

[AS REPORTED FROM THE SOCIAL SERVICES COMMITTEE]

House of Representatives, 22 June 1993.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. Jenny Shipley

SOCIAL WELFARE REFORM (NO. 3)

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. New sections substituted</p> <p style="padding-left: 20px;">11. Power to obtain information</p> <p style="padding-left: 40px;">11A. Power to obtain information for matching purposes</p> <p>5. Right of appeal</p> <p>6. Abolition of miners' benefits</p> <p>7. Right of appeal on medical grounds</p> <p>8. Medical examination of applicants for sickness benefits</p> <p>9. Independent youth benefit</p> <p>10. Accommodation supplement</p> <p style="padding-left: 40px;"><i>Accommodation Supplement</i></p> <p style="padding-left: 20px;">61E. Interpretation</p> <p style="padding-left: 20px;">61EA. Accommodation supplement</p> <p style="padding-left: 20px;">61EB. Special provision for married joint tenants</p> <p style="padding-left: 20px;">61EC. Rates of accommodation supplement</p> <p>11. Further new sections inserted</p> <p style="padding-left: 20px;">61FC. Tenure protection allowance</p> <p style="padding-left: 20px;">61FD. Rate of tenure protection allowance</p> <p>12. Rates of benefits, etc., may be increased by Order in Council</p> <p>13. Redundancy payments not to be taken into account in determining rates of benefits</p>	<p>14. Disability allowance</p> <p>15. Special provisions where compensation or damages recoverable by applicant</p> <p>16. Limitation in certain other cases</p> <p>17. Persons unlawfully resident or present in New Zealand</p> <p>18. Beneficiaries in hospital</p> <p>19. Forfeiture of benefit during detention in a penal institution</p> <p>20. Commencement and payment of benefits</p> <p>21. Effect of high income on entitlement to benefits</p> <p>22. Effect of certain sections on entitlement to supplementary benefits</p> <p>23. Review of benefits</p> <p>24. Duty to supply tax file number</p> <p>25. Recovery of payments made in excess of authorised rates</p> <p>26. New sections inserted</p> <p style="padding-left: 20px;">86A. Deduction of benefit debts</p> <p style="padding-left: 20px;">86B. Discharge of debt</p> <p style="padding-left: 20px;">86C. Deduction notices issued on banks</p> <p style="padding-left: 20px;">86D. Deductions held in trust</p> <p style="padding-left: 20px;">86E. Offences in relation to deduction notices</p> <p style="padding-left: 20px;">86F. Protected earnings</p> <p style="padding-left: 20px;">86G. Variation or discharge of deduction notice</p> <p style="padding-left: 20px;">86H. Penalty for late deductions</p> <p style="padding-left: 20px;">86I. Wrongful treatment of employee</p> <p>27. Notices</p> <p>28. Welfare programmes</p> <p>29. Offences</p>
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<p>30. Proceedings for offences 31. General penalty for offences 32. Regulations providing for issue and use of entitlement cards 33. Regulations providing for assessment of financial means of people requiring disability services 34. New Eighteenth Schedule substituted</p> <p style="text-align: center;">PART II</p> <p>SOCIAL WELFARE (TRANSITIONAL PROVISIONS) ACT 1990</p> <p>35. This Part to be read with Social Welfare (Transitional Provisions) Act 1990 36. Rates of national superannuation 37. Rates of veterans' pensions 38. New sections inserted</p> <p style="padding-left: 2em;">17b. Payment in Cook Islands, Niue, and Tokelau of national superannuation and veteran's pension 17c. Rates of payment of national superannuation or veteran's pension payable to people resident in Cook Islands, Niue, or Tokelau</p>	<p>39. Commencement of living alone payments 40. Functions of New Zealand Artificial Limb Board</p> <p style="text-align: center;">PART III</p> <p style="text-align: center;">PRIVACY COMMISSIONER ACT 1991</p> <p>41. This Part to be read with Privacy Commissioner Act 1991 42. Notice of adverse action proposed</p> <p style="text-align: center;">PART IV</p> <p style="text-align: center;">SOCIAL SECURITY (RENT REBATE AND RATES OF BENEFITS AND ALLOWANCES) ORDERS CONFIRMATION</p> <p>43. Orders validated and confirmed</p> <p style="text-align: center;">PART V</p> <p style="text-align: center;">WAR PENSIONS (RATES OF PENSIONS AND ALLOWANCES) ORDER CONFIRMATION</p> <p>44. Order validated and confirmed 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 (No. 3) 1993. 5

PART I

SOCIAL SECURITY ACT 1964

2. This Part to be read with Social Security Act 1964—
This Part of 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

*R.S. Vol. 13, p. 403

Amendments: 1983, No. 138; 1984, No. 8; 1984, No. 19; 1985, No. 111; 1985, No. 159; 1986, No. 39; 1987, No. 106; 1988, No. 197; 1989, No. 13 (Part V); 1989, No. 58; 1990, No. 5; 1990, No. 74; 1991, No. 1; 1991, No. 78; 1991, No. 33; 1991, No. 124; 1991, No. 143; 1992, No. 15; 1992, No. 59; 1992, No. 80; 1992, No. 99

3. Interpretation—(1) Section 3 (1) of the principal Act is hereby amended by repealing subparagraph (b) (iii) of the definition of the term “benefit” (as substituted by section 2 (1) of the Social Security Amendment Act (No. 2) 1990), and substituting the following subparagraph: 15

“(iii) An accommodation supplement payable under section 61EA of this Act.”

(2) Section 3 (1) of the principal Act is hereby amended by repealing subparagraph (b) (vii) and paragraph (c) of the definition of the term “benefit” (as so substituted), and substituting the following subparagraphs and paragraph:

5 “(vii) A transition to work allowance payable under section 69D of this Act:

“(viii) A tenure protection allowance payable under section 61Fc of this Act; but

10 “(c) Does not include a lump sum payable under section 61DB or section 61DC or section 61DD of this Act.”.

(3) Section 3 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

15 “ ‘Disability services’ has the same meaning as in section 2 of the Health and Disability Services Act 1993:

“ ‘Document’ means a document in any form; and includes—

“(a) Any writing on any material:

20 “(b) Any information recorded or stored by means of any tape-recorder, computer, or other device; and any material subsequently derived from information so recorded or stored:

25 “(c) Any label, marking, or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means:

“(d) Any book, map, plan, graph, or drawing:

30 “(e) Any photograph, film, negative, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced:

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“ ‘Home’ or ‘hospital’ includes—

“(a) A home registered under the Disabled Person’s Community Welfare Act 1975:

35 “(b) A licensed hospital as defined in section 118 of the Hospitals Act 1957:

“(c) A rest home licensed under the Old People’s Homes Regulations 1987:

40 “(d) A hospital or psychiatric security institution within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992:”.

New

“Residential care disability services’ means disability services that are supplied to a person residing for the time being in—

“(a) A licensed hospital as defined in section 118 of the Hospitals Act 1957; or

“(b) A home licensed under the Old People’s Homes Regulations 1987:”.

(4) Section 3 (1) of the principal Act is hereby amended by adding to paragraph (d) of the definition of the term “income” (as substituted by section 3 (1) of the Social Security Amendment Act 1984 and amended by section 2 of the Social Security Amendment Act (No. 5) 1991 and section 2 of the Social Security Amendment Act (No. 2) 1992) the following subparagraphs:

“(x) Any amount of output tax charged in respect of a supply of goods and services made by that person:

“(xi) Any amount of goods and services tax payable by the Commissioner of Inland Revenue to that person:”.

(5) Section 3 (1) of the principal Act is hereby amended by inserting, in its appropriate alphabetical order, the following definition:

“‘Purchaser’ has the same meaning as in section 20 of the Health and Disability Services Act 1993:”.

(6) Section 3 (1) of the principal Act is hereby amended by adding the following definition:

“‘Working day’ means any day of the week other than—

“(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, and Waitangi Day; and

“(b) A day in the period commencing on the 25th day of December in any year and ending with the 15th day of January in the following year.”

(7) Subsections (1) and (2) of this section shall come into force on the 1st day of July 1993.

4. New sections substituted—The principal Act is hereby amended by repealing section 11 (as substituted by section 5 (1) of the Social Security Amendment Act 1987) and section 11A

(as inserted by section 6 of that Act), and substituting the following sections:

5 “11. **Power to obtain information**—(1) Subject to this section, the Director-General, for any purpose specified in subsection (2) of this section, may by notice in writing require any person (including any person who is an officer or employee in the service of the Crown in a Government department or public body (other than as an officer of a Court), in his or her official capacity.)—

10 “(a) To provide the Department or a specified employee of the Department with such information as the Director-General requires; or

15 “(b) To produce to the Department or to a specified employee of the Department any document in the custody of or under the control of that person, and to allow copies of or extracts from any such document to be made or taken; or

20 “(c) To furnish to the Department or to a specified employee of the Department any copies or extracts from any document or record in the custody or under the control of that person—

within a period (being not less than 5 working days after the notice is given) and in the manner specified in the notice, and without charge.

25 “(2) The purposes specified in subsection (1) of this section are—

30 “(a) Determining whether a person who is receiving, or has received, or made a claim for, a benefit or payment under this Part of this Act or under the Social Welfare (Transitional Provisions) Act 1990 or under a welfare programme approved by the Minister under section 124 (1) (d) of this Act is or was entitled to receive that benefit or that payment; or

35 “(b) Determining the rate of benefit or payment that is or was applicable to that person; or

“(c) Determining whether a person who has been issued with, or has made a claim for, an entitlement card under regulations in force under section 132A of this Act, is or was entitled to be issued with that card; or

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- “(d) Determining whether a person, whose financial means to pay for disability services is being assessed pursuant to regulations in force under **section 132B** of this Act, is able to pay or contribute to the cost of those disability services and the level of any contribution, and whether a person who has been so assessed is or was entitled to that assessment; or 5
- “(e) Ascertaining the financial circumstances or whereabouts of any person who is indebted to the Crown under this Part of this Act; or 10

New

- “(d) Determining whether a person whose financial means are being assessed pursuant to **section 69F** of this Act is able to pay or contribute to the cost of the residential care disability services provided to that person, and whether a person who has been so assessed is entitled to that assessment; or 15
- “(e) Ascertaining the financial circumstances or whereabouts of any person who is indebted to the Crown under— 20
- “(i) This Part of this Act; or
- “(ii) Sections 271 to 271Z (except section 27X) of, and the Twentieth Schedule to, this Act (as preserved by section 256 (1) of the Child Support Act 1991); or 25
- “(iii) **Section 61CA** of this Act; or
- “(f) Discharging the Director-General’s functions under this Act or under any regulations in force under this Act or under the Social Welfare (Transitional Provisions) Act 1990 or under any welfare programme approved by the Minister under section 124 (1) (d) of this Act. 30
- “(3) A person who—
- “(a) Refuses or fails without reasonable excuse to comply with a notice under this section to the extent that the person is capable of complying with it; or 35
- “(b) In purported compliance with such a notice knowingly or recklessly furnishes information which is false or

misleading in any material particular, or attempts to do so,—
commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 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) Nothing in **subsection (1)** of this section shall require any person suspected of—
10 “(a) An offence against this Act; or
 “(b) Fraudulently obtaining a benefit or payment under this Act—
to provide any information or to produce any document that would be privileged in a Court of law on the ground of self-incrimination.

