

SOCIAL WELFARE REFORM BILL

EXPLANATORY NOTE

Clause 1 relates to the Short Title.

PART I

SOCIAL SECURITY ACT 1964

Clause 2 provides for Part I of the Bill and the Schedule to the Bill to be read together with and deemed part of the Social Security Act 1964 (in this Part of this Explanatory Note referred to as the principal Act).

Clause 3, subclause (1) amends the definition of the term “income” in section 3 (1) of the principal Act to provide that a lump sum income-related insurance payment received by a person is to be treated as income to the extent of income lost by the person over a maximum period of 10 weeks from the date of the contingency in respect of which the payment was made.

Subclause (2) also amends the definition of the term “income” to provide that any money received under the Children, Young Persons, and Their Families Act 1989 in respect of the care of a child or young person (as those terms are defined in that Act) is not to be regarded as income.

In addition, this subclause amends the definition of the term “income” to provide that it does not include—

- (a) Any lump sum payment received by a person—
 - (i) From a life insurance policy on the life of the person’s deceased spouse (including a de facto spouse); or
 - (ii) Where the person is a dependent child, from a life insurance policy on the life of his or her deceased parent or step-parent; or
 - (iii) From any superannuation scheme (unless the payment is considered to be for an income-related purpose (as defined in section 3 (1) of the principal Act), having regard to the criteria in section 3 (4) of the principal Act).
- (b) Any part of a lump sum income-related insurance payment used or committed to repay or pay amounts on account of any existing debt of the person.
- (c) Any part of a lump sum income-related insurance payment used or committed to pay essential costs arising from the applicant’s health or disability arising from the contingency in respect of which the

insurance payment was made, to the extent that assistance is not available under the Social Security Act 1964 or any other Act.

Subclause (3) amends the definition of the term “net average wage” to make it clear that the net average wage referred to is that applying in New Zealand.

The amendment is not to affect the outcome of any proceedings in any court commenced before 29 November 1994 (See *subclause (6)*).

Subclause (4) amends the definition of the term “pay day” so that it refers to a date as well as a day.

Subclause (5) amends the definition of the term “temporary employment” so that it refers to full employment for a period of 26 weeks instead of 13 weeks.

Clause 4 amends section 11 of the principal Act, relating to the power of the Director-General of Social Welfare to obtain information.

The amendment empowers the Director-General to obtain information for the purposes of determining, pursuant to the new section 69G of the principal Act (inserted by *clause 32* of this Bill), the amount that any person is required to pay toward the cost of the home-based disability support services supplied to that person, and whether a person who has been so assessed is entitled to that assessment.

Clause 5, subclause (1) amends section 12J of the principal Act, relating to rights of appeal to the Social Security Appeal Authority, to provide that there is a right of appeal only in respect of decisions that have been confirmed or varied by a benefits review committee or that were made by the Director-General other than pursuant to a delegation by the Director-General.

Subclause (2) provides that the Appeal Authority does not have the authority to hear and determine any appeal on medical grounds against any decision in respect of a veteran’s pension.

Such an appeal may be made pursuant to the amendment made to section 53A of the principal Act by *clause 8* of this Bill.

Clause 6 amends section 12k of the principal Act, relating to the procedure on appeal.

The amendments take into account the fact that an appeal lies only after a review of a decision by a benefits review committee (where the decision was made under delegated authority) and also provide that the parties to an appeal are the applicant or beneficiary affected and the Director-General (not the benefits review committee).

Clause 7 amends section 27z of the principal Act, relating to the effect of deduction notices in respect of liable parent contributions.

That section was repealed by the Child Support Act 1991 but preserved by that Act in respect of arrears of contributions.

Section 27z (2A) prevents a deduction notice from being issued for more than the amount of the contribution payable before the liability to make current contributions ceased. The amendment is intended to allow a deduction notice to be issued for an amount commensurate with the debtor’s ability to pay.

Clause 8 amends section 53A of the principal Act, relating to appeals on medical grounds.

The amendment provides for a right of appeal to a Board of 3 medical practitioners if any claim for a veteran’s pension under section 8 of the Social Welfare (Transitional Provisions) Act 1990, on the grounds of the applicant’s mental or physical infirmity, is declined, or any such pension is cancelled on those grounds.

Clause 9 amends section 60 (3) of the principal Act to omit a reference to section 60i. Section 60i is repealed by *clause 14* of this Bill.

In addition, it is provided that an unemployment benefit to which section 60(3) of the principal Act applies is to commence on the date of entitlement or application, whichever is the later, rather than the day after that date.

Clause 10 repeals section 60A of the principal Act, relating to entitlement to training benefits, and substitutes a new section.

The new section differs from the repealed section in the following respects:

- (a) It is now stated that the purpose of section 60A is to provide assistance to unemployed persons to enable them to undertake employment-related training that will enhance their prospects of obtaining employment:
- (b) A person must be unemployed to qualify for the benefit:
- (c) It is now provided that a person is not entitled to a training benefit if, in the Director-General's opinion,—
 - (i) That person has become unemployed; or
 - (ii) That person has taken leave with or without pay from his or her usual employment—
 in order to undertake employment-related training.

Clause 11 amends section 60c of the principal Act to provide that a person is not entitled to receive a training benefit until his or her employment (if any) has ceased.

Clause 12 amends section 60F of the principal Act, relating to independent youth benefits. The amendments provide as follows:

- (a) The grounds for eligibility set out in section 60F(1)(b)(ii) and (iv) are made conjunctive rather than disjunctive:
- (b) It is provided that a person who is enrolled in a full-time course of secondary instruction is not entitled to an independent youth benefit if—
 - (i) That person has moved from his or her parent's home in order to better his or her educational prospects; and
 - (ii) There is no breakdown in the person's relationship with his or her parents.

Clause 13 amends section 60H of the principal Act, relating to certain unemployment "stand-down" periods, to provide that the "stand-down" is to commence on the day after the date of the relevant event rather than on the date of the event.

Clause 14 repeals section 60I of the principal Act, relating to the effect of certain redundancy payments on entitlement to benefits. That provision is now spent.

Clauses 15 to 19 amend sections 60J, 60K, 60KA, and 60L of the principal Act, and insert a new section 60JA.

The combined effect of the amendments is as follows:

The amendments provide for a 26-week "stand down" from receiving an unemployment benefit, a job search allowance, or an independent youth benefit for a second failure without a good and sufficient reason to attend an acceptance interview for any employment-related training course, or to undertake or complete an employment-related training course to which the beneficiary was referred by the New Zealand Employment Service, where the beneficiary was accepted on the course.

This has necessitated the removal of the power in section 60J(1)(a)(ii) to stand down a benefit for 26 weeks for a first failure without a good and sufficient reason to undertake work-related training.

Section 60j is also amended to provide for the “stand down” to commence on the day after the date of benefit cancellation to make the wording consistent with other similar provisions.

The new section 60JA provides for the 26 week stand-down period referred to above.

Clause 20 amends section 60N of the principal Act, relating to the “stand-down” if a beneficiary fails to participate in a community task force project.

The amendment provides that the “stand-down” is to commence on the day after the date of benefit cancellation to make the wording consistent with other similar provisions.

Clause 21 amends the definition of the term “accommodation costs” in section 61E of the principal Act.

The amendment provides that the definition does not apply for the purposes of the payment of a tenure protection allowance under sections 61FC and 61FD.

Clause 22 amends section 61EA, relating to entitlement to an accommodation supplement.

The amendment will preclude persons with a psychiatric, physical, intellectual, or sensory disability from receiving accommodation supplement if their accommodation costs, or care costs (other than care in their own home), are being funded by a Regional Health Authority.

NOTE—This clause does not come into force until 1 July 1995.

Clause 23 amends section 61EB of the principal Act, relating to the provision of accommodation supplements to married joint tenants.

The amendment is intended to clarify the provision.

Clause 24 amends section 61EC of the principal Act, relating to the rates of accommodation supplement, to correct an error. The change should have been made by the select committee when it changed section 61EA.

Clause 25 amends section 61FC of the principal Act, relating to the tenure protection allowance.

The first amendment is intended to clarify the proviso to subsection (1).

The second amendment defines “accommodation costs” for the purpose of calculating the rate of the tenure protection allowance.

“Accommodation costs”, in relation to premises that are rented by any person, means the rental that the chief executive of Housing New Zealand Limited or the Ministry of Maori Development certifies is the market rental of the premises.

Clause 26 amends section 61FD of the principal Act, relating to the rate of tenure protection allowance, to correct a drafting error.

Clause 27, subclauses (1) to (3): Section 61G of the principal Act, relating to special benefits, is repealed, and a new section substituted.

At present, a special benefit is granted at the discretion of the Director-General after taking into account all of an applicant’s financial circumstances and commitments.

The new section 61G provides that special benefits are payable subject to and in accordance with regulations made pursuant to the new section 132D of the principal Act (inserted by *clause 46* of this Bill).

The new section 61G is to come into force on a date to be fixed by Order in Council. The date fixed will be the same date as the date on which regulations made under the new section 132D are to come into force.

Subclause (4) provides that, on and after 1 July 1995, a special benefit is not to be fixed in respect of the costs of disability services or residential care supplied

to any person who has a psychiatric, intellectual, physical, or sensory disability and—

- (a) Is receiving funding from a purchaser towards his or her accommodation costs (as that term is defined in section 61E of the principal Act); or
- (b) A purchaser is funding his or her care (other than care in his or her own home) by any person or organisation.

Clause 28 amends section 63 of the principal Act, relating to conjugal status for benefit purposes.

The amendment extends the ambit of that section to include the assessment of the financial means of any person under section 69F of the principal Act (relating to residential care disability services) and under the new section 69C of the principal Act, as inserted by *clause 32* of this Bill (relating to home-based disability support services).

Clause 29, subclause (1) amends section 68A of the principal Act (as inserted by section 6 of the Social Security Amendment Act 1994) to refer to “disability” rather than “disablement”. The former term is used in the new subsection (2) of section 69c of the principal Act (as inserted by *clause 30 (2)* of this Bill).

Subclauses (2) to (4) amend section 68A of the principal Act (as so inserted) to extend the ambit of the provisions relating to debt insurance payments and health and disability insurance payments to include special needs grants and special assistance provided for in regulations made pursuant to the new section 132c of the principal Act (inserted by *clause 46* of this Bill).

In addition, *subclause (4)* widens the definition of the term “debt insurance payment” (for the purposes of section 68A) to include insurance payments that would fall within paragraph (d) of the definition of “income-related purpose” (as inserted by section 3 (1) of the Social Security Amendment Act 1994) but for any reason are not treated as being income.

Clause 30 amends section 69c of the principal Act, relating to the disability allowance.

Subclause (1) provides that New Zealand superannuation and veteran’s pension is to be taken into account when assessing the income of an applicant for a disability allowance and the income of his or her spouse.

Subclause (2) provides that a disability allowance is now only available for continuing regular expenditure arising from a disability that—

- (a) Is likely to continue for a minimum of 6 months; and
- (b) Results in a reduction of independent function to the extent that the person requires ongoing support or ongoing supervision by a registered health professional—

but only to the extent that assistance towards those expenses is not available under the Social Security Act 1964 or any other Act.

