

Corrections (Social Assistance) Amendment Bill

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the Social Assistance (Debt Prevention and Minimisation) Amendment Bill as reported from the Social Services Committee. The committee of the whole House has further amended the bill and has divided it into the following bills:

- This bill comprising clauses 1 and 2, and Part 1
 - Customs and Excise (Social Assistance) Amendment Bill comprising subpart 1 of Part 2
 - Injury Prevention, Rehabilitation, and Compensation (Social Assistance) Amendment Bill comprising subpart 2 of Part 2
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Key to symbols used in reprinted bill

**As reported from the committee of the whole
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text inserted

~~text deleted~~

Hon Ruth Dyson

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Corrections (Social Assistance) Amendment Act **2008**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act amended**
This **Part** amends the Corrections Act 2004.
- 4 Purpose of this Part** 10
The purpose of this **Part** is to amend the principal Act—
- (a) so that it facilitates disclosure of prisoner information for the purposes of the operation of—
- (i) section 76(1) of the Social Security Act 1964 ~~(which provides that under which~~ a benefit is, in 15
general, not payable in respect of any period during which a beneficiary is imprisoned or detained in, or is an escaper from, a prison, pursuant to a sentence of imprisonment, ~~preventive detention, or corrective training~~); and 20
- (ii) sections 86 and 86A of the Social Security Act 1964 (which provide for the recovery of debts due to the Crown within the meaning of section 85A of that Act); and
- (iii) section 307B of the Education Act 1989 (which provides for the recovery of debts in respect of the payment to a person of allowances, student loans, or other money to which he or she was not, or is no longer, entitled); and 25
- (iv) regulation 28 of the Student Allowances Regulations 1998 ~~(which provides that under which~~ a student imprisoned or detained in a prison, pursuant to a sentence of imprisonment, ~~preventive detention, or corrective training~~ is not entitled to receive any payment under those regulations in 30 35

- respect of any period of any such imprisonment or detention); and
- (b) to enable benefits, allowances, and student loans, or any of them, payable to a person to be suspended, despite section 103(1) of the Privacy Act 1993, immediately a relevant discrepancy arises or is identified in prisoner information disclosed under the principal Act; and 5
 - (c) to re-enact other elements of section 180 of the principal Act (which authorises disclosure of prisoner information for social security purposes). 10

5 New heading and sections 180 to 180D substituted

Section 180 and the heading above it are repealed and the following heading and sections are substituted:

“Disclosure of prisoner information

“180 Purpose of section 180A 15

“(1) The purpose of **section 180A** is to facilitate the disclosure of information, by the chief executive to the requesting department, for the purposes of the operation of all or any of the following provisions:

- “(a) section 76(1) of the Social Security Act 1964 (~~which provides that under which~~ a benefit is, in general, not payable in respect of any period during which a beneficiary is imprisoned or detained in, or is an escaper from, a prison, pursuant to a sentence of imprisonment, ~~preventive detention, or corrective training~~): 20 25
- “(b) sections 86 and 86A of the Social Security Act 1964 (which provide for the recovery of debts due to the Crown within the meaning of section 85A of that Act):
- “(c) section 307B of the Education Act 1989 (which provides for the recovery of debts in respect of the payment to a person of allowances, student loans, or other money to which he or she was not, or is no longer, entitled): 30
- “(d) regulation 28 of the Student Allowances Regulations 1998 (~~which provides that under which~~ a student imprisoned or detained in a prison, pursuant to a sentence of imprisonment, ~~preventive detention, or corrective training~~ is not entitled to receive any payment under 35

those regulations in respect of any period of any such imprisonment or detention):

“(e) **section 180C.**

“(2) **Requesting department**, in **subsection (1)** and **sections 180A, 180C, and 180D 180A and 180C**, means— 5

“(a) the department for the time being responsible for the administration of the Social Security Act 1964, in relation to information requested for the purposes of the operation of a provision of that Act:

“(b) the department for the time being responsible for the administration of Part 25 of the Education Act 1989, in relation to information requested for the purposes of the operation of section 307B of that Act, or regulation 28 of the Student Allowances Regulations 1998. 10

“Compare: 1954 No 51 s 36F 15

“**180A Prisoner information may be disclosed for social assistance purposes**

“(1) For the purpose stated in **section 180**, the chief executive of the requesting department may from time to time request the chief executive to supply all or any information specified in **section 180B** in respect of prisoners detained in a prison during the period specified in the request. 20

“(2) A request under **subsection (1)** must be made in writing and in accordance with arrangements made from time to time between— 25

“(a) the chief executive; and

“(b) the chief executive of the requesting department.