New

“(4) Nothing in **subsection (1)** of this section shall require any person to provide any information or produce any document that would be privileged in a Court of law on the ground of self-incrimination.

“(5) Nothing in **subsection (1)** of this section shall require any person to provide any information or to produce any document that is legally professionally privileged:

25 “Provided that this subsection shall not apply to information or any document that consists wholly or partly of, or relates wholly or partly to,—

30 “(a) The receipts, payments, income, expenditure, or financial transactions of a specified person (whether a law practitioner, his or her client, or any other person); or

35 “(b) Investment receipts (being receipts arising or accruing from any money lodged at any time with a law practitioner for investment) of any person or persons (whether the law practitioner, his or her clients, or any other person or persons)—

and is contained in, or comprises the whole or part of, any book, account, statement, or other record prepared by or kept in connection with a trust account of the law practitioner.

“(6) Where any person refuses to disclose any information or document on the ground that it is privileged under **subsection (5)** of this section, the Director-General or that person may apply to a District Court Judge for an order determining whether or not the claim of privilege is valid; and, for the purposes of determining any such application, the Judge may require the information or document to be produced to the Court. 5

New

“(6A) Subject to **subsections (4) to (6)** of this section, no person shall be excused under this section from providing any information or producing any document that would be privileged in a Court of law. 10

“(7) In this section—

“‘Law practitioner’ means a barrister or solicitor of the High Court; and includes a firm in which any such law practitioner is a partner or is held out to be a partner: 15

“‘Trust account’, in relation to a law practitioner, has the same meaning as in section 2 of the Law Practitioners Act 1982.” 20

“**11A. Power to obtain information for matching purposes—**

Struck Out

(1) Subject to this section, and without limiting the generality of **subsection (1)** of **section 11** of this Act, a notice under that subsection may (for the purpose of detecting cases where benefits or payments under this Act have been paid, or entitlement cards issued, or financial means assessments made, that should not have been) require a person to provide information relating to a specified class of individuals (including any employee or former employee of the first-mentioned person) within a specified period (whether or not the Director-General is able to identify any of the individuals in that class as being individuals who are or have been receiving a benefit or a payment under this Act, or who are or have been issued with an entitlement card under regulations in force under this Act or who have had their financial means assessed under regulations in force under this Act). 25 30 35

New

“(1) Where the Director-General has reason to suspect that there is, or may have been, any person or persons in the employ of any employer—

5 “(a) To whom benefits or payments under this Act have been paid; or

“(b) To whom entitlement cards have been issued; or

“(c) In respect of whom or whose spouse, a financial means assessment has been made—

10 that should not have been, the Director-General may, subject to this section, issue a notice under **section 11 (1)** of this Act requiring that employer to provide the following information within a specified period:

15 “(d) The names and addresses of that employer’s employees or a specified class of employees (including any former employees who were employed by that employer within a specified period); and

“(e) The tax file numbers of those employees or former employees.

20 “(1A) The Director-General may issue a notice to an employer pursuant to **subsection (1)** of this section whether or not the Director-General is able to identify any employees or former employees of that employer as being individuals who—

25 “(a) Are or have been receiving a benefit or payment under this Act; or

“(b) Are or have been issued with entitlement cards pursuant to regulations in force under this Act; or

“(c) Have had their or their spouses’ financial circumstances assessed under this Act.

30 “(1B) The Director-General shall not issue a notice to any employer pursuant to **subsection (1)** of this section more than once in any 12-month period.

“(2) Where the Director-General obtains information pursuant to a notice issued under **subsection (1)** of this section, and that information, when used in an information-matching programme, produces a discrepancy, the Director-General shall not take adverse action against any individual in relation to that discrepancy—

40 “(a) Unless the Director-General has given that individual written notice—

“(i) Specifying particulars of the discrepancy and of the adverse action the Director-General proposes to take; and

“(ii) Stating that the individual has 5 working days from the receipt of the notice in which to show cause why the action should not be taken; and 5

“(b) Until the expiration of those 5 working days.

“(3) Nothing in **subsection (2)** of this section prevents the Director-General from taking adverse action against an individual if compliance with the requirements of that subsection would prejudice any investigation into the commission of an offence or the possible commission of an offence. 10

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“(4) The provisions of sections 16, 18, and 19 of the Privacy Commissioner Act 1991, and of Rules 1, 2, 5, 6, and 7 of the Information Matching Rules specified in the Second Schedule to that Act, shall apply, with all necessary modifications, to any information obtained by the Director-General pursuant to **subsection (1)** of this section and to any information-matching programme using that information. 15
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“(4) The provisions of sections 100 to 102 and 104 to 106 of the Privacy Act 1993, and of the information matching rules specified in the Fourth Schedule to that Act, shall apply, with all necessary modifications, to any information obtained by the Director-General pursuant to **subsection (1)** of this section and to any information matching programme using that information; but notwithstanding anything in rule 4 of those rules— 25

“(a) The Director-General shall not be required to prepare more than one technical standards report in respect of information received from any employer or employers pursuant to **subsection (1)** of this section where the standards in that report are to apply to information so obtained from any employers generally; and 30
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“(b) The Director-General shall not be required to make that report available to any employer given notice pursuant to **subsection (1)** of this section, and nor shall

New

any such employer be required to hold a copy of that report.

5 “(5) In this section, ‘information matching programme’ means the comparison of information obtained pursuant to subsection (1) of this section with other personal information held by the Department for the purpose of producing or verifying information about an identifiable individual; and expressions otherwise defined in (*section 2 of the Privacy Commissioner Act 1991*) section 97 of the Privacy Act 1993 shall have the meanings so defined, with any necessary modifications.

10 “(6) Nothing in this section shall limit or affect the provisions of (*section 18 (1A) of the Privacy Commissioner Act 1991*) section 103 (1A) of the Privacy Act 1993.

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New

“(7) In this section, ‘tax file number’ has the same meaning as in section 2 of the Income Tax Act 1976.

20 **5. Right of appeal**—(1) Section 12J (1) of the principal Act (as inserted by section 4 (1) of the Social Security Amendment Act 1973) is hereby amended by adding the following paragraph:

“(d) Any regulations in force under section 132A or section 132B of this Act.”

25 (2) Section 12J of the principal Act (as so inserted) is hereby amended by repealing subsection (2) (as amended by section 4 of the Social Security Amendment Act 1978), and substituting the following subsection:

30 “(2) The Appeal Authority shall not have the authority to hear and determine any appeal on medical grounds against any decision or determination of the Director-General in respect of—

“(a) An invalid’s benefit; or

“(b) A handicapped child’s allowance under section 39A of this Act; or

35 “(c) A tenure protection allowance under **section 61Fc** of this Act.”

(3) Section 4 of the Social Security Amendment Act 1978 is hereby consequentially repealed.

(4) **Subsections (2) and (3)** of this section shall come into force on the 1st day of July 1993.

6. Abolition of miners' benefits—(1) Sections 47 to 53 of the principal Act are hereby repealed.

(2) The Seventh Schedule to the principal Act (as substituted by section 12 (1) of the Social Security Amendment Act 1983) is hereby repealed. 5

(3) The principal Act is hereby amended—

(a) By omitting from section 12J (2) (as inserted by section 4 (1) of the Social Security Amendment Act 1973) the words “or a miner’s benefit”: 10

(b) By repealing section 53A (1) (c) (as inserted by section 13 of the Social Security Amendment Act 1986):

(c) By omitting from section 61H (1) (b) (as substituted by section 24 (2) of the Social Security Amendment Act 1991) the words “Sixth to Ninth”, and substituting the words “Sixth, Eighth, Ninth”: 15

(d) By omitting from section 69c (5) (a) (as substituted by section 14 (10) of the Social Welfare (Transitional Provisions) Act 1990) the word “miner’s,”: 20

(e) By omitting from section 73 (1) (as amended by section 27 of the Social Security Amendment Act 1991) the words “, a miner’s benefit, or a miner’s widow’s benefit”:

(f) By omitting from paragraph (a) of the proviso to section 80 (8) (as substituted by section 32 (1) of the Social Security Amendment Act 1991) the word “miner’s,”. 25

(4) The following enactments are hereby consequentially repealed:

(a) Section 12 of the Social Security Amendment Act 1986: 30

(b) Section 27 of the Social Security Amendment Act 1991.

(5) The Social Security (Rates of Benefits) Order 1992 (S.R. 1992/57) is hereby amended by revoking so much of the First Schedule as relates to the Seventh Schedule to the principal Act. 35

(6) Notwithstanding the provisions of this section, if, immediately before the commencement of this section, a person is in receipt of a miner’s benefit under section 47 of the principal Act or a miner’s widow’s benefit under section 53 of that Act, the Director-General shall continue to pay that benefit as if this section had not been enacted; but at the appropriate rate from time to time payable to the recipient of an invalid’s benefit who has no annual income. 40

7. 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 by inserting, after paragraph (c), the following paragraph:

5 “(d) Any claim for a tenure protection allowance on medical grounds is declined under **section 61Fc (2)** of this Act, or a tenure protection allowance is cancelled on medical grounds under **section 61Fc (4) (c)** of this Act—”.

10 (2) This section shall come into force on the **1st day of July 1993**.

8. Medical examination of applicants for sickness benefits—Section 56 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

15 “(1) Every application for a sickness benefit shall be supported by the certificate of—

 “(a) A medical practitioner; or

 “(b) A registered dentist in respect of any condition within the ambit of his or her profession; or

20 “(c) A registered midwife in respect of a pregnancy, childbirth, or any related condition that is within the ambit of his or her profession—

certifying that the applicant is incapacitated for work, and containing such other particulars as the Director-General may require.”

9. Independent youth benefit—Section 60F (1) (c) of the principal Act (as inserted by section 17 (1) of the Social Security Amendment Act (No. 2) 1990) is hereby amended by repealing subparagraph (iii), and substituting the following subparagraph:

30 “(iii) 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”.

