable the person to obtain employment. 25
- “(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>* <personal development and employment plan> does not complete his or her development of the plan unless the person signs it: 30
- “(b) a document developed by any person as his or her *<working towards employment plan>* <personal development and employment plan> is not a *<working towards employment plan>* <plan> unless he or she signs it: 35
- “(c) a *<working towards employment plan>* <personal development and employment plan> developed in 40

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> <personal development and employment plan> does not create any rights or obligations that are enforceable in a court or tribunal. 5
- “(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— 10
- “(a) a benefit under section 21 (the widows’ benefit):
 - “(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> <personal development and employment plans>** 15
- “(1) A <working towards employment plan> <personal development and employment plan> should be—
- “(a) developed by the beneficiary with the assistance of the chief executive: 20
 - “(b) a plan that is acceptable to the beneficiary and that the beneficiary is willing to sign.
- “(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> <personal development and 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)**. 25
- “(3) At any time after a <working towards employment plan> <personal development and 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. 30
- “(4) If a beneficiary asks for, or agrees to, a review of the beneficiary’s <working towards employment plan> <personal development and employment plan>,— 35

- “(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. 5
- “60S **Beneficiary must demonstrate commitment to <personal development and employment> plan at annual review**
- “(1) This section applies to a beneficiary who has signed a <working towards employment plan> <personal development and employment plan> developed in accordance with a request under **60Q(1)**. 10
- “(2) The chief executive must review the <personal development and employment> plan annually with the beneficiary.
- “(3) If the plan has been replaced by a new <working towards employment plan> <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)**. 15
- “(4) At the annual review of the <personal development and employment> 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. 20
- Struck out (majority)**
- “(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 30
- “(b) undertaken any other activities relevant to the goals set out in that plan.

New (majority)

- “(5) The chief executive determines whether a beneficiary has demonstrated a commitment to achieving the goals set out in a personal development and employment 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,—
- “(a) the extent to which the beneficiary has—
- “(i) undertaken the activities set out in that plan; or
- “(ii) undertaken any other activities relevant to the goals set out in that plan; and
- “(b) if the beneficiary has failed to undertake any or all of the activities set out in the plan, whether those activities were realistically achievable during the period under consideration.
- “(6T) **Department must explain rights and obligations in relation to <working towards employment plans> <personal development and employment plans>** The chief executive must take reasonable and appropriate steps to make every beneficiary aware, before the beneficiary signs a <working towards employment plan> <personal development and 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> <plan>; and
- “(b) the effect and consequences of signing a <working towards employment plan> <plan>; and
- “(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
- “(d) the beneficiary’s right under **section 60R(3)** to ask for a review of his or her <working towards employment plan> <plan>; and
- “(e) the beneficiary’s right under sections 10A and 12J to review and appeal decisions relating to the <working towards employment plan> <plan>.

- “60U **Failure to comply with <working towards employment plan> <personal development and 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,—
- “(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> <personal development and employment plan>.
- “(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 <personal development and employment> plan (if the beneficiary has one) to determine whether it is appropriate; and
- “(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 <personal development and employment> plan if—
- “(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 <personal development and employment> plan.
- “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**.

- “(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. 5
- “(3) The purposes of the meeting and review period under **sub-section (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: 10
- “(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> <personal development and employment plan>, to give the beneficiary the opportunity to co-operate in developing a new <working towards employment plan> <plan> within that period. 15
- “60W **Failure without good and sufficient reasons** 20
- “(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,— 25
- “(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 30
- “(b) in the case of a beneficiary who has failed to demonstrate commitment to the goals in the beneficiary’s <working towards employment plan> <personal development and 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. 35

- “(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 a good and sufficient reason to comply with a requirement under **section 60Q(1)**. 5
- “(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>* *<plan>* unless, within the period, the beneficiary develops a new *<working towards employment plan>* *<personal development and employment plan>*. 10
- “(4) In this section, **specified activity**—
- “(a) means—
- “(i) an activity in the beneficiary’s current *<working towards employment plan>* *<personal development and employment plan>*; or 15
- “(ii) a *pre-employment activity* (being an activity designed to prepare a person for employment); but 20
- “(b) does not include any activity that requires the beneficiary to seek employment or undertake any work.
- “60X **Procedure for imposing sanctions**
- “(1) This section applies if a sanction is to be imposed on a beneficiary under **section 60Y**. 25
- “(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—
- “(a) stating that the beneficiary has failed to comply with a specified obligation under this Act; and 30
- “(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 35
- “(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
- “(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. 5
- “(3) Section 114 applies with all necessary modifications to notices under this section.
- “60Y **Sanctions for failure to comply with obligations in relation to <working towards employment plan> <personal development and employment plan>** 10
- “(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 15
- “(b) if, after 4 weeks from the <date on which the reduction under **paragraph (a)** takes effect,> <applicable date,> 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. 20
- “(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)**. 25

