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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 10

together with and deemed part of the Social Security Act 1964* (in this Part of this Act referred to as the principal Act).

5 **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:

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

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

15 “(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”.

20 (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:

25 “(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):

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

30 “(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

35 “(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

40 “(C) Under any superannuation scheme, not being a payment which the Director-General considers, having regard to the matters specified in subsection (4)

*R.S. Vol. 32, p. 625

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of this section, is for an income-related purpose; or

“(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—

“(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.”.

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(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”.

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(4A) The said section 3 (1) is hereby amended by inserting, after the definition of the term “residential care disability services” (as inserted by section 2 (3) of the Social Security Amendment Act (No. 3) 1993), the following definition:

“‘Residential care services’ means disability services supplied to a person with a disability in an appropriately licensed or registered home; and includes—

“(a) Supervision and support services; and

“(b) Hotel-type services (including the provision of sleeping facilities, meals, laundry, cleaning services

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- and supplies, household furniture and furnishings, lighting, heating, hot water, and other household utilities); and
- 5 “(c) Services that support daily living (including financial management and gardening); and
- “(d) Personal care services (including toileting, bathing, hair washing, teeth cleaning, nail care, feeding, and mobility); and
- 10 “(e) Services within that home intended to provide satisfying activity to the person (including the provision of educational, social, recreational, and other activities); and
- “(f) Clinical support services, including health services (within the meaning of the Health and Disability Services Act 1993), consultations with a medical practitioner, pharmaceuticals, incontinence aids, and other treatment costs.”.

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- 20 (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”.
- 25 (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
- 30 court in any such proceedings.

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- 3A. Review of decisions**—Section 10A (1) of the principal Act (as substituted by section 3 of the Social Security Amendment Act (No. 5) 1991) is hereby amended by inserting,
- 35 after the words “notification of the decision”, the words “or (if the committee considers there is good reason for the delay)

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within such further period as the committee may allow on application made either before or after the expiration of that period of 3 months”.

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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”.

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15*New*

4. Power to obtain information—(1) Section 11 (1) of the principal Act (as substituted by section 3 of the Social Security Amendment Act (No. 3) 1993) is hereby amended by inserting, after the word “section” where it first occurs, the words “and to the code of conduct established under **section 11B** of this Act”.

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(2) Section 11 (2) of the principal Act (as so substituted) 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 towards 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”.

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30

(3) Section 11 (3) of the principal Act (as so substituted) is hereby amended by omitting the words “and, if the offence is a continuing one, to a further fine not exceeding \$200 for every day or part of a day during which the offence has continued”.

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(4) Section 11 of the principal Act (as so substituted) is hereby amended by repealing subsection (4), and substituting the following subsection:

5 “(4) Except as provided in subsection (5) of this section, nothing in subsection (1) of this section requires any person to provide any information or produce any document that would be privileged in a Court of law.”

(5) Section 11 (6) of the principal Act (as so substituted) is hereby amended—

(a) By inserting, after the word “under”, the words “subsection (4) or”:

(b) By inserting, after the words “that person”, the words “or any other person to whom the information or document relates”.

(6) Section 11 (7) of the principal Act (as so substituted) is hereby repealed.

4A. Restrictions on obtaining information—The principal Act is hereby amended by inserting, after section 11A (as substituted by section 3 of the Social Security Amendment Act (No. 3) 1993), the following sections:

11B. Code of conduct applying to obtaining information under section 11—(1) The Director-General, in consultation with the Privacy Commissioner appointed under the Privacy Act 1993, shall, within 3 months after the commencement of this section, issue a code of conduct that applies in respect of requirements to supply information or documents under section 11 (1) of this Act, and the Director-General, and every officer of the Department acting under the delegation of the Director-General pursuant to section 10 of this Act, shall comply with that code of conduct in relation to making any such requirement.