New

35 **9A. Maintenance payable to Crown**—(1) The principal Act is hereby amended by inserting, after section 61c, the following section:

 “61cA. (1) In this section—

New

- “ ‘Beneficiary’ means a person who was granted the benefit in respect of which a maintenance debt was incurred:
- “ ‘Maintenance’ has the same meaning as in section 2 of the Family Proceedings Act 1980: 5
- “ ‘Maintenance debt’ means any money payable under a maintenance order that was payable to the Consolidated Revenue Account or Crown Bank Account under section 27F of this Act (as it existed immediately before its repeal by section 6 (1) of the Social Security Amendment Act (No. 5) 1991), and unpaid as at the close of the 30th day of June 1992, declared to continue to be payable to the Crown Bank Account as a debt due to the Crown by section 9A (2) of Part I of the **Social Welfare Reform Act (No. 3) 1993**: 10 15
- “ ‘Maintenance order’ has the same meaning as it had in section 2 of the Family Proceedings Act 1980 immediately before the amendment of that definition by the Family Proceedings Amendment Act 1991. 20
- “(2) In respect of any maintenance debt—
- “(a) The Director-General shall, for the purposes of the Family Proceedings Act 1980 or any other enactment, be deemed to be the person to whom and for whose benefit the money is payable pursuant to the maintenance order, and may take any proceedings accordingly: 25
- “(b) All money received under the maintenance order shall, without any further authority, be paid into the Crown Bank Account: 30
- “(c) Either the beneficiary or the Director-General or any officer of the Department, acting for and on behalf of the beneficiary, may institute and prosecute proceedings under Part VII of the Family Proceedings Act 1980 (as preserved by section 259 (1) of the Child Support Act 1991) for the enforcement of the maintenance order. 35
- “(3) While any maintenance debt remains payable, the Director-General shall be served with all proceedings instituted under the Family Proceedings Act 1980 in relation to the maintenance order, by the delivery of a true copy of all documents filed in the proceedings to the relevant office of the 40

New

Department nearest to the Court in which the proceedings are filed. The Director-General or any officer of the Department shall, without special appointment, be entitled to appear and be heard in those proceedings.”

(2) Notwithstanding the repeal of section 27F of the principal Act by section 6 (1) of the Social Security Amendment Act (No. 5) 1991, it is hereby declared that any money payable under a maintenance order that was payable to the Consolidated Revenue Account or Crown Bank Account under that section (before its repeal), and unpaid as at the close of the 30th day of June 1992, shall continue to be payable to the Crown Bank Account as a debt due to the Crown.

10. Accommodation supplement—(1) The principal Act is hereby amended by repealing sections 61E and 61F, and substituting the following heading and sections:

“Accommodation Supplement

“61E. **Interpretation**—In this section and sections 61EA, 61EB, 61EC, 61FA, 61FB, 61FC and 61FD of, and in the Eighteenth Schedule to, this Act, unless the context otherwise requires,—

“‘Accommodation costs’, in relation to any person for any given period, means—

“(a) In relation to premises that are rented by the person—

“(i) Subject to subparagraph (ii) of this paragraph, the total cost to the person (excluding any arrears) of the premises; or

“(ii) Where the premises are rented from (*the Housing Corporation of New Zealand, Housing New Zealand Limited, or the Crown in right of the Ministry of Maori Development*) Housing New Zealand Limited or the Crown in right of the Ministry of Maori Development—

“(A) In the case of a person receiving a tenure protection allowance under section 61Fc of this Act, the appropriate average regional rent specified in Part III of the Eighteenth Schedule to this Act:

“(B) In the case of a person who was receiving an accommodation benefit under section 61E (4) of this Act before the 1st day of July 1993, but is not receiving a tenure protection allowance under section 61FC of this Act, in respect of whom the Director-General is satisfied that the rental has not been reviewed since that date, the total cost to the person (excluding any arrears) of the premises: 5

“(C) In the case of any other person, the rental that the chief executive of (*the Housing Corporation of New Zealand, Housing New Zealand Limited, or the Ministry of Maori Development*) Housing New Zealand Limited or the Crown in right of the Ministry of Maori Development certifies is the market rental of the premises: 10

“(b) In relation to premises that are owned by the person, the total amount of all payments (including essential repairs and maintenance, local authority rates, and house insurance premiums, but excluding any arrears) that— 20

“(i) Are required to be made under any mortgage security for money advanced under that security to acquire the premises, or to repay advances similarly secured; or 25

“(ii) The Director-General is satisfied are reasonably required to be made: 30

“(c) In relation to a person who is a boarder or lodger in any premises, two-thirds of the amount paid for board or lodging (excluding any arrears):

“Provided that where a person is a joint tenant or owner in common of any premises with another person or other persons living in the premises that applicant’s accommodation costs shall be the share of the total accommodation costs of the premises (*as defined in paragraph (a) or paragraph (b) of this definition, but as if any tenure protection allowance was not being paid*) that the Director-General is satisfied the person is paying: 35

“ ‘Beneficiary’ means any person who is being paid—

“(a) A widow’s, domestic purposes, invalid’s, sickness, training, unemployment, independent 45

youth, or emergency benefit, or a job search allowance; or

“(b) National superannuation or a veteran’s pension:

5 “ ‘Cash assets’ means—

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

“(b) Money invested in securities, bonds, or debentures, or advanced on mortgage:

10 “(c) Money invested in shares in a partnership or limited liability company or other incorporated or unincorporated body:

“ ‘Deferred payment disposition’ has the meaning ascribed to it by section 2 of the Credit Contracts Act 1981:

15 “ ‘Mortgage security’ includes—

“(a) A deferred payment disposition; and in any such case, the balance of the purchase price required to be paid to the vendor of the premises under any such disposition shall, for the purposes of **paragraph (b)** of the definition of the term ‘accommodation costs’, be treated as money advanced under a mortgage security:

20 “(b) Money secured over the person’s share or shares in any flat owning company within the meaning of the Companies Amendment Act 1964:

“(c) Money payable under and secured by a deferred payment licence under the Land Act 1948:

“ ‘Non-beneficiary’ means a person who is not a beneficiary:

30 “ ‘Owner’ includes a person legally entitled to occupy the premises under—

“(a) A deferred payment disposition; or

“(b) A lease, where the occupier is also the lessor as owner or one of the lessors as one of the owners; or

35 “(c) A license to occupy under the Companies Amendment Act 1964; or

“(d) A deferred payment licence under the Land Act 1948—

and ‘owned’ has a corresponding meaning:

40 “ ‘Premises’, in relation to any person, means the place that he or she occupies as a home; and includes, in relation to a person who is a boarder or lodger, any room or other accommodation occupied as a home by that person:

“‘Tenant’, in relation to any rented premises, includes a person who pays rent, whether or not he or she is a party to the tenancy agreement or lease of the premises:

“‘Weekly accommodation costs’ means the greater of— 5

“(a) The total amount of a person’s accommodation costs for a 12-month period divided by 52; or

“(b) The amount which, at the time of application or subsequent renewal, the person is required to pay weekly for accommodation costs or may reasonably be required to set aside weekly to pay accommodation costs. 10

“61EA. **Accommodation supplement**—(1) Subject to the provisions of this Part of this Act, the Director-General may grant to an applicant, from such date and for such period as the Director-General determines, an accommodation supplement to assist in meeting the applicant’s accommodation costs. 15

“(2) An accommodation supplement shall not be paid to an applicant whose accommodation costs include rent paid to, or payments required to be made under any mortgage security to, the Housing Corporation of New Zealand, Housing New Zealand Limited, or the Crown in right of the Ministry of Maori Development, if he or she— 20

“(a) Is, in the opinion of the Director-General, making payments required to be made under such a mortgage security at a concessionary rate; or 25

“(b) Has been certified as being entitled to a rebate under section 61FA of this Act pursuant to an Order in Council made under section 61FB of this Act, and that rebate is still being credited against his or her rent. 30

“(3) Notwithstanding anything to the contrary in this Act, a beneficiary being paid national superannuation shall not be entitled to be paid an accommodation supplement under this section if the income of that beneficiary or the combined income of that beneficiary and his or her spouse, as the case may be, is such as would prevent payment of an invalid’s benefit under this Act. 35

“(4) No person shall be granted an accommodation supplement if that person— 40

“(a) Is receiving a basic grant or an independent circumstances grant under the Student Allowances Regulations 1991; or

5 “(b) Would be eligible to receive a basic grant or an independent circumstances grant under the Student Allowances Regulations 1991, but for the level of that person’s income or the level of the income of that person’s parent or parents; or

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10 “(c) Except as provided in **section 61EB** of this Act, is the spouse of a person who is already receiving an accommodation supplement under this section, except where that person is receiving disability services, while residing in a home or hospital for more than 13 weeks, which have been purchased without the financial assistance of a purchaser; or

15 “(d) Is receiving disability services which have been purchased by a purchaser, or with the financial assistance of a purchaser, while he or she is residing in a home or hospital for more than 13 weeks; or

20 “(e) Is receiving disability services while he or she is residing in a home or hospital for less than 13 weeks, whether purchased with the assistance of a purchaser or otherwise, unless he or she is maintaining outside premises, and to the extent that accommodation costs are incurred in respect of those premises.

New

25 “(c) Is receiving residential care disability services purchased by or with the assistance of a purchaser, and has had his or her financial means assessed under **section 69F** of this Act; or

30 “(d) Is the spouse of a person who is already receiving an accommodation supplement under this section, except as provided in **section 61EB** of this Act.

35 “61EB. **Special provision for married joint tenants**—In any case where any premises are occupied by 2 or more joint tenants, and at least 2 of those joint tenants are married to each other,—

“(a) Each 2 of those joint tenants who are married to each other shall, except for the purpose of the proviso to the definition of the term ‘accommodation costs’

contained in **section 61E** of this Act, be treated as one joint tenant; and

“(b) Where **paragraph (a)** of this section applies—

“(i) The accommodation costs of that one joint tenant shall be the total of the accommodation costs of each of the 2 persons who are treated pursuant to that paragraph as one joint tenant; and 5

“(ii) The cash assets and income of that one joint tenant shall be the total of the cash assets and income respectively of each of the 2 persons who are treated pursuant to that paragraph as one joint tenant. 10

“**61EC. Rates of accommodation supplement**—(1) The rate of accommodation supplement granted under **section 61EA** of this Act shall, in each case, be paid at the appropriate rate specified in the **Eighteenth** Schedule to this Act. 15

“(2) For the purposes of the **Eighteenth** 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 20

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

shall be deemed to be \$1 a week of income.

“(3) Notwithstanding anything to the contrary in this Act, an accommodation supplement shall not be paid to any person who has cash assets exceeding— 25

“(a) \$16,200 in the case of—

“(i) A married person; or

“(ii) A single person with a dependent child or children: 30

“(b) \$8,100 in any other case.

“(4) Notwithstanding the provisions of this section or of **section 61EA** of this Act, the Director-General may, if he or she is satisfied that the applicant or the applicant’s spouse has not realised any assets available for the applicant’s personal use,— 35

“(a) Refuse to grant an accommodation supplement; or

“(b) Reduce the rate of any accommodation supplement already granted; or

“(c) Terminate any accommodation supplement already granted. 40

“(5) For the purposes of this section and of the **Eighteenth** Schedule to this Act, the income and assets of a married person shall include the income and assets of that person’s spouse,

except in the circumstances specified in the second exception to **section 61EA (4) (c)** of this Act.”

(2) The following enactments are hereby consequentially repealed:

- 5 (a) Section 24 of the Social Security Amendment Act 1987:
 (b) Sections 16 and 17 of the Social Security Amendment Act
 (No. 2) 1988:
 (c) Section 35 (1) of the Finance Act 1989:
 10 (d) Section 14 (6) of the Social Welfare (Transitional
 Provisions) Act 1990:
 (e) Section 22 of the Social Security Amendment Act 1991:
 (f) Section 3 of the Social Security Amendment Act (No. 3)
 1992.

