

Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Bill

Government Bill

Explanatory note

General policy statement

This Bill promotes a new direction for social housing. The Bill provides a framework for the future provision of social housing that will promote contestability by increasing the number and diversity of social housing providers operating in the market, and increase the choices available for tenants and prospective tenants. This Bill—

- amends Part 5 of the Housing Restructuring and Tenancy Matters Act 1992 (the **principal Act**) to give Housing New Zealand (**HNZ**) sufficient powers to review state housing tenancies to ensure that the appropriate tenants are matched to the appropriate housing:
- enables many of Housing New Zealand's functions under the amended Part 5, (including those of assessing eligibility for state housing and for an income-related rent to be transferred to another government agency at a future date to be set by Order in Council) to be applied more broadly across social housing:
- inserts new *Parts 7 to 10* into the principal Act to provide a framework for management of eligibility for social housing

once Housing New Zealand's functions above are transferred to another government agency.

The purpose of new *Parts 7 to 10* is to reform the provision of social housing by establishing a framework for a multiple-provider social housing market. Those new Parts—

- enable the assessment of need for social housing, eligibility for social housing, and assessment of eligibility for an income-related rent:
- enable associated functions such as providing advice, managing applications for social housing, and referring and allocating prospective tenants and tenants to social housing providers to be performed by an independent government agency or agencies that do not provide state housing:
- align HNZ's role to the provision of social housing in a multiple-provider environment:
- facilitate the growth of the community housing sector by enabling the extension, on terms and conditions set by Ministers, of an income-related rent subsidy to registered community housing providers and an income-related rent to their tenants:
- enable the appointment of a government agency as a regulatory agency for registered community housing providers, with associated objectives, functions, and powers to monitor and enforce compliance with regulatory standards:
- enable the making of regulations that prescribe eligibility criteria and performance standards to be met by registered community housing providers and allow for the extension of income-related rent subsidies to those providers:
- create certain offences for failure to comply with information requirements issued to tenants and associated parties by relevant government agencies.

In particular,—

- new *Part 7* contains a limited range of powers available to HNZ for use after the date on which HNZ's functions are transferred to another government agency (these powers are restricted to those needed to manage the landlord-tenant relationship for state housing and to administer any associated

financial products, but do not restrict HNZ's powers and functions under any other Act):

- new *Part 8* mirrors certain provisions of *Part 7*, but will apply to community housing providers:
- new *Part 9* contains the functions and powers of the government agency that takes on HNZ's current role of determining eligibility for state housing and eligibility for an income-related rent, (including calculation of income-related rents and review powers), but expands these powers so that they can be used in relation to HNZ and community housing tenancies (**social housing**):
- new *Part 10* enables the appointment of a regulatory body to regulate those community housing providers that apply to be registered for the purposes of gaining eligibility for the income-related rent subsidy (and who must meet certain standards in order to obtain that registration).

Part 2 of the Bill is to come into force by Order in Council. The reason for this is that, though 14 April 2014 is anticipated to be the date on which HNZ's functions will be transferred to another government agency, significant operational policy work is required to be completed to facilitate the transfer before this date and hence there is a risk that this date is not achievable and some flexibility is required. An Order in Council mechanism is also needed to enable future function transfers to other government agencies. Similarly, there needs to be flexibility as to the appointment of a regulatory authority to perform the functions in new *Part 10*, given the policy work needed in this area.

An overview of the changes proposed in this Bill is set out in the table on the next page.

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Before Part 2 commences		After Part 2 commences and relevant Government entities are appointed	
HNZ (Part 1)	Retains its current functions of assessing eligibility for state housing and for income-related rent. Has expanded enforcement powers and in relation to review of existing state housing tenancies.	Agency or Agencies (Part 9)	Once appointed, takes on HNZ functions of assessing eligibility for housing and for income-related rent, but in relation to all social housing tenancies, including state housing and community housing tenancies. Takes on new functions associated with a multiple-provider environment, such as managing a waiting list across social housing providers and allocation and referral of tenants across providers. Also obtains the expanded powers provided to HNZ in Part 1. Some or all of these functions can be transferred to the agency or agencies on a date or dates that can be set by Order(s) in Council.
		HNZ (Part 7)	Retains a restricted set of powers relevant to the landlord-tenant relationship for State housing, including powers relevant to placement of tenants in State housing. Also retains a discrete function of administering financial products and retains enforcement powers in relation to financial products only. Eligibility to receive income-related rent subsidy for its tenants is now subject to terms and conditions as set by joint Ministers from time to time.
		Registered Community Housing Providers (Part 8)	Once registered by the regulatory authority referred to below, obtains powers relevant to the landlord-tenant relationship for community housing, including powers relevant to placement of tenants in community housing, similar to those referred to above for HNZ. Also becomes eligible to receive income-related rent subsidy for their tenants, subject to terms and conditions as set by joint Ministers from time to time.
		Regulatory Authority (Part 10)	On establishment, will perform the function of registering and monitoring community housing providers who wish to become eligible for the income-related rent subsidy. Can recommend the making of regulations containing relevant criteria and performance standards for registration.

Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 22 March 2013 to help inform the main policy decisions taken by the Government relating to the contents of this Bill. Housing New Zealand Corporation produced a regulatory impact statement on 13 April 2011 to help inform detailed policy decisions which have been included in this Bill.

Copies of these regulatory impact statements can be found at—

- <http://www.mbie.govt.nz/about-us/publications/ris>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 provides for the Bill's Title.

Clause 2 provides for commencement. *Part 2* of the Bill comes into force on a date or dates appointed by the Governor-General by Order in Council. The rest of the Bill comes into force on the day after Royal assent.

Clause 3 provides that the Housing Restructuring and Tenancy Matters Act 1992 is the principal Act.

Part 1

Amendments to principal Act with effect from day after Royal assent

Part 1 (clauses 4 to 16) contains amendments to section 2 (Interpretation) and Part 5 of the principal Act. Part 5 of the principal Act currently relates to HNZ housing rented to tenants on income-related rents, and provides for the calculation of income-related rents, changes in rent, and other matters relating to the administration of income-related rents. The amendments to Part 5—

- clarify that HNZ can change an income-related rent if the tenant's circumstances change, and provides for when the new rent takes effect:
- require that any person to whom HNZ housing is let at a market rent must advise HNZ of any change of circumstances that is likely to result in the person no longer being eligible for HNZ housing:

- require prospective tenants to advise HNZ of any change of circumstances that is likely to make the person ineligible for HNZ housing:
- enable HNZ to review the housing need of a tenant, and the eligibility or continued eligibility of tenants for HNZ housing:
- enable HNZ to investigate the circumstances of a HNZ tenant (whether the tenant pays income-related rent or market rent for the housing) to the extent that those circumstances might be relevant to the housing need of the tenant or the continued eligibility of the tenant for HNZ housing:
- enable HNZ to investigate the circumstances of an applicant for, or a recipient of, a financial product (for example, a loan) provided or administered by HNZ:
- ensure that HNZ can take appropriate action in respect of its new investigation powers:
- allow HNZ to require information from any person for any purpose set out in new section 59AA (for example, the purpose of ascertaining housing need and eligibility for HNZ housing, or the purpose of detecting the commission of a specified offence):
- require HNZ to establish, in consultation with the Privacy Commissioner, a code of conduct with which HNZ must comply when requiring information under section 59AA:
- allow the criteria set out in section 61 (which permits discrimination on grounds of discrimination ordinarily prohibited under the Human Rights Act 1993) to be applied by HNZ when doing anything in the course of allocating, assigning, and letting HNZ housing to tenants, and in administering and terminating tenancies (currently, the criteria may be applied only in relation to assessment of eligibility of prospective tenants for HNZ housing, and allocation, assignment, and letting of HNZ housing to prospective tenants):
- enable HNZ to recover (as a debt due to the Crown) overdue amounts from tenants by issuing deduction notices to a third party (for example, the tenant's employer) but only after HNZ has reminded the tenant of his or her obligation and has done all it reasonably can to obtain the unpaid amount.

The amendments to Part 5 also establish offence provisions relating to the following conduct—

- failing or refusing to advise HNZ of a relevant change of circumstances (*sections 56 and 61AA*):
- failing or refusing to provide information required by HNZ, or providing false or misleading information (*sections 59AA and 61AB*):
- making false statements or misleading HNZ for a specified purpose or to obtain a specified result (*section 61AC*):
- failing to make a deduction required by a deduction notice issued by HNZ for the payment of overdue amounts (*section 65AM*).

Part 2

Amendments to principal Act with effect from day appointed by Order in Council

Part 2 (clauses 17 to 22) establishes a new framework for the provision of housing by and through the State. A key term is **social housing**, which means community housing (housing provided by registered community housing providers) or HNZ housing.

Clause 17 amends *section 2* by providing definitions of community housing, joint Ministers, and other terms as a result of the changes made by *Part 2*.

Clause 18 provides for transitional provisions which are set out in *new Schedule 4*.

Clause 19 inserts *new Parts 7 to 10* into the principal Act.

New Part 7—HNZ housing

New Part 7 (sections 70 to 92) contains the functions and powers of HNZ that relates to its role as a housing provider and a provider of financial products. The calculation and administration of income-related rents will be carried out by the social housing agency or agencies (the **agency**). The agency will notify HNZ of—

- the income-related rent calculated for a tenant; and
- the agency's assessment of a tenant's need for social housing; and

- the agency's assessment of a tenant's entitlement to be allocated social housing.

New Part 8—Community housing

New Part 8 (new sections 93 to 99) relates to community housing providers and provides for the interface between the agency and community housing providers. The agency will notify a registered community housing provider of—

- the income-related rent calculated for a tenant; and
- the agency's assessment of a tenant's need for social housing; and
- the agency's assessment of a tenant's entitlement to be allocated social housing.

New Part 8 also provides for changes in rent and the criteria to which a registered community housing may have regard when allocating, assigning, and letting community housing to tenants. (Those criteria may include grounds that would ordinarily be prohibited under the Human Rights Act 1993 as discriminatory).

New Part 9—Social housing agency

New Part 9 (sections 100 to 154) sets out the functions and powers of the agency (which have been replicated and adapted from Part 5 of the principal Act as amended by Part 1 of this Act).

New section 101 provides for the appointment, by Order in Council, of a department or Crown entity (or any combination of 1 or more departments or Crown entities) to carry out the functions and powers of the agency.

The agency will also carry out any ministerial directions setting out the terms and conditions to which income-related rent will be made available to registered community housing providers and HNZ.

A primary function of the agency is to manage applications for social housing, which includes—

- assessing the need for social housing;
- assessing the eligibility of prospective tenants to be allocated social housing or for them to be allocated to any particular social housing provider:

- reviewing the eligibility of tenants to continue to be allocated social housing or any particular social housing:
- operating a waiting list or waiting lists of tenants who have been assessed as being eligible for social housing, but who have yet to be referred to a social housing provider:
- referring prospective tenants to social housing providers:
- providing the results of its assessments of need and eligibility to HNZ or registered community housing providers.

New Part 10—Regulatory authority

New Part 10 (new sections 155 to 180) provides for the regulation of community housing providers. A housing provider that has as one of its objects the provision of social or affordable rental housing may apply to the regulatory authority (the **authority**) to be a registered community housing provider. The main objectives of the authority are to—

- register and regulate community housing providers, in order to ensure that their tenants are appropriately housed:
- support the growth of a fair, efficient, and transparent community housing sector.

The authority will be responsible for approving and registering community housing providers and monitoring their compliance with prescribed eligibility criteria and performance standards. The authority may use intervention powers, as appropriate and in accordance with any ministerial guidelines, in relation to a registered community housing provider that fails to comply with prescribed standards. *New Part 10* also enables the making of regulations that prescribe eligibility criteria and performance standards to be met by registered community housing providers and allows for the extension of income-related rent subsidies to those providers.