“(2) The code of conduct—

“(a) Shall include the matters specified in **section 11c** of this Act; and

“(b) May include restrictions from obtaining—

“(i) Specified classes of information or documents; and

“(ii) Information or documents from specified classes of persons or from persons in specified

New

relationships—	
pursuant to a requirement under section 11 (1) of this Act; and	
“(c) Shall specify procedures applying to the obtaining of information or documents under section 11 of this Act.	5
“(3) The Director-General may from time to time, in consultation with the Privacy Commissioner, amend the code of conduct, or revoke the code of conduct and issue a new code of conduct.	10
“(4) Subject to subsection (5) of this section, nothing in the code of conduct shall derogate from any code of practice issued by the Privacy Commissioner under Part VI of the Privacy Act 1993 that applies to the information required under section 11 of this Act, and the Director-General, in consultation with the Privacy Commissioner, shall amend the code of conduct to conform with any such code of practice.	15
“(5) Without limiting the general power to make regulations conferred by section 132 of this Act, the Governor-General may, on the advice of the Minister given after consultation with the Privacy Commissioner, by Order in Council make regulations under that section authorising the Director-General to obtain—	20
“(a) Any specified class of information or document; or	25
“(b) Information or documents from any specified class of persons; or	
“(c) Information or documents in any specified manner— pursuant to a requirement under section 11 (1) of this Act notwithstanding that the making of that requirement would otherwise be in breach of any code of practice issued by the Privacy Commissioner under Part VI of the Privacy Act 1993.	30
“(6) Any person who is—	
“(a) Required to produce any information or document pursuant to a requirement under section 11 (1) of this Act; or	35
“(b) The subject of any such information or document— may make a complaint to the Privacy Commissioner that the requirement breaches the code of conduct issued pursuant to this section.	40

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“(7) Part VIII of the Privacy Act 1993 shall apply to any such complaint as if the code of conduct was a code of practice issued under Part VI of the Privacy Act 1993.

5 “(8) As soon as practicable after issuing any code of conduct and any amendment to it under this section, the Director-General shall cause it to be published in a form accessible to the public.

“11c. **Matters to be included in code of conduct—**

10 (1) The code of conduct established under **section 11b** of this Act shall contain the following matters:

“(a) Provisions—

“(i) Requiring any information or document to be first sought from a beneficiary; and

15 “(ii) Allowing the beneficiary a reasonable time to provide it—

before a requirement under section 11 (1) of this Act is issued to a person other than the beneficiary, except where compliance with such provision would prejudice the maintenance of the law:

20 “(b) A provision prohibiting a requirement under section 11 (1) of this Act being made in respect of a beneficiary to any person (not being the beneficiary, an employer or former employer of the beneficiary, a financial institution, or a law practitioner) unless there is reasonable cause to make a requirement under that section:

30 “(c) A provision prohibiting a requirement under section 11 (1) of this Act being made to an employer in respect of any information or document that relates solely to the marital status of an employee or former employee of that employer:

35 “(d) Provisions otherwise restricting requirements under section 11 (1) of this Act made to employers to specified information relating to that employment and the address of the employee or former employee.

“(2) In **subsection (1)(b)** of this section, ‘reasonable cause’ includes—

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“(a) Cause to suspect that the beneficiary has committed an offence under this Act or has obtained by fraud any payment or credit or advance under this Act:

“(b) That the beneficiary or a spouse of that beneficiary has failed within a reasonable time, or refused, to provide any information or produce any document in accordance with a request or requirement made to that person in accordance with **subsection (1) (a)** of this section.”

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—

“(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

“(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.”

(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”:

(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:

(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:

(d) Section 4 (1) of the Social Security Amendment Act (No. 3) 1993.

5 **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 the words “decision of the”, the words “benefits review committee, or, as the case may require, the”.

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

15 “(1A) The parties to any appeal lodged under this section shall be the applicant or beneficiary affected by the decision and the Director-General.”

20 (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.

25 **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”:

30 (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”.