New (majority)

- “(3A) For the purposes of **subsection (1)(b)**, the **applicable date** is—
- “(a) the date on which the reduction under **subsection (1)(a)** takes effect; or
- “(b) in the case of a person to whom **section 60Z(4)** applies, the date on which that person was entitled to receive the benefit without reduction after agreeing to comply under **section 60Z(2)**. 30
- “(4) For the purposes of this section and **section 60Z**, a person **complies** if the person— 35

- “(a) remedies the relevant failure; or
- “(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> <personal development and employment plan>. 5

“60Z **Effect of compliance <or agreement to comply>**

- “(1) 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**. 10

New (majority)

- “(2) Subject to **subsection (4)**, if a person agrees to comply within a period set by the chief executive, 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**. 15
- “(3) The chief executive must give to every person to whom **subsection (2)** applies a notice that—
 - “(a) confirms the agreement under **subsection (2)**; and
 - “(b) states the period for compliance set under **subsection (2)** (which must be a period of not less than 10 working days from the date the notice is given in accordance with section 114, which applies with all necessary modifications). 20
- “(4) If a person who has agreed to comply fails to do so within the period set under **subsection (2)** and the chief executive considers that the person does not have a good and sufficient reason for the failure,—
 - “(a) the chief executive must apply the sanctions set out in **section 60Y(1)**: 30
 - “(b) the chief executive is not required to comply with **sections 60V to 60X** before applying those sanctions, and **section 60Y(3)** does not apply:

New (majority)

“(c) the appropriate rate of reduction under **section 60Y(1)** is the rate of reduction that applied immediately before that reduction ceased under **subsection (2)**, unless a higher rate of reduction is required under **section 60Y(1)(b)**.”

- 12 Interpretation** 5
- Section 61E(1) of the principal Act is amended by repealing the definition of **cash assets**, and substituting the following definition:
- “**cash assets**—
- “(a) means— 10
- “(i) money saved, invested, or banked with a bank or other institution:
- “(ii) money invested in securities, bonds, or debentures, or advanced on mortgage:
- “(iii) money invested in shares in a partnership or limited liability company or other incorporated or unincorporated body; but 15
- “(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 on a date calculated in accordance with section 80BA if— 5
- “(i) the applicant is subject to the non-entitlement period because of the application of section 60H; and
- “(ii) that section applies to the applicant because he or she is a person described in section 60H(2)(a): 10
- “(b) any other work-tested benefit commences on the later of—
- “(i) the date the applicant became entitled to receive it; or
- “(ii) the date the application for it was received.” 15

15 Delayed redundancy and retirement payments

Section 80BB(4) of the principal Act is emended by omitting the expression “86(1A)”, and substituting the expression “**86(1)**”.

16 Seasonal workers made redundant after benefit commences 20

Section 80BC(2) of the principal Act is amended by omitting the expression “86(1A)”, and substituting the expression “**86(1)**”.

17 Ending of benefits 25

Section 80BD(5) of the principal Act is amended by—

(a) repealing paragraph (a); and

(b) omitting from paragraph (b) the word “other”.

18 Payment of benefits 30

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 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:

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“85A Payments that are debts due to the Crown

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

- “(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):
- “(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—
 - “(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:
- “(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
 - “(ii) to which the person has no entitlement.”

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21 Recovery of payments made in excess of authorised rates 30

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

“(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

35

- “(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
- “(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). 5
- “(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)**.” 10
- (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)**”. 15
- (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: 20
- “(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> <wholly or partly by an error to which the debtor did not intentionally contribute if>—
- “(a) the debtor— 25
- “(i) received the sum comprising the debt in good faith; and
- “(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 30
- “(b) it would be inequitable in all the circumstances, including the debtor’s financial circumstances, to permit recovery.
- “(9B) In **subsection (9A)**, error— 35
- “(a) means—
- “(i) the provision of incorrect information <in writing> by an officer of the department:

- “(ii) any erroneous act or omission of an officer of the department that occurs during an investigation under section 12:
- “(iii) any other erroneous act or omission of an officer of the department; but

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Struck out (majority)

- “(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 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.”