Remaining provisions of Part 2

Clause 20 repeals Part 5 on the date that *new Part 7* comes into force.

Clause 21 makes consequential amendments to Schedule 2.

Clause 22 makes consequential amendments to Schedule 3.

Hon Dr Nick Smith

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act **2013**.

2 Commencement

- (1) **Part 2** comes into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders may be made appointing different dates for different provisions and different purposes. 5
- (2) The rest of this Act comes into force on the day after the date on which this Act receives the Royal assent.

3 Principal Act

This Act amends the Housing Restructuring and Tenancy Matters Act 1992 (the **principal Act**). 10

Part 1

**Amendments to principal Act with effect
from day after Royal assent**

4 Section 2 amended (Interpretation)

- (1) In section 2(1), insert in their appropriate alphabetical order: 15
“**HNZ** means the company
“**HNZ housing** means premises (whether owned by the Crown, HNZ, or any other person) let or to be let by or on behalf of HNZ for occupation by any person as a place of residence”. 20
- (2) In section 2(1), repeal the definition of **rules**.
- (3) After section 2(1), insert:
- “(3) References in this Act to **person** include an agency and any person who is an officer or employee in the service of the Crown in a government department or public body (other than 25
as an officer of a court, in his or her official capacity).”

5 Part 5 heading replaced

Replace Part 5 heading with “**Income-related rents, housing eligibility, and other matters**”.

6 Section 42 amended (Interpretation) 30

- (1) In section 42(1), replace the definition of **appointed day** with: “**appointed day** means 17 November 2000”.
- (2) In section 42, insert in their appropriate alphabetical order:

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- “**code of conduct**, in relation to information that may be required under **section 59AA**, means the code of conduct established under **section 65AA**
- “**financial product** means a financial product administered by HNZ on behalf of the Crown and— 5
- “**(a)** includes a loan or grant; but
- “**(b)** does not include income-related rent”.
- (3) In section 42(1), repeal the definition of **HNZ housing**.
- (4) In section 42(1), replace the definition of **prospective tenant** with: 10
- “**prospective tenant** means a person—
- “**(a)** who—
- “**(i)** is not a person to whom any HNZ housing is let or to be let; and
- “**(ii)** has applied to HNZ (alone or together with some 15
other person or people) to become a tenant of HNZ housing and—
- “**(A)** has not yet had the application accepted or declined, or withdrawn it; or
- “**(B)** has had the application accepted but has 20
not yet been allocated particular HNZ housing; or
- “**(b)** who—
- “**(i)** is already a person to whom HNZ housing is let or to be let; but 25
- “**(ii)** has applied to HNZ (alone or together with some other person or people) to become a tenant of some other HNZ housing and has not yet had the application accepted or declined, or withdrawn it”. 30
- 7 Section 45 replaced (Changes in rent)**
Replace section 45:
- “45 Changes in rent**
- “**(1)** This section applies to an existing tenant of HNZ housing if HNZ— 35
- “**(a)** is required by section 43 to reduce the rent for the housing; or

- “(b) is empowered by section 43, 57(2) or 58AA(2) to increase the rent for the housing, and decides to do so.
- “(2) HNZ must, in accordance with section 136 of the Residential Tenancies Act 1986, give a tenant to whom **subsection (1)** applies written notice of change in rent, stating— 5
- “(a) the day on which it takes effect; and
- “(b) the matters referred to in section 13A(j) and (k) of that Act.
- “(3) In the case of a reduction in rent, the notice has effect as a variation of the tenancy agreement for the housing whether or not the tenant signs it. 10
- “(4) In the case of an increase in rent, the notice must comply with section 24 of the Residential Tenancies Act 1986 except to the extent that **section 45AA** provides otherwise.
- “45AA Change in rent due to change in tenant’s circumstances 15**
- “(1) If as a result of a change in the tenant’s circumstances, or the circumstances of any other applicable person, HNZ increases an income-related rent or increases an income-related rent to a market rent,—
- “(a) the new rent takes effect on the first day of the first rent period unless **subsection (3)** applies; and 20
- “(b) section 24(1)(c) to (h), (1A), and (2) of the Residential Tenancies Act 1986 do not apply to the increase in rent.
- “(2) In this section, **first rent period** means the period commencing 61 days after the date that the change in circumstances occurred or, if it is not clear to HNZ when it occurred, the date that HNZ reasonably considers the change in circumstances to have occurred. 25
- “(3) Despite **subsection (1)(a)**, HNZ may, in its absolute discretion, require the new rent to take effect on a day later than the first day of the first rent period if it is satisfied there are special circumstances that justify the later date.” 30

8 Section 52 amended (Estimating weekly income)
In section 52, replace “section 58(4)” with “section 58AA(2)”.

- 9 Section 53 amended (Regulations for purposes of calculation mechanism)**
Replace section 53(5) and (6) with:
- “(5) Nothing in this section affects the application of the New Zealand Bill of Rights Act 1990.” 5
- 10 Cross-heading replaced above section 56**
Replace the cross-heading above section 56 with:
“*Administrative matters and review*”.
- 11 Section 56 replaced (Tenant’s duty to advise change of circumstances)** 10
Replace section 56:
- “56 Tenant’s duty to advise change of circumstances**
- “(1) Every person to whom any HNZ housing is let at an income-related rent must promptly advise HNZ of—
- “(a) any change in the person’s circumstances likely to result in the payment of a higher income-related rent; and 15
- “(b) any change known to the person in the circumstances of any other applicable person likely to result in the payment of a higher income-related rent by the first-mentioned person. 20
- “(2) Every person to whom any HNZ housing is let (whether at an income-related rent or a market rent) must promptly advise HNZ of—
- “(a) any change in the person’s circumstances likely to result in the person no longer being eligible to be allocated HNZ housing or the particular HNZ housing the person is being let; and 25
- “(b) any change known to the person in the circumstances of any other applicable person likely to result in the first-mentioned person no longer being eligible to be allocated— 30
- “(i) HNZ housing; or
- “(ii) the particular HNZ housing that the first-mentioned person is being let.
- “(3) Every person who is a prospective tenant must promptly advise HNZ of any change in the circumstances of the person or 35

the person’s spouse or partner likely to result in the person not or no longer being eligible to be allocated HNZ housing or allocated, assigned, or let any particular HNZ housing.”

12 New sections 57AA to 57AE and cross-heading inserted

After section 57, insert:

5

“57AA HNZ may review housing eligibility

“(1) HNZ may at any time of its own motion review any 1 or more of the following in relation to a tenant:

“(a) the housing need of the tenant:

“(b) the eligibility (including continued eligibility) of the tenant for HNZ housing:

“(c) the eligibility of the tenant to be or continue to be allocated, assigned, or let particular HNZ housing.

“(2) Nothing in this section limits or affects any power of HNZ to conduct a review under any other enactment.

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*“Investigations and information-gathering
powers*

**“57AB HNZ may investigate circumstances relevant to
income-related rent**

HNZ may investigate—

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“(a) the present circumstances of—

“(i) any tenant of HNZ housing who is paying, or has applied to HNZ for HNZ to calculate, an income-related rent for the housing; or

“(ii) any person who is an applicable person in relation to the tenant:

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“(b) the circumstances (as they existed immediately before the income-related rent concerned was calculated or during any period when it was applicable) of—

“(i) any tenant or former tenant of HNZ housing who was required to pay an income-related rent for the housing; or

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“(ii) any person who was an applicable person in relation to the tenant or former tenant at the time concerned.

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“57AC HNZ may investigate circumstances of prospective tenant

HNZ may investigate the circumstances of a prospective tenant or of any person who would be an applicable person in relation to the prospective tenant, to the extent that those circumstances might be relevant to—

- “(a) the eligibility of the prospective tenant to be allocated HNZ housing or particular HNZ housing; or
- “(b) the housing need of the prospective tenant.

“57AD HNZ may investigate circumstances relevant to continued eligibility

HNZ may investigate the circumstances of any tenant of HNZ housing (whether paying income-related rent or market rent for the housing) or the circumstances of any applicable person in relation to that tenant, to the extent that those circumstances might be relevant to—

- “(a) the continued eligibility of the tenant to be allocated HNZ housing; or
- “(b) the housing need of the tenant; or
- “(c) the eligibility of the tenant to continue to be allocated, assigned, or let particular HNZ housing or to be allocated, assigned, or let some other HNZ housing.

“57AE HNZ may investigate circumstances of applicant for financial product

HNZ may investigate the circumstances of—

- “(a) an applicant for, or a recipient of, a financial product provided or administered by HNZ; or
- “(b) any person who, at the time of application, is the spouse or partner of the applicant.”

13 Section 58 replaced (Investigation of applications, etc)

Replace section 58 with:

“58 HNZ may ask questions, etc

For the purpose of any investigation conducted under **section 57AB, 58AC, 58AD, or 58AE**, HNZ—

- “(a) may ask any person whose circumstances it may investigate any relevant questions it thinks fit; and

- “(b) may ask any person whose circumstances it may investigate to verify by statutory declaration—
- “(i) any information he or she has given when answering questions asked under **paragraph (a)**;
or 5
 - “(ii) any other information that he or she has at any time given to HNZ; or
 - “(iii) any information within his or her personal knowledge that has at any time been given to HNZ by— 10
 - “(A) an applicable person in relation to that person (where the person whose circumstances are being investigated is a tenant);
or
 - “(B) a person who would be an applicable person in relation to that person (where the person whose circumstances are being investigated is a prospective tenant); or 15
 - “(C) the spouse or partner of the person (where the person whose circumstances are being investigated is an applicant for a financial product); or 20
 - “(D) any person who was an applicable person in relation to the tenant or former tenant at the time concerned. 25

“58AA Actions that may be taken by HNZ

- “(1) HNZ may take the actions stated in **subsection (2)** if—
- “(a) any person whose circumstances it may investigate—
 - “(i) fails or refuses to answer (or, in HNZ’s opinion, fails or refuses to answer fully) any question asked under **section 58(a)**; or 30
 - “(ii) fails or refuses to verify any information by statutory declaration when asked to do so under **section 58(b)**; or
 - “(b) it believes on reasonable grounds that any person whose circumstances it may investigate under **section 57AB, 57AC, 57AD, or 57AE** has deliberately given a false or 35

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misleading answer to any question asked under **section 58(a)**.

- “(2) The actions are—
- “(a) to the extent that the tenant is the person or people to whom any HNZ housing is let or to be let,— 5
 - “(i) calculate an income-related rent for the tenant for that housing on the basis of HNZ’s own understanding of the circumstances; or
 - “(ii) treat the market rent for that housing as the income-related rent for the tenant for that housing: 10
 - “(b) to the extent that the tenant is a prospective tenant only,—
 - “(i) suspend the process of determining whether to allocate, assign, or let any HNZ housing to the prospective tenant; or 15
 - “(ii) decline the tenant’s application to become a tenant of HNZ housing:
 - “(c) to the extent that the tenant is an existing tenant only,—
 - “(i) for the purpose of **section 45**, treat the tenant as having had a change in circumstances (and the date of change in circumstances) on the basis of HNZ’s own understanding of the circumstances; 20
 - or
 - “(ii) review the eligibility of the tenant to be or continue to be allocated, assigned, or let that particular HNZ housing on the basis of HNZ’s own understanding of the circumstances; or 25
 - “(iii) treat the tenant as not or no longer eligible to continue to be allocated HNZ housing:
 - “(d) to the extent that the applicant is an applicant for a financial product provided or administered by HNZ,— 30
 - “(i) assess the eligibility of the applicant for that financial product on the basis of HNZ’s own understanding of the circumstances;
 - “(ii) treat the applicant as not or no longer eligible for that financial product.” 35

14 Sections 59 to 62 and cross-heading replaced

Replace sections 59 to 62 and the cross-heading above section 62 with:

“59 HNZ may seek information

“(1) For the purposes of a review under section 57 or **57AA** or an investigation under **section 57AB, 57AC, 57AD, or 57AE**, HNZ may request any person to—

“(a) answer questions; or

“(b) allow HNZ to inspect any document or other written information; or

“(c) give HNZ—

“(i) a copy of any document or other written information; or

“(ii) a printout of any information stored digitally.