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35 **7A. Rates of invalids’ benefits**—(1) Section 42 of the principal Act is hereby amended by adding the following subsection:

“(2) Notwithstanding the Sixth Schedule to this Act, where a married person (other than a person whose financial means have been assessed under section 69F of this Act) is receiving

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residential care disability services because he or she has a psychiatric, intellectual, physical, or sensory disability—

“(a) The rate of the invalid’s benefit payable to the person receiving those services shall be one-half of the appropriate rate specified in that Schedule; and 5

“(b) The rate of invalid’s benefit payable to that person’s spouse (being a spouse who is not receiving residential care disability services) shall be the appropriate rate of an invalid’s benefit that would be payable under this Act if he or she was entitled to that benefit in his or her own right and was unmarried— 10

and section 83 of this Act shall not apply to either rate of benefit.” 15

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

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— 20

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

(b) By adding the following paragraph:

“(c) 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 30

New

(c) By inserting, after the words “to that person”, the words “or (if the Board considers there is good reason for the delay) within such further period as the Board may allow on application made either before or after the expiration of that period of 3 months”. 35

*Struck Out***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—

- 5 (a) By omitting the expression “section 60r,”;
- (b) By omitting from paragraph (a) the words “after the date”;
- 10 (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:

15 “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.

20 “(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
- 25 “(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—

shall be entitled to a training benefit.

30 “(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
- “ (b) That person has taken leave with or without pay from his or her usual employment—
- 35 in order to undertake employment-related training.”

11. Period for which training benefit payable—

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”.

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- 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— 5
- (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”. 10
- (2) Section 60F of the principal Act (as so inserted) is hereby amended by inserting, after subsection (1), the following subsection:
- “(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— 15
- “(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.” 20

New

- 12. Independent youth benefit**—(1) The principal Act is hereby amended by repealing section 60F (as inserted by section 17 (1) of the Social Security Amendment Act (No. 2) 1990), and substituting the following section: 25
- “60F. (1) This section applies to a person who—
- “(a) Is aged 16 years or 17 years; and
- “(b) Is without a dependent child or dependent children; and
- “(c) Is unemployed for reasons other than a strike either by that person or by fellow members of his or her union at the same place of employment; and 30
- “(d) Has resided continuously in New Zealand for not less than 12 months at any time; and
- “(e) Is not enrolled in a full-time course within the meaning of paragraph (b) of the definition of that term set out in clause 2 (1) of the Student Allowances Regulations 1991 (S.R. 1991/295); and 35

New

- “(f) Is capable of undertaking and is willing to undertake suitable work or is enrolled in a full-time course of secondary instruction.
- 5 “(2) Every married person to whom this section applies is entitled to an independent youth benefit.
- “(3) Every unmarried person to whom this section applies is entitled to an independent youth benefit if the Director-General is satisfied that the applicant—
- 10 “(a) Is not living with his or her parents; and
- “(b) Is not being financially supported by his or her parents or by any other person; and
- “(c) Cannot reasonably be expected to be financially dependent on his or her parents or any other person—
- 15 “(i) Because there has been a breakdown in the applicant’s relationship with his or her parents; or
- “(ii) Because the applicant’s parents are absent and are unable to financially support the applicant;
- 20 or
- “(iii) Because the applicant has moved from his or her parents’ home to another area where there are better prospects for employment or employment-related training and the applicant’s parents are unable to financially support the applicant; or
- 25 “(iv) Because the applicant has not lived with and has not been financially supported by his or her parents during the 6 months before making an application for an independent youth benefit and has been in employment during all of that period;
- 30 or
- “(v) For any other good and sufficient reason.
- “(4) A person enrolled in a full-time course of secondary instruction shall not be entitled to an independent youth benefit under this section if—
- 35 “(a) That person has moved from his or her parents’ 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.
- 40 “(5) A person who is—

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- “(a) Enrolled in a full-time course of secondary instruction during the year in which he or she attains the age of 18 years; and
- “(b) Entitled to receive an independent youth benefit under subsection (2) or subsection (3) of this section— 5
shall continue to be entitled to receive that benefit until the 31st day of December of the year in which he or she attains that age.
- “(6) In this section, ‘parents’ means the parents or guardian 10
or other person who had the care of the applicant most recently before the applicant attained the age of 16 years; but does not include the Director-General acting in his or her official capacity.”
- (2) Section 8 of the Social Security Amendment Act (No. 3) 15
1993 is hereby consequentially repealed.