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New (majority)

- “(b) does not include the simple act of making a payment to which the recipient is not entitled if that act is not caused, wholly or partly, by any erroneous act or omission of an officer of the department.”

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22 ~~<Section 86(1E) and (1F) repealed>~~**<Recovery of payments made in excess of authorised rates>**

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- (1) **Subsection (2)** comes into force on a date to be appointed by the Governor-General by Order in Council.

Struck out (majority)

- (2) Section 86(1E) and (1F) of the principal Act (as amended by **section 21(2)** of this Act) are repealed.

New (majority)

- (2) Section 86 of the principal Act (as amended by **section 21(2)** of this Act) is amended by repealing subsections (1E) and (1F).

23 Application and obligations of work test

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

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“(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”.

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24 Section 104 repealed

Section 104 of the principal Act is repealed.

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)**”.

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New (majority)

25A Application of Health and Safety in Employment Act 1992 and Human Rights Act 1993

Section 123C of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

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- “(1) In this section, **person A** is a person—

“(a) who, in accordance with his or her job seeker agreement or under section 122 or 123B, is doing work as part of a job seeker activity or an activity in the community; or

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“(b) who is a beneficiary and, in accordance with a personal development and employment plan or otherwise, is doing work as part of an employment related activity arranged by the department.”

New (majority)

25B New section 132AA inserted

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

- “132AA Regulations exempting items from treatment as income or cash assets may have retrospective effect** 5
- “(1) This section applies to regulations made under **section 132** that—
- “(a) declare items or amounts of income or income from a specified source not to be income; or
- “(b) declare items of cash assets or cash assets of a specified kind not to be cash assets. 10
- “(2) Any regulations to which this section applies have effect in respect of any income or cash assets specified in the regulations on and after any date specified in the regulations (which may be a date before, on, or after the date on which the regulations are made).” 15

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** 20
- “(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 25
- “(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: 30
- “(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. 35

- “(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 5
 - “(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 10
 - “(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)**. 15
- “(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. 20

Part 3

Transitional provisions and consequential amendments to other enactments

Transitional provisions 25

- 28 Transitional provisions relating to review of decisions**
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). 30

- 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). 5
- (2) On the date that this section comes into force,—
- (a) a person to whom this subsection applies—
- (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 10
- (ii) ceases to be subject to any sanctions to which the person was subject under section 117 of the principal Act; and
- (b) a benefit granted to a person to whom this subsection applies,— 15
- (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
- (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. 20
- (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. 25
- (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 30
- (b) is entitled to be granted the benefit applied for if he or she otherwise qualifies for it.
- (5) Nothing in **subsection (4)** limits the application of section 80BA of the principal Act. 35
- 30 Transitional provision relating to recovery of debt**
- 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)**); 5
and
- (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). 10

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**”. 15
- (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”. 20

s 27 **Schedule**
New Schedules 3 and 16 of principal Act substituted

ss 21, 24 **Schedule 3**
Rates of widows' benefits

1	(a)	To a beneficiary with 1 dependent child	<\$221.37> <\$225.40> a week, subject to Income Test 1	5
	(b)	To a beneficiary with 2 or more dependent children	<\$241.51> <\$245.91> a week, subject to Income Test 1	10
2		To a beneficiary without any dependent children	<\$160.99> <\$163.92> a week, subject to Income Test 1	15
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.		20

Schedule 16
Rates of domestic purposes benefits

ss 27B, 27C, 27H

1	(a)	To a beneficiary with 1 dependent child	<\$221.37> <\$225.40> a week, subject to Income Test 1	5
	(b)	To a beneficiary with 2 or more dependent children	<\$241.51> <\$245.91> a week, subject to Income Test 1	10
2		To a beneficiary without any dependent children	<\$160.99> <\$163.92> a week, subject to Income Test 1	15
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.		20

Legislative history

3 December 2001
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Introduction (Bill 178-1)
First reading and referral to Social Services Committee