“(2) The person does not have to comply with the request but (for the purposes of section 7(1) of the Privacy Act 1993) this subsection authorises the person to make personal information available in response to the request.

“59AA HNZ may require information for certain purposes

“(1) HNZ may by written notice require information from any person for any 1 or more of the following purposes:

“(a) the purpose of ascertaining the housing need of a prospective tenant:

“(b) the purpose of ascertaining the eligibility of a prospective tenant to be allocated HNZ housing:

“(c) the purpose of calculating the appropriate income-related rent for the HNZ housing concerned:

“(d) the purpose of a review under **section 57 or 57AA**:

“(e) the purpose of any investigation under **section 57AB, 57AC, 57AD, or 57AE**:

“(f) the purpose of detecting whether a person has committed or is committing an offence under **section 61AC**:

“(g) the purpose of determining, or detecting the cost of fraud under **section 61AB or 61AC**:

“(h) the purpose of ascertaining whether a person has failed or refused to answer fully, or has deliberately given a false or misleading answer, to any question asked under **section 58(a)**.

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- “(2) HNZ, when requiring any information under **subsection (1)**, must do so in accordance with the code of conduct.
- “(3) HNZ may in writing require any person to advise whether or not any information provided under **subsection (1)** is accurate. 5
- “(4) A person from whom information is required under **subsection (1)** or advice is required under **subsection (3)** must comply with the requirement—
- “(a) no later than 5 working days after the notice was given; and 10
- “(b) in the manner specified in the notice, without charge to HNZ.
- “(5) This subsection authorises (for the purposes of section 7(1) of the Privacy Act 1993) any person who is required to provide information under **subsection (1) or (3)** to make personal information available in response to the requirement. 15
- “60 Recovery where rate of rent too low**
- “(1) **Subsection (2)** applies to a tenant of HNZ housing and a period of time if, at any later time, HNZ—
- “(a) has in its possession information (whether or not obtained as a result of a review or an investigation under this Part) that— 20
- “(i) it did not have during that period, or had but did not have reasonable grounds to believe; and
- “(ii) it now believes on reasonable grounds; and 25
- “(b) is satisfied that, if it had had the information before the period and had had reasonable grounds to believe the information, it would have required the tenant to pay an income-related rent higher than the income-related rent the tenant was in fact required to pay for the housing in respect of the period. 30
- “(2) If this subsection applies to a tenant of HNZ housing and a period of time, HNZ may calculate, and recover as a debt due to the Crown, the difference between—
- “(a) the higher income-related rent it would have required the tenant to pay for the housing in respect of the period; and 35

- “(b) the income-related rent the tenant was in fact required to pay for the housing in respect of the period.
- “(3) Amounts recoverable under **subsection (2)** are not rent in arrear for the purposes of the Residential Tenancies Act 1986.
- “**61 Allocation of HNZ housing** 5
- “(1) The matters to which HNZ may have regard in doing any of the things stated in **subsection (2)** may include criteria that have, or are capable of having, the effect that tenants, people who are or might be applicable persons in relation to those tenants, and other people who are or might be residing in the housing concerned, are treated differently on the basis of— 10
- “(a) their marital status, disability or absence of disability, age, or family status (as the terms marital status, disability, age, and family status are defined in section 21(1)(b), (h), (i), and (l) of the Human Rights Act 1993); 15
- or
- “(b) whether or not they are resident, or ordinarily resident, or permanently resident, or lawfully resident, in New Zealand; or
- “(c) their income; or 20
- “(d) their property; or
- “(e) 2 or more of those factors.
- “(2) The things are any thing that HNZ does in the course of allocating, assigning, and letting HNZ housing to tenants, and in administering and terminating tenancies, and include the following: 25
- “(a) assessing the eligibility of a prospective tenant to be allocated HNZ housing; and
- “(b) allocating, assigning, and letting, or continuing to let, HNZ housing to a tenant; and 30
- “(c) reviewing the eligibility of a tenant to be, or continue to be allocated, HNZ housing; and
- “(d) reviewing the eligibility of a tenant to be, or continue to be allocated, assigned, or let particular HNZ housing; and 35
- “(e) terminating a tenancy; and
- “(f) reallocating or reassigning HNZ housing to a tenant; and

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“(g) retaining the current allocation, assignment, or letting of particular HNZ housing to a tenant.

“(3) Nothing in this section affects the application of the New Zealand Bill of Rights Act 1990.

“Offences

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“61AA Offence to fail to advise change of circumstances

“(1) A person to whom any HNZ housing is let commits an offence if the person fails or refuses, without reasonable excuse, to comply with **section 56(1) or (2)**, as the case may require, within 4 weeks of the change of circumstances having occurred. 10

“(2) A person who commits an offence against this section is liable to a fine not exceeding \$2,000.

“61AB Offence not to provide information or to provide false or misleading information

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“(1) A person who is required to provide information under **section 59AA(1)** commits an offence if the person—

“(a) fails or refuses to provide, without reasonable excuse, the information required:

“(b) provides false or misleading information in response to the requirement. 20

“(2) A person who is required under **section 59AA(3)** to advise whether information provided under **section 59AA(1)** is accurate commits an offence if the person—

“(a) fails or refuses to provide that advice, without reasonable excuse: 25

“(b) provides false or misleading information in response to the requirement.

“(3) A person who commits an offence against this section is liable to a fine not exceeding \$2,000. 30

“61AC Offence to mislead HNZ for certain purposes or results

“(1) A person commits an offence who, for the purpose described in **subsection (2)** or with the result described in **subsection (3)**,—

-
- “(a) makes any statement knowing it to be false in any material particular; or
- “(b) deliberately does or says anything, or omits to do or say anything, for the purpose of misleading or attempting to mislead HNZ. 5
- “(2) The purpose is—
- “(a) for that person or another person to be eligible or continue to be eligible to be allocated HNZ housing:
- “(b) for that person or another person to be or continue to be allocated, assigned, or let particular HNZ housing, or to be allocated, assigned, or let some other HNZ housing: 10
- “(c) for that person or another person to have calculated for them, or to pay or continue to pay as rent for HNZ housing, an income-related rent or lower income-related rent than the person would otherwise be entitled to under this Act: 15
- “(d) for that person or another person to receive or continue to receive a financial product.
- “(3) The result is—
- “(a) that person or another person, whether or not entitled to it under this Act,— 20
- “(i) is or continues to be assessed as eligible to be allocated HNZ housing:
- “(ii) is or continues to be allocated, assigned, or let particular HNZ housing: 25
- “(iii) is allocated, assigned, or let some other HNZ housing:
- “(iv) is let HNZ housing at an income-related rent or lower income-related rent:
- “(v) receives or continues to receive a financial product. 30
- “(4) A person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000, or both.
- “(O) 35

“Appeals

“62 Rights of appeal

- “(1)** This section and **sections 62AA to 62AC** apply to—
- “(a)** any decision or determination of HNZ made under this Part, the calculation mechanism, or Schedule 3 (other than a decision under section 43(4) or **45AA(3)**) in respect of an income-related rent; and 5
 - “(b)** any assessment by HNZ of—
 - “(i)** the eligibility of any tenant to be, or to continue to be, allocated HNZ housing; or 10
 - “(ii)** the housing needs of any tenant.
- “(2)** Nothing in this section and **sections 62AA to 62AC**, or in any regulations under section 63, limits or affects the rights of any tenant of HNZ housing under the Residential Tenancies Act 1986. 15

“62AA Tenant may appeal

A tenant may, in accordance with regulations made under section 63, appeal against a decision, determination, or assessment referred to in **section 62(1)**, if HNZ—

- “(a)** has confirmed the decision, determination, or assessment (whether as originally made or as varied) by means of a process established by HNZ to review such decisions, determinations, or assessments; or 20
- “(b)** has no such process for the time being established.

“62AB Powers of appeal body

- “(1)** In determining the appeal, the appeal body has all the powers, duties, functions, and discretions HNZ had in relation to the matter concerned; and may— 25
- “(a)** confirm, modify, or reverse the decision, determination or assessment; or 30
 - “(b)** refer all or any part of the matter back to HNZ for further consideration, together with—
 - “(i)** any directions it thinks just relating to the reconsideration; and
 - “(ii)** a written statement of its reasons for doing so. 35
- “(2)** The appeal body—

- “(a) may award costs against HNZ in respect of any appeal if—
 - “(i) the appeal is allowed in whole or in part; or
 - “(ii) all or any part of the matter is referred back to HNZ for further consideration; and
- “(b) may award costs against the appellant in respect of any appeal that is refused, if the appeal body believes that the appeal was frivolous or vexatious, or should not have been brought.

“62AC Where appeal body established by regulations 10

If regulations under section 63(1)(a) establish a body to dispose of appeals under this section, any party to any appeal to the body who is dissatisfied with any determination of the body may appeal to a District Court, and in that case,—

- “(a) within 14 days after the date of the determination, the appellant must—
 - “(i) lodge a notice of appeal with the court; and
 - “(ii) give a copy of the notice to every other party to the appeal:
- “(b) the court or a Judge may, on the application of the appellant or intending appellant, extend any time prescribed or allowed under this section for the lodging of a notice of appeal:
- “(c) except as provided by this subsection, the case must be dealt with in accordance with the District Courts Rules 2009.”

15 Section 64 replaced (Delegation of powers under this Part)

Replace section 64 with:

“Delegation

“64 Delegation of powers under this Part 30

- “(1) HNZ—
 - “(a) may not delegate a power under section 57(2)(b), **58(b)**, **58AA(1) or (2)**, or **section 60**, except to a person who is an employee of HNZ or the Corporation; and

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- “(b) may not delegate any other power under this Part, the calculation mechanism, or Schedule 3, except to a person who is—
- “(i) an employee of HNZ or the Corporation; or
 - “(ii) a person engaged by HNZ or the Corporation under a contract for services providing for the person to exercise that power. 5
- “(2) An employee to whom a power has been delegated by HNZ in accordance with **subsection (1)** may, with the consent of HNZ, subdelegate that power to another employee of HNZ or the Corporation. 10
- “(3) If HNZ delegates a power under this Part, the calculation mechanism, or Schedule 3 (not being a power referred to in **subsection (1)(a)**) to a body corporate engaged by HNZ or the Corporation under a contract for services,— 15
- “(a) the body corporate cannot subdelegate it except to a person who is an employee of the body corporate; and
 - “(b) an employee of the body corporate to whom it is sub-delegated cannot subdelegate it further.
- “(4) **Subsections (1) and (3)** override section 130(1) of the Companies Act 1993.” 20

16 New sections 65AA to 65AP and cross-headings inserted

After section 65, insert:

“Code of conduct

- “65AA Code of conduct applying to obtaining information under section 59AA 25**
- “(1) HNZ, in consultation with the Privacy Commissioner, must, within 3 months after the commencement of this section, issue a code of conduct that applies in respect of any requirement for information under **section 59AA.** 30
- “(2) The code of conduct—
- “(a) must include the matters specified in **section 65AE;** and
 - “(b) may include restrictions on obtaining— 35
 - “(i) specified classes of information; and
 - “(ii) information from specified classes of persons or from persons in specified relationships; and

- “(c) must specify procedures applying to the obtaining of information under **section 59AA**.
- “(3) HNZ may from time to time, in consultation with the Privacy Commissioner, amend the code of conduct, or revoke the code of conduct and issue a new code of conduct. 5
- “(4) Nothing in the code of conduct may derogate from any code of practice issued by the Privacy Commissioner under Part 6 of the Privacy Act 1993 that applies to the information required under **section 59AA**, and HNZ, in consultation with the Privacy Commissioner, must amend the code of conduct to conform with any such code of practice. This subsection is affected by **section 65AC**. 10
- “65AB Who must comply with code of conduct**
- “(1) The following persons must comply with the code of conduct when requiring information under **section 59AA**: 15
- “(a) HNZ, and every employee of HNZ:
- “(b) every person to whom the power to require such information has been delegated under **section 64**:
- “(c) every person or body corporate engaged by HNZ under a contract for services providing for the person to exercise the power to require such information: 20
- “(d) every employee of a person or body corporate referred to in **paragraph (c)**.
- “(2) As soon as practicable after issuing any code of conduct and any amendment to it under this section, HNZ must arrange for it to be published on an Internet site that is publicly available at all reasonable times or published in a form that is otherwise accessible to the public. 25
- “65AC Regulations authorising information to be obtained**
- “(1) The Governor-General may, on the advice of the Minister given after consultation with the Privacy Commissioner, by Order in Council, make regulations authorising HNZ to obtain pursuant to a requirement under **section 59AA**— 30
- “(a) any specified class of information; or
- “(b) information from any specified class of persons; or 35
- “(c) information in any specified manner.