15 (3) Notwithstanding the provisions of **subsections (1) and (2)** of this section, if, immediately before the date of commencement of this section, any person is in receipt of an accommodation benefit, the Director-General, in his or her discretion, may continue to pay an accommodation benefit to that person as if **subsections (1) and (2)** of this section and **sections 11 and 34** of this
 20 Act had not been enacted; but no such payment shall be made after the **31st day of July 1994**.

(4) While any person is receiving an accommodation benefit pursuant to **subsection (3)** of this section, that person shall not be entitled to receive an accommodation supplement or a tenure
 25 protection allowance under the principal Act.

(5) This section shall come into force on the **1st day of July 1993**.

11. Further new sections inserted—(1) The principal Act is hereby amended by inserting, after section 61FB, the following sections:

30 “61FC. **Tenure protection allowance**—(1) Any person who is resident in premises rented from the (*Housing Corporation of New Zealand, Housing New Zealand Limited, or the Crown in right of the Ministry of Maori Development*) Housing New Zealand Limited or the Crown in right of the Ministry of Maori
 35 Development may be granted, from the date of application, a tenure protection allowance in respect of those premises, if the Director-General is satisfied that he or she meets the conditions specified in **subsection (2)** of this section:

40 “Provided that, in the case of such premises rented by joint tenants at least 2 of whom are married to each other, only 1 married joint tenant per married couple may be granted a tenure protection allowance at any one time.

“(2) The conditions on which a tenure protection allowance may be granted under **subsection (1)** of this section are—

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“(a) Subject to **subsection (4)** of this section, the applicant has, since the 1st day of October 1992, been resident in the premises; and 5

“(b) A qualifying person has, since the 1st day of October 1992, been *(living)* resident in the premises; and

“(c) The applicant’s weekly accommodation costs are greater than his or her appropriate average regional rental specified in **Part III** of the **Eighteenth** Schedule to this Act. 10

“(3) In this section, ‘qualifying person’ means a person who—

“(a) Is aged 65 years or more on the 1st day of October 1992 and is the applicant or the applicant’s spouse; or 15

“(b) Has a disability, and is the applicant or a member of the applicant’s family, and the premises were modified to accommodate a person with that disability on or before that date; or 20

“(c) Is totally blind, or has a serious medical condition that, in the opinion of the Director-General, would be exacerbated by moving from the premises, and is—

“(i) The applicant; or

“(ii) A member of the applicant’s immediate family; or 25

“(iii) A companion of the applicant who, throughout the period of 24 months ending with the date on which the application is made, has resided with the applicant. 30

Struck Out

“(4) Where the qualifying person is a child, it shall not be necessary for the applicant to have lived in the premises since the 1st day of October 1992.

“(5) A tenure protection allowance shall cease to be payable when *(the person in respect of whom that allowance was granted)* the qualifying person— 35

“(a) Dies, but the Director-General may in his or her discretion, for a period not exceeding 3 months,—

“(i) Continue to pay the tenure protection allowance to the applicant; or

“(ii) If the applicant has died, pay the tenure protection allowance to a member of the applicant’s family—

5

while the applicant or that member of the applicant’s family is resident in the premises; or

“(b) Vacates the premises; or

10

“(c) In the case of a person who was a qualifying person under subsection (3) (c) of this section, if, in the opinion of the Director-General, that person no longer has a serious medical condition that would be exacerbated by moving from the premises—

whichever first occurs.

15

“(6) A tenure protection allowance shall not be paid to a person who has been certified as being entitled to a rebate under section 61FA of this Act pursuant to an Order in Council made under section 61FB of this Act, and that rebate is still being credited against his or her rent.

20

“61FD. **Rate of tenure protection allowance**—Any person who has been granted a tenure protection under section 61Fc (1) of this Act, shall be entitled to receive a tenure protection allowance equal to the amount by which his or her weekly accommodation costs exceeds the appropriate average regional rental specified in Part III of the Eighteenth Schedule to this Act.”

25

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

30

12. Rates of benefits, etc., may be increased by Order in Council—(1) Section 61H(1)(a) of the principal Act (as substituted by section 3(1) of the Social Security Amendment Act 1990) is hereby amended by omitting the expression “61DC, 61DD, 61DE,” and substituting the expression “61DB, 61DC, 61DD,”.

Struck Out

35

(2) Section 61H(1) of the principal Act (as so substituted) is hereby amended by inserting, after the words “lump sum payment,”, the words “maximum amount of supplements, average regional rental,”.

(3) Section 61H(2) of the principal Act (as so substituted) is hereby amended by inserting, after the words “lump sum

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payments,” the words “maximum amounts of supplements, average regional rentals,”.

New

(2) Section 61H (1) (b) of the principal Act (as substituted by section 24 (2) of the Social Security Amendment Act 1991) is hereby amended by omitting the words “and Twenty-sixth”, and substituting the words “Twenty-sixth, and Twenty-seventh”. 5

(3) Section 61H (1) of the principal Act (as substituted by section 3 (1) of the Social Security Amendment Act 1990) is hereby amended— 10

(a) By inserting, after the words “lump sum payment,” the words “maximum amount of supplements, average regional rental, asset limit, income exemption,”: 15

(b) By omitting the expression “those Schedules”, and substituting the expression “those Schedules, and by decreasing the amount of any average regional rental”.

(3A) Section 61H (2) of the principal Act (as so substituted) is hereby amended by inserting, after the words “lump sum payments,” where they first occur, the words “maximum amounts of supplements, average regional rentals, asset limits, income exemptions,”. 20

(4) Subsections (2) (and (3)) to (3A) of this section shall come into force on the 1st day of July 1993. 25

13. Redundancy payments not to be taken into account in determining rates of benefits—(1) Section 66B of the principal Act (as inserted by section 4 of the Social Security Amendment Act (No. 4) 1992) is hereby amended by omitting the words “accommodation benefit”, and substituting the words “accommodation supplement”. 30

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

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5 **14. Disability allowance**—Section 69c (5) (b) of the principal Act (as added by section 11 (2) of the Social Security Amendment Act 1982) is hereby amended by adding the words “or is a person in a home receiving disability services purchased by or with the assistance of a purchaser”.

New

10 **14. Disability allowance**—Section 69c (5) of the principal Act (as added by section 11 (2) of the Social Security Amendment Act 1982) is hereby amended by repealing paragraph (b), and substituting the following paragraph:

15 “(b) The spouse of that married person is either—
 “(i) A patient in a hospital as defined in section 75 (1) of this Act; or
 “(ii) A person receiving residential care disability services purchased by or with the assistance of a purchaser, and has had his or her financial means assessed under **section 69F** of this Act.”

20 **14A. Financial means assessment of people requiring residential care disability services**—(1) The principal Act is hereby amended by inserting, after section 69D (as inserted by section 15 of the Social Security Amendment Act 1986), the following sections:

25 “69E. **Interpretation**—In this section, in **section 69F** of this Act, and in the **Twenty-seventh** Schedule to this Act—

“ ‘Assets’, in relation to any person, includes the realisable assets of that person and his or her spouse; but does not include—

30 “(a) Any interest in any residential dwelling that is the principal residence of that person’s spouse or any dependent child of that person; and

“ (b) Any amount of realisable assets less in value than the applicable amount specified in Part I of the **Twenty-seventh** Schedule to this Act; and

35 “(c) Any amount of realisable assets specified in regulations made under **section 132B** of this Act:

New

- “ ‘Income’, in relation to any person, means income within the meaning of section 3 (1) of this Act; and includes—
- “(a) Any benefit received by that person; and 5
 - “(b) Fifty percent of any amount received by way of a pension under a superannuation scheme registered under the Superannuation Schemes Act 1989; and
 - “(c) Fifty percent of any amount received under an annuity paid in respect of a policy of life insurance— 10
 - “(i) Offered or entered into in New Zealand by a life insurer (as that term is defined in section 204 of the Income Tax Act 1976); or 15
 - “(ii) Offered or entered into outside of New Zealand by a life insurer (as so defined) that is resident in New Zealand within the meaning of section 241 of that Act; and
 - “(d) The total of any income received by that person’s spouse— 20
but does not include—
 - “(e) Any income from employment or self-employment received by that person’s spouse that is not more than the applicable amount specified in Part II of the **Twenty-seventh** Schedule to this Act; and 25
 - “(f) Any amount of money paid by a purchaser for that person’s residential care disability services; and
 - “(g) Any benefit received by that person’s spouse; and 30
 - “(h) Any sum by way of personal allowance or clothing allowance received by the person under arrangements between the Director-General and any purchaser; and
 - “(i) Where that person and his or her spouse have 35
realisable assets that are less than the appropriate amount specified in Part I of the **Twenty-seventh** Schedule to this Act, any income derived from those assets; and
 - “(j) Any pension or allowance payable under the War Pensions Act 1954 or under any regulations 40
made under that Act; and

New

“(k) Any amount that is specified in regulations made under **section 132B** of this Act:

5 “‘Realisable assets’, in relation to any person, and subject to any regulations made under **section 132B** of this Act, means assets that are capable of being realised by that person.

“69F. **Financial means assessments**—(1) This section applies to any person who is—

10 “(a) Aged 65 years or more; or

“(b) Aged less than 65 years and has been assessed by a purchaser as close in age and interest to persons aged 65 years or more—

where a purchaser has assessed that the person—

15 “(c) Requires residential care disability services; and

“(d) That those services are likely to be required to be provided indefinitely.

“(2) Every person to whom this section applies shall be required to pay either the lesser of the full cost of the residential care disability services provided to him or her, or the total amount of the assets and the annual income of that person and his or her spouse assessed under **subsection (3)** of this section.

25 “(3) Every person to whom this section applies may apply to the Department to have his or her financial means to pay or contribute to the cost of residential care disability services assessed; and the Director-General may assess those means by calculating the amount of the assets and the annual income of that person and his or her spouse in accordance with this Act, subject to any regulations that may be made under **section 132B** of this Act.

“(4) Where the Director-General makes a financial means assessment under this section, that assessment shall state—

35 “(a) The date of the assessment; and

“(b) The amount that the person has been assessed as being able to contribute to the cost of his or her own residential care disability services—

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 subsection to the applicable purchaser.

40

New

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

“(a) The Director-General is satisfied that the assessment is in error; or 5

“(b) The person to whom the assessment relates or his or her spouse fails to provide any relevant information requested or 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 the assets or annual income of that person and his or her spouse, 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. 15

“(6) In any case where the Director-General is satisfied that any person— 20

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

“(b) Whose financial means have been assessed under this section—

or that person’s spouse, has directly or indirectly deprived himself or herself of any income or realisable assets, the Director-General, in the Director-General’s discretion, may calculate or, as the case may be, revise the calculation of the assets and annual income of that person and his or her spouse as if the deprivation had not occurred. 25 30

“(7) Nothing in this section shall, before the 1st day of July 1996, require any person who was receiving residential care disability services before the 1st day of July 1993 to pay or contribute any greater sum to the cost of those services than he or she was liable to pay or contribute before the last-mentioned date. 35

“(8) Every person whose financial means have been assessed under this section, and that person’s spouse, 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 contribute to the cost of the residential care disability services being provided to that person. 40

New

“(9) For the purposes of **subsection (1)** of this section, ‘purchaser’ includes an area health board in respect of any assessment made before the 1st day of July 1993.”