Subclause (3) defines the terms “disability” and “registered health professional”.

“Disability” has the meaning ascribed to it by section 21 (1) (h) of the Human Rights Act 1993.

“Registered health professional” has the same meaning as in the Health and Disability Commissioner Act 1994.

Clause 31 makes further provision in respect of section 69c of the principal Act, relating to the disability allowance.

It is provided that a disability allowance is not payable in respect of any of the costs of disability services or residential care supplied to any person who has a psychiatric, intellectual, physical, or sensory disability and—

- (a) Is receiving funding from a purchaser towards his or her accommodation costs (as that term is defined in section 61E of the principal Act); or

- (b) A purchaser is funding his or her care (other than care in his or her own home) by any person or organisation.

NOTE—This clause does not come into force until 1 July 1995.

Clause 32 inserts a new section 69G in the principal Act.

The new section, together with the new Twenty-eighth Schedule (added by *clause 49* of this Bill) makes the following provisions:

- (a) Authority is given to the Director-General of Social Welfare to make financial assessments in respect of home-based disability support services. The assessments will be used by regional health authorities to make an appropriate charge for such services.
- (b) Home-based disability support services are disability services as defined in s. 3 (1) of the principal Act (but do not include services supplied by a registered health professional that treat or relieve or rehabilitate from the person's disability condition) that support and allow a person to remain in his or her own home and are funded by a purchaser:
- (c) Persons liable to have their financial means assessed in respect of home-based disability support services are those who are assessed by a purchaser as requiring them, are not a child, and are not holders of community services cards:
- (d) A financial means assessment is to be made on application by or on behalf of the person whose means are being assessed, and the person is liable to pay the amount assessed for the home-based disability support services supplied to him or her:
- (e) An applicant's income for the financial means assessment includes the income of his or her spouse and also includes any benefit or allowance under the Social Security Act 1964 or the Social Welfare (Transitional Provisions) Act 1990 or the War Pensions Act 1954 (but does not include a war disability pension). Income also includes the gross amount received by the applicant from any persons boarding with him or her other than the first two:
- (f) Cash assets (with the same meaning as in section 61E of the principal Act) of the applicant and his or her spouse are to be treated as income on the same basis as in section 61EA of the principal Act.
- (g) If the applicant or spouse has not realised any assets available for the applicant's personal use, the Director-General may treat them as cash assets for the purposes of the assessment:
- (h) An assessment is to be dated and is to state the amount the applicant is assessed to pay. A copy is to be supplied to the applicant and the Director-General may supply a copy to the applicable purchaser:
- (i) The Director-General is to review any assessment from time to time and may revise it in the same circumstances and with the same consequences as are listed in section 69F (5) of the principal Act:
- (j) An assessment, or revision of an assessment, is to be made in the same circumstances and with the same consequences as in section 69F (6) of the principal Act, that is, if there has been any deprivation of income or assets by the applicant or spouse:
- (k) Persons whose means have been assessed are to advise changes of circumstances (in the same form as in section 69F (8) of the principal Act):
- (l) The assessment is to be made on the basis of the applicant's annual income (including that of his or her spouse) and "specified outgoings".
- (m) "Specified outgoings" means the annual total of—

(i) The maximum rate for the time being of an invalid's benefit that would be payable to the person if he or she was qualified to receive such benefit:

(ii) An amount of \$10 per week (for the purpose of paying costs incidental to the provision of home help):

(iii) The following employment-related expenses of the person and his or her spouse, calculated on an annual basis, namely—

(A) Fees or subscriptions payable on an annual or regular basis to any employees organisation (within the meaning of the Employment Contracts Act 1991):

(B) Contributions to any superannuation scheme:

(C) Contributions to any employee welfare fund:

(D) Any other essential costs of that employment (not including travel to and from work) to the extent that they are not reimbursed by the employer:

(iv) The person's accommodation costs (within the meaning of section 61E of the Act):

(v) The person's telephone rental (being the standard line charge and base user charge including hire of a basic telephone applicable to a person living in the place where the person lives) calculated on an annual basis:

(vi) The cost of the person's ongoing and regular medical and pharmaceutical expenses calculated on an annual basis:

(vii) The cost of the person's regular essential expenses (being expenses other than the cost of food, clothing, travel, running a motor vehicle, life insurance, house and contents insurance, hire purchase, entertainment, and personal savings) calculated on an annual basis:

(n) The Director-General is to calculate the amount of the applicant's annual income and specified outgoings, and is to deduct the amount of the specified outgoings from the annual income:

(o) If the result of the calculation is \$0 or less than \$0, the amount the applicant is required to contribute towards the cost of the home-based disability support services supplied to that applicant is \$0:

(p) If the result of the calculation is greater than \$0 but less than the total cost of the home-based disability support services supplied to the applicant, the amount the applicant is required to contribute towards the cost of those services is that result:

(q) If the result of the calculation is equal to or greater than the total cost of the home-based disability support services supplied to the applicant, the amount the applicant is required to contribute towards the cost of those services is the total cost of those services:

(r) The Director-General is to convert the assessment to a weekly amount.

Clause 33 amends section 72 of the principal Act to correct a cross-reference and insert a cross-reference which should have been inserted when provision was made for the tenure protection allowance.

Clause 34 repeals section 73 of the principal Act, relating to limitation of benefits where an applicant is entitled to make a claim under the Family Protection Act 1955, and substitutes a new section.

The new section is updated to exclude repealed provisions and to include a reference to the Matrimonial Property Act 1963 (as saved by sections 5 (1) and 57 (4) of the Matrimonial Property Act 1976).

In addition, the new section will apply in respect of financial assessments made under the new section 69C of the principal Act (inserted by *clause 32* of this Bill).

Clause 35 amends section 77 of the principal Act, relating to the effect of a beneficiary's absence from New Zealand.

The effect of the amendment is that a benefit may be paid to a beneficiary in respect of the first 4 weeks of any absence from New Zealand regardless of the length of that absence. At present, such a benefit is payable only if the beneficiary, except in special circumstances, is absent for 4 weeks or less.

NOTE—This clause is retrospective to 1 July 1994, but a decision made, on or after that date and before the commencement of this Bill, to cancel or suspend any benefit need not be reviewed unless a written application is made, by or on behalf of the particular beneficiary affected, to review that decision.

Clause 36 amends section 80 of the principal Act, relating to the commencement and termination of benefits.

Subclause (1) makes 2 amendments relating to the commencement date of certain benefits on the completion of the “high-income stand down”.

The first amendment inserts a reference to the transitional retirement benefit. That reference should have been inserted by the provisions providing for that benefit. This amendment is retrospective to 1 April 1994, being the date of commencement of the provisions relating to the transitional retirement benefit.

The second amendment provides for benefits to which the provision applies to commence on the date of entitlement or application rather than the day after that date.

Subclause (2) provides that where—

- (a) Any person in receipt of a benefit accepts an offer of employment that results in the cancellation of the benefit; and
- (b) The duration of that employment is such that it is temporary employment (whether or not the person was aware that the employment was temporary employment when the person accepted the offer); and
- (c) The person applies for a benefit following the termination of the employment—

the payment of the benefit shall commence on—

- (d) The day on which the applicant became entitled to receive it; or
- (e) The day on which the application was received—

whichever is the later date.

The normal 2-week “stand down” will not apply in such circumstances. However, any other applicable “stand down”, such as misconduct as an employee and high income earner, will still apply.

Subclause (3) amends paragraph (b) of the proviso to section 80 (8) of the principal Act by omitting the reference to the transitional retirement benefit.

The result is that, when a single transitional retirement beneficiary dies, the benefit will cease on the date of death pursuant to paragraph (c) of the proviso, rather than at the earlier time specified in paragraph (b).

Clauses 37 and *38* amend sections 80B and 80C of the principal Act, relating to the effect of high income on entitlement to benefits and the effect of certain sections (relating to “stand downs”) on entitlement to supplementary benefits and on spouses, to insert a reference to the new section 60JA (inserted by *clause 16* of this Bill).

In addition, *clause 37* provides for the “high-income stand down” to commence on the day after the date of cessation of employment rather than on that date.

Clause 39 amends section 82 of the principal Act, relating to the dates of payment, and the methods of payment, of benefits.

Subclause (1) makes it clear that there may be more than one benefit pay day in each month.

Subclause (2) provides that advance payments of benefits made under section 82 (6) may be recovered by civil action or by deduction notice under section 86A, in addition to being able to be recovered from future instalments of benefit.

Subclause (3), which is to come into force on a date to be fixed by Order in Council, provides that advance payment of benefits under section 82 (6) are to be made subject to and in accordance with regulations made pursuant to the new section 132D of the principal Act (inserted by *clause 46* of this Bill).

Clause 40 amends section 86 of the principal Act, relating to the recovery of payments.

Subclause (1) provides authority to recover, by way of deduction from benefit, or by civil action, or by deduction notice under section 86A, amounts of special assistance granted under a welfare programme approved by the Minister of Social Welfare under section 124 (1) (d) of the Act that are recoverable from the person under the terms of the welfare programme.

Subclauses (2) and (3) provide authority to recover, by way of deduction from benefit or grant, or by civil action, or by deduction notice under section 86A, amounts of money paid as a grant for special needs or special assistance under any programme provided for in regulations made pursuant to the new section 132c (inserted by *clause 46* of this Bill), where a person who received it was not entitled to it or where it was recoverable from the person who received it pursuant to the regulations.

Clause 41 amends section 86A of the principal Act, relating to the issue of deduction notices in respect of debts due to the Crown under the principal Act.

Subclause (1): The amendment applies section 86A to all debts due to the Crown under the principal Act, not just those debts due under section 86.

Subclause (2) provides that a deduction notice may be issued under section 86A (1)—

- (a) Notwithstanding that the debt to the Crown may not be recovered by civil action in a Court of law because of the Limitation Act 1950:
- (b) To the Accident Rehabilitation and Compensation Insurance Corporation requiring that Corporation to deduct the amount due from any sum of compensation in respect of loss of earnings or loss of potential earning capacity that is payable, or becomes payable, to the debtor under the Accident Rehabilitation and Compensation and Insurance Act 1992:
- (c) To recover,—
 - (i) Any amount that may be recovered as a debt due to the Crown under section 27x of the principal Act (as saved by section 256 (1) of the Child Support Act 1991):
 - (ii) Any amount of maintenance debt (within the meaning of section 61CA of the principal Act).

Subsection (3) provides that the new subsection (1A) inserted by *subclause (2)* of this clause is to apply to all debts to the Crown recoverable under the principal Act, whether or not the Limitation Act 1950 prevented recovery of the debt by civil action in a Court of law before the coming into force of this clause.

Clause 42 amends section 124 of the principal Act, relating to money payable out of the Crown Bank Account for the purposes of the principal Act.

Subclause (1) provides for the payment of any money that may be appropriated by Parliament for the purpose of making grants under regulations made pursuant to the new section 132c of the principal Act inserted by *clause 46* of this Bill.

Subclause (2) repeals paragraph (d) of section 124 (1) of the principal Act, and substitutes a new paragraph.

The new paragraph makes it clear that the Minister of Social Welfare has the power, under that paragraph, to establish and approve welfare programmes for special assistance.