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- 13. Further conditions of entitlement for unemployment benefit, etc.**—Section 60H of the principal Act (as inserted by section 16 of the Social Security 20
Amendment Act 1991) is hereby amended—
- (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 25
date”, and substituting the words “on the day after the date”:
- (c) By omitting from subsection (3) (d) the words “on the 30
date”, and substituting the words “on the day after the date”.
- 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 35
repealed:
- (a) Section 11 of the Social Security Amendment Act (No. 2) 1991:
- (b) Section 2 of the Social Security Amendment Act 1992:

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(c) Section 3 of the Social Security Amendment Act (No. 4) 1992.

15. Effect of refusal to seek or accept employment—

5 (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”.

10 (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:

15 “(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—

20 “(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.”

16. Effect of refusal to complete training—The principal

25 Act is hereby amended by inserting, after section 60J (as inserted by section 16 of the Social Security Amendment Act 1991), the following section:

30 “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.

35 “(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—

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“(a) Attend an acceptance interview for any employment-related training course; or

“(b) Undertake or complete any employment-related training course.”

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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”.

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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—

(a) By inserting in subsection (1), after the expression “section 60J”, the expression “or section 60JA”:

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(b) By inserting in subsection (4), after the expression “section 60J”, the expression “ or section 60JA”:

(c) By repealing subsection (3) (a).

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”.

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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”.

30

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”.

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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”:

5 (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

10 “(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 be deemed to have come into force on the 1st day of July 1995.

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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
20 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
25 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
30 substituting the word “any”.

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

35 “(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.”

26. Rate of tenure protection allowance—Section 61FD of the principal Act (as inserted by section 11 of the Social

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Security Amendment Act (No. 3) 1993) is hereby amended by inserting, after the word “protection” where it first occurs, the word “allowance”.

27. Special benefit—(1) The principal Act is hereby amended by repealing section 61C 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:

“Special Benefit

“61C. 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 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.

(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 61C of the principal Act (as substituted by section 5 of the Social Security Amendment Act 1994) or section 61C 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:

“(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.”

New

27. Special benefit—(1) Section 61G of the principal Act (as substituted by section 5 of the Social Security Amendment Act 1994) is hereby amended by adding the following subsection:

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

10 “(a) Who 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) Where 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 be deemed to have come into force on the 1st day of July 1995.

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,”.

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”.

Struck Out

30 (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,”.

35 (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,”.

Struck Out

(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: 5

“(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*: 10

“‘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 any society, organisation, or body whether corporate or unincorporate— 15

“(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 20

“(b) That is not for any reason treated as being the income of the person under this Act.” 25

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”. 30

(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: 35

“(2) (A) Subject to **subsections (6) and (7)** of this section, 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— 40

“(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—

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

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

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

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

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

New

20 “(2B) A disability allowance shall not be payable under this section in respect of any of the costs of residential care services supplied to any person who has a psychiatric, intellectual, physical, or sensory disability—

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

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

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

New

30 “(6) Notwithstanding **subsection (2) (a)** of this section, the Director-General may grant a disability allowance under this section to any person who would otherwise qualify for it and—

“(a) Whose life expectancy is less than 6 months; or

35 “(b) It is not possible to determine whether the disability is likely to continue for not less than 6 months but that is a reasonably possible prognosis.

“(7) Where any person, whose application for a disability allowance has been declined only on the grounds that the disability is likely to last less than 6 months, subsequently

New

shows to the satisfaction of the Director-General that the disability in respect of which that application was made—

“(a) Is likely to last for 6 months or more; or

“(b) Has continued for 6 months or more,—

and that the person would otherwise have been entitled to receive a disability allowance since the date of the original application, the Director-General shall grant a disability allowance to that person commencing on the date of the original application.

5

10

“(6)(8) 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.”

15

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

New

(5) This section shall be deemed to have come into force on the 1st day of July 1995.

20

Struck Out

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:

25

“(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—

30

“(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.”

35

Struck Out

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

5 **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:

10 “69G. (1) In this section and in the **Twenty-eighth** Schedule to this Act—

“‘Cash assets’ has the same meaning as in section 61E of this Act; but does not include any assets or any amount of cash assets excluded by regulations made under section 132c of this Act:

15 *Struck Out*

20 “‘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:

New

25 “‘Home-based disability support services’ means disability services supplied to a person, being services in relation to the person’s domestic affairs (other than medical services, personal care services, attendant care services, and relief care 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

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

5

New

but does not include any amount specified in regulations made under **section 132c** of this Act:

“ ‘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:

10

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

15

“(a) Is not a child; and

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

20

“(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.