5 (2) Any agreement the Director-General entered into with a person that—

(a) Required that person to repay, as a loan, any amount of rest home subsidy that was paid in respect of that person under the rest home subsidy welfare programme approved by the Minister under section 124 (1) (d) of this Act; and

10 (b) Was in force immediately before the 1st day of July 1993—

shall be deemed to remain in force and to be an agreement to repay any amount of the cost of the residential care disability services paid by a purchaser in respect of that person after that date; and references in that agreement to that welfare programme shall be deemed to include any amounts so paid by a purchaser.

20 **15. Special provisions where compensation or damages recoverable by applicant**—Section 71 (1) of the principal Act (as amended by section 25 of the Social Security Amendment Act 1991) is hereby amended—

(a) By omitting the words “disease or due to”, and substituting the words “disease or in respect of”;

25 (b) By inserting in paragraph (a), after the word “disability”, the words “or loss of expectation of employment”.

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30 **16. Limitation in certain other cases**—Section 74 of the principal Act is hereby amended by inserting, after the words “a reduced rate”, the words “, or may make a less favourable assessment of financial means than would otherwise have been made (under regulations in force under **section 132B** of this Act).”.

35 **17. Persons unlawfully resident or present in New Zealand**—(1) Section 74A (1) of the principal Act (as inserted by section 29 of the Social Security Amendment Act 1991) is

hereby amended by omitting the words “is in the process of applying for a residence permit under section 17 (2) of the Immigration Act 1987, and”.

(2) Section 74A (1) of the principal Act (as so inserted) is hereby amended by repealing paragraph (d), and substituting the following paragraphs: 5

“(d) A person who has refugee status in New Zealand; or

“(e) A person applying for a residence permit under the Immigration Act 1987 who is compelled to remain in New Zealand through some unforeseen circumstances.” 10

(3) Section 74A (1) of the principal Act (as so inserted) is hereby amended by repealing paragraph (c), and substituting the following paragraph:

“(c) A person lawfully present in New Zealand who is awaiting the outcome of his or her application for refugee status in New Zealand; or” 15

(4) **Subsection (3)** of this section shall come into force on the **1st day of April 1994**.

18. Beneficiaries in hospital—Section 75 (3) of the principal Act (as substituted by section 17 (1) of the Social Security Amendment Act (No. 2) 1985 and amended by section 14 (14) of the Social Welfare (Transitional Provisions) Act 1990) is hereby amended by inserting, after the words “veteran’s pension”, the words “or a person who is a patient in a hospital receiving (disability services) residential care disability services which have been purchased by or with the assistance of a purchaser, and whose financial means to pay for those services have been assessed under section 69F of this Act”. 20 25

19. Forfeiture of benefit during detention in a penal institution—(1) Section 76 (1) of the principal Act (as substituted by section 13 (1) of the Social Security Amendment Act 1982) is hereby amended by inserting, after the words “imprisoned or detained in”, the words “; or is an escapee from,”. 30 35

(2) Section 76 (3) of the principal Act (as so substituted) is hereby amended by inserting, after the words “so imprisoned or detained,”, the words “or who has escaped from such imprisonment or detention,”.

(3) Section 76 of the principal Act (as so substituted) is hereby amended by adding the following subsection: 40

“(6) For the purposes of this section, a person shall still be considered to be imprisoned or detained if he or she has been

released from a penal institution, for any purpose authorised by the Penal Institutions Act 1954, for a period not exceeding 24 hours.”

20. Commencement and payment of benefits—

5 (1) 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 (1), the following subsection:

10 “(1A) Where any person applies for a disability allowance under section 69c of this Act at the same time as he or she applies for one of the benefits referred to in subsection (1) of this section, payment of that allowance shall commence on the same day as payment of that benefit commences.”

15 (2) Section 80 of the principal Act (as so substituted) is hereby amended by inserting, after subsection (2A), the following subsection:

20 “(2B) If an applicant for a widow’s benefit or a domestic purposes benefit was, before the application for the benefit, in employment under a contract of service and the applicant’s income during that employment would have prevented payment of the benefit applied for, payment of the benefit applied for shall not commence earlier than the day after the date on which the applicant’s employment under that contract of service ceased.”

25 (3) Section 80 (3) of the principal Act (as so substituted) is hereby amended by inserting, after the expression “subsection (1)”, the expression “or **subsection (1A)**”.

30 (4) Section 80 (8) of the principal Act (as so substituted) is hereby amended by repealing paragraph (d) of the proviso, and substituting the following paragraph:

“(d) Where a beneficiary in receipt of a domestic purposes benefit or a widow’s benefit no longer qualifies for that benefit or any particular rate of that benefit because—

35 “(i) There ceases to be a child in respect of whom the benefit or the rate of the benefit is payable because of some sudden change of circumstances beyond the control of the beneficiary; or

40 “(ii) In the case of a benefit under section 27c of this Act, the patient has died or been admitted to hospital—

the Director-General shall continue to pay instalments of the benefit, or, as the case may require, continue to pay the benefit at the rate

previously payable, covering the period of 8 weeks following the date on which the beneficiary ceased to so qualify.”

(5) **Subsection (4)** of this section shall come into force 3 months after the date on which this Act receives the Royal assent. 5

21. Effect of high income on entitlement to benefits—

(1) Section 80B (3) of the principal Act (as substituted by section 5 (1) of the Social Security Amendment Act (No. 4) 1992) is hereby amended by omitting from the definition of the term “income” the words “accommodation benefits,” and substituting the words “accommodation supplements”. 10

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

22. Effect of certain sections on entitlement to supplementary benefits—(1) 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 repealing paragraph (b), and substituting the following paragraph: 15

“(b) An accommodation supplement under **section 61EA** of this Act; or”.

(2) Section 80c of the principal Act (as so inserted) is hereby amended by inserting, after subsection (1), the following subsection: 20

“(1A) Notwithstanding **subsection (1) (b)** of this section, if the applicant was receiving an accommodation supplement pursuant to **section 61EA** of this Act immediately before applying for a benefit, the accommodation supplement shall continue at the same rate for the period of non-entitlement.” 25

(3) This section shall come into force on the 1st day of July 1993.

23. Review of benefits—*(The principal Act is hereby amended by repealing section 81)* Section 81 of the principal Act (as substituted by section 37 (8) of the Social Welfare (Transitional Provisions) Act 1990) *(and substituting the following section)* is hereby amended by repealing subsections (1) and (2), and substituting the following subsections: 30

“(1) The Director-General may from time to time review any benefit in order to ascertain— 35

“(a) Whether the beneficiary remains entitled to receive it; or

“(b) Whether the beneficiary may not be, or may not have been, entitled to receive that benefit or the rate of benefit that is or was payable to the beneficiary— 40

and for that purpose may require the beneficiary or his or her spouse to provide any information or to answer any relevant

question orally or in writing, and in the manner specified by the Director-General. If the beneficiary or his or her spouse fails to comply with such a requirement within such reasonable period as the Director-General specifies, the Director-General may suspend, terminate, or vary the rate of benefit from such date as the Director-General determines.

“(2) If, after reviewing a benefit under **subsection (1)** of this section, the Director-General is satisfied that the beneficiary is no longer or was not entitled to receive the benefit or is or was entitled to receive the benefit at a different rate, the Director-General may suspend, terminate, or vary the rate of the benefit from such date as the Director-General reasonably determines.”

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(2) Section 37 (8) of the Social Welfare (Transitional Provisions) Act 1990 is hereby consequentially repealed.

24. Duty to supply tax file number—(1) The principal Act is hereby amended by inserting, after section 82, the following section:

“82A. (1) Every applicant for a benefit shall provide evidence, to the satisfaction of the Director-General, of the applicant’s tax file number.

“(2) Every beneficiary shall provide, on demand made by the Director-General, evidence, to the satisfaction of the Director-General, of the beneficiary’s tax file number.

“(3) If any applicant or beneficiary fails, without reasonable excuse, to provide satisfactory evidence of his or her tax file number, within 4 weeks after—

“(a) The application for the benefit; or

“(b) The demand for that evidence—

the Director-General may refuse to grant or suspend the benefit that the person had applied for or is being paid, as the case may be, until that evidence is supplied.

“(4) In this section, ‘tax file number’ has the same meaning as in section 2 of the Income Tax Act 1976.”

(2) This section shall come into force on the **1st day of October 1993**.

25. Recovery of payments made in excess of authorised rates—(1) Section 86 (1B) of the principal Act (as inserted by section 16 of the Social Security Amendment Act 1982) is

hereby amended by omitting the words “section 61DC, section 61DD, or section 61DE”, and substituting the words “section 61DB, section 61DC, or section 61DD”.

(2) Section 86 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections: 5

“(2) Subject to **subsections (2A) and (2B)** of this section, if any person has obtained any payment or received any credit or advance referred to in any of subsections (1) to (1c) of this section in excess of the amount to which he or she was entitled and, in the opinion of the Director-General, that payment or credit or advance in excess was obtained by fraud, the Director-General may, in his or her discretion, which discretion may be exercised in respect of any particular case or class or classes of case, recover from that person, by way of penalty, an amount not exceeding three times the amount in excess. Nothing in this subsection shall relieve that person from any other liability in respect of any fraud committed by him or her. Any penalty under this subsection may be recovered by way of deduction from any instalments of the same or any other benefit or payment thereafter becoming payable to that person under this Part of this Act or under section 124 (1) (d) of this Act or under the Social Welfare (Transitional Provisions) Act 1990; and may be recovered as a debt due to the Crown at the suit of the Director-General. 10 15 20 25

“(2A) The Director-General shall not impose any penalty on any person under **subsection (2)** of this section—

“(a) Unless the Director-General has given to the person written notice—

“(i) Specifying the intention to impose a penalty under that subsection and the amount proposed to be imposed by way of penalty; and 30

“(ii) Specifying the particulars of fact on which the intention is based; and

“(iii) Stating the person has 5 working days from the receipt of the notice to show cause why the action should not be taken; and 35

New

“(aa) If that person has been prosecuted and dealt with for any offence arising out of the same circumstances that gave rise to liability under that subsection; and 40

“(b) Until the expiration of those 5 working days.

“(2B) Where the Director-General imposes any penalty under **subsection (2)** of this section, no action to recover that penalty shall be taken until any review of that decision under section 10A of this Act or any appeal under section 12J of this Act has been completed.

“(2C) In **subsection (2)** of this section, a person shall be considered to have obtained a payment or credit or advance by fraud if that person has made any statement knowing it to be false in any material particular, or has knowingly said or done anything or omitted to do or say anything for the purpose of misleading any officer concerned in the administration of this Act, for the purpose of obtaining a payment or credit or advance under this Act, as a result of which that person received that payment or credit or advance.”

(3) Section 86 (9A) of the principal Act (as inserted by section 14 of the Social Security Amendment Act 1973) is hereby amended by inserting, after the words “an error”, the words “, made by an officer or employee of the Department,”.