Subclause (3) provides for consequential repeals.

Subclause (4) declares that the Minister of Social Welfare or, as the case may require, the Minister of Social Security has always had the power under section 124 (1) (d) of the principal Act to establish and approve any welfare programme for special assistance for the purposes of that section; and every such welfare programme that has at any time been so approved, and any payments or grants of special assistance and actions taken under it, are confirmed and declared to be and always to have been valid.

Clause 43 amends section 125 of the principal Act, relating, *inter alia*, to advances to beneficiaries for repair or maintenance of homes.

At present such advances are available to all beneficiaries and spouses of beneficiaries.

The amendment restricts eligibility to persons in receipt of—

- (a) A widow's benefit, a domestic purposes benefit, or an invalid's benefit under the principal Act; or
- (b) New Zealand superannuation, a veteran's pension, or a transitional retirement benefit under the Social Welfare (Transitional Provisions) Act 1990; or
- (c) A pension or allowance under the War Pensions Act 1954—
or the spouse of such a person.

However the Director-General of Social Welfare may, in the Director-General's discretion, treat any person in receipt of any other benefit under the principal Act as a beneficiary for the purposes of section 125 where the Director-General is satisfied that exceptional circumstances exist which justify that treatment.

Clause 44 inserts a new section 126A in the principal Act.

The new section protects the Department of Social Welfare from claims of discrimination under the Human Rights Act 1993 and the Human Rights Commission Act 1977 on the grounds of sex and marital status in relation to decisions on benefits, welfare programmes, and other assistance analogous to a benefit made before 1 December 1999.

The provision applies to decisions made pursuant to a Ministerial direction under section 5 (2) of the principal Act, a welfare programme under section 124 (1) (d) of the principal Act, or any document (including a manual) of the type referred to in section 22 (1) of the Official Information Act 1982.

Although the Human Rights Act 1993 and the Human Rights Commission Act 1977 exempt matters contained in Acts and regulations (in the case of the Human Rights Act 1993, until 1 December 1999), the matters referred to above are not in Acts or regulations and are not protected by the savings clauses in the 2 Acts.

Clause 45 amends section 127 of the principal Act, relating to offences, to include a reference to financial means assessments made under the new section 69G (inserted by *clause 32* of this Bill).

Clause 46 inserts new sections 132c and 132d in the principal Act.

The new section 132c, subsection (1) empowers the making of regulations for all or any of the following purposes:

- (a) Providing for a programme for the making of grants for special needs, and prescribing the eligibility for, and conditions on which, such grants may be made, and limiting the amounts of such grants:

- (b) Providing for programmes for the making of grants of other special assistance, and prescribing the eligibility for, and the conditions on which, such grants may be made, and limiting the amounts of such grants.

Subsection (2) provides that any such regulations—

- (a) Are to be administered by the Director-General of Social Welfare in the Department of Social Welfare:
- (b) May provide for any specified provision of Part I of the principal Act to apply to and in respect of—
- (i) Any programme referred to in the regulations; and
 - (ii) Any applicant for assistance under any such programme; and
 - (iii) Any other specified class or classes of person—
as if the grants authorised by any such programme were a benefit under Part I of the principal Act:
- (c) May provide that any grant made under any such programme shall be recoverable from the person to whom or for whose benefit it was made, and prescribe conditions upon which such recovery may be made.

The new section 132D empowers the making of regulations for all or any of the following purposes:

- (a) Prescribing eligibility for, and the conditions on which, grants of special benefits under section 61G of the principal Act may be made, and the rates of such benefits:
- (b) Prescribing eligibility for, and the conditions on which, advance payments of benefit under section 82 (6) of the principal Act may be made, and limiting the amounts of such advances.

Clause 47 amends clause 5 of the Ninth Schedule to the principal Act to correct an incorrect cross-reference and to correct an incorrect amount.

The clause is retrospective to 1 March 1991, being the date on which clause 5 was added to the Ninth Schedule.

Clause 48 repeals Part IV of the Eighteenth Schedule to the principal Act, which prescribed the maximum additional amount of accommodation supplement payable to a beneficiary in an institution or home.

The clause is to come into force on 1 July 1995, being the same date on which the new section 61EA (4) (e) of the principal Act (added by *clause 22* of this Bill) comes into force.

Clause 49 adds a new Twenty-eighth Schedule to the principal Act.

The new Schedule sets out the method of making financial means assessments for the purposes of the new section 69G of the principal Act (inserted by *clause 32* of this Bill). See the Explanatory Note for that clause.

PART II

ACCIDENT REHABILITATION AND COMPENSATION INSURANCE ACT 1992

Clause 50 provides for Part II of the Bill to be read together with and deemed part of the Accident Rehabilitation and Compensation Insurance Act 1992 (in this Part of this Explanatory Note referred to as the principal Act).

Clause 51 amends section 86 (2) of the principal Act, which sets out exceptions to the principle of compensation under that Act being inalienable.

The amendment adds section 86A of the Social Security Act 1964 to the list of exceptions to take into account the new subsection (1B) of section 86A inserted by *clause 41 (2)* of this Bill.

PART III

SOCIAL WELFARE (TRANSITIONAL PROVISIONS) ACT 1990

Clause 52 provides for Part III of the Bill to be read together with and deemed part of the Social Welfare (Transitional Provisions) Act 1990 (in this Part of this Explanatory Note referred to as the principal Act).

Clause 53 amends section 18A of the principal Act to provide that persons eligible for New Zealand superannuation and veterans' pensions who are living alone in boats are entitled to receive the living alone rate of payment.

PART IV

FAMILY PROCEEDINGS ACT 1980

Clause 54 provides for Part IV of the Bill to be read together with and deemed part of the Family Proceedings Act 1980 (in this Part of this Explanatory Note referred to as the principal Act).

Clause 55 inserts a new section 101B in the principal Act.

The new section provides that, without limiting section 101 of the principal Act or section 110 of the principal Act (as saved by section 259 (1) of the Child Support Act 1991), where any payment under a maintenance order is in arrear and unpaid, the Director-General of Social Welfare may issue a deduction notice under section 86A of the Social Security Act 1964 to any person (other than the employer of the person against whom the order was made in the capacity of the employer of that person) as if the payment in arrear and unpaid was a debt due to the Crown under that Act.

A deduction notice may be served on an employer pursuant to section 110 of the principal Act (as saved by section 259 (1) of the Child Support Act 1991).

PART V

CHILD SUPPORT ACT 1991

Clause 56 provides for Part V of the Bill to be read together with and deemed part of the Child Support Act 1991 (in this Part of this Explanatory Note referred to as the principal Act).

Clauses 57 and *58* remove from sections 256 and 259 of the principal Act, relating to savings in respect of liable parent contributions and outstanding maintenance liabilities, the references to expiry on 1 July 1998. There will now be no specified expiry date.

In addition, a reference to the new section 101B of the Family Proceedings Act 1980 inserted by *clause 55* of this Bill) is inserted in section 259 of the principal Act.

PART VI

HEALTH REFORM (TRANSITIONAL PROVISIONS) ACT 1993

Clause 59 provides for Part VI of the Bill to be read together with and deemed part of the Health Reform (Transitional Provisions) Act 1993 (in this Part of this Explanatory Note referred to as the principal Act).

Clause 60 amends section 26 (2) of the principal Act to provide that the repeal of Part II of the Disabled Persons Community Welfare Act 1975 by Order in Council is not to repeal sections 18 to 22A.

Those sections are to remain in force to ensure the current registration process for homes of the disabled remains in force until a new licensing procedure can be decided upon and enacted.

Clause 61 amends the principal Act to correct an error.

Section 24 (2) of the principal Act repealed all of the Social Security Amendment Act 1979, but only Part II of that Act should have been repealed.

The clause is retrospective to 1 July 1993, being the date of commencement of the principal Act.

PART VII

DISABLED PERSONS COMMUNITY WELFARE ACT 1975

Clause 62 provides for Part VII of the Bill to be read together with and deemed part of the Disabled Persons Community Welfare Act 1975 (in this Part of this Explanatory Note referred to as the principal Act).

Clause 63 amends section 22 of the principal Act, relating to inspection of homes for the disabled.

The amendment is consequential to the abolition of area health boards and the creation of the Ministry of Health.

It is now provided that inspections may be carried out by any officer of the Ministry of Health authorised by the Director-General of Health or any other person authorised by the Director-General of Health.

PART VIII

INLAND REVENUE DEPARTMENT ACT 1974

Clause 64 provides for Part VIII of the Bill to be read together with and deemed part of the Inland Revenue Department Act 1974 (in this Part of this Explanatory Note referred to as the principal Act).

Clause 65 amends section 13A of the principal Act, relating to the disclosure of information for matching purposes to extend the definition of “benefit” to include any grant for special needs or special assistance made pursuant to regulations made under the new section 132c of the Social Security Act 1964 (inserted by *clause 46* of this Bill).

Clause 66 makes the same amendment to section 13c of the principal Act, relating to disclosure of information for family support double payment identification.

Clause 67, subclause (1) makes the same amendment to section 13D of the principal Act, relating to disclosure of address information in relation to debtors.

Subclause (2) extends the definition of the term “debtor” in that section to include any person liable to pay any maintenance under the Family Proceedings Act 1980 that remains unpaid and that may be enforced against the person pursuant to section 259 of the Child Support Act 1991.