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“(2) **Subsection (1)** applies despite the fact that the making of that requirement under that section would otherwise be in breach of any code of practice issued by the Privacy Commissioner under Part 6 of the Privacy Act 1993.

“**65AD Complaints** 5

“(1) Any person who is required to provide any information under **section 59AA**, or who is the subject of that information, may make a complaint to the Privacy Commissioner that the requirement breaches the code of conduct.

“(2) Part 8 of the Privacy Act 1993 applies to the complaint as if the code of conduct were a code of practice issued under Part 6 of the Privacy Act 1993. 10

“Compare: 1964 No 136 s 11B

“**65AE Matters to be included in code of conduct**

“(1) The code of conduct issued under **section 65AA** must contain the following matters: 15

“(a) provisions requiring the information to be first sought, as the case may require, except where compliance with the provision would prejudice the maintenance of the law, from— 20

“(i) the tenant or an applicable person in relation to the tenant; or

“(ii) the applicant for or recipient of a financial product or the spouse or partner of the applicant or recipient; or 25

“(iii) the prospective tenant or the person who would be an applicable person in relation to the prospective tenant; or

“(iv) the former tenant or an applicable person in relation to the former tenant at the time concerned (see **section 57AB(b)**): 30

“(b) provisions allowing a person referred to in **paragraph (a)** the time that is specified in the code to provide the information before HNZ requires that information or confirmation of that information from another person or agency, except where compliance with such provision would prejudice the maintenance of the law: 35

- “(c) a provision prohibiting a requirement under **section 59AA** being made in respect of a tenant, prospective tenant, former tenant, or applicant to any other person (not being a financial institution, lawyer, employer, or former employer of a person referred to in **paragraph (a)**), unless there is reasonable cause to make a requirement under that section: 5
- “(d) a provision prohibiting a requirement under **section 59AA** being made to an employer in respect of any information that relates solely to the marital or relationship status of an employee or a former employee of that employer: 10
- “(e) provisions otherwise restricting requirements under **section 59AA** being made to an employer to information specified in the code relating to the employment and the address of an employee or a former employee of that employer. 15
- “(2) In **subsection (1)(c)**, **reasonable cause** includes—
- “(a) cause to suspect that the person has committed an offence under this Act or any other Act or has obtained by fraud any income-related rent or HNZ housing: 20
- “(b) the fact that the person has failed, within the time specified in the code, or has refused to provide information in accordance with a requirement made to that person under a provision referred to in **subsection (1)(a)**. 25
- “Compare: 1964 No 136 s 11C

“Deduction notices

“**65AF Interpretation of deduction notices sections of this Part**

In this section and in **sections 65AH to 65AP**, unless the context otherwise requires,— 30

“**deduction notice** means a notice issued under **section 65AG**

“**overdue amount** means the amount that is recoverable as a debt due to the Crown under **section 60(2)**, and that remains unpaid; and includes any part of any amount of that kind

“**payment**, in relation to a third party, includes payments made, or to be made, by the third party as— 35

“(a) salary or wages:

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“(b) a retiring allowance or pension or other payment of a similar nature:

“(c) a benefit:

“(d) weekly compensation under the Accident Compensation Act 2001: 5

“(e) a bonus or an incentive payment:

“(f) commission:

“(g) consideration for work performed under a contract for services

“**tenant** means— 10

“(a) 1 or more people to whom HNZ housing is or was let at an income-related rent; and

“(b) includes any former tenant

“**third party** means the person required to make 1 or more deductions under a deduction notice. 15

“Compare: 1957 No 87 ss 2(1), 79

“**65AG Deduction of overdue Crown debt**

“(1) HNZ may recover an amount as a debt due to the Crown by issuing a deduction notice in accordance with this section if any overdue amount remains unpaid after HNZ has reminded the tenant of the obligation to pay the amount and has done all it reasonably can to obtain the unpaid amount. 20

“(2) Nothing in **subsection (1)** requires HNZ to take proceedings in any court to establish or recover the debt before issuing a deduction notice. 25

“(3) The deduction notice may require a third party to deduct an amount specified in the notice due from any payment that is payable or will become payable by the third party to the tenant, whether that payment will be made—

“(a) on the third party’s own account; or 30

“(b) in the third party’s capacity as an agent or a trustee; or

“(c) for any other reason.

“(4) If there is more than 1 third party to whom the deduction notice may be issued, HNZ must to the extent applicable issue the deduction notice in the following order: 35

“(a) first, to the Ministry of Social Development (**MSD**); and

- “(b) second, to the Accident Compensation Corporation (ACC) (if the money received from MSD is not sufficient to cover the required repayments); and
- “(c) third, to the tenant’s employer or employers (if the money received from MSD and ACC is not sufficient to cover the required repayments); and 5
- “(d) fourth, to any other third party, including a bank.

“Compare: 1964 No 136 s 86A

“65AH Matters relating to deduction notice

- “(1) HNZ must specify in the deduction notice— 10
- “(a) whether the deduction is to be made as a lump sum or by instalments; and
- “(b) the time or times by which the amounts deducted must be paid to HNZ; and
- “(c) the date on which the deduction notice takes effect, being a date not earlier than 7 working days after the date on which it was issued. 15
- “(2) HNZ must give the tenant a copy of the deduction notice.
- “(3) A deduction notice is revoked when HNZ notifies the third party in writing to that effect or issues a new deduction notice to that third party. 20
- “(4) HNZ—
- “(a) may revoke a deduction notice at any time;
- “(b) must revoke the deduction notice if satisfied that the overdue amount has been paid. 25
- “(5) Every deduction notice is subject to **sections 65AI to 65AP**.

“65AI Issue of deduction notice to State sector employer

In any case where a tenant is employed within a department (within the meaning of the State Sector Act 1988), a deduction notice may be issued under **section 65AG** to the chief executive of that department in respect of any salary or wages payable to the tenant. 30

“Compare: 1964 No 136 s 86B

“65AJ Discharge of debt

In any case where a third party deducts, under a deduction notice, any money payable to a tenant, the tenant is, to the extent of the amount deducted, discharged from his or her debt to the Crown.

5

“Compare: 1964 No 136 s 86C

“65AK Deduction notices issued to banks

“(1) Where the third party is a bank, any money held by the bank to the credit of the tenant is subject to the provisions of **section 65AG** and the amount required to be deducted under the deduction notice is, without prejudice to any other remedies against the tenant or any other person, deemed to be held in trust for the Crown and is a debt due to the Crown and may be recovered by HNZ in any court or tribunal of competent jurisdiction.

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“(2) For the purposes of this section, **bank** means a person carrying on in New Zealand the business of banking, 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).

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

25

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

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

30

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

“(4) For the purposes of this section, money on deposit with a bank is deemed to be to the credit of the tenant if the money—

“(a) is held in a joint bank account in the name of the tenant and 1 or more other persons; and

35

“(b) can be withdrawn from the account by or on behalf of the tenant without a signature being required at the time

of that withdrawal from, or on behalf of, the other person or persons.

“Compare: 1964 No 136 s 86D

“65AL Making of deductions

- “(1) Any person who makes a deduction under a deduction notice is deemed to be acting— 5
- “(a) on the authority of the tenant and any other person concerned; and neither the tenant nor that other person has any claim against the third party or HNZ or the Crown in respect of that deduction; and 10
 - “(b) on behalf of HNZ; and, without prejudice to any other remedies against the tenant or any other person, any amount deducted must be held in trust for the Crown and is a debt due to the Crown and may be recovered by HNZ in any court or tribunal of competent jurisdiction. 15
- “(2) A third party must, on request, give the tenant a statement in writing of any amount deducted, and of the purpose for which the deduction was made.

“Compare: 1964 No 136 s 86E

“65AM Offences in relation to deduction notices 20

- “(1) Every person commits an offence and is liable on 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 HNZ within the time specified in the notice; or
 - “(c) permits payment to or on behalf of any person, other than HNZ, of any amount deemed to be held in trust for the Crown under **sections 65AG to 65AL**. 30
- “(2) Every employer commits an offence and is liable on conviction to a fine not exceeding \$1,000 who dismisses an employee or alters an employee’s position in the employer’s business or undertaking to the employee’s prejudice by reason of a deduction notice having been issued to the employer. 35

“Compare: 1957 No 87 s 106A; 1964 No 136 s 86F

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“65AN Protected earnings

“(1) Despite anything in **sections 65AG to 65AL**, where a deduction notice is issued to an employer of a tenant, the employer must not, in making deductions under the deduction notice, reduce the amount paid to the tenant by way of salary or wages in respect of any week to an amount that is less than 60% of the amount calculated as being the tenant’s net ordinary weekly pay for a week. 5

“(2) For the purposes of this section, the tenant’s net ordinary weekly pay for a week is the balance left after deducting from the tenant’s ordinary weekly pay (as defined in section 8 of the Holidays Act 2003) the amount of tax required to be withheld or deducted in accordance with the PAYE rules of the Income Tax Act 2007 if that ordinary weekly pay were the only salary or wages paid to the tenant by the employer in respect of a week. 10 15

“Compare: 1964 No 136 s 86G

“65AO Penalty for late deductions

“(1) A third party is liable to pay to HNZ a penalty calculated in accordance with **subsection (2)** if the third party fails wholly or in part to— 20

“(a) deduct the amount required by the notice; or

“(b) pay any amount deducted under the notice to HNZ by the time specified in the notice.

“(2) The penalty referred to in **subsection (1)** must be calculated as follows: 25

“(a) on the amount in default, 10% of that amount or \$5, whichever is the greater:

“(b) for each additional month or part of a month in which the amount in default or any part of the amount has not been deducted or, as the case may be, has not been paid to HNZ, a further penalty of 2% of that amount or part of the amount or \$1, whichever is the greater. 30

“(3) HNZ may, in its discretion, remit the whole or part of a penalty if satisfied that the failure to make the deduction or the payment was due to circumstances reasonably beyond the third party’s control, or that, in all the circumstances, the imposition of that penalty would be inequitable. 35

- “(4) If HNZ decides to remit the whole or part of any penalty and any amount of the penalty has been paid under this section, HNZ may refund any excess.
- “(5) An amount payable to HNZ under **subsection (1)** is a debt due to the Crown and may be recovered by HNZ in any court or tribunal of competent jurisdiction. 5

“Compare: 1964 No 136 s 86I

“65AP How notice may be given

- “(1) Every notice given to any person under any of **sections 65AG to 65AO** may be given by delivering it to that person,— 10
- “(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),—
- “(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 15
- “(iii) by posting it in a letter addressed to that person at that place of residence or business or at that address: 20
- “(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 25
- “(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.
- “(2) If any such notice is sent to any person by post, then, in the absence of evidence to the contrary, the notice is deemed to have been received by that person on the 4th day after the day on which it is posted, and, in proving the delivery, it is sufficient to prove the letter was properly addressed and posted. 30

“Compare: 1964 No 136 s 86J”.