20 **26. New sections inserted**—The principal Act is hereby amended by inserting, after section 86, the following sections:

25 **86A. Deduction of benefit debts**—(1) Where any amount of money may be recovered from any person as a debt due to the Crown under section 86 of this Act (including, subject to **section 86 (2B)** of this Act, any penalty under **section 86 (2)** of this Act) is not paid by the expiration of the *(fifth)* tenth day after the day on which notice of the debt is delivered or posted to that person (whether or not the notice is received by that person), the Director-General may issue, in writing, a deduction notice requiring any other person to deduct the amount due from any sum that is payable or becomes payable, until the deduction notice is revoked, by that other person whether—

30 “(a) On his or her or its own account; or

“(b) As an agent; or

35 “(c) As a trustee; or

“(d) For any other reason—

to the person from whom that money may be recovered as a debt due to the Crown (in this section and in **sections 86B to 86H** of this Act referred to as the debtor).

New

“(1A) The Director-General shall not issue a deduction notice under **subsection (1)** of this section unless the Director-General has taken all reasonable steps to recover the debt, but nothing in this subsection shall require the Director-General to take proceedings in any Court to recover the debt before issuing a deduction notice. 5

“(2) The Director-General shall specify in the deduction notice—

“(a) Whether the deduction is to be made as a lump sum or by instalments; and 10

“(b) The time or times by which the person to whom the deduction notice is issued must pay the amounts deducted to the Department; and

“(c) The date on which the deduction notice shall take effect, being a date not earlier than the date on which it was issued. 15

“(3) The Director-General may revoke a deduction notice at any time by giving notice in writing to the person to whom the deduction notice was issued, or by issuing a new deduction notice, and, at the request of the debtor, the Director-General shall revoke the deduction notice if he or she is satisfied that the amount due has been paid. 20

“(4) The Director-General shall issue a copy of the deduction notice to the debtor at his or her last known place of residence or business. 25

“(5) Every person to whom a deduction notice is issued shall, on request, issue to the debtor a statement in writing of any amount deducted, and of the purpose for which it was made.

“(6) Every deduction notice shall be subject to **sections 86F to 86H** of this Act. 30

New

“**86AA. Issue of deduction notice to State sector employer**—Where a debtor is employed within a department (within the meaning of the State Sector Act 1988), a deduction notice may be issued under **section 86A (1)** of this Act to the chief executive of that department in respect of any salary or wages payable to the debtor. 35

5 “86B. **Discharge of debt**—Where a person to whom a deduction notice has been issued deducts, pursuant to the notice, any money payable to a debtor, the debtor is, to the extent of the amount deducted, discharged from his or her debt due to the Crown under section 86 of this Act.

10 “86C. **Deduction notices issued on banks**—(1) Where the person to whom the deduction notice is issued is a bank, any money held by the bank to the credit of the debtor shall be subject to the provisions of **section 86A (1)** of this Act; and, during the subsistence of the deduction notice, the amount recoverable from the debtor shall be deemed to be held in trust for the Crown and, without prejudice to any other remedies against the debtor or any other person, any such amount shall be held in trust for the Crown and shall be recoverable from the bank under section 86 of this Act as if it were money payable under a benefit to which the debtor was not entitled.

15 “(2) For the purposes of this section, ‘bank’ means a bank within the meaning of the Banking Act 1982, a credit union within the meaning of the Friendly Societies and Credit Unions Act 1982, and a building society within the meaning of the Building Societies Act 1965; but does not include the Reserve Bank of New Zealand established under the Reserve Bank of New Zealand Act 1989 (except in relation to an account maintained by that bank for an employee of the bank).

20 “(3) For the purposes of this section, ‘money held by the bank to the credit of the debtor’ includes interest on any money that is on deposit or deposited with a bank to the credit of the debtor, whether or not—

25 “(a) The deposit or depositing is on current account:

30 “(b) The money is to be at interest at a fixed term or without limitation of time:

“(c) The debtor has made any application to withdraw or uplift the money.

35 “(4) For the purposes of this section, money—

“(a) That is held in a joint bank account in the name of the debtor and one or more other persons; and

40 “(b) That can be withdrawn from the account by or on behalf of the debtor without a signature being required at the time of that withdrawal from, or on behalf of, the other person or persons—

is deemed to be money that is on deposit with a bank to the credit of the debtor.

“86D. **Deductions held in trust**—Any person who makes a deduction pursuant to a deduction notice shall be deemed to be acting—

“(a) On the authority of the debtor and any other person concerned; and neither the debtor nor that person shall have any claim against the person making the deduction, or the Crown, in respect of that deduction; and

“(b) On behalf of the Crown; and, without prejudice to any other remedies against the debtor or any other person, any amounts deducted shall be held in trust for the Crown and shall be recoverable under section 86 of this Act as if it were money payable under a benefit to which the person who made the deduction was not entitled.

“86E. **Offences in relation to deduction notices**—Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$2,000 who—

“(a) Fails to make any deduction required by a deduction notice; or

“(b) Fails, after making a deduction, to pay the amount deducted to the Department within the time specified in the notice; or

“(c) Permits payment to or on behalf of any person, other than the Department, of any amount held in trust for the Crown under **section 86c** or **section 86D** of this Act.

“86F. **Protected earnings**—(1) (*Where*) Notwithstanding anything in sections 86A to 86E and 86G and 86H, where a deduction notice is issued to an employer of a debtor, the employer shall not, in making deductions under the deduction notice, reduce the amount paid to the debtor by way of salary or wages in respect of any week to an amount that is less than 60 percent of the amount calculated as being the debtor’s net ordinary pay for a week.

“(2) For the purposes of this section, the debtor’s net ordinary pay for a week is the balance left after deducting from the debtor’s ‘ordinary pay’ (as defined in section 4 of the Holidays Act 1981) for a week the tax deductions that would be required to be made in accordance with Part XI of the Income Tax Act 1976 if that ordinary pay were the only salary or wages paid to the debtor by the employer in respect of a week.

“86G. **Variation or discharge of deduction notice**—(1) If a person to whom a deduction notice is issued or a debtor

considers that a deduction notice has been issued in error, or contains an error, that person or the debtor may bring the matter to the notice of the office of the Department from which the notice was issued.

5 “(2) If the matter is not rectified to the satisfaction of that person or the debtor, as the case may require, within 5 working days after the day on which that person or the debtor brings the matter to the notice of that office of the Department, that person or the debtor may apply *ex parte* to the Registrar of a
10 District Court for the variation or discharge of the notice.

 “(3) Where the Registrar is satisfied that an error has been made and the notice ought to be varied or discharged, the Registrar may vary or discharge the notice.

15 “(4) The variation or discharge shall take effect when notice of it is served on the person in accordance with **section 86J** of this Act.

 “(5) The Registrar shall forthwith send a copy of the variation or discharge of the notice by registered letter to the office of the Department from which the notice was issued.

20 “**86H. Penalty for late deductions**—(1) Where any person to whom a deduction notice has been issued fails wholly or in part to—

 “(a) Make any deduction required to be made by the notice;
 or

25 “(b) Pay any amount deducted pursuant to the notice to the Department by the time specified in the notice—
that person shall be liable to pay to the Department a penalty calculated as follows:

30 “(c) On the amount in default, the greater of 10 percent of that amount or \$5:

 “(d) For each additional month or part of a month the amount in default or any part thereof that has not been deducted or, as the case may be, has not been paid to the Department, a further penalty of the
35 greater of 2 percent of that amount or part thereof or \$1.

 “(2) Where any penalty is payable by any person under **subsection (1)** of this section, the Director-General, in his or her discretion, may remit the whole or part of that penalty where
40 he or she is satisfied that the failure to make the deduction or make the payment was due to circumstances reasonably beyond the person’s control, or that in all circumstances, the imposition of that penalty would be inequitable; and, where the

debtor has already paid any penalty under this section, the Director-General may refund any excess.

“(3) An amount payable to the Department under **subsection (1)** of this section may be recovered under section 86 of this Act as if it were money payable under a benefit to which the person was not entitled.” 5

Struck Out

“**86i. Wrongful treatment of employee**—(1) Every employer commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who dismisses any employee or alters any employee’s position in the employer’s business or undertaking to the employee’s prejudice by reason of a deduction notice having been served on the employer. 10

“(2) In any prosecution for an offence against **subsection (1)** of this section in which it is proved that the employer, within 6 months after the serving on the employer of a deduction notice in respect of an employee, dismissed the employee or altered the employee’s position in the employer’s business or undertaking to the employee’s prejudice, it shall be deemed to be proved that the action was taken by reason of the notice having been served on the employer unless the employer proves to the contrary.” 15 20

27. Notices—The principal Act is hereby amended by inserting, after **section 86i** (as inserted by **section 26** of this Act), the following section: 25

“86j. (1) Every notice given to any person under this Part of this Act may be given by delivering it to that person—

“(a) In the case of a natural person (other than an officer or employee in the service of the Crown in his or her official capacity)— 30

“(i) Personally; or

“(ii) By leaving it at that person’s usual or last known place of residence or business or at the address specified by that person in any application or other document received from that person; or 35

“(iii) By posting it in a letter addressed to that person at that place of residence or business or at that address:

“(b) In the case of any other person, including an officer or employee in the service of the Crown in his or her official capacity,—

“(i) Where applicable, personally; or

5 “(ii) By leaving it at that person’s place of business; or

“(iii) By posting it in a letter addressed to that person at that place of business.

10 “(2) If any such notice is sent to any person by post, then, in the absence of evidence to the contrary, the notice shall be deemed to have been received by that person on the fourth day after the day on which it is posted, and, in proving the delivery, it shall be sufficient to prove the letter was properly addressed and posted.”

15 **28. Welfare programmes**—(1) Section 124 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Every welfare programme approved by the Minister of Social Welfare under subsection (1) (d) of this section—

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

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

“(i) The programme; and

25 “(ii) Any applicant for assistance under the programme; and

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

30 as if the special assistance authorised by the programme was a benefit under Part I of this Act.”

(2) The purported application of any provision of Part I of this Act to and in respect of—

(a) Any programme approved by the Minister of Social Welfare under section 124 (1) (d) of the principal Act;

35 or

(b) Any applicant for assistance under the programme; or

(c) Any other specified class or classes of person—

40 before the commencement of this section, is hereby validated and declared to have been lawful, and to be enforceable, as if **section 124 (1A)** of the principal Act (as inserted by **subsection (1)** of this section) had been in force and as if the programme provided for such application, on the date of such application.

(3) Nothing in **subsection (2)** of this section shall affect the rights of any party under any judgment of any Court, or any

decision of the Social Security Appeal Authority, as the result of proceedings filed, or a notice of appeal lodged, as the case may be, before the **1st day of April 1993**.

29. Offences—(1) Section 127 of the principal Act (as substituted by section 41 of the Social Security Amendment Act 1972) is hereby amended by repealing paragraph (c), and substituting the following paragraphs: 5

“(c) Any payment from the Crown Bank Account in accordance with this Act; or

“(d) Any entitlement card issued under regulations made pursuant to section 132A of this Act; or 10

“(e) A more favourable means assessment than he or she would otherwise have been entitled to under (regulations in force under section 132B) section 69F of this Act.” 15

(2) Section 127 of the principal Act (as so substituted) is hereby amended by omitting the expression “\$500”, and substituting the expression “\$5,000”.