SOCIAL WELFARE REFORM

ANALYSIS

<p>Title</p> <p>1. Short Title</p> <p style="text-align: center;">PART I</p> <p style="text-align: center;">SOCIAL SECURITY ACT 1964</p> <p>2. This Part to be read with Social Security Act 1964</p> <p>3. Interpretation</p> <p>4. Power to obtain information</p> <p>5. Right of appeal</p> <p>6. Procedure on appeal</p> <p>7. Effect of deduction notices</p> <p>8. Right of appeal on medical grounds</p> <p>9. Commencement of unemployment benefit, etc.</p> <p>10. Training benefits</p> <p>11. Period for which training benefit payable</p> <p>12. Independent youth benefit</p> <p>13. Further conditions of entitlement for unemployment benefit, etc.</p> <p>14. Repealing spent provision</p> <p>15. Effect of refusal to seek or accept employment</p> <p>16. Effect of refusal to complete training</p> <p>17. Effect of undertaking full employment</p> <p>18. Effect of participation in community task force project or other approved scheme</p> <p>19. Effect of sections 60H to 60JA and section 60N on entitlement to supplementary benefits and on spouses</p> <p>20. Effect of failure to participate in community task force project</p> <p>21. Interpretation</p> <p>22. Accommodation supplement</p> <p>23. Special provision for married joint tenants</p> <p>24. Rates of accommodation supplement</p> <p>25. Tenure protection allowance</p> <p>26. Rate of tenure protection allowance</p> <p>27. Special benefit</p>	<p>28. Conjugal status for benefit purposes</p> <p>29. Special provisions applying to insurance payments</p> <p>30. Disability allowance</p> <p>31. Further provisions relating to disability allowance</p> <p>32. Financial means assessments for home-based disability support services</p> <p>33. Limitation where applicant receiving another benefit or war pension</p> <p>34. Limitation where applicant entitled to claim under Family Protection Act 1955, etc.</p> <p>35. Effect of absence of beneficiary from New Zealand</p> <p>36. Commencement and payment of benefits</p> <p>37. Effect of high income on entitlement to benefits</p> <p>38. Effect of sections 60H to 60JA, section 60N, and section 80B on entitlement to supplementary benefits and on spouses</p> <p>39. Payment of benefits</p> <p>40. Recovery of payments made in excess of authorised rates</p> <p>41. Deduction notices for debts</p> <p>42. Money payable out of Crown Bank Account</p> <p>43. Advances to beneficiaries and war pensioners for repair or maintenance of home, etc.</p> <p>44. Certain grounds of discrimination in Human Rights Act 1993 not to apply</p> <p>45. Offences</p> <p>46. New sections inserted</p> <p style="padding-left: 20px;">132c. Regulations in respect of special needs grants and special assistance</p> <p style="padding-left: 20px;">132d. Regulations for special benefits and advance payments of benefit</p> <p>47. Ninth Schedule amended</p> <p>48. Eighteenth Schedule amended</p> <p>49. New Twenty-eighth Schedule added</p>
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<p style="text-align: center;">PART II</p> <p style="text-align: center;">ACCIDENT REHABILITATION AND COMPENSATION INSURANCE ACT 1992</p> <p>50. This Part to be read with Accident Rehabilitation and Compensation Insurance Act 1992</p> <p>51. Compensation grant, or allowance inalienable</p> <p style="text-align: center;">PART III</p> <p style="text-align: center;">SOCIAL WELFARE TRANSITIONAL PROVISIONS ACT 1990</p> <p>52. This part to be read with Social Welfare (Transitional Provisions) Act 1990</p> <p>53. Living alone payments</p> <p style="text-align: center;">PART IV</p> <p style="text-align: center;">FAMILY PROCEEDINGS ACT 1980</p> <p>54. This Part to be read with Family Proceedings Act 1980</p> <p>55. Power to issue deduction notices under Social Security Act 1964</p> <p style="text-align: center;">PART V</p> <p style="text-align: center;">CHILD SUPPORT ACT 1991</p> <p>56. This Part to be read with Child Support Act 1991</p> <p>57. Savings in respect of outstanding liable parent contributions</p> <p>58. Savings in respect of outstanding maintenance liabilities</p>	<p style="text-align: center;">PART VI</p> <p style="text-align: center;">HEALTH REFORMS TRANSITIONAL PROVISIONS ACT 1993</p> <p>59. This Part to be read with Health Reforms (Transitional Provisions) Act 1993</p> <p>60. Amendments to Disabled Persons Community Welfare Act 1975</p> <p>61. Repeals</p> <p style="text-align: center;">PART VII</p> <p style="text-align: center;">DISABLED PERSONS COMMUNITY WELFARE ACT 1975</p> <p>62. This Part to be read with Disabled Persons Community Welfare Act 1975</p> <p>63. Inspection</p> <p style="text-align: center;">PART VIII</p> <p style="text-align: center;">INLAND REVENUE DEPARTMENT ACT 1974</p> <p>64. This Part to be read with Inland Revenue Department Act 1974</p> <p>65. Disclosure of information for matching purposes</p> <p>66. Disclosure of information for family support double payment identification</p> <p>67. Disclosure of address information in relation to debtors Schedule</p>
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A BILL INTITULED

An Act to amend various provisions relating to social welfare

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Social Welfare Reform Act 1994. 5

PART I

SOCIAL SECURITY ACT 1964

2. This Part to be read with Social Security Act 1964—
This Part of this Act and the Schedule to this Act shall be read together with and deemed part of the Social Security Act 1964* (in this part of this Act referred to as the principal Act). 10

3. Interpretation—(1) Section 3 (1) of the principal Act is hereby amended by repealing paragraph (c) of the definition of the term “income” (as substituted by section 3 (2) of the Social Security Amendment Act 1994), and substituting the following paragraph: 15

*R.S. Vol. 32, p. 625
Amendment: 1994, No. 86

“(c) Includes, whether capital or not and as calculated before the deduction (where applicable) of income tax,—

5 “(i) Any periodical income-related insurance payments; and

“ (ii) Any lump sum income-related insurance payment to the extent of the income lost by the person as a result of, and within a period of 10 weeks from, the occurrence of the contingency in respect of which the payment was made; and”.

10 (2) Section 3 (1) of the principal Act is hereby amended by adding to paragraph (f) of the definition of the term “income” (as so substituted) the following subparagraphs:

15 “(xiii) Any money received under the Children, Young Persons, and Their Families Act 1989 in respect of the care of a child or young person (as those terms are defined in that Act):

20 “(xiv) Any lump sum payment received by the person—

25 “(A) Under a contract of insurance on the life of the person’s deceased spouse or on the life of a deceased person who was, before his or her death, living together with the first-mentioned person in a relationship in the nature of marriage; or

30 “(B) Where the person is a dependent child, under a contract of insurance on the life of his or her deceased parent or step-parent; or

35 “(C) Under any superannuation scheme, not being a payment which the Director-General considers, having regard to the matters specified in subsection (4) of this section, is for an income-related purpose; or

40 “(xv) Any part of a lump sum income-related insurance payment received on the occurrence of a contingency by an applicant for a benefit that has been used or committed by the applicant—

45 “(A) To repay or pay any amounts on account of existing debt of the applicant; or

“(B) To pay any essential costs arising as a consequence of the applicant’s health or disability (being costs arising from the contingency in respect of which the payment was made) to the extent that assistance towards those costs is not available under this Act or any other Act:”.

(3) The said section 3 (1) is hereby amended by inserting in the definition of the term “net average wage” (as inserted by section 2 (3) of the Social Security Amendment Act 1991), after the word “published”, the words “New Zealand”.

(4) The said section 3 (1) is hereby amended by inserting in the definition of the term “pay day” (as substituted by section 37 (1) (a) of the Social Welfare (Transitional Provisions) Act 1990), after the word “day”, the words “or date”.

(5) The said section 3 (1) is hereby amended by omitting from the definition of the term “temporary employment” (as inserted by section 2 (3) of the Social Security Amendment Act 1991) the expression “13”, and substituting the expression “26”.

(6) Nothing in subsection (3) of this section shall affect any proceedings in any court in relation to a decision or determination under this Act concerning the interpretation of the term “net average wage” that were commenced on or before the 29th day of November 1994, or the decision of any court in any such proceedings.

4. Power to obtain information—Section 11 (2) of the principal Act (as substituted by section 3 of the Social Security Amendment Act (No. 3) 1993) is hereby amended by inserting, after paragraph (d), the following paragraph:

“(da) Determining, pursuant to section 69G of this Act, the amount that any person is required to pay toward the cost of the home-based disability support services supplied to that person, and whether a person who has been so assessed is entitled to that assessment; or”.

5. Right of appeal—(1) Section 12j of the principal Act (as inserted by section 4 of the Social Security Amendment Act 1973) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to this section, any applicant or beneficiary affected may appeal to the Appeal Authority against any decision or determination of the Director-General under—

- 5 “(a) Any of the provisions of Part I of this Act; or
- “(b) Sections 124 (1) (d) and 125 of this Act; or
- “(c) Part I of the Social Welfare (Transitional Provisions) Act 1990; or
- “(d) The Family Benefits (Home Ownership) Act 1964; or
- 10 “(e) Any regulations in force under section 132A or section 132B or section 132c or section 132D of this Act—

that has been confirmed or varied by a benefits review committee under section 10A of this Act, or that was made by the Director-General other than pursuant to a delegation under section 10 of this Act.”

15 (2) Section 12J (2) of the principal Act (as substituted by section 4 (2) of the Social Security Amendment Act (No. 3) 1993) is hereby amended—

- (a) By adding to paragraph (c) the word “; or”;
- 20 (b) By adding the following paragraph:
- “(d) A veteran’s pension under section 8 of the Social Welfare (Transitional Provisions) Act 1990.”

(3) The following enactments are hereby consequentially repealed:

- 25 (a) Section 3 of the Social Security Amendment Act 1976;
- (b) Sections 14 (4) and 38 (1) (a) of the Social Welfare (Transitional Provisions) Act 1990;
- (c) Section 5 of the Social Security Amendment Act (No. 5) 1991;
- 30 (d) Section 4 (1) of the Social Security Amendment Act (No. 3) 1993.

6. Procedure on appeal—(1) Section 12K (1) of the principal Act (as inserted by section 4 of the Social Security Amendment Act 1973) is hereby amended by inserting, after 35 the words “decision of the”, the words “benefits review committee, or, as the case may require, the”.

(2) Section 12K of the principal Act (as so inserted) is hereby amended by inserting, after subsection (1), the following subsection:

40 “(1A) The parties to any appeal lodged under this section shall be the applicant or beneficiary affected by the decision and the Director-General.”

(3) The provisions of sections 12K, 12M, 12O, and 12P of the principal Act shall apply, without modification (except for that

referred to in subsection (2) of this section), to every appeal under section 12j of the principal Act that was lodged, and has not been dealt with, before this section comes into force.

(4) Section 10 (3) of the Finance Act 1987 is hereby consequentially repealed.

5

7. Effect of deduction notices—(1) Section 27z (2A) of the principal Act (as saved by section 256 (1) (a) of the Child Support Act 1991) is hereby amended—

(a) By omitting the words “not greater than”, and substituting the words “equal to”:

10

(b) By adding the words “, or the amount the Director-General assesses, having regard to all the liable parent’s financial circumstances and commitments, the liable parent can reasonably afford to pay on a periodical basis, whichever is the greater”.

15

8. Right of appeal on medical grounds—

(1) Section 53A (1) of the principal Act (as inserted by section 13 of the Social Security Amendment Act 1986) is hereby amended—

(a) By omitting from paragraph (d) the word “Act—”, and substituting the words “Act; or”:

20

(b) By adding the following paragraph:

“(e) Any claim for a veteran’s pension under section 8 of the Social Welfare (Transitional provisions) Act 1990, on the grounds of the applicant’s mental or physical infirmity, is declined, or any such pension is cancelled on those grounds—”.

25

9. Commencement of unemployment benefit, etc.—

Section 60 (3) of the principal Act (as substituted by section 15 (1) of the Social Security Amendment Act 1991) is hereby amended—

30

(a) By omitting the expression “section 60i,”:

(b) By omitting from paragraph (a) the words “after the date”:

35

(c) By omitting from paragraph (b) the words “after the date”.

10. Training benefits—The principal Act is hereby amended by repealing section 60A (as inserted by section 33 (1) of the Finance Act 1989), and substituting the following section:

40

“60A. (1) The purpose of this section is to provide assistance to unemployed persons to enable them to undertake employment-related training that will enhance their prospects of obtaining employment.

5 “(2) Subject to subsection (3) of this section, every person who—

“(a) Is unemployed; and

“(b) Is of or over the age of 16 years and is not a full-time student; and

10 “(c) Has resided continuously in New Zealand for not less than 12 months at any time; and

“(d) Is engaged full time in an employment-related training programme approved by the Director-General for the purposes of this section—

15 shall be entitled to a training benefit.

“(3) A person shall not be entitled to a training benefit under this section if, in the Director-General’s opinion,—

“(a) That person has become unemployed; or

20 “(b) That person has taken leave with or without pay from his or her usual employment—

in order to undertake employment-related training.”