Part 2

Amendments to principal Act with effect from day appointed by Order in Council

- 17 Section 2 amended (Interpretation)** 5
- In section 2(1), insert the following definitions in their appropriate alphabetical order:
- “**agency** means the social housing agency or agencies appointed under **section 101**
- “**authority** means the authority appointed under **section 156** to perform the functions and exercise the powers of the regulatory authority under **Part 10** 10
- “**community housing** means premises let or to be let by or on behalf of a registered community housing provider at an income-related rent for occupation by any person as a place of residence 15
- “**joint Ministers** means the Ministers of Finance, Housing, and Social Development
- “**partner** in the phrase ‘spouse or partner’ and in related context means, in relation to any person (**A**), a person—
- “**(a)** who is A’s civil union partner or de facto partner; and 20
- “**(b)** who is not in the company’s opinion, living apart from A
- “**registered community housing provider** means a community housing provider—
- “**(a)** that has, as one of its objects, the provision of either or both of social or affordable rental housing; and 25
- “**(b)** that has been registered by the authority under **Part 10** as a provider of community housing that is eligible to receive either or both of capital grants from the authority or income-related rent subsidies from the agency 30
- “**social housing** means HNZ housing or community housing
- “**social housing provider** means HNZ or a registered community housing provider”.
- 18 New section 3AA and Schedule 4 inserted (Transitional provisions)** 35
- After section 3, insert:

“3AA Transitional provisions

This Act is subject to transitional provisions set out in Schedule 4.”

19 New Parts 7 to 10 inserted

After Part 6, insert:

5

“Part 7

“HNZ housing

“70 Purpose of this Part and Parts 8 to 10

“(1) The purpose of this Part and **Parts 8 to 10** is to reform the provision of social housing by establishing a framework for a multiple-provider social housing market. 10

“(2) This Part and **Parts 8 to 10**—

“(a) enable the assessment of need and eligibility for social housing, and eligibility for an income-related rent, and associated functions (such as providing advice, managing applications for social housing, carrying out investigations, and referring and allocating prospective tenants and tenants to social housing providers), to be performed by an independent government agency or agencies that do not provide state housing: 15 20

“(b) align Housing New Zealand Corporation’s role to the provision of social housing in a multiple-provider environment:

“(c) facilitate the growth of the community housing sector by enabling the extension, on terms and conditions set by the joint Ministers, of an income-related rent subsidy to registered community housing providers and an income-related rent to their tenants: 25

“(d) enable the appointment of a government agency as a regulatory authority for registered community housing providers, with associated objectives, functions, and powers to monitor and enforce compliance with regulatory standards: 30

“(e) enable the making of regulations that prescribe eligibility criteria and performance standards to be met by registered community housing providers: 35

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“(f) create certain offences for failure to comply with information requirements issued to tenants and associated parties by relevant government agencies.

“71 Interpretation of this Part

In this Part, unless the context otherwise requires,— 5

“**applicable person**, in relation to any HNZ housing,—

“(a) means every person to whom the housing is or is to be let; and

“(b) includes every person who is the spouse or partner of such a person 10

“**calculation mechanism** has the meaning set out in **Part 9**

“**code of conduct**, in relation to information that may be required under **section 82**, means the code of conduct established under **section 88**

“**financial product** means a financial product administered by HNZ on behalf of the Crown and— 15

“(a) includes a loan or grant; but

“(b) does not include income-related rent

“**income-related rent**, in relation to a tenant, means a rent calculated for the tenant under the calculation mechanism, or under Schedule 3 20

“**market rent**, in relation to any HNZ housing, means the rent for the time being determined by HNZ (or the Tenancy Tribunal under the Residential Tenancies Act 1986) as the market rent for that housing 25

“**partner** in the phrase ‘spouse or partner’ and in related contexts, means, in relation to any person (A), a person—

“(a) who is A’s civil union partner or de facto partner; and

“(b) who is not, in HNZ’s opinion, living apart from A

“**prospective tenant for HNZ housing** means a person— 30

“(a) who—

“(i) is eligible to be allocated social housing; and

“(ii) is not a person to whom any HNZ housing is let; and

“(iii) has been referred or allocated to HNZ to be allocated, assigned, or let HNZ housing; or 35

“(b) who—

- “(i) is already a person to whom HNZ housing is let; but
- “(ii) has applied to HNZ (alone or together with some other person or people) to become a tenant of some other HNZ housing and has not yet had the application accepted or declined, or withdrawn it 5
- “**rent period**, in relation to any HNZ housing, means a period in respect of which the tenant is required by the tenancy agreement to pay rent for it
- “**tenant**,— 10
- “(a) in relation to HNZ housing in general,—
- “(i) means any person or people to whom any HNZ housing is let or to be let; and
- “(ii) includes a prospective tenant for HNZ housing; and 15
- “(b) in relation to any particular HNZ housing, means the person or people to whom it is let or to be let.
- “**72 Income-related rent**
- “(1) This section applies to HNZ housing and a tenant if—
- “(a) an income-related rent has been calculated for the tenant under **Part 9**, the calculation mechanism, or under Schedule 3; and 20
- “(b) the agency has notified under **section 73** the income-related rent calculated for the tenant.
- “(2) If **subsection (1)** applies to any HNZ housing and a tenant, the rent for the housing may be the income-related rent for the time being calculated for the tenant, subject to **subsections (4) and (5)** and subject to any ministerial direction under **section 103**. 25
- “(3) If **subsection (1)** does not apply to any HNZ housing and a tenant, the rent for the housing must be its market rent for the time being. 30
- “(4) The income-related rent for any HNZ housing must not exceed its market rent for the time being.
- “(5) If satisfied that special circumstances justify its doing so, HNZ may, in its absolute discretion, set for and accept from a tenant of any HNZ housing a rent lower than the rent otherwise 35

required by **subsection (2)** or **subsection (3)** to be paid for the housing by the tenant.

“(6) **Subsections (2) to (5)** are subject to **section 75**.

“**73 Agency to notify HNZ of income-related rent**

“(1) The agency must give HNZ notification of the income-related rent calculated from time to time for a tenant under **Part 9** and the calculation mechanism or under Schedule 3. 5

“(2) A notification may take any form agreed on or accepted by HNZ and the agency, as long as the notification—

“(a) is in writing; and 10

“(b) identifies the tenant to whom it relates with sufficient clarity; and

“(c) specifies the income-related rent calculated for the tenant and the period to which it applies; and

“(d) specifies the date from which the income-related rent applies; and 15

“(e) is signed by an officer or employee of the agency.

“(3) The agency must update the notification following any change to the income-related rent calculated or determined for the tenant. 20

“(4) An updated notification must, in addition to complying with the requirements of **subsection (2)**, state whether the change in income-related rent is due to a change in the tenant’s circumstances or the circumstances of any other applicable person and, if so, the date the change in circumstances occurred. 25

“(5) HNZ is entitled to rely on a notification given under this section.

“**74 Agency to notify HNZ of tenants’ housing need**

“(1) The agency must give HNZ notification of its assessment of a tenant’s social housing need and entitlement to be allocated social housing. 30

“(2) A notification may take any form agreed on or accepted by HNZ and the agency, as long as the notification—

“(a) is in writing; and

“(b) identifies the tenant to whom it relates with sufficient clarity; and 35

- “(c) is signed by an officer or employee of the agency.
- “(3) The notification may include such other information as the agency thinks reasonable and necessary, and must include the information reasonably requested by HNZ, to enable HNZ to make decisions on allocating, assigning, letting, or continuing to let HNZ housing. 5
- “(4) The agency must update a notification following any change to the agency’s assessment of the tenant’s need and entitlement to social housing.
- “(5) HNZ is entitled to rely on a notification given under this section. 10
- “75 Changes in rent**
- “(1) This section applies to an existing tenant of HNZ housing if HNZ—
- “(a) is required by **section 72** to change the rent for the housing; or 15
- “(b) is empowered by **section 72** to change the rent for the housing, and decides to do so.
- “(2) HNZ must, in accordance with section 136 of the Residential Tenancies Act 1986, give a tenant to whom **subsection (1)** applies written notice of the change in rent concerned, stating— 20
- “(a) the date on which it takes effect; and
- “(b) the matters referred to in paragraphs (j) and (k) of section 13A of that Act. 25
- “(3) In the case of a reduction in rent, the notice has effect as a variation of the tenancy agreement for the housing whether or not the tenant signs it.
- “(4) In the case of an increase in rent, the notice must comply with section 24 of the Residential Tenancies Act 1986 except to the extent that **section 76** of this Act provides otherwise. 30
- “76 Changes in rent due to change in tenant’s circumstances**
- “(1) If HNZ is required to increase an income-related rent as a result of a change in the tenant’s circumstances or the circumstances of any other applicable person— 35

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- “(a) the new rent takes effect on the first day of the first rent period unless **subsection (3) or (4)** applies; and
- “(b) **sections 24(1)(c) to (h), and 24(1A) and (2)** of the Residential Tenancies Act 1986 do not apply to the increase in rent. 5
- “(2) In this section, **first rent period** means the period commencing 61 days after the date on which the change in circumstances occurred as set out in the agency’s notification under **section 73**.
- “(3) Despite **subsection (1)(a)**, HNZ may, in its absolute discretion, require the new rent to take effect on a day later than the first day of the first rent period if it is satisfied there are special circumstances that justify the later date. 10
- “(4) HNZ does not have to change the rent charged following receipt of a notification from the agency unless, in HNZ’s opinion, it would result in a material difference to the rent charged for the housing concerned. 15
- “**77 Duty to advise change of circumstances**
Every person who is a prospective tenant of HNZ housing must promptly advise HNZ of any change in the circumstances of the person or the person’s spouse or partner likely to result in the person no longer being eligible to be allocated, assigned, or let any particular HNZ housing. 20
- “**78 HNZ may review placement**
HNZ may at any time review the eligibility of a tenant to be or continue to be allocated, assigned, or let particular HNZ housing. 25
- “Financial products*
- “**79 HNZ may investigate circumstances of applicant for financial product** 30
HNZ may investigate the circumstances of—
- “(a) an applicant for, or a recipient of, a financial product provided or administered by HNZ; or
- “(b) any person who, at the time of application, is the spouse or partner of the applicant. 35

- “80 HNZ may ask questions, take actions, etc**
- “(1) For the purpose of any investigation conducted under section 79, HNZ—**
- “(a) may ask any person whose circumstances it may investigate any relevant questions it thinks fit; and** 5
 - “(b) may ask any person whose circumstances it may investigate to verify by statutory declaration—**
 - “(i) any information he or she has given when answering questions asked under paragraph (a);** 10
or
 - “(ii) any other information that he or she has at any time given to HNZ; or**
 - “(iii) any information within his or her personal knowledge that has at any time been given to HNZ by the spouse or partner of the person.** 15
- “(2) HNZ may take the actions stated in subsection (3) if—**
- “(a) any person whose circumstances it may investigate—**
 - “(i) fails or refuses to answer (or, in HNZ’s opinion, fails or refuses to answer fully) any question asked under subsection (1)(a); or** 20
 - “(ii) fails or refuses to verify any information by statutory declaration when asked to do so under subsection (1)(b); or**
 - “(b) it believes on reasonable grounds that any person whose circumstances it may investigate under section 79, has deliberately given a false or misleading answer to any question asked under subsection (1)(a).** 25
- “(3) The actions are to—**
- “(a) assess the eligibility of the applicant for that financial product on the basis of HNZ’s own understanding of the circumstances;** 30
 - “(b) treat the applicant as not or as no longer eligible for that financial product.**
- “81 HNZ may seek information**
- “(1) For the purposes of a review under section 78 or an investigation under section 79, HNZ may request any person to—** 35
- “(a) answer questions; or**