30. Proceedings for offences—Section 128 (2) of the principal Act is hereby repealed. 20

31. General penalty for offences—Section 129 of the principal Act is hereby amended by omitting the expression “\$40”, and substituting the words “\$1,000 and, if the offence is a continuing one, to a further fine not exceeding \$50 for every day or part of a day during which the offence has continued”. 25

32. Regulations providing for issue and use of entitlement cards—Section 132A of the principal Act (as inserted by section 22 of the Social Security Amendment Act (No. 2) 1991) is hereby amended by adding the following subsection: 30

“(2) For the avoidance of doubt it is hereby declared that regulations made under this section may provide for entitlement cards to have a magnetic stripe on them, which may contain all or any of the following information:

“(a) The cardholder’s name: 35

“(b) An identifying number assigned by the Department to the cardholder:

“(c) A number or code indicating the cardholder’s class of eligibility for the card:

“(d) An identifying number assigned to the card: 40

“(e) The commencement and expiry dates of the card:

“(f) A code number for mailing purposes.”

33. Regulations providing for assessment of financial means of people requiring disability services—The principal Act is hereby amended by inserting, after section

5 132A, the following section:

“132B. (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 to provide for *(the assessment of the financial means of persons, who have been assessed by a purchaser as requiring particular disability services, to determine their ability to pay or contribute to the cost of those services)* the manner of assessing the financial means of any person and his or her spouse under section 69F of this Act.

Struck Out

15 “(2) Any such regulations may—

“(a) Define items to be included within a person’s income and assets; and

20 “(b) Specify that certain sorts or amounts of income or assets shall be exempt from assessment under the regulations; and

“(c) Authorise the Director-General, from time to time, to review any assessment of financial means that has been made in respect of a person assessed by a purchaser as requiring particular disability services, and revise that assessment if—

25 “(i) The person or his or her spouse fails to provide any relevant information requested or answer any relevant question; or

30 “(ii) After reviewing any such financial assessment, the Director-General is satisfied that, owing to a change of circumstances, that financial assessment is no longer an accurate reflection of how much that person is able to pay or contribute to the cost of the disability services that he or she is receiving, to take effect from such date as the Director-General determines, being a date on or after the date on which that change may reasonably be held to have occurred; and

35 “(d) Impose a duty on a person who has had his or her financial means assessed to advise the Department of any change in circumstances which affects that

40

Struck Out

- person's ability to contribute to the cost of the disability services provided to that person; and
- “(e) Differentiate between classes of persons on the basis of—
- “(i) The type of disability services that are or will be provided; or 5
 - “(ii) The level or type of State support received before a particular date; or
 - “(iii) The type of disability; or
 - “(iv) Age; or 10
 - “(v) The length of time that disability services are likely to be required; or
 - “(vi) Any other factor which the Governor-General considers relevant.
- “(3) In this section— 15
- “ ‘Disability services’ has the same meaning as in section 2 of the **Health and Disability Services Act 1993**;
 - “ ‘Purchaser’ has the same meaning as in section 6 of the **Health and Disability Services Act 1993**.”

New

- “(2) Any such regulations may— 20
- “(a) Define items to be included or excluded as realisable assets for the purpose of **section 69E** of this Act; and
 - “(b) Specify that certain amounts of realisable assets or income are not to be included within the calculation of the assets and annual income of a person assessed under **section 69F** of this Act; and 25
 - “(c) Notwithstanding the provisions of this Act or of the Social Welfare (Transitional Provisions) Act 1990, provide for the benefit entitlements and rates of benefit payable to the spouses of persons receiving residential care disability services, whose financial means have been assessed pursuant to **section 69F** of this Act: 30
 - “Provided that in no case shall any regulations made under this paragraph provide that a person shall receive less than he or she would have been entitled to receive in his or her own right, if regulations had not been so made.” 35

5 **34. New Eighteenth Schedule substituted**—(1) The principal Act is hereby amended by repealing the Eighteenth Schedule (as substituted by section 41 (1) of the Social Security Amendment Act 1991), and substituting the Eighteenth Schedule set out in the **First** Schedule to this Act.

(2) Section 41 of, and the Second Schedule to, the Social Security Amendment Act 1991 are hereby consequentially repealed.

10 (3) This section shall come into force on the **1st day of July 1993**.

New

34A. New Twenty-seventh Schedule added—The principal Act is hereby amended by adding the **Twenty-seventh** Schedule set out in the **Second** Schedule to this Act.

PART II

15 SOCIAL WELFARE (TRANSITIONAL PROVISIONS) ACT 1990

35. 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 Act referred to as the principal Act).

*1990, No. 26

Amendments: 1990, No. 75; 1990, No. 133; 1991, No. 4; 1991, No. 77; 1991, No. 123

36. Rates of national superannuation—Section 6 (2) of the principal Act is hereby amended by adding the following proviso:

25 “Provided that, where—

“(a) That married person’s spouse is or was in employment under a contract of service; and

30 “(b) The combined income of the married person and his or her spouse, during that employment, is or was such as would prevent receipt of national superannuation under clause 2 of the said First Schedule—

an election to receive national superannuation under the said clause 2 shall not take effect until that employment has ceased.”

35 **37. Rates of veterans’ pensions**—Section 11 (2) of the principal Act is hereby amended by adding the following proviso:

“Provided that, where—

“(a) That married person’s spouse is or was in employment under a contract of service; and

“(b) The combined income of the married person and his or her spouse, during that employment, is or was such as would prevent receipt of a veteran’s pension under clause 2 of the said First Schedule—

an election to receive a veteran’s pension under the said clause 2 shall not take effect until that employment has ceased.”

38. New sections inserted—The principal Act is hereby amended by inserting, after section 17A, the following sections: 10

“17B. **Payment in Cook Islands, Niue, and Tokelau of national superannuation and veteran’s pension**—

(1) Subject to the provisions of this section, where a person entitled to receive national superannuation or a veteran’s pension leaves New Zealand to reside in the Cook Islands, Niue, or Tokelau, that person, while residing in any of those countries, shall be entitled to be paid national superannuation or a veteran’s pension at a rate calculated in accordance with section 17c of this Act. 15

“(2) A person shall not be entitled to receive payment in accordance with subsection (1) of this section— 20

“(a) Unless—

“(i) On the date of application for such payment he or she is resident and present in New Zealand and is, on that date, entitled to receive national superannuation or a veteran’s pension or will be so entitled before leaving New Zealand; and 25

“(ii) The applicant intends to reside for more than 52 weeks in the Cook Islands, Niue, or Tokelau; or

“(b) Unless he or she was receiving national superannuation or a veteran’s pension while resident in the Cook Islands, Niue, or Tokelau, immediately before the commencement of this section, under section 17 of this Act. 30

“(3) The date of commencement of payment overseas of national superannuation or a veteran’s pension under this section shall be— 35

“(a) In the case of a person to whom subsection (2) (a) of this section applies, the first pay day after the date of the applicant’s departure from New Zealand: 40

“(b) In the case of a person to whom subsection (2) (b) of this section applies, the first pay day after the date on which this section comes into force.

section, the appropriate amount calculated in accordance with **paragraph (a)** or **paragraph (b)** of this subsection, but in no case shall the amount payable be less than the amount received before the date on which this section came into force. 5

“(2) For the purposes of this section the base rate shall be—

“(a) In the case of a single person, the amount specified in clause (1) (b) of the First Schedule to this Act; and

“(b) In the case of a married person, the amount specified in clause (1) (c) of the First Schedule to this Act— 10

but where section 70 of the Social Security Act 1964 applies, that amount shall be reduced by the amount deducted in accordance with that section.”

39. Commencement of living alone payments—The principal Act is hereby amended by inserting, after section 18A, the following section: 15

“18B. (1) Except as provided in **subsection (2)** of this section, every living alone payment shall commence on—

“(a) The date on which the applicant became entitled to receive it; or 20

“(b) The date on which the application is received— whichever is the later date.

“(2) Where an application for a living alone payment is made as a result of the death of the spouse of the applicant, the living alone payment shall commence on— 25

“(a) The date on which the applicant became entitled to receive it, if the application is received within 28 days after the date of entitlement; or

“(b) The date on which the application is received, if it is received 28 days or more after the date of entitlement.” 30

40. Functions of New Zealand Artificial Limb Board—Section 44 of the principal Act is hereby amended—

(a) By inserting, after the words “artificial limbs” wherever they occur, the words “and similar devices”: 35

(b) By inserting in paragraph (b), after the words “persons”, the words “in connection”.

Struck Out

PART III

PRIVACY COMMISSIONER ACT 1991

5 **41. This Part to be read with Privacy Commissioner Act 1991**—This Part of this Act shall be read together with and deemed part of the Privacy Commissioner Act 1991* (in this Part of this Act referred to as the principal Act).

*1991, No. 126

10 **42. Notice of adverse action proposed**—(1) Section 18 (1) of the principal Act is hereby amended by omitting the expression “subsection (2)”, and substituting the expression “subsections (1A) and (2)”.

(2) Section 18 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

15 “(1A) Nothing in subsection (1) of this section shall prevent the Department of Social Welfare from immediately suspending a sickness, training, unemployment, independent youth, or emergency benefit, or a job search allowance, paid to an individual where the discrepancy arises in respect of departure information supplied to that Department pursuant to section 305B of the Customs Act 1966, and where, before or immediately after the decision to suspend, the Department gives the individual written notice—

25 “(a) Specifying particulars of the discrepancy and the suspension of benefit, and any other adverse action the Department proposes to take; and

“(b) Stating that the individual has 5 working days from the receipt of the notice to show cause why the benefit ought not to have been suspended or why the adverse action should not be taken, or both—

30 and the adverse action shall not be taken until the expiration of those 5 working days.”

(3) Section 18 of the principal Act is hereby amended—

35 (a) By inserting in subsection (2), after the expression “subsection (1)”, the expression “or **subsection (1A)**”:

(b) By inserting in subsection (3), after the expression “subsection (1)”, the expression “or **subsection (1A)**”.

New

PART III

PRIVACY ACT 1993

41. 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). 5

*1993, No. 28

42. Notice of adverse action proposed— 10
(1) Section 103 (1) of the principal Act is hereby amended by omitting the expression “subsection (2)”, and substituting the expression “subsections (1A) and (2)”.

(2) Section 103 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection: 15

“(1A) Nothing in subsection (1) of this section shall prevent the Department of Social Welfare from immediately suspending a sickness, training, unemployment, independent youth, or emergency benefit, or a job search allowance, paid to an individual where the discrepancy arises in respect of departure information supplied to that Department pursuant to section 305B of the Customs Act 1966, and where, before or immediately after the decision to suspend, the Department gives the individual written notice— 20

“(a) Specifying particulars of the discrepancy and the suspension of benefit, and any other adverse action the Department proposes to take; and 25

“(b) Stating that the individual has 5 working days from the receipt of the notice to show cause why the benefit ought not to have been suspended or why the adverse action should not be taken, or both— 30

and the adverse action shall not be taken until the expiration of those 5 working days.”