25

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

30

“(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

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

35

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.

“(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

40

use, the Director-General may treat any such assets as being cash assets for the purposes of **subsection (4)** of this section.

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

- 5 “(a) The date of the assessment; and
 “(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
10 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—

- 15 “(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
20 “(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
30 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—
35 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
40 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."

Struck Out

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— 5

- (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". 10

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: 15

"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: 20

" '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 1963 (as saved by sections 5 (1) and 57 (4) of the Matrimonial Property Act 1976): 25

" 'Relative' means a person out of whose estate an applicant is entitled to make a claim by way of proceedings. 30

"(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— 35

"(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— 40

"(i) The relative's property; or

Struck Out

- “(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—
- 5 “(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
10 may, in his or her discretion, and, as the case may require,—
“(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
15 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
20 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.
- “**(4)** In any case where the Director-General exercises the
power in **subsection (2) (i)** of this section, the Director-General shall
25 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.”
- 30 **(2)** The following enactments are hereby consequentially
repealed:
(a) Section 23 of the Social Security Amendment Act 1976:
(b) Section 14 (13) of the Social Welfare (Transitional
Provisions) Act 1990:
35 (c) Section 5 (3) (e) of the Social Security Amendment Act
(No. 3) 1993.

- 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)
40 1991) is hereby amended by repealing subsections (2) and (3),
and substituting the following subsections:

“(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. 5

“(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.” 10

(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 (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. 15 20

(3) This section shall be deemed to have come into force on the 1st day of July 1994. 25

36. Commencement and payment of benefits—

Struck Out

(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— 30

(a) By inserting, after the words “sickness benefit,”, the words “transitional retirement benefit,”:

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

(c) By omitting from paragraph (b) the words “after the date”. 35

(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 subsection: 40

“(5A) Where—

Struck Out

- “*(a)* Any person in receipt of a benefit accepts an offer of employment that results in the cancellation of the benefit; and
- 5 “*(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
- 10 “*(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
- 15 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.”
- 20 (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”.

25 *New*

- (3) Section 80 (8) of the principal Act (as so substituted) is hereby amended by repealing paragraph (b) of the proviso, and substituting the following paragraph:
- 30 “(b) Where a person in receipt of a veteran’s pension or New Zealand Superannuation (to whom paragraph (a) of this proviso does not apply) dies, the benefit shall cease on the date of death.”
- (4) The Social Welfare (Transitional Provisions) Amendment Act (No. 2) 1993 is hereby consequentially amended by
- 35 repealing so much of the Second Schedule as relates to paragraph (b) of the proviso to section 80 (8) of the principal Act.

Struck Out

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

New

(5) This section shall be deemed to have come into force on the 1st day of July 1995. 5

Struck Out

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— 10

- (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”. 15

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**”. 20

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”. 30

Struck Out

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

5 “(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 132b** of this Act, on application by the beneficiary, make payment in
10 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.”

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

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

 (b) **Subsection (2)** of this section.

20 (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
25 “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.”

30

Struck Out

(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:

35 “(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

Struck Out

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.” 5

(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)”. 10

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”. 15

(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. 20

“(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. 25 30

“(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): 35

“(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 40

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.

5 **42. Money payable out of Crown Bank Account—**

Struck Out

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

10 “(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:

15 “(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:”.

New

(2A) Section 124 of the principal Act is hereby amended by inserting, after subsection (1A) (as inserted by section 28 (1) of the Social Security Amendment Act (No. 3) 1993), the following subsection:

25 “(1B) As soon as practicable after approving a welfare programme pursuant to subsection (1)(d) of this section, the Minister shall publish in the *Gazette* and lay before the House of Representatives a copy of the programme.”

30 (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:

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

(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 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. 5

Struck Out

43. Advances to beneficiaries and war pensioners for repair or maintenance of home, etc.—(1) Section 125 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection: 10

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

“(a) A widow’s benefit, a domestic purposes benefit, or an invalid’s benefit under this Act; or 15

“(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— 20

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 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.” 25 30

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

New

43. Advances to beneficiaries and war pensioners for repair or maintenance of home, etc.—Section 125 of the principal Act is hereby amended by inserting, after subsection (5), the following subsection: 35

5 “(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.”