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- “(b) allow HNZ to inspect any document or other written information; or
- “(c) give HNZ—
- “(i) a copy of any document or other written information; or 5
- “(ii) a printout of any information stored digitally.
- “(2) The person does not have to comply with the request but (for the purposes of section 7(1) of the Privacy Act 1993) this subsection authorises the person to make personal information available in response to the request. 10
- “82 HNZ may require information for certain purposes**
- “(1) HNZ may by written notice require information from any person for any 1 or more of the following purposes:
- “(a) for the purpose of any investigation under **section 79**:
- “(b) for the purpose of detecting whether a person has committed or is committing an offence under **section 85**: 15
- “(c) for the purpose of ascertaining whether a person has failed or refused to answer fully, or has deliberately given a false or misleading answer, to any question asked under **section 80(1)(a)**. 20
- “(2) HNZ when requiring any information under **subsection (1)** must do so in accordance with the code of conduct.
- “(3) HNZ may in writing require any person to advise whether any information provided under **subsection (1)** is accurate.
- “(4) A person from whom information is required under **subsection (1)** or advice is required under **subsection (3)** must comply with the requirement— 25
- “(a) no later than 5 working days after the notice was given; and
- “(b) in the manner specified in the notice, without charge to HNZ. 30
- “(5) This subsection authorises (for the purposes of section 7(1) of the Privacy Act 1993) any person who is required to provide information under **subsection (1) or (3)** to make personal information available in response to the requirement. 35

“Placement in HNZ housing

“83 Placement in HNZ housing

- “**(1)** The matters to which HNZ may have regard in doing any of the things stated in **subsection (2)** may include criteria that have, or are capable of having, the effect that tenants, people who are or might be applicable persons in relation to those tenants, and other people who are or might be residing in the housing concerned are treated differently on the basis of—
- “**(a)** their marital status, disability or absence of disability, age, or family status (as the terms marital status, disability, age, and family status are defined in paragraphs (b), (h), (i), and (l) of section 21(1) of the Human Rights Act 1993); or
 - “**(b)** whether or not they are resident, or ordinarily resident, or permanently resident, or lawfully resident, in New Zealand; or
 - “**(c)** their incomes; or
 - “**(d)** their property; or
 - “**(e)** 2 or more of those factors.
- “**(2)** The things are any thing that HNZ does in the course of allocating, assigning, and letting HNZ housing to tenants, and in administering and terminating tenancies, and include—
- “**(a)** allocating, assigning, and letting, or continuing to let, HNZ housing to a tenant; and
 - “**(b)** reviewing the eligibility of a tenant to be or to continue to be allocated, assigned, or let particular HNZ housing; and
 - “**(c)** terminating a tenancy; and
 - “**(d)** reallocating or reassigning HNZ housing to a tenant; and
 - “**(e)** retaining the current allocation, assignment, or letting of particular HNZ housing to a tenant.
- “**(3)** Nothing in this section affects the application of the New Zealand Bill of Rights Act 1990.

“Offences

“84 Offence not to provide information or to provide false or misleading information

- “**(1)** A person who is required to provide information under **section 82(1)** commits an offence if the person— 5
- “**(a)** fails or refuses to provide, without reasonable excuse, the information required:
- “**(b)** provides false or misleading information in response to the requirement.
- “**(2)** A person who is required to advise under **section 82(3)** 10 whether information provided under **section 82(1)** is accurate commits an offence if the person—
- “**(a)** fails or refuses to provide the advice without reasonable excuse:
- “**(b)** provides false or misleading information in response to 15 the requirement.
- “**(3)** A person who commits an offence against this section is liable to a fine not exceeding \$2,000.

“85 Offence to mislead HNZ for certain purposes or results

- “**(1)** A person commits an offence who, for the purpose described 20 in **subsection (2)** or with the result described in **subsection (3)**,—
- “**(a)** makes any statement knowing it to be false in any material particular; or
- “**(b)** deliberately does or says anything, or omits to do or say 25 anything, for the purpose of misleading or attempting to mislead HNZ.
- “**(2)** The purpose is—
- “**(a)** for that person or another person to be or continue to be 30 allocated, assigned, or let particular HNZ housing, or to be allocated, assigned, or let some other HNZ housing:
- “**(b)** for that person or another person to receive or continue to receive a financial product.
- “**(3)** The result is that person, or another person, whether or not 35 entitled to it under this Act—
- “**(a)** is or continues to be allocated, assigned, or let particular HNZ housing:

- “(b) is allocated, assigned, or let some other HNZ housing:
- “(c) receives or continues to receive a financial product.
- “(4) A person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000, or both. 5
- “(()

“Delegations

“**86 Delegation of powers under this Part**

- “(1) HNZ—
 - “(a) may not delegate a power under **section 80(1)(b), (2), or (3)**, except to a person who is an employee of HNZ, the Corporation, or the agency, or the chief executive of the agency; and 10
 - “(b) may not delegate any other power under this Part except to a person who is—
 - “(i) an employee of HNZ or the Corporation; or 15
 - “(ii) a person engaged by HNZ or the Corporation under a contract for services providing for the person to exercise that power.
- “(2) An employee to whom a power has been delegated by HNZ in accordance with **subsection (1)** may, with the consent of HNZ, subdelegate that power to another employee of HNZ or the Corporation. 20
- “(3) If HNZ delegates a power under this Part (not being a power referred to in **subsection (1)(a)**) to a body corporate engaged by HNZ or the Corporation under a contract for services,— 25
 - “(a) the body corporate cannot subdelegate the power except to a person who is an employee of the body corporate; and
 - “(b) an employee of the body corporate to whom the power is subdelegated cannot subdelegate it further. 30
- “(4) **Subsections (1) to (3)** override section 130(1) of the Companies Act 1993.

“Reimbursement

“87 Reimbursement of HNZ

Section 7 has effect as if—

- “(a) this Part, the calculation mechanism, and Schedule 3
were a requirement by the Crown for HNZ to enter into 5
agreements (as the circumstances from time to time re-
quire) for the provision by HNZ of housing and related
services to persons who pay income-related rents rather
than market rents for the housing, in return for the pay-
ment by the Crown of the price to HNZ of doing so; and 10
- “(b) that price were the difference between the amounts of
market rents for the housing and the income-related
rents charged.

“Code of conduct

**“88 Code of conduct applying to obtaining information 15
required under section 59AA**

- “(1) HNZ, in consultation with the Privacy Commissioner, must,
within 3 months after the commencement of this section, issue
a code of conduct that applies in respect of any requirement for
information under **section 82.** 20
- “(2) The code of conduct—
 - “(a) must include the matters specified in **section 92;** and
 - “(b) may include restrictions on obtaining—
 - “(i) specified classes of information; and
 - “(ii) information from specified classes of persons or 25
from persons in specified relationships; and
 - “(c) must specify procedures applying to the obtaining of
information under **section 82.**
- “(3) HNZ may from time to time, in consultation with the Privacy
Commissioner, amend the code of conduct, or revoke the code 30
of conduct and issue a new code of conduct.
- “(4) Nothing in the code of conduct may derogate from any code of
practice issued by the Privacy Commissioner under Part 6 of
the Privacy Act 1993 that applies to the information required
under **section 82,** and HNZ, in consultation with the Privacy 35
Commissioner, must amend the code of conduct to conform

with any such code of practice. This subsection is affected by **section 90**.

“(5) As soon as practicable after issuing any code of conduct and any amendment to it under this section, HNZ must arrange for it to be published on an Internet site that is publicly available at all reasonable times or published in a form that is otherwise accessible to the public. 5

“(6) The code of conduct that, before the commencement of this section, was issued under Part 5 is, on the commencement of this section, deemed to be issued under this section. 10

“Compare: 1964 No 136 s 11B

“**89 Who must comply with code of conduct**

The following persons must comply with the code of conduct when requiring information under **section 82**:

“(a) HNZ and every employee of HNZ: 15

“(b) the agency and every employee and the Chief Executive of the agency:

“(c) every person or body corporate engaged by HNZ under a contract for services providing for the person to exercise the power to require such information: 20

“(d) every employee of a person or body corporate referred to in **paragraph (c)**.

“**90 Regulations authorising information to be obtained**

“(1) The Governor-General may, on the advice of the Minister given after consultation with the Privacy Commissioner, by Order in Council, make regulations authorising HNZ to obtain pursuant to a requirement under **section 82**— 25

“(a) any specified class of information; or

“(b) information from any specified class of persons; or

“(c) information in any specified manner. 30

“(2) **Subsection (1)** applies despite the fact that the making of that requirement would otherwise be in breach of any code of practice issued by the Privacy Commissioner under Part 6 of the Privacy Act 1993.

“91 Complaints

“(1) Any person who is required to provide any information under **section 82** or who is the subject of that information, may make a complaint to the Privacy Commissioner that the requirement breaches the code of conduct. 5

“(2) Part 8 of the Privacy Act 1993 applies to any such complaint as if the code of conduct were a code of practice issued under Part 6 of the Privacy Act 1993.

“92 Matters to be included in code of conduct

“(1) The code of conduct issued under **section 88** must contain 10
the following matters:

“(a) provisions requiring the information to be first sought, as the case may require, except where compliance with such provision would prejudice the maintenance of the law, from the applicant for or recipient of a financial product or the spouse or partner of the applicant or recipient: 15

“(b) provisions allowing a person referred to in **paragraph (a)** the time that is specified in the code to provide the information before HNZ requires that information or confirmation of that information from another person or agency, except where compliance with such provision would prejudice the maintenance of the law: 20

“(c) a provision prohibiting a requirement under **section 82** being made in respect of an applicant to any other person (not being a financial institution, lawyer, employer, or former employer of a person referred to in **paragraph (a)**), unless there is reasonable cause to make a requirement under that section: 25

“(d) a provision prohibiting a requirement under **section 82** being made to an employer in respect of any information that relates solely to the marital or relationship status of an employee or former employee of that employer: 30

“(e) provisions otherwise restricting requirements under **section 82** being made to an employer to information specified in the code relating to the employment and 35

the address of an employee or a former employee of
that employer.