(3) Section 103 of the principal Act is hereby amended— 35

(a) By inserting in subsection (2), after the expression “subsection (1)”, the expression “or subsection (1A)”;

(b) By inserting in subsection (3), after the expression “subsection (1)”, the expression “or subsection (1A)”.

PART IV

SOCIAL SECURITY (RENT REBATE AND RATES OF BENEFITS AND ALLOWANCES) ORDERS CONFIRMATION

5 **43. Orders validated and confirmed**—(1) The following orders are hereby validated and confirmed:

 (a) The Social Security (Rent Rebate) Order 1992:

 (b) The Social Security (Rates of Benefits and Allowances) Order 1993.

10 (2) Section 5 of the Subordinate Legislation (Confirmation and Validation) Act 1992 is hereby repealed.

PART V

WAR PENSIONS (RATES OF PENSIONS AND ALLOWANCES) ORDER CONFIRMATION

15 **44. Order validated and confirmed**—(1) The War Pensions (Rates of Pensions and Allowances) Order 1993 is hereby validated and confirmed.

 (2) Section 4 of the Subordinate Legislation (Confirmation and Validation) Act 1992 is hereby repealed.

SCHEDULES**Section 34****FIRST SCHEDULE****NEW EIGHTEENTH SCHEDULE TO PRINCIPAL ACT
“EIGHTEENTH SCHEDULE****Sections 61E, 61EA, 61FC, 61FD****ACCOMMODATION SUPPLEMENT****PART I****PRELIMINARY****1. For the purposes of this Schedule—**

‘Auckland’ means that part of New Zealand from time to time defined as Auckland for the purposes of this Schedule by the Government Statistician, using statistical area units:

‘Base rate’ means—

(a) In relation to a single beneficiary under the age of 25 years, the maximum weekly rate of benefit he or she would have been entitled to receive, before any abatement or deduction, if he or she had attained the age of 25 years:

(b) In relation to a single beneficiary with a dependent child or dependent children, the maximum weekly rate of benefit he or she is entitled to receive, before any abatement or deduction, plus the maximum annual rate of family support (divided by 52) that is payable in respect of a first dependent child under Part XIA of the Income Tax Act 1976:

(c) In relation to any other single beneficiary, the maximum weekly rate of benefit he or she would be entitled to receive before any abatement or deduction:

(d) In relation to a married beneficiary, the maximum weekly rate of benefit he or she is entitled to receive, before any abatement or deduction, plus the maximum annual rate of family support (divided by 52) that is paid in respect of a first dependent child (if any) under Part XIA of the Income Tax Act 1976, plus the maximum weekly rate of benefit paid in respect of his or her spouse:

(e) In relation to a single non-beneficiary with a dependent child or dependent children, the maximum weekly rate of benefit before any abatement or deduction that he or she would have been entitled to receive if he or she met the conditions of entitlement for an invalid’s benefit, plus the maximum annual rate of family support (divided by 52) that is payable in respect of a first dependent child under Part XIA of the Income Tax Act 1976:

(f) In relation to any other single non-beneficiary, the maximum weekly rate of benefit before any abatement or deduction that he or she would have been entitled to receive if he or she met the conditions of entitlement for an invalid’s benefit:

(g) In relation to a married non-beneficiary, the maximum weekly rate of benefit before any abatement or deduction that he or she would have been entitled to receive if he or she met the conditions of entitlement for an invalid’s benefit, plus the maximum annual rate of family support (divided by 52) that is

FIRST SCHEDULE—*continued*

NEW EIGHTEENTH SCHEDULE TO PRINCIPAL ACT—*continued*

“EIGHTEENTH SCHEDULE—*continued*

ACCOMMODATION SUPPLEMENT—*continued*

payable in respect of a first dependent child (if any) under Part XIA of the Income Tax Act 1976, plus the maximum weekly rate of benefit that would have been payable in respect of his or her spouse.

‘Wellington’ means that part of New Zealand from time to time defined as Wellington for the purposes of this Schedule by the Government Statistician, using statistical area units.

2. The amount of accommodation supplement assessed under this Schedule shall be reduced—

(a) In the case of a beneficiary, by 25 cents for every \$1 of the combined weekly income of the applicant and his or her spouse, that is up to \$80 in excess of the amount of benefit, including any tax deduction under the fourth proviso to section 343 (1) of the Income Tax Act 1976, that he or she is entitled to receive:

(b) In the case of a non-beneficiary, by 25 cents for every \$1 of the combined weekly income of the applicant and his or her spouse in excess of the amount of benefit, including any tax deduction which would occur in respect of that benefit under the fourth proviso to section 343 (1) of the Income Tax Act 1976, that he or she would be entitled to receive if he or she met the conditions of entitlement to an invalid’s benefit.

3. In assessing the income of a person in receipt of a widow’s benefit or a domestic purposes benefit for the purposes of section 61Ec of this Act and of this Schedule, the Director-General, in his or her discretion, may disregard an amount of up to \$20 a week of that person’s earnings which are used to meet the cost of placing his or her dependent child or dependent children in a day-care centre registered under the Child Care Centre Regulations 1985 or in any other day-care facility approved by the Director-General.

4. Every accommodation supplement assessed under this Schedule shall be rounded up to the complete dollar.

PART II

RATES OF ACCOMMODATION SUPPLEMENT

1. To a married person with dependent children, or a sole parent with 2 or more dependent children, whose accommodation costs are rent or payments for board and lodgings

65 percent of the amount by which an applicant’s weekly accommodation costs exceeds 25 percent of the base rate, but not more than—

(a) \$100 a week, if the applicant resides in Auckland:

(b) \$65 a week, if the applicant resides in Wellington:

FIRST SCHEDULE—*continued*NEW EIGHTEENTH SCHEDULE TO PRINCIPAL ACT—*continued*“EIGHTEENTH SCHEDULE—*continued*”ACCOMMODATION SUPPLEMENT—*continued*

- (c) \$55 a week, if the applicant resides elsewhere in New Zealand.
2. To a married person without dependent children, or a sole parent with 1 dependent child, whose accommodation costs are rent or payments for board and lodgings 65 percent of the amount by which an applicant's weekly accommodation costs exceeds 25 percent of the base rate, but not more than—
- (a) \$75 a week, if the applicant resides in Auckland:
 (b) \$60 a week, if the applicant resides in Wellington:
 (c) \$50 a week, if the applicant resides elsewhere in New Zealand.
3. To any other person whose accommodation costs are rent or payments for board and lodgings 65 percent of the amount by which an applicant's weekly accommodation costs exceeds 25 percent of the base rate, but not more than—
- (a) \$60 a week, if the applicant resides in Auckland:
 (b) \$50 a week, if the applicant resides in Wellington:
 (c) \$42 a week, if the applicant resides elsewhere in New Zealand.
4. To a married person with dependent children, or a sole parent with 2 or more dependent children, whose accommodation costs are the sum of payments required under any mortgage security, and other payments that the Director-General is satisfied are reasonably required to be made in respect of the person's home 65 percent of the amount by which an applicant's weekly accommodation costs exceeds 30 percent of the base rate, but not more than—
- (a) \$100 a week, if the applicant resides in Auckland:
 (b) \$65 a week, if the applicant resides in Wellington:
 (c) \$55 a week, if the applicant resides elsewhere in New Zealand.

FIRST SCHEDULE—continued

NEW EIGHTEENTH SCHEDULE TO PRINCIPAL ACT—*continued*

“EIGHTEENTH SCHEDULE—*continued*

ACCOMMODATION SUPPLEMENT—*continued*

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| 5. To a married person without dependent children, or a sole parent with 1 dependent child, whose accommodation costs are the sum of payments required under any mortgage security, and other payments that the Director-General is satisfied are reasonably required to be made in respect of the person's home | 65 percent of the amount by which an applicant's weekly accommodation costs exceeds 30 percent of the base rate, but not more than—
(a) \$75 a week, if the applicant resides in Auckland:
(b) \$60 a week, if the applicant resides in Wellington:
(c) \$50 a week, if the applicant resides elsewhere in New Zealand. |
| 6. To any other person whose accommodation costs are the sum of payments required under any mortgage security, and other payments that the Director-General is satisfied are reasonably required to be made in respect of the person's home | 65 percent of the amount by which an applicant's weekly accommodation costs exceeds 30 percent of the base rate, but not more than—
(a) \$60 a week, if the applicant resides in Auckland:
(b) \$50 a week, if the applicant resides in Wellington:
(c) \$42 a week, if the applicant resides elsewhere in New Zealand. |

PART III

AVERAGE REGIONAL RENTAL

- | | |
|--|-----------------|
| 1. For a single person without a dependent child living in Auckland, the average rental for a one-bedroom property in Auckland | \$120 per week. |
| 2. For a single person without a dependent child living in Wellington, the average rental for a one-bedroom property in Wellington | \$100 per week. |
| 3. For a single person without a dependent child living elsewhere in New Zealand, the average rental for a one-bedroom property in the rest of New Zealand | \$86 per week. |
| 4. For any other person living in Auckland, the average rental for a two-bedroom property in Auckland | \$160 a week. |

FIRST SCHEDULE—*continued*NEW EIGHTEENTH SCHEDULE TO PRINCIPAL ACT—*continued*“EIGHTEENTH SCHEDULE—*continued*ACCOMMODATION SUPPLEMENT—*continued*

5. For any other person living in Wellington, the average rental for a two-bedroom property in Wellington \$136 per week.
6. For any other person living elsewhere in New Zealand, the average rental for a two-bedroom property in the rest of New Zealand \$118 per week.

PART IV

MAXIMUM ADDITIONAL AMOUNT PAYABLE TO A BENEFICIARY RESIDENT IN AN INSTITUTION OR HOME

- To a beneficiary who is resident in an institution or home which provides full-time care for aged or disabled persons and who is otherwise entitled to be paid the maximum amount of accommodation supplement under this Schedule
- An additional amount of not more than \$20 a week.”

New

SECOND SCHEDULE		Section 34A
NEW TWENTY-SEVENTH SCHEDULE TO PRINCIPAL ACT		
"TWENTY-SEVENTH SCHEDULE		Section 69E
PART I		
ASSET LIMITS FOR FINANCIAL MEANS ASSESSMENT UNDER SECTION 69F OF THIS ACT		
		\$
1. For an unmarried person:	6,500
2. For a married couple, each of whom are receiving residential care disability services	13,000
3. For a married couple, only one of whom is receiving residential care disability services	20,000
PART II		
EXEMPTION OF INCOME FROM EMPLOYMENT OR SELF-EMPLOYMENT FOR THE SPOUSE OF A PERSON TO WHOM SECTION 69F APPLIES		
1. For a spouse with no dependent children or 1 dependent child	\$28,927 per annum.
2. For a spouse with 2 dependent children	\$32,740 per annum.
3. For a spouse with 3 or more dependent children	\$36,553 per annum."