11. Period for which training benefit payable—

25 Section 60c (1) of the principal Act (as inserted by section 33 (1) of the Finance Act 1989) is hereby amended by omitting the word “Unless”, and substituting the words “A person shall not be entitled to receive a training benefit until his or her employment (if any) has ceased; and, unless”.

12. Independent youth benefit—(1) Section 60F (1) (b) of the principal Act (as inserted by section 17 (1) of the Social Security Amendment Act (No. 2) 1990) is hereby amended—

30 (a) By omitting from subparagraph (ii) the word “or” where it first occurs, and substituting the word “and”:

(b) By omitting from subparagraph (iv) the words “or been”, and substituting the words “and has not been”.

35 (2) Section 60F of the principal Act (as so inserted) is hereby amended by inserting, after subsection (1), the following subsection:

40 “(1A) A person who is enrolled in a full-time course of secondary instruction shall not be entitled to an independent youth benefit under this section if—

“(a) That person has moved from his or her parent’s home in order to better his or her educational prospects; and

“(b) There is no breakdown in the person’s relationship with his or her parents.”

13. Further conditions of entitlement for unemployment benefit, etc.—Section 60H of the principal Act (as inserted by section 16 of the Social Security Amendment Act 1991) is hereby amended— 5

- (a) By omitting from subsection (2) the words “on the date”, and substituting the words “on the day after the date”:
- (b) By omitting from subsection (3) (c) the words “on the date”, and substituting the words “on the day after the date”:
- (c) By omitting from subsection (3) (d) the words “on the date”, and substituting the words “on the day after the date”. 15

14. Repealing spent provision—(1) Section 60I of the principal Act (as inserted by section 16 of the Social Security Amendment Act 1991) is hereby repealed.

(2) The following enactments are hereby consequentially repealed: 20

- (a) Section 11 of the Social Security Amendment Act (No. 2) 1991:
- (b) Section 2 of the Social Security Amendment Act 1992:
- (c) Section 3 of the Social Security Amendment Act (No. 4) 1992. 25

15. Effect of refusal to seek or accept employment—(1) Section 60J (1) of the principal Act (as inserted by section 16 of the Social Security Amendment Act 1991) is hereby amended by omitting the word “from”, and substituting the words “commencing on the day after”. 30

(2) Section 60J (1) (a) (ii) of the principal Act (as so inserted) is hereby amended by omitting the words “work-related training or”.

(3) The said section 60J (as so inserted) is hereby amended by adding the following subsection: 35

“(4) In this section and in section 60JA of this Act, ‘benefit currently payable’ means the benefit or benefits received by the beneficiary (being any one or more of an unemployment benefit, a training benefit, an independent youth benefit, or a job search allowance) since the beneficiary was last in full employment, or in receipt of full-time employment-related training, for— 40

- “(a) A period of not less than 1 week; or
- “(b) A lesser period of the equivalent number of hours to a period of 1 week.”

5 **16. Effect of refusal to complete training**—The principal Act is hereby amended by inserting, after section 60J (as inserted by section 16 of the Social Security Amendment Act 1991), the following section:

10 “60JA. (1) In this section, ‘employment-related training course’ means an employment-related training course which the beneficiary has been requested to undertake by the Secretary for Labour; and in subsection (2) (b) of this section, means any such training course on which the beneficiary has been accepted.

15 “(2) The Director-General shall cancel any benefit, and the beneficiary shall not be entitled to receive a benefit for a period of 26 weeks commencing on the day after the date of cancellation, if the beneficiary has, on 2 occasions while receiving the benefit currently payable, failed without good and sufficient reason to—

- 20 “(a) Attend an acceptance interview for any employment-related training course; or
- “(b) Undertake or complete any employment-related training course.”

25 **17. Effect of undertaking full employment**—Section 60K of the principal Act (as inserted by section 16 of the Social Security Amendment Act 1991) is hereby amended by inserting, after the expression “section 60J,” the expression “or section 60JA”.

30 **18. Effect of participation in community task force project or other approved scheme**—Section 60KA of the principal Act (as inserted by section 3 of the Social Security Amendment Act 1992) is hereby amended—

- 35 (a) By inserting in subsection (1), after the expression “section 60J”, the expression “or section 60JA”;
- (b) By inserting in subsection (4), after the expression “section 60J”, the expression “ or section 60JA”;
- (c) By repealing subsection (3) (a).

40 **19. Effect of sections 60H to 60JA and section 60N on entitlement to supplementary benefits and on spouses**—Section 60L of the principal Act (as substituted by section 14 of the Social Security Amendment Act (No. 2) 1991) is hereby

amended by inserting, after the expression “section 60J”, the expression “or section 60JA”.

20. Effect of failure to participate in community task force project—Section 60N (1) of the principal Act (as inserted by section 15 of the Social Security Amendment Act (No. 2) 1991) is hereby amended by omitting the word “from”, and substituting the words “commencing on the day after”.

21. Interpretation—Section 61E of the principal Act (as substituted by section 10 (1) of the Social Security Amendment Act (No. 3) 1993) is hereby amended by omitting from paragraph (a) (ii) of the definition of the term “accommodation costs”, the word “Where”, and substituting the words “Except for the purposes of sections 61FC and 61FD of this Act, where”.

22. Accommodation supplement—(1) Section 61EA (4) of the principal Act (as enacted by section 10 (1) of the Social Security Amendment Act (No. 3) 1993) is hereby amended—

(a) By adding to paragraph (d) the word “; or”:

(b) By adding the following paragraph:

“(e) Has a psychiatric, physical, intellectual, or sensory disability, and—

“(i) Is receiving funding from a purchaser towards his or her accommodation costs; or

“(ii) A purchaser is funding his or her care (other than care in his or her own home) by any person or organisation.”

(2) This section shall come into force on the 1st day of July 1995.

23. Special provision for married joint tenants—Section 61EB of the principal Act (as inserted by section 10 (1) of the Social Security Amendment Act (No. 3) 1993) is hereby amended by omitting the words “at least”, and substituting the word “any”.

24. Rates of accommodation supplement—Section 61EC (5) of the principal Act (as inserted by section 10 (1) of the Social Security Amendment Act (No. 3) 1993) is hereby amended by omitting the words “the second exception to”.

25. Tenure protection allowance—(1) Section 61FC (1) of the principal Act (as inserted by section 11 (1) of the Social Security Amendment Act (No. 3) 1993) is hereby amended by

omitting from the proviso the words “at least”, and substituting the word “any”.

(2) Section 61FC of the principal Act (as so inserted) is hereby amended by adding the following subsection:

5 “(6) In this section and in section 61FD of this Act, “accommodation costs”, in relation to premises that are rented by any person, means the rental that the chief executive of Housing New Zealand Limited or the Ministry of Maori Development certifies is the market rental of the premises.”

10 **26. Rate of tenure protection allowance**—Section 61FD of the principal Act (as inserted by section 11 of the Social Security Amendment Act (No. 3) 1993) is hereby amended by inserting, after the word “protection” where it first occurs, the word “allowance”.

15 **27. Special benefit**—(1) The principal Act is hereby amended by repealing section 61G and the heading above that section (as substituted by section 5 of the Social Security Amendment Act 1994), and substituting the following heading and section:

20 *“Special Benefit*

“61G. Subject to section 68A of this Act, the Director-General may, subject to and in accordance with regulations made pursuant to **section 132D** of this Act, fix a special entitlement to a special benefit in respect of any person, whether or not that
25 person is receiving any other benefit or payment under this Act or the Social Welfare (Transitional Provisions) Act 1990, or any pension or allowance under the War Pensions Act 1954.”

(2) Section 5 of the Social Security Amendment Act 1994 is hereby consequentially repealed.

30 (3) **Subsections (1) and (2)** of this section shall come into force on a date to be fixed by the Governor-General by Order in Council.

(4) On and after the 1st day of July 1995, section 61G of the principal Act (as substituted by section 5 of the Social Security
35 Amendment Act 1994) or section 61G of the principal Act (as substituted by **subsection (1)** of this section), whichever of those sections is for the time being in force, shall be read as if the following subsection was added:

40 “(2) A special benefit shall not be fixed under this section in respect of the costs of disability services or residential care supplied to any person who has a psychiatric, intellectual, physical, or sensory disability and—

- “(a) Is receiving funding from a purchaser towards his or her accommodation costs (as that term is defined in section 61E of this Act); or
- “(b) A purchaser is funding his or her care (other than care in his or her own home) by any person or organisation.” 5

28. Conjugal status for benefit purposes—Section 63 of the principal Act (as substituted by section 17 (1) of the Social Security Amendment Act 1978 and amended by section 17 of the Social Security Amendment Act (No. 2) 1991) is hereby amended by inserting, after the word “Act,” the words “or of assessing the financial means of any person under section 69F or section 69G of this Act,”. 10

29. Special provisions applying to insurance payments—(1) Section 68A (3) of the principal Act (as inserted by section 6 of the Social Security Amendment Act 1994) is hereby amended by omitting the word “disablement”, and substituting the word “disability”. 15

(2) Section 68A (4) of the principal Act (as so inserted) is hereby amended by inserting, after the word “Act,” the words “or any programme of special needs or special assistance provided for in regulations made pursuant to section 132c of this Act,”. 20

(2) Section 68A (5) (b) of the principal Act (as so inserted) is hereby amended by inserting, after the word “Act,” the words “or regulations made pursuant to section 132c of this Act,”. 25

(3) Section 68A (6) (b) of the principal Act (as so inserted) is hereby amended by inserting, after the word “Act,” the words “or regulations made pursuant to section 132c of this Act,”.

(4) Section 68A of the principal Act (as so inserted) is hereby amended by repealing subsection (8), and substituting the following subsection: 30

“(8) For the purposes of this section—

“‘Benefit’ includes the granting of special assistance under any welfare programme approved under section 124 (1) (d) of this Act, or the making of grants for special needs or special assistance under any programme provided for in regulations made pursuant to section 132c of this Act: 35

“‘Debt insurance payment’, in relation to any person, includes any payment made or provided on the occurrence of a contingency under a contract of insurance or by reason of the person’s membership of 40

any society, organisation, or body whether corporate or unincorporate—

5 “(a) For the purpose of enabling the person to make payments that he or she is liable to make on account of any debt or liability; and

“(b) That is not for any reason treated as being the income of the person under this Act.”

30. Disability allowance—(1) Section 69c (1)(c) of the principal Act (as substituted by section 15 (1) of the Social Security Amendment Act (No. 2) 1985) is hereby amended by inserting, after the word “spouse”, the words “and any New Zealand superannuation or veteran’s pension payable to the person or the person’s spouse”.

10
15 (2) Section 69c of the principal Act (as inserted by section 12 (1) of the Social Security Amendment Act 1975) is hereby amended by repealing subsection (2) (as substituted by section 7 (1) of the Social Security Amendment Act 1994), and substituting the following subsections:

20 “(2) A disability allowance shall not be payable to or on account of any such person unless the Director-General is satisfied that the disability of the person—

“(a) Is likely to continue for not less than 6 months; and

“(b) Has resulted in a reduction of the person’s independent function to the extent that the person requires—

25 “(i) Ongoing support to undertake the normal functions of life; or

“(ii) Ongoing supervision or treatment by a registered health professional.