Struck Out

(2) The following enactments are hereby consequentially repealed:

- 10 (a) Section 26 (1) of the Social Security Amendment Act 1975:
- (b) Section 27 (1) of the Social Security Amendment Act 1987:
- 15 (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.

20 **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:

“126A. Nothing in—

- 25 “(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—
- to anything done, before the 31st day of December 1999, which—

30 “(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—

- 35 “(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

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

“(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 5

“(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 Commission Act 1977 on the grounds of sex or marital status.” 10

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**”. 15

Struck Out

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: 20

“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: 25

“(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: 30

“(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. 35

“(2) Any such regulations—

“(a) Shall 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 this Act to apply to and in respect of— 40

Struck Out

- “(i) Any programme referred to in the regulations; and
- 5 “(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 this Act:
- 10 “(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.
- 15 “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
- 20 purposes:
- “ (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:
- 25 “ (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.”

New

- 30 **46. Regulations exempting income and assets from assessment of financial means of people requiring certain disability services**—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 section:
- 35 “132c. 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—

New

“(a) Defining terms to be excluded as cash assets for the purpose of **section 69G** of this Act; and

“(b) Specifying that certain amounts of cash assets or income are not to be included within the financial means assessment of a person under that section.” 5

Struck Out

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— 10

(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. 15

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. 20

(2) This section shall be deemed to have 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. 25

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). 30

*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

New

52A. Applications for veteran’s pension by members of “J Force”—Section 10 of the principal Act (as substituted by section 3(1) of the Social Welfare (Transitional Provisions) Amendment Act (No. 2) 1990) is hereby amended by adding
20 the following subsections:

“(2) Notwithstanding the provisions of subsection (1) of this section, where—

25 “(a) Any person applies for a veteran’s pension after the 6th day of March 1995; and

“(b) The service qualifying that person for a veteran’s pension under section 8(1)(a) of this Act was solely with the Japan section of the Second New Zealand Expeditionary Force on or after the 14th day of
30 August 1945 and before the 28th day of April 1952,—

that person’s application for a veteran’s pension shall be deemed to have been received on the 1st day of April 1990.

35 “(3) Nothing in subsection (2) of this section limits section 8(3) of this Act.”

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 paragraph:

“(aa) A boat or craft moored within—

“(i) The territorial sea of New Zealand or any internal waters of New Zealand; or 5

“(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” 10

(2) Section 18A 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.” 15

PART IV

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). 20

*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.” 25
30

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 35

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

5 **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”.

10 **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”:

15 (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

20 **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

25 **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)”.

30 **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.

35

PART VII

DISABLED PERSONS COMMUNITY WELFARE ACT 1975

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

New

62A. Registration—(1) Section 18 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection: 5

“(2) Application for registration shall be made to the Director-General or to such other person or body as the Director-General from time to time determines.” 10

(2) Section 18 (3) of the principal Act is hereby amended by omitting the words “the report of the Director of Social Welfare for the district in which the home is situated, and from such other inquiries as he may consider”, and substituting the words “such inquiries as the Director-General considers”. 15

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 20

“(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.

Struck Out 25

PART VIII

INLAND REVENUE DEPARTMENT ACT 1974

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). 30

*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

Struck Out

5 **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:

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

10 **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:

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

20 **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:

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

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

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

30 (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:”.

35

New

PART VIII

TAX ADMINISTRATION ACT 1994

64. This Part to be read with Tax Administration Act 1994—This Part of this Act shall be read together with and deemed part of the Tax Administration Act 1994* (in this Part of this Act referred to as the principal Act). 5

*1994, No. 166

65. Disclosure of address information in relation to debtors—Section 85 (6) of the principal Act is hereby amended— 10

(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.”. 15

PART IX

PRIVACY ACT 1993 20

66. This Part to be read with Privacy Act 1993—This Part of this Act shall be read together with and deemed part of the Privacy Act 1993* (in this Part of this Act referred to as the principal Act).