- “(2) In **subsection (1)(c), reasonable cause** includes—
- “(a) cause to suspect that the person has committed an offence under this Act or under any other Act or has obtained by fraud any financial product: 5
 - “(b) the fact that the person has failed, within the time specified in the code, or has refused, to provide information in accordance with a requirement made to that person under a provision referred to in **subsection (1)(a)**. 10
- “Compare: 1964 No 136 s 11C

**“Part 8
“Community housing**

- “93 **Interpretation of Part 8**
- In this Part unless the context otherwise requires,— 15
- “**applicable person**, in relation to any community housing,—
- “(a) means every person to whom the housing is or is to be let; and
 - “(b) includes every person who is the spouse or partner of such a person 20
- “**calculation mechanism** has the meaning set out in **section 100**
- “**income-related rent**, in relation to a tenant, means a rent calculated for the tenant under the calculation mechanism
- “**market rent**, in relation to any community housing, means 25
the rent for the time being determined by the registered community housing provider of that housing (or the Tenancy Tribunal under the Residential Tenancies Act 1986) as the market rent for that housing
- “**prospective tenant for community housing**, in relation to a 30
registered community housing provider, means a person—
- “(a) who—
 - “(i) is eligible to be allocated community housing; and
 - “(ii) is not a person to whom any community housing 35
is let; and

- “(iii) has been referred or allocated to the housing provider to be allocated, assigned, or let community housing; or
- “(b) who—
- “(i) is already a person to whom community housing is let; but 5
- “(ii) has applied to the housing provider (alone or together with some other person or people) for some other community housing offered by that provider and— 10
- “(A) has not yet had the application accepted or declined, or withdrawn it;
- “(B) has had the application accepted but has not yet been allocated the other housing
- “**rent period**, in relation to any community housing, means a period in respect of which the tenant is required by the tenancy agreement to pay rent for it 15
- “**tenant**,—
- “(a) in relation to community housing, means any person or people to whom any community housing is let or to be let; and 20
- “(b) in relation to any community housing provided or to be provided by a registered community housing provider—
- “(i) means any person or people to whom community housing is let by that provider; and 25
- “(ii) includes a prospective tenant for community housing.
- “**94 Agency to notify registered community housing provider of income-related rent** 30
- “(1) The agency must give a registered community housing provider notification of the income-related rent calculated from time to time for a tenant under **Part 9** and the calculation mechanism.
- “(2) A notification may take any form agreed on or accepted by the registered community housing provider and the agency, as long as the notification— 35
- “(a) is in writing; and

- “(b) identifies the tenant to whom it relates with sufficient clarity; and
 - “(c) specifies the income-related rent calculated for the tenant and the period to which it applies; and
 - “(d) specifies the date from which the income-related rent applies; and 5
 - “(e) is signed by an officer or employee of the agency.
- “(3) The agency must update the notification following any change to the income-related rent calculated or determined for the tenant. 10
- “(4) An updated notification must, in addition to complying with the requirements of **subsection (2)**, state whether the change in income-related rent is due to a change in the tenant’s circumstances or the circumstances of any other applicable person and, if so, the date the change in circumstances occurred. 15
- “(5) A registered community housing provider is entitled to rely on a notification given under this section.
- “95 Agency to notify registered community housing provider of tenants’ housing need**
- “(1) The agency must give a registered community housing provider notification of its assessment of a tenant’s social housing need and entitlement to be allocated social housing. 20
- “(2) A notification may take any form agreed on or accepted by the housing provider and the agency, as long as the notification—
- “(a) is in writing; and 25
 - “(b) identifies the tenant to whom it relates with sufficient clarity; and
 - “(c) is signed by an officer or employee of the agency.
- “(3) The notification may include such other information as the agency thinks reasonable and necessary, and must include the information reasonably requested by the housing provider, to enable the housing provider to make decisions on allocation, assignment, letting, and continuing to let community housing. 30
- “(4) The agency must update a notification following any change to the agency’s assessment of the tenant’s need and entitlement to social housing. 35

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Part 2 cl 19

“(5) A registered community housing provider is entitled to rely on a notification given under this section.

“**96 Income-related rent**

“(1) This section applies to community housing, a registered community housing provider, and a tenant if— 5

“(a) a registered community housing provider has been allocated or referred an eligible tenant by the agency; and

“(b) an income-related rent has been calculated for the tenant under **Part 9** and the calculation mechanism; and

“(c) the agency has notified under **section 94** the income-related rent calculated for the tenant. 10

“(2) If **subsection (1)** applies, the rent for the community housing must be the income-related rent for the time being calculated for the tenant, subject to **subsections (4) and (5)**.

“(3) If **subsection (1)** does not apply to any community housing, the rent for the housing must be its market rent for the time being. 15

“(4) The income-related rent for any community housing must not exceed its market rent for the time being.

“(5) If a registered community housing provider is satisfied that special circumstances justify its doing so, the housing provider may, in its absolute discretion, set for and accept from a tenant a rent lower than the rent otherwise required by **subsection (2)** to be paid for the housing by the tenant. 20

“(6) **Subsections (2) to (5)** are subject to **section 97**. 25

“(7) In **subsection (1)**, **eligible tenant** means a tenant that is eligible to be allocated, assigned, or let community housing at an income related rent on the basis of—

“(a) terms and conditions set by the joint Ministers; and

“(b) notified by the authority. 30

“**97 Changes in rent**

“(1) This section applies to an existing tenant of community housing if the registered community housing provider—

“(a) is required by **section 96** to change the rent for the housing; or 35

- “(b) is empowered by **section 96** to change the rent for the housing, and decides to do so.
- “(2) The registered community housing provider must, in accordance with section 136 of the Residential Tenancies Act 1986, give a tenant to whom **subsection (1)** applies written notice of the change in rent, stating—
- “(a) the day on which it takes effect; and
- “(b) the matters referred to in paragraphs (j) and (k) of section 13A of that Act.
- “(3) In the case of a reduction in rent, the notice has effect as a variation of the tenancy agreement for the housing whether or not the tenant signs it.
- “(4) In the case of an increase in rent, the notice must comply with section 24 of the Residential Tenancies Act 1986 except to the extent that **section 98** provide otherwise.
- “98 Changes in rent due to change in tenant’s circumstances**
- “(1) If the registered community housing provider is required to increase an income-related rent as a result of a change in the tenant’s circumstances or the circumstances of any other applicable person,—
- “(a) the new rent takes effect on the first day of the first rent period unless **subsection (3) or (4)** applies; and
- “(b) **sections 24(1)(c) to (h), (1A) and (2)** of the Residential Tenancies Act 1986 do not apply to the increase in rent.
- “(2) In this section, **first rent period** means the period commencing 61 days after the date the change in circumstances occurred (as set out in the agency’s notification under **section 94**).
- “(3) Despite **subsection (1)(a)**, the registered community housing provider may, in its absolute discretion, require the new rent to take effect on a day later than the first day of the first rent period if it is satisfied there are special circumstances that justify the later date.
- “(4) The registered community housing provider does not have to change the rent charged following receipt of a notification from the agency unless, in the registered community housing

provider’s opinion, it would result in a material difference to the rent charged for the housing concerned.

“99 Placement in community housing

- “(1) The matters to which a registered community housing provider may have regard in doing any of the things stated in **subsection (2)** may include criteria that have, or are capable of having, the effect that tenants, people who are or might be applicable persons in relation to those tenants, and other people who are or might be residing in the housing concerned are treated differently on the basis of—
- “(a) their marital status, disability or absence of disability, age, or family status (as the terms marital status, disability, age, and family status are defined in paragraphs (b), (h), (i), and (l) of section 21(1) of the Human Rights Act 1993); or
 - “(b) whether or not they are resident, or ordinarily resident, or permanently resident, or lawfully resident, in New Zealand; or
 - “(c) their incomes; or
 - “(d) their property; or
 - “(e) 2 or more of those factors.
- “(2) The things are anything that a registered community housing provider does in the course of allocating, assigning, and letting community housing to tenants, and in administering and terminating those tenancies, and include—
- “(a) allocating, assigning, and letting community housing to tenants at an income-related rent; and
 - “(b) allocating, assigning, and letting community housing to tenants; and
 - “(c) reviewing the eligibility of a tenant to be or to continue to be allocated, assigned, or let particular community housing; and
 - “(d) terminating a tenancy; and
 - “(e) reallocating or reassigning community housing to tenants; and
 - “(f) retaining the current allocation, assignment or letting of particular community housing to tenants.

“(3) Nothing in this section affects the application of the New Zealand Bill of Rights Act 1990.

“Part 9

“Social housing agency

“Preliminary provisions

5

“100 Interpretation of Part 9 and Schedules 2 and 3

“(1) In this Part and Schedules 2 and 3, unless the context otherwise requires,—

“**additional resident**, in relation to any social housing, means a person who—

10

“(a) is aged 16 years or over; and

“(b) is financially independent (within the meaning of section 3(1) of the Social Security Act 1964); and

“(c) resides or is to reside in the housing; but

“(d) is not an applicable person

15

“**appointed day** means 17 November 2000

“**applicable person**, in relation to any social housing,—

“(a) means every person to whom the housing is or is to be let; and

“(b) includes every person who is the spouse or partner of such a person

20

“**assessable assets** has the meaning given to that term by the calculation mechanism

“**assessable income** has the meaning given to that term by **section 109**

25

“**calculate** includes ascertain

“**calculation mechanism**,—

“(a) before the commencement of the regulations first made under **section 115**, means **sections 108 to 114** and the provisions of Schedule 2; and

30

“(b) after that commencement, means **sections 108 to 114** and the regulations for the time being in force under **section 115**

“**code of conduct**, in relation to information that may be required under **section 125**, means the code of conduct issued under **section 137**

35

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“**contributions**, in relation to an additional resident of any social housing, means all payments made by the resident, and the value of all goods or services provided or paid for by the resident,—

“(a) as a contribution towards the costs and expenses incurred by the applicable persons in residing there; or 5

“(b) in consideration of goods or services provided by the applicable persons while the resident is residing there; or

“(c) in consideration of the resident being allowed to reside there; or 10

“(d) for 2 or all of those reasons

“**income-related purpose** has the same meaning as in section 3(1) of the Social Security Act 1964

“**income-related rent**, in relation to a tenant, means a rent calculated for the tenant under the calculation mechanism or, in the case of HNZ housing, under Schedule 3 15

“**market rent**, in relation to any social housing, means the rent for the time being determined (as the case may be) by HNZ, a registered community housing provider, or the Tenancy Tribunal (under the Residential Tenancies Act 1986) as the market rent for that housing 20

“**notification** means notification by the agency under any of **sections 73, 74, 94, and 95**

“**partner**, in the phrase ‘spouse or partner’ and in related contexts, means, in relation to any person (A), a person— 25

“(a) who is A’s civil union partner or de facto partner; and

“(b) who is not, in agency’s opinion, living apart from A

“**prescribed**, in any provision of this Part, means for the time being— 30

“(a) prescribed by the calculation mechanism for the purposes of the provision; or

“(b) calculated under a means prescribed by the calculation mechanism for the purposes of the provision

“**prospective tenant** means a person— 35

“(a) who—

“(i) is not a person to whom any social housing is let or to be let; and

-
- “(ii) has applied to the agency (alone or together with some other person or people) to become a tenant of social housing and—
- “(A) has not yet had the application accepted or declined, or withdrawn it; or 5
 - “(B) has had the application accepted but has not yet been allocated any particular social housing by a provider; or
- “(b) who—
- “(i) is already a person to whom social housing is let or to be let; but 10
 - “(ii) has applied to the agency (alone or together with some other person or people) to become a tenant of some other social housing and has not yet had the application accepted or declined, or withdrawn it 15
- “**rent period**, in relation to any social housing, means a period in respect of which the tenant is required by the tenancy agreement to pay rent for it
- “**standard tax** means the amount of tax reckoned on a weekly 20 basis that would be deductible in accordance with tax code ‘M’ specified in section 24B of the Tax Administration Act 1994
- “**study grant** means a basic grant or independent circumstances grant under regulations under section 303 of the Education Act 1989 (or an allowance, award, bursary, grant, 25 or scholarship that the Agency considers to have been established under that section in place of a basic grant or independent circumstances grant)
- “**tenant**,—
- “(a) in relation to social housing in general,— 30
 - “(i) means any person or people to whom any social housing is let or to be let; and
 - “(ii) includes a prospective tenant; and
 - “(b) in relation to any particular social housing, means the person or people to whom it is let or to be let 35
- “(2) Schedule 2 is repealed on the commencement of the regulations first made under **section 115**.

*“Appointment, functions, and operation of
social housing agency*

“101 Social housing agency

The Governor-General may, from time to time, by Order in Council made on the recommendation of the joint Ministers 5
appoint a department (within the meaning of the State Sector Act 1988) or a Crown entity (within the meaning of the Crown Entities Act 2004), or any combination of 1 or more departments or Crown entities, to perform some or all of the functions and exercise some or all of the powers of the agency 10
under this Part and **Parts 7, 8, and 10**.

“102 Functions of agency

The functions of the agency include the following:

- “(a) providing assistance and advice to people on matters relating to housing or services related to housing; and 15
- “(b) managing applications for social housing, including—
 - “(i) assessing the need for social housing;
 - “(ii) assessing the eligibility of prospective tenants to be allocated social housing or to be allocated to any particular social housing provider: 20
 - “(iii) reviewing the eligibility of tenants to continue to be allocated social housing or any particular social housing;
 - “(iv) operating a waiting list or waiting lists of tenants who have been assessed as being eligible for social housing, but who have yet to be referred to a social housing provider: 25
 - “(v) referring or allocating prospective tenants to social housing providers;
 - “(vi) providing the results of its assessments of need and eligibility to HNZ or registered community housing providers; and 30
- “(c) any other functions set out in this **Part** and **Parts 7, 8, and 10**.