30 “(2A) A disability allowance shall not be payable to or on account of any person except to the extent that—

“(a) Subject to section 68A of this Act, the person has additional expenses of a continuing and regular kind arising from the person’s disability; and

35 “(b) The assistance towards those expenses available under this Act or any other enactment is insufficient to meet them.”

(3) Section 69c of the principal Act (as so inserted) is hereby amended by adding the following subsection:

40 “(6) In this section—
“Disability’ has the meaning ascribed to it by section 21 (1) (h) of the Human Rights Act 1993:

“Registered health professional’ has the same meaning as in the Health and Disability Commissioner Act 1994.”

(4) Section 7 (1) of the Social Security Amendment Act 1994 is hereby consequentially repealed.

31. Further provisions relating to disability allowance—(1) Section 69c of the principal Act (as so inserted) is hereby amended by inserting, after **subsection (2A)** (as inserted by **section 30 (2)** of this Act), the following subsection: 5

“(2B) A disability allowance shall not be payable under this section in respect of any of the costs of disability services or residential care supplied to any person who has a psychiatric, intellectual, physical, or sensory disability and— 10

“(a) Is receiving funding from a purchaser towards his or her accommodation costs (as that term is defined in section 61E of this Act); or

“(b) A purchaser is funding his or her care (other than care in his or her own home) by any person or organisation.” 15

(2) This section shall come into force on the 1st day of July 1995.

32. Financial means assessments for home-based disability support services—(1) The principal Act is hereby amended by inserting, after section 69F (as inserted by section 15 (1) of the Social Security Amendment Act (No. 3) 1993), the following section: 20

“69G. (1) In this section and in the **Twenty-eighth** Schedule to this Act— 25

“‘Cash assets’ has the same meaning as in section 61E of this Act:

“‘Home-based disability support services’ means disability services supplied to a person, being services (other than medical services) that support and allow the person to remain in his or her home and are of a kind that are funded by a purchaser: 30

“‘Income’ has the same meaning as in section 3 (1) of this Act; but includes—

“(a) Any benefit or allowance received under or pursuant to— 35

“(i) This Act or the Social Welfare (Transitional Provisions) Act 1990; or

“(ii) The War Pensions Act 1954 (other than a war disability pension); and 40

“(b) The gross amount of any payment received in consideration of providing board and lodgings to any person in excess of 2:

5 “ ‘Medical services’ means services supplied to a person by a registered health professional (within the meaning of the Health and Disability Commissioner Act 1994) relating to the treatment or relief of the person’s disability condition or the rehabilitation of the person from that condition:

“(2) This section applies to any person who has been assessed by a purchaser as requiring home-based disability support services and who—

10 “(a) Is not a child; and

“(b) Is not the holder of a community services card issued pursuant to the Health Entitlement Cards Regulations 1993.

15 “(3) The Director-General may, from time to time, on application by or on behalf of any person to whom this section applies, assess in accordance with the **Twenty-eighth** Schedule to this Act the weekly amount that person is required to pay toward the cost of the home-based disability support services supplied to that person, and that person shall be required to pay the amount so assessed in accordance with the assessment.

20 “(4) For the purposes of the **Twenty-eighth** Schedule to this Act—

“(a) Every \$100 of cash assets over \$5,400 held by a married person or a single person with a dependent child or children; and

25 “(b) Every \$100 of cash assets over \$2,700 held by any other person—

shall be deemed to be \$1 per week of income, and the income of a married person shall include the income of his or her spouse.

30 “(5) In any case where the Director-General is satisfied that a person to whom this section applies, or that person’s spouse, has not realised any assets available for that person’s personal use, the Director-General may treat any such assets as being cash assets for the purposes of **subsection (4)** of this section.

35 “(6) Every assessment made by the Director-General under **subsection (3)** of this section shall state—

“(a) The date of the assessment; and

40 “(b) The amount that the person has been assessed as being required to pay toward the cost of the home-based disability support services supplied to that person—

and the Director-General shall supply a copy of that assessment to that person, and may supply the details specified in **paragraphs (a) and (b)** of this section to the applicable purchaser.

“(7) The Director-General shall from time to time review any assessment under this section, and may revise that assessment if—

“(a) The Director-General is satisfied the assessment is in error; or

“(b) The person to whom the assessment relates or his or her spouse fails to provide any relevant information requested or to answer any relevant question; or

“(c) After reviewing the assessment, the Director-General is satisfied that owing to a change in circumstances of that person or his or her spouse, the assessment is no longer an accurate reflection of that person’s ability to pay for his or her home-based disability support services, to take effect from such date as the Director-General determines, being a date on or after the date on which the change may reasonably be held to have occurred.

“(8) In any case where the Director-General is satisfied that any person—

“(a) Who has applied for an assessment under this section; or

“(b) Whose ability to pay for home-based disability support services has been assessed under this section—

or that person’s spouse, has directly or indirectly deprived himself or herself of any income or assets, the Director-General, in the Director-General’s discretion, may assess, or as the case may be, revise the assessment of the person’s ability to pay for that person’s home-based disability support services as if that deprivation had not occurred.

“(9) Every person whose ability to pay for home-based disability support services has been assessed under this section shall forthwith advise the Department of any change in the circumstances of that person or his or her spouse that affects that person’s ability to pay for his or her home-based disability support services.”

33. Limitation where applicant receiving another benefit or war pension—Section 72 (a) of the principal Act (as substituted by section 21 (1) of the Social Security Amendment Act 1978) is hereby amended—

(a) By omitting the expression “61E”, and substituting the expression “61EA”;

(b) By inserting, after the expression “61FA” (as inserted by section 5 of the Social Security Amendment Act (No. 3) 1992), the expression “, 61FC”.

34. Limitation where applicant entitled to claim under Family Protection Act 1955, etc.—(1) The principal Act is hereby amended by repealing section 73, and substituting the following section:

- 5 “73. (1) In this section—
- “ ‘Applicant’ includes a person who is an applicant for a financial means assessment under section 69G of this Act or who has had his or her financial means assessed under that section:
- 10 “ ‘Benefit’ does not include any New Zealand superannuation or veteran’s pension that is not subject to an income test:
- “ ‘Proceedings’ means proceedings under the Family Protection Act 1955 or the Matrimonial Property Act 15 1963 (as saved by sections 5 (1) and 57 (4) of the Matrimonial Property Act 1976):
- “ ‘Relative’ means a person out of whose estate an applicant is entitled to make a claim by way of proceedings.
- 20 “(2) Notwithstanding anything to the contrary in this Part of this Act, where any person, being a relative of an applicant, has died without, in the opinion of the Director-General, making proper provision under his or her will for—
- 25 “(a) The proper maintenance and support of the applicant; or
- “ (b) The applicant (being the widow or widower of the relative), in relation to the applicant’s contributions to—
- 30 “(i) The relative’s property; or
- “ (ii) The marriage partnership with the relative— and the applicant has, in the opinion of the Director-General, failed without good and sufficient reason to—
- 35 “(d) Institute proceedings; or
- “ (e) Prosecute with all due diligence proceedings brought by or on behalf of the applicant,—
- for a share in, or a division of, or for provision or further provision out of, the estate of the relative, the Director-General may, in his or her discretion, and, as the case may require,—
- 40 “(f) Refuse to grant any benefit; or
- “ (g) Grant any benefit at a reduced rate; or
- “ (h) Cancel any benefit already granted; or
- “ (i) Calculate or, as the case may be, revise the calculation of the amount the person is required to contribute toward the cost of the home-based disability support

services supplied to that person under **section 69G** of this Act.

“(3) In any such proceedings, the Director-General shall be entitled to appear and show cause why a share in, or a division of, or provision or further provision out of, the relative’s estate, as the case may be, should be awarded. 5

“(4) In any case where the Director-General exercises the power in **subsection (2) (i)** of this section, the Director-General shall do so as if the Court had awarded to the applicant the share in, or division of, or provision or further provision out of, the estate of the relative which, in the Director-General’s opinion, had or ought to have been properly claimed in the proceedings.” 10

(2) The following enactments are hereby consequentially repealed: 15

- (a) Section 23 of the Social Security Amendment Act 1976:
- (b) Section 14 (13) of the Social Welfare (Transitional Provisions) Act 1990:
- (c) Section 5 (3) (e) of the Social Security Amendment Act (No. 3) 1993. 20

35. Effect of absence of beneficiary from New Zealand—(1) Section 77 of the principal Act (as substituted by section 19 (1) of the Social Security Amendment Act (No. 2) 1991) is hereby amended by repealing subsections (2) and (3), and substituting the following subsections: 25

“(2) A benefit (other than a sickness, training, unemployment, independent youth, or emergency benefit or a job search allowance) that would otherwise be payable to a beneficiary shall be payable in respect of the first 4 weeks of any absence from New Zealand if the Director-General is satisfied that the absence does not affect the beneficiary’s eligibility for the benefit. 30

“(3) The Director-General may, in his or her discretion, pay a sickness, training, unemployment, independent youth, or emergency benefit or a job search allowance that would otherwise be payable to a beneficiary in respect of the first 4 weeks of any absence from New Zealand if the Director-General is satisfied that the absence does not affect the beneficiary’s eligibility for the benefit.” 35

(2) Notwithstanding **subsection (1)** of this section, the Director-General shall not be obliged to review any decision, made on or after the 1st day of July 1994 and before the commencement of this Act, to cancel or suspend any benefit pursuant to subsection (2) or subsection (3) of section 77 of the principal Act 40

(as those subsections existed immediately before the commencement of this section) unless a written application is made to the Director-General, by or on behalf of the particular beneficiary affected, to review that decision.

- 5 (3) This section shall be deemed to have come into force on the 1st day of July 1994.

36. Commencement and payment of benefits—

- 10 (1) Section 80 (2A) of the principal Act (as inserted by section 20 of the Social Security Amendment Act (No. 2) 1991) is hereby amended—

- (a) By inserting, after the words “sickness benefit,” the words “transitional retirement benefit,”;
 (b) By omitting from paragraph (a) the words “after the date”;
 15 (c) By omitting from paragraph (b) the words “after the date”.

- (2) Section 80 of the principal Act (as substituted by section 32 (1) of the Social Security Amendment Act 1991) is hereby amended by inserting, after subsection (5), the following
 20 subsection:

- “(5A) Where—
 “(a) Any person in receipt of a benefit accepts an offer of employment that results in the cancellation of the benefit; and
 25 “(b) The duration of that employment is such that it is temporary employment (whether or not the person was aware that the employment was temporary employment when the person accepted the offer); and
 30 “(c) The person applies for a benefit following the termination of the employment—
 then, notwithstanding the provisions of subsections (1) and (2) of this section or section 60 (2) of this Act, but subject to subsection (2A) of this section and section 60 (3) of this Act, the
 35 payment of the benefit shall commence on—
 “(d) The day on which the applicant became entitled to receive it; or
 “(e) The day on which the application was received—
 whichever is the later date.”

- 40 (3) Section 80 (8) of the principal Act (as so substituted) is hereby further amended by omitting from paragraph (b) of the proviso (as amended by section 5 of the Social Welfare (Transitional Provisions) Amendment Act (No. 2) 1993) the words “or of a transitional retirement benefit”.