*1993, No. 28

Amendments: 1993, No. 59; 1994, No. 70

67. Protection and privileges of witnesses, etc.— 25
Section 94 of the principal Act is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) Nothing in subsection (1) of this section shall prevent the Commissioner or any employee of the Commissioner from— 30

“(a) Requiring, under section 91 of this Act, the furnishing of any information or the production of any document or thing which is the subject of a complaint under Part VIII of this Act and in respect of which privilege is claimed by any person; and 35

“(b) Considering the information or inspecting any such document or thing—

New

for the purpose of determining whether the information, document, or thing would be properly withheld, but not so as to give the Commissioner or employee any information, or enable the Commissioner or employee to make any use of the information, document, or thing, that he or she would not, apart from this subsection, be entitled to.

“(1B) On the production of any information, document, or thing pursuant to **subsection (1A)** of this section, the Commissioner or any employee of the Commissioner—

“(a) Shall not, without the consent of the producer of the information, document, or thing and of any person who is the subject of the information, document, or thing, release the information, document, or thing, or any information derived from the document or thing, to any person other than—

“(i) The producer of the information, document, or thing; or

“(ii) Any barrister or solicitor engaged by the Commissioner for the purpose of providing legal advice as to whether the information, document, or thing would be properly withheld by that producer under subsection (1) of this section; or

“(iii) Where the Commissioner gives his or her opinion on the claim of privilege to the Proceedings Commissioner under **paragraph (b)** of this subsection, to the Proceedings Commissioner:

“(b) May only give his or her opinion to the parties to the complaint or to the Proceedings Commissioner or to the Complaints Review Tribunal as to whether or not the claim of privilege is valid:

“Provided that nothing in this paragraph shall prevent the Commissioner or any employee of the Commissioner from releasing, either generally or to any particular person, the opinion in a form that does not identify either the producer of the information, document, or thing or any person who is the subject of the information, document, or thing:

“(c) Shall not take into account the information or any information in the document or thing in forming any opinion concerning the release of any other information.”

New

PART X

OMBUDSMEN ACT 1975

68. This Part to be read with Ombudsmen Act 1975—

This Part of this Act shall be read together with and deemed 5
part of the Ombudsmen Act 1975* (in this Part of this Act
referred to as the principal Act).

*R.S. Vol. 21, p. 657

Amendments: 1988, No. 77; 1988, No. 205; 1991, No. 121; 1992, No. 25; 1993, No. 34

69. Protection and privileges of witnesses, etc.—

Section 19 of the principal Act is hereby amended by inserting, 10
after subsection (5), the following subsections:

“(5A) In any investigation carried out under this Act 10
pursuant to the Official Information Act 1982 or the Local
Government Official Information and Meetings Act 1987,
nothing in subsection (5) of this section shall prevent an
Ombudsman from— 15

“(a) Requiring, under subsection (1) of this section, the
furnishing of any information or the production of
any document, paper, or thing for which privilege is
claimed by any person; and

“(b) Considering the information or inspecting any such 20
document, paper, or thing—
for the purpose of determining whether the information,
document, paper, or thing would be properly withheld, but not
so as to give the Ombudsman any information, or enable the
Ombudsman to make any use of the information, document, 25
paper, or thing that he or she would not, apart from this
subsection, be entitled to.

“(5B) On the production of any information, document,
paper, or thing pursuant to **subsection (5A)** of this section, the
Ombudsman— 30

“(a) Shall not release the information, document, paper, or
thing or any information derived from the
document, paper, or thing to any person other
than—

“(i) The producer of the information, document, 35
paper, or thing; or

“(ii) Any barrister or solicitor engaged by the
Ombudsman for the purpose of providing legal
advice as to whether the information, document,

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paper, or thing would be properly withheld by that producer under subsection (5) of this section; or

“(iii) A court:

5 “(b) May only give his or her opinion to the producer of the information, document, paper or thing and the complainant as to whether or not the claim of privilege is valid:

10 “(c) Shall not take into account the information or any information in the document, paper, or thing in forming any opinion concerning the release of any other information, unless the Ombudsman considers the claim of privilege is not valid and has notified the person concerned of that decision.”

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

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*

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