“103 Ministerial directions to agency

“(1) The joint Ministers and, if applicable, any other Minister responsible for the agency, may give to the agency policy di- 35

rections setting out the terms and conditions on which the income-related rent subsidy must be made available to registered community housing providers and HNZ, including either or both the number and type of housing units that may be funded using the income-related rent subsidy during any specified period of time. 5

“(2) The agency must, in carrying out functions under this Act, comply with policy directions that are given to it under this section and that are signed by the joint Ministers.

“(3) If the agency is a Crown entity, **subsections (1) and (2)** do not limit Part 3 of the Crown Entities Act 2004. 10

“(4) Within 10 working days after giving a direction under **subsection (1)**, a Minister must publish it in the *Gazette* and present a copy of it to the House of Representatives.

“(5) The Ministers must consult with the agency, the authority, and HNZ before giving the direction. 15

“Compare: 2004 No 115 ss 103, 115

“Agency must calculate income-related rents

“**104 Agency to notify social housing providers of income-related rent** 20

The agency must notify social housing providers of the income-related rent calculated for a tenant—

“(a) in accordance with **section 73**, if the provider is HNZ;
or

“(b) in accordance with **section 94**, if the provider is a registered community housing provider. 25

“**105 Agency to notify social housing providers of tenants’ housing need**

The agency must notify the relevant social housing provider of its assessment of a tenant’s social housing need and entitlement to be allocated social housing— 30

“(a) in accordance with **section 74**, if the provider is HNZ;
or

“(b) in accordance with **section 95**, if the provider is a registered community housing provider. 35

“106 Income-related rent

- “(1) This section applies to social housing and a tenant if—
- “(a) the tenant is eligible to be allocated social housing or has been allocated, assigned, or let particular social housing; and 5
 - “(b) the tenant has applied to the agency for it to calculate an income-related rent; and
 - “(c) the agency is satisfied that—
 - “(i) it has had all information reasonably needed to calculate or review an income-related rent for long enough to be able to do so; and 10
 - “(ii) the information is accurate.
- “(2) If this section applies, the agency must—
- “(a) calculate the income-related rent for the time being for the tenant; and 15
 - “(b) provide notification to the social housing provider to whom the tenant has been referred or allocated.
- “(3) The agency must update a notification following any change to the income-related rent calculated or determined for the tenant.
- “(4) The agency may update a notification following an investigation of an income-related rent under this **Part**. 20

“107 Backdating of applications for calculation of income-related rent

- “(1) The agency may treat an application made at any time for it to calculate an income-related rent as having been made at any earlier time it determines, if satisfied that— 25
- “(a) it has all information reasonably needed to calculate an income-related rent as at the time determined; and
 - “(b) the information is accurate; and
 - “(c) it was unreasonable in all the circumstances to expect the application to have been made earlier. 30
- “(2) This subsection applies to an application made to the agency for it to calculate an income-related rent if,—
- “(a) at the time it was made, the agency—
 - “(i) did not have all the information reasonably needed to calculate an income-related rent; or 35

- “(ii) had all the information reasonably needed to calculate an income-related rent, but was not satisfied that it was accurate; and
- “(b) at some later time the agency is satisfied that—
 - “(i) it has all that information; and 5
 - “(ii) the information is accurate.
- “(3) The agency may treat an application to which **subsection (2)** applies as if the agency had had all the information reasonably needed to calculate an income-related rent at any time it determines between the time the application was made and the later time concerned. 10

“Calculating income-related rents

“108 Calculating income-related rents

- “(1) An income-related rent (calculated on a weekly basis) is the higher of the following rents: 15
 - “(a) a rent calculated by reference to household income under **subsection (2)**;
 - “(b) a rent calculated by reference to benefit levels under **subsection (3)**.
- “(2) A rent calculated by reference to household income is the sum of— 20
 - “(a) the prescribed proportion of the sum of the assessable incomes of the applicable persons concerned, up to the prescribed threshold (or the threshold prescribed for tenants of a category to which the tenant belongs); and 25
 - “(b) the prescribed proportion of any amount by which that sum is greater than that threshold; and
 - “(c) if any of the applicable persons is eligible to receive family tax credits under subparts MA to MF and MZ of the Income Tax Act 2007, the prescribed proportion of the lesser of— 30
 - “(i) the total of the amounts that the applicable persons are eligible to receive as family tax credits under those subparts; and
 - “(ii) a prescribed amount (or an amount calculated by a prescribed means). 35
- “(3) A rent calculated by reference to benefit levels is the sum of—

- “(a) the prescribed proportion of the rate (before abatement) stated in paragraphs (a) to (e) of clause 1 of Schedule 9 of the Social Security Act 1964 that would be appropriate if the tenant were a beneficiary; and
- “(b) if any of the applicable persons is eligible to receive family tax credits under subparts MA to MF and MZ of the Income Tax Act 2007, the prescribed proportion of the lesser of—
 - “(i) the total of the amounts that the applicable persons are eligible to receive as family tax credits under those subparts; and
 - “(ii) a prescribed amount (or an amount calculated by a prescribed means).

“109 Assessable income

The assessable income of an applicable person is the agency’s estimate of the person’s weekly income from all sources,—

- “(a) if the agency considers that income tax is payable on any part of it, after the deduction of whichever of the following the agency thinks fit in the particular case:
 - “(i) any income tax actually paid in respect of or deducted from that part; or
 - “(ii) the agency’s estimate of the amount of income tax payable in respect of it; and
- “(b) if the agency considers that any premium is payable in respect of any part of it under section 219(1) of the Accident Compensation Act 2001, after the deduction of whichever of the following the agency thinks fit in the particular case:
 - “(i) any premium actually paid in respect of that part; or
 - “(ii) the agency’s estimate of the amount of premium payable in respect of it; and
- “(c) if the agency considers that any levy is payable in respect of any part of it under section 219 of the Accident Compensation Act 2001, after the deduction of whichever of the following the agency thinks fit in the particular case:
 - “(i) any levy actually paid in respect of that part; or

“(ii) the agency’s estimate of the amount of levy payable in respect of it.

“**110 Certain amounts included in weekly income**

- “(1) For the purposes of **section 109**, a person’s weekly income includes— 5
- “(a) the appropriate weekly proportion of any periodical payment, whether capital or not, made to the person on a regular basis by any other person for income-related purposes and used by the person for income-related purposes; and 10
 - “(b) the appropriate weekly proportion of the value of any goods, service, transport, or accommodation (other than accommodation provided by HNZ or a registered community housing provider) supplied to the person on a regular basis by any other person. 15
- “(2) A person’s weekly income includes contributions from additional residents to the extent only required by the calculation mechanism.
- “(3) **Subsection (1)** does not limit **section 109**.
- “(4) **Subsection (2)** overrides **subsection (1) and section 109**. 20

“**111 Calculation mechanism may include amounts in or exclude amounts from weekly income**

- “(1) For the purposes of **section 109**, a person’s weekly income—
- “(a) includes any amount or payment (or, as the case requires, the appropriate weekly proportion of any amount or payment) of a prescribed description: 25
 - “(b) does not include any amount or payment (or, as the case requires, the appropriate weekly proportion of any amount or payment) of a prescribed description.
- “(2) **Subsection (1)(a)** does not limit **section 109**. 30
- “(3) **Subsection (1)(b)** overrides **sections 109 and 110(1)**.

**Social Housing Reform (Housing
Restructuring and Tenancy Matters
Amendment) Bill**

Part 2 cl 19

*“Assessable assets, and deprivation of income
or property*

“112 Assessable assets

“(1) Assessable assets generate imputed income at a rate of interest for the time being stated by the joint Ministers by notice in the *Gazette*; and, for the purposes of **section 109**,— 5

“(a) the gross income from any person’s assessable assets is the greater of the actual income from those assets and the imputed income they generate; and

“(b) the person’s weekly income must be estimated accordingly. 10

“(2) In **subsection (1)**, **assessable assets** has the meaning prescribed.

“113 Assessable income may be adjusted in certain cases

“(1) **Subsection (2)** applies if the agency is satisfied that— 15

“(a) an applicable person has directly or indirectly deprived himself or herself of any income or property; and

“(b) as a consequence of the deprivation, an income-related rent of any social housing in respect of which the person is an applicable person is (or but for this section would be) lower than it would otherwise be. 20

“(2) The agency may treat the person’s assessable income as having been increased to the extent the agency thinks necessary to reflect the deprivation, or any lesser extent.

“(3) **Subsection (2)** overrides **sections 108(1) and 114**. 25

“(4) In this section,—

“**income** does not include any amount that an applicable person might be considered to derive from any impairment lump sum under Schedule 1 of the Accident Compensation Act 2001

“**property** does not include any such impairment lump sum received by an applicable person for the period of 12 months following the receipt of that payment. 30

*“Estimating weekly income, and regulations for
purposes of calculation mechanism*

“114 Estimating weekly income

For the purposes of **section 109**, a person’s weekly income is
the person’s estimated income for the prescribed period com- 5
mencing on the day on which the estimation is made (or in the
case of an application backdated under **section 107** or a re-
view under **section 117** or action taken under **section 123**,
the day from which the estimation is made), divided so as to
equate to a weekly amount; but— 10

“(a) that estimated income must be treated as an amount
equal to—

“(i) the agency’s estimate of the income received
by the person for any period equal to the pre- 15
scribed period (ending on a day before the day
concerned) that the agency decides, divided so
as to equate to a weekly amount; or

“(ii) if the agency thinks it more appropriate in all
the circumstances, the agency’s estimate of the
income received by the person for any shorter 20
period (ending on a day before the day con-
cerned) that the agency decides, divided so as to
equate to a weekly amount; and

“(b) there may be deducted from that amount any items by
which the agency is satisfied the income is likely to be 25
reduced, and there may be added to that amount any
items by which the agency is satisfied the income is
likely to be increased.

“115 Regulations for purposes of calculation mechanism

“(1) The Governor-General may, by Order in Council, make regu- 30
lations for any or all of the following purposes:

“(a) prescribing a definition of assessable assets for the pur-
poses of **section 112(2)**:

“(b) prescribing matters contemplated by **sections 108 to**
114: 35

“(c) providing for any other matters contemplated by **sec-**
tions 108 to 114, necessary for their administration,
or necessary for giving them full effect.

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- “(2) The regulations may—
- “(a) prescribe a zero proportion (or a means for calculating proportions capable of producing a zero proportion) for the purposes of any provision:
 - “(b) prescribe a proportion or threshold (or a means for calculating a proportion or threshold) for the purposes of any provision by reference to any or all of the following matters:
 - “(i) the relationship status of the tenant concerned:
 - “(ii) the relationship status of the applicable persons concerned: 10
 - “(iii) the number of dependent children of the tenant concerned:
 - “(iv) the number of dependent children of the applicable persons concerned: 15
 - “(v) the number of people living or intended to live in the housing concerned:
 - “(c) prescribe a threshold (or a means for calculating a threshold) for the purposes of any provision by reference to the rate of a benefit within the meaning of section 3(1) of the Social Security Act 1964, or the rates of 2 or more such benefits. 20
- “(3) A means for calculating may comprise any number of mechanisms and parameters.
- “(4) **Subsection (2)** does not limit **subsection (1)**. 25
- “(5) Nothing in this section affects the application of the New Zealand Bill of Rights Act 1990.

“Administrative matters and review

- “**116 Tenant’s duty to advise changes of circumstances** 30
- “(1) Every person to whom any social housing is let at an income-related rent must promptly advise the agency of—
- “(a) any change in the person’s circumstances likely to result in the payment of a higher income-related rent; and