(4) The Social Welfare (Transitional Provisions) Amendment Act (No. 2) 1993 is hereby consequentially amended by repealing so much of the Second Schedule as relates to paragraph (b) of the proviso to section 80 (8) of the principal Act.

5

(5) Subsection (1) (a) of this section shall be deemed to have come into force on the 1st day of April 1994.

37. Effect of high income on entitlement to benefits—Section 80B (1) of the principal Act (as substituted by section 5 (1) of the Social Security Amendment Act (No. 4) 1992) is hereby amended—

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(a) By inserting in paragraph (c), after the expression “section 60J, the expression “**section 60JA,**”:

(b) By inserting, after the words “commencing on”, the words “the day after”.

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38. Effect of sections 60H to 60JA, section 60N, and section 80B on entitlement to supplementary benefits and on spouses—Section 80c (1) of the principal Act (as inserted by section 21 of the Social Security Amendment Act (No. 2) 1991) is hereby amended by inserting, after the expression “section 60j”, the words “or **section 60JA**”.

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39. Payment of benefits—(1) Section 82 (1) of the principal Act (as substituted by section 23 (1) of the Social Security Amendment Act 1978) is hereby amended by inserting, after the word “date”, the words “or such days or dates”.

25

(2) Section 82 (6) of the principal Act (as added by section 11 of the Social Security Amendment Act 1979) is hereby amended by omitting the words “recover the amount so paid in advance from subsequent instalments of the benefit at such rate as the Director-General determines from time to time”, and substituting the words “the amount so paid in advance may be recovered under section 86 (1) and section 86A of this Act as if it were a benefit, or instalment of a benefit, in excess of the amount to which the beneficiary is by law entitled”.

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(3) Section 82 of the principal Act is hereby amended by repealing subsection (6) (as so added), and substituting the following subsection:

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“(6) If the Director-General is satisfied that an advance payment of a benefit would best meet the immediate needs of a beneficiary, the Director-General may, subject to and in accordance with regulations made pursuant to **section 132D** of this Act, on application by the beneficiary, make payment in

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advance of any number of instalments of the benefit, or part of it, not yet due; and the amount so paid in advance may be recovered under section 86 (1) and section 86A of this Act as if it were a benefit, or instalment of a benefit, in excess of the amount to which the beneficiary is by law entitled.”

5 (4) The following enactments are hereby consequentially repealed:

(a) Section 11 of the Social Security Amendment Act 1979:

(b) Subsection (2) of this section.

10 (5) Subsections (3) and (4) of this section shall come into force on a date to be fixed by the Governor-General by Order in Council.

40. Recovery of payments made in excess of authorised rates—(1) Section 86 (1c) of the principal Act (as inserted by section 20 of the Social Security Amendment Act (No. 2) 1985) is hereby amended by inserting, after the word “entitled,” the words “or payable to that person by way of a recoverable grant of special assistance under any such programme, or is otherwise recoverable from the person under the terms and conditions of any such programme.”

20 (2) Section 86 of the principal Act is hereby amended by inserting, after subsection (1c) (as inserted by section 20 of the Social Security Amendment Act (No. 2) 1985), the following subsection:

25 “(1D) If a person has obtained payment of, or received credit for, any money payable as a grant for special needs or special assistance under any programme provided for in regulations made pursuant to section 132c of this Act, to which that person was not entitled, or which is recoverable from that person pursuant to any such regulations, the sum of that money shall constitute a debt due to the Crown and may be recovered at the suit of the Director-General, or the Director-General may recover that debt by deduction from any benefit or any payment of any grant thereafter payable to or on account of that person under or pursuant to this Act.”

30 (3) Section 86 (2) of the principal Act (as substituted by section 25 (2) of the Social Security Amendment Act (No. 3) 1993) is hereby amended by omitting the expression “(1c)”, and substituting the expression “(1D)”.

40 **41. Deduction notices for debts**—(1) Section 86A (1) of the principal Act (as inserted by section 26 of the Social Security Amendment Act (No. 3) 1993) is hereby amended by omitting the words “section 86 of”.

(2) Section 86A of the principal Act (as so inserted) is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) For the avoidance of doubt, it is hereby declared that a deduction notice may be issued under subsection (1) of this section notwithstanding that the debt to the Crown under this Act may not be recovered by civil action in a Court of law because of the Limitation Act 1950. 5

“(1B) A deduction notice may be issued under subsection (1) of this section to the Accident Rehabilitation and Compensation Insurance Corporation requiring that Corporation to deduct the amount due from any sum of compensation in respect of loss of earnings or loss of potential earning capacity that is payable, or becomes payable, to the debtor under the Accident Rehabilitation and Compensation Insurance Act 1992. 10 15

“(1c) A deduction notice under subsection (1) of this section may be issued to recover—

“(a) Any amount that may be recovered as a debt due to the Crown under section 27x of this Act (as saved by section 256 (1) of the Child Support Act 1991); 20

“(b) Any amount of maintenance debt (within the meaning of section 61CA of this Act).”

(3) Section 86 (1A) of the principal Act (as inserted by subsection (2) of this section) shall apply to all debts to the Crown recoverable under the principal Act, whether or not the Limitation Act 1950 prevented recovery of the debt by civil action in a Court of law before the coming into force of this section. 25

42. Money payable out of Crown Bank Account—

(1) Section 124 (1) of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph: 30

“(ca) Any money that may be appropriated by Parliament for the purpose of making grants under regulations made pursuant to section 132c of this Act.”.

(2) Section 124 (1) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph: 35

“(d) Any money that may be appropriated by Parliament for the purpose of granting special assistance under any welfare programme established and approved by the Minister of Social Welfare under the authority of, and for the purposes of, this paragraph.”. 40

(3) The following enactments are hereby consequentially repealed:

(a) Section 18 (2) of the Department of Social Welfare Act 1971:

(b) Section 24 of the Social Security Amendment Act 1975:

(c) Section 34 (1) of the Social Security Amendment Act 1976.

5 (4) It is hereby declared that the Minister of Social Welfare or, as the case may require, the Minister of Social Security has always had the power under section 124 (1) (d) of the principal Act to establish and approve any welfare programme for special assistance for the purposes of that section; and every
10 such welfare programme that has at any time been so approved, and any payments or grants of special assistance and actions taken under it, are hereby confirmed and declared to be and always to have been valid.

43. Advances to beneficiaries and war pensioners for repair or maintenance of home, etc.—(1) Section 125 of the
15 principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) For the purposes of this section, ‘beneficiary’ means any person who is in receipt of—

20 “(a) A widow’s benefit, a domestic purposes benefit, or an invalid’s benefit under this Act; or

“(b) New Zealand superannuation, a veteran’s pension, or a transitional retirement benefit under the Social Welfare (Transitional Provisions) Act 1990; or

25 “(c) A pension or allowance under the War Pensions Act 1954—

or the spouse of any such person; and, for the purposes of subsection (2) (d) of this section, includes any person whether or not that person is in receipt of such a benefit, pension, or
30 allowance:

“Provided that the Director-General may, in the Director-General’s discretion, treat any person in receipt of any other benefit under this Act as a beneficiary for the purposes of this section where the Director-General is satisfied that exceptional circumstances exist which justify that treatment.”

35 (2) Section 125 of the principal Act is hereby further amended by inserting, after subsection (5), the following subsection:

40 “(5A) Without prejudice to any other method of collection, an advance under this section, whether made before or after this subsection comes into force, may be recovered under section 86 (1A) and section 86A of this Act as if it were a

payment of money under a benefit to which the person to whom the advance was made was not entitled.”

(2) The following enactments are hereby consequentially repealed:

- (a) Section 26 (1) of the Social Security Amendment Act 1975: 5
- (b) Section 27 (1) of the Social Security Amendment Act 1987:
- (c) Section 38 (4) of the Social Welfare (Transitional Provisions) Act 1990:
- (d) So much of the Second Schedule to the Social Welfare (Transitional Provisions) Amendment Act (No. 2) 1993 as relates to section 125 (1) of the principal Act. 10

44. Certain grounds of discrimination in Human Rights Act 1993 not to apply—The principal Act is hereby amended by inserting, after section 126, the following section: 15

“126A. Nothing in—

“(a) Section 44 of the Human Rights Act 1993 shall apply or be taken ever to have applied; or

“(b) Section 24 of the Human Rights Commission Act 1977 shall be taken ever to have applied— 20
to anything done, before the 31st day of December 1999, which—

“(c) In relation to the granting of any benefit or assistance under or pursuant to this Act, or the granting of any assistance analogous to a benefit, by the Department of Social Welfare, is or was done pursuant to— 25

“(i) A direction given pursuant to section 5 (2) of this Act; or

“(ii) A welfare programme approved by the Minister of Social Welfare under section 124 (1) (d) of this Act; or 30

“(iii) Any document (including a manual) of the type referred to in section 22 (1) of the Official Information Act 1982; and 35

“(d) Would otherwise be or have been unlawful by reason of the prohibited grounds of discrimination in section 21 (1) (a) or (b) of the Human Rights Act 1993; or

“(e) In relation to anything done before the 1st day of February 1994, would otherwise have been unlawful under section 24 (1) of the Human Rights 40

Commission Act 1977 on the grounds of sex or marital status.”

5 **45. Offences**—Section 127 (e) of the principal Act (as inserted by section 29 (1) of the Social Security Amendment Act (No. 3) 1993) is hereby amended by inserting, after the expression “section 69F”, the words “or section 69G”.

10 **46. New sections inserted**—The principal Act is hereby amended by inserting, after section 132B (as inserted by section 33 of the Social Security Amendment Act (No. 3) 1993), the following sections:

15 “132c. **Regulations in respect of special needs grants and special assistance**—(1) Without limiting the general power to make regulations conferred by section 132 of this Act, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

20 “(a) Providing for a programme for the making of grants for special needs, and prescribing the eligibility for, and conditions on which, such grants may be made, and limiting the amounts of such grants:

25 “(b) Providing for programmes for the making of grants of other special assistance, and prescribing the eligibility for, and the conditions on which, such grants may be made, and limiting the amounts of such grants.

 “(2) Any such regulations—

 “(a) Shall be administered by the Director-General of Social Welfare in the Department of Social Welfare:

30 “(b) May provide for any specified provision of Part I of this Act to apply to and in respect of—

 “(i) Any programme referred to in the regulations; and

 “(ii) Any applicant for assistance under any such programme; and

35 “(iii) Any other specified class or classes of person—

as if the grants authorised by any such programme were a benefit under Part I of this Act:

40 “(c) May provide that any grant made under any such programme shall be recoverable from the person to whom or for whose benefit it was made, and prescribe conditions upon which such recovery may be made.

“132D. Regulations for special benefits and advance payments of benefit—Without limiting the general power to make regulations conferred by section 132 of this Act, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 5

- “(a) Prescribing eligibility for, and the conditions on which, grants of special benefits under section 61C of this Act may be made, and the rates of such benefits:
- “(b) Prescribing eligibility for, and the conditions on which, advance payments of benefit under section 82 (6) of this Act may be made, and limiting the amounts of such advances.” 10

47. Ninth Schedule amended—(1) Clause 5 of the Ninth Schedule to the principal Act (as added by section 40 (2) of the Social Security Amendment Act 1991) is hereby amended— 15

- (a) By omitting from the first column the expression “60L (2)”, and substituting the expression “60L (1)”:
- (b) By omitting from the second column the expression “15c”, and substituting the expression “30c”.