“(3) On receipt of a request made under **subsection (1)** the chief executive may supply the information requested to any person who is— 30

“(a) an officer or employee of the requesting department; and

“(b) authorised for the purpose by the chief executive of the requesting department.

“Compare: 1954 No 51 s 36F 35

“180B Information that may be requested and disclosed

The information referred to in **section 180A(1)** is, for each prisoner detained in a prison during the period specified in the request,—

- “(a) a sufficient amount of biographical information to identify the prisoner; and 5
- “(b) the name of the prison in which the prisoner is or was detained during that period; and
- “(c) details of each period of detention of the prisoner in the prison during the period specified in the request. 10

“Compare: 1954 No 51 s 36F

“180C Social assistance may be suspended immediately if discrepancy discovered

“(1) The chief executive of the requesting department may suspend immediately the payment to a person of the benefits, allowances, and student loans, or any of them, payable to the person if— 15

- “(a) information has been disclosed to the requesting department under **section 180A**; and
- “(b) a discrepancy relating or apparently relating to the person arises, or is identified in that information; and 20
- “(c) that chief executive wishes, on the basis of that discrepancy, to effect the suspension; and
- “(d) immediately after the suspension is effected, the requesting department gives the person written notice of 25 the kind specified in **section 180D**.

“(2) In this section and **section 180D**,—

“**adverse action** has the same meaning as in section 97 of the Privacy Act 1993

“**allowance** means an allowance established (whether established for the first time or continued) by regulations made under section 303 of the Education Act 1989 30

“**benefit** has the same meaning as in section 3(1) of the Social Security Act 1964

“**discrepancy** has the same meaning as in section 97 of the Privacy Act 1993 35

“**student loan** has the meaning given to it by section 2 of the Student Loan Scheme Act 1992

“**working day** has the same meaning as in section 2(1) of the Privacy Act 1993.

- “(3) A notice under **subsection (1)** may also be used to give the person concerned notice under section 103(1) of the Privacy Act 1993 in relation to some proposed adverse action other than the suspension or suspensions concerned; but in that case that section applies to the taking of that action. 5
- “(4) **Subsection (1)** overrides section 103(1) of the Privacy Act 1993. 10
- “(5) Nothing in this section prevents any adverse action from being taken in respect of benefits, allowances, or student loans in accordance with section 103(1) of the Privacy Act 1993 instead of this section. 15

“**180D Notice required by section 180C(1)(d)**

- “(1) A notice required by **section 180C(1)(d)**—
- “(a) must specify particulars of—
- “(i) the discrepancy or discrepancies concerned; and
- “(ii) the suspension or suspensions concerned; and 20
- “(b) must state that the person concerned may, after the receipt of the notice, show cause why payments of any benefit, allowance, or student loan should not have been suspended.
- “(2) A notice required by **section 180C(1)(d)** must be delivered to the person concerned— 25
- “(a) personally; or
- “(b) by leaving it at the person’s usual or last known place of residence or business or at the address specified by the person in any application or other document received from the person; or 30
- “(c) by posting it in a letter addressed to the person at that place of residence or business or at that address.
- “(3) If a notice required to be given under **section 180C(1)(d)** is sent to a person by post,— 35

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- “(a) the notice must, in the absence of proof to the contrary, be taken to have been delivered to that person on the fourth day after the day on which it was posted; and
“(b) in proving the delivery it is sufficient to prove that the letter was properly addressed and posted.” 5

6 New heading inserted

The following heading is inserted above section 181: “*Disclosure of offender information*”.

7 Consequential amendments to Privacy Act 1993

- (1) This section amends the Privacy Act 1993. 10
(1A) Section 103(1) is amended by inserting “and to **section 180C(1)** of the Corrections Act 2004” after “of this section”.
(2) The item in Schedule 3 relating to the Corrections Act 2004 is amended by inserting “to **180D**” after “180”. 15

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Legislative history

19 March 2008

Divided from Social Assistance (Debt Prevention and Minimisation) Amendment Bill (Bill 134–2) by committee of the whole House