(2) This section shall be deemed to have come into force on the 1st day of March 1991. 20

48. Eighteenth Schedule amended—(1) The Eighteenth Schedule to the principal Act (as substituted by section 34 (1) of the Social Security Amendment Act (No. 3) 1993) is hereby amended by repealing Part IV. 25

(2) This section shall come into force on the 1st day of July 1995.

49. New Twenty-eighth Schedule added—The principal Act is hereby amended by adding the **Twenty-eighth Schedule** set out in the Schedule to this Act. 30

PART II

ACCIDENT REHABILITATION AND COMPENSATION INSURANCE ACT 1992

50. This Part to be read with Accident Rehabilitation and Compensation Insurance Act 1992—This Part of this Act shall be read together with and deemed part of the Accident Rehabilitation and Compensation Insurance Act 1992* (in this Part of this Act referred to as the principal Act). 35

*1992, No. 13

Amendments: 1992, No. 91; 1992, No. 136; 1993, No. 25; 1993, No. 55; 1993, No. 135

51. Compensation grant, or allowance inalienable—
Section 86 (2) of the principal Act is hereby amended by
repealing paragraph (c), and substituting the following
paragraph:

5 “(c) Section 27^v of the Social Security Act 1964 (as saved by
 section 256 (1) of the Child Support Act 1991), and
 sections 71 and 86^A of the Social Security Act 1964;
 or”.

PART III

10 SOCIAL WELFARE (TRANSITIONAL PROVISIONS) ACT 1990

**52. This Part to be read with Social Welfare
(Transitional Provisions) Act 1990—**This Part of this Act
shall be read together with and deemed part of the Social
Welfare (Transitional Provisions) Act 1990* (in this Part of this
15 Act referred to as the principal Act).

*R.S. Vol. 32, p. 883

53. Living alone payments—(1) Section 18^A (3) of the
principal Act (as inserted by section 4 (1) of the Social Welfare
(Transitional Provisions) Amendment Act 1990) is hereby
amended by inserting, after paragraph (a), the following
20 paragraph:

 “(aa) A boat or craft moored within—

 “(i) The territorial sea of New Zealand or any
 internal waters of New Zealand; or

25 “(ii) Any waters within New Zealand, being any
 lake, estuary, lagoon, river, stream, creek, or other
 waters—

whether or not it is from time to time travelling within that sea
or any such waters; or”.

30 (2) Section 18^A of the principal Act (as so inserted) is hereby
amended by adding the following subsection:

 “(4) In this section, ‘territorial sea of New Zealand’ and
 ‘internal waters’ have the same meanings as in the Territorial
Sea and Exclusive Economic Zone Act 1977.”

PART IV

35 FAMILY PROCEEDINGS ACT 1980

**54. This Part to be read with Family Proceedings Act
1980—**This Part of this Act shall be read together with and
deemed part of the Family Proceedings Act 1980* (in this Part
of this Act referred to as the principal Act).

*R.S. Vol. 28, p. 545

55. Power to issue deduction notices under Social Security Act 1964—The principal Act is hereby amended by inserting, after section 101A, the following section:

“101B. Without limiting section 101 of the this Act or section 110 of this Act (as saved by section 259 (1) of the Child Support Act 1991), where any payment under a maintenance order is in arrear and unpaid, the Director-General of Social Welfare may issue a deduction notice under section 86A of the Social Security Act 1964 to any person (other than the employer of the person against whom the order was made in the capacity of the employer of that person) as if the payment in arrear and unpaid was a debt due to the Crown under that Act.”

PART V

CHILD SUPPORT ACT 1991

56. This Part to be read with Child Support Act 1991—This Part of this Act shall be read together with and deemed part of the Child Support Act 1991* (in this Part of this Act referred to as the principal Act).

*1991, No. 142

Amendments: 1993, No. 15; 1994, No. 74

57. Savings in respect of outstanding liable parent contributions—Section 256 (1) (a) of the principal Act is hereby amended by omitting the words “apply until the 1st day of July 1998”, and substituting the words “continue to apply”.

58. Savings in respect of outstanding maintenance liabilities—Section 259 (1) of the principal Act is hereby amended—

(a) By omitting from paragraph (a) the words “apply until the 1st day of July 1998”, and substituting the words “continue to apply”:

(b) By inserting into paragraph (b), after the word “Act” where it secondly occurs, the words “and section 101B of that Act (as inserted by section 2 of the Family Proceedings Amendment Act 1994)”.

PART VI

HEALTH REFORMS (TRANSITIONAL PROVISIONS) ACT 1993

59. This Part to be read with Health Reforms (Transitional Provisions) Act 1993—This Part of this Act shall be read together with and deemed part of the Health

Reforms (Transitional Provisions) Act 1993* (in this Part of this Act referred to as the principal Act).

*1993, No. 23

5 **60. Amendments to Disabled Persons Community Welfare Act 1975**—Section 26 (2) of the principal Act is hereby amended by inserting, after the expression “Part II”, the words “(other than sections 18 to 22A)”.

10 **61. Repeals**—(1) Part III of the Fifth Schedule to the principal Act is hereby amended by inserting in the item relating to the Social Security Amendment Act 1979, after the expression “Act 1979”, the expression “: Part II”.

(2) This section shall be deemed to have come into force on the 1st day of July 1993.

PART VII

DISABLED PERSONS COMMUNITY WELFARE ACT 1975

15 **62. This Part to be read with Disabled Persons Community Welfare Act 1975**—This Part of this Act shall be read together with and deemed part of the Disabled Persons Community Welfare Act 1975* (in this Part of this Act referred to as the principal Act).

*R.S. Vol 26, p. 143
Amendment: 1991, No. 79

20 **63. Inspection**—(1) Section 22 (1) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraphs:

“(b) Officer of the Ministry of Health authorised by the Director-General of Health; and

25 “(c) Any other person authorised by the Director-General of Health—”.

(2) Section 4 of the Disabled Persons Community Welfare Amendment Act 1988 is hereby consequentially repealed.

PART VIII

INLAND REVENUE DEPARTMENT ACT 1974

30 **64. This Part to be read with Inland Revenue Department Act 1974**—This Part of this Act shall be read together with and deemed part of the Inland Revenue Department Act 1974* (in this Part of this Act referred to as the principal Act).

35 *R.S. Vol. 24, p. 313
Amendments: 1989, No. 155; 1990, No. 66; 1991, No. 13; 1991, No. 81; 1991, No. 131, 1992, No. 5; 1993, No. 11; 1993, No. 134; 1994, No. 80

65. Disclosure of information for matching purposes—Section 13A (1) of the principal Act (as inserted by section 3 of the Inland Revenue Department Amendment Act (No. 3) 1991) is hereby amended by adding to the definition of the term “benefit” the following paragraph: 5

“(c) Any grant for special needs or special assistance made pursuant to regulations made under section 132c of that Act.”.

66. Disclosure of information for family support double payment identification—Section 13c (1) of the principal Act (as inserted by section 2 (1) of the Inland Revenue Department Amendment Act (No. 2) 1993) is hereby amended by adding to the definition of the term “benefit” the following paragraph: 10

“(c) Any grant for special needs or special assistance made pursuant to regulations made under section 132c of that Act.”. 15

67. Disclosure of address information in relation to debtors—(1) Section 13D (1) of the principal Act (as so inserted) is hereby amended by adding to the definition of the term “benefit” the following paragraph: 20

“(c) Any grant for special needs or special assistance made pursuant to regulations made under section 132c of that Act.”.

(2) Section 13D (1) of the principal Act (as so inserted) is hereby amended— 25

(a) By adding to paragraph (b) of the definition of the term “debtor” the word “; or”:

(b) By adding to that definition the following paragraph:

“(c) Any person liable to pay any maintenance under the Family Proceedings Act 1980 that remains unpaid and that may be enforced against the person pursuant to section 259 of the Child Support Act 1991.”. 30

SCHEDULE

NEW TWENTY-EIGHTH SCHEDULE TO PRINCIPAL ACT **Section 49**

“TWENTY-EIGHTH SCHEDULE **Section 69G**

METHOD OF CALCULATING ABILITY TO MAKE PAYMENTS TOWARDS COSTS OF HOME-BASED DISABILITY SUPPORT SERVICES UNDER **Section 69G** OF THIS ACT

1. In this Schedule, ‘specified outgoings’, in relation to any person, means the annual total of—

- (a) The maximum rate for the time being of an invalid’s benefit that would be payable to the person if he or she was qualified to receive such a benefit;
- (b) An amount of \$10 per week (for the purpose of paying costs incidental to the provision of home help);
- (c) The following employment-related expenses of the person and his or her spouse, calculated on an annual basis:
 - (i) Fees or subscriptions payable on an annual or regular basis to any employees organisation (within the meaning of the Employment Contracts Act 1991);
 - (ii) Contributions to any superannuation scheme;
 - (iii) Contributions to any employee welfare fund;
 - (iv) Any other essential costs of that employment (not including travel to and from work) to the extent that they are not reimbursed by the employer;
- (d) The person’s accommodation costs (within the meaning of section 61E of this Act);
- (e) The person’s telephone rental (being the standard line charge and base user charge including hire of a basic telephone applicable to a person living in the place where the person lives), calculated on an annual basis;
- (f) The cost of the person’s ongoing and regular medical and pharmaceutical expenses, calculated on an annual basis;
- (g) The cost of the person’s regular essential expenses (being expenses other than the cost of food, clothing, travel, running a motor vehicle, life insurance, house and contents insurance, hire purchase, entertainment, and personal savings), calculated on an annual basis.

2. The Director-General shall calculate the amount of the person’s annual income and specified outgoings, and shall deduct the amount of the specified outgoings from the annual income.

3. If the result of the calculation specified in **clause 2** of this Schedule is \$0 or less than \$0, the Director-General shall assess the amount the person is required to contribute towards the cost of the home-based disability support services supplied to that person as \$0.

4. If the result of the calculation specified in **clause 2** of this Schedule is greater than \$0 but less than the total cost of the home-based disability support services supplied to the person, the Director-General shall assess that result as the amount the person is required to contribute towards the cost of those services.

5. If the result of the calculation specified in **clause 2** of this Schedule is equal to or greater than the total cost of the home-based disability support services supplied to the person, the Director-General shall assess the

SCHEDULE—*continued*NEW TWENTY-EIGHTH SCHEDULE TO PRINCIPAL ACT—*continued*“TWENTY-EIGHTH SCHEDULE—*continued*”

METHOD OF CALCULATING ABILITY TO MAKE PAYMENTS TOWARDS COSTS
OF HOME-BASED DISABILITY SUPPORT SERVICES UNDER **Section 69g** OF THIS
ACT—*continued*

amount the person is required to contribute towards the cost of those services as the total cost of those services.

6. The Director-General shall convert an assessment made under **clauses 3 to 5** of this Schedule to a weekly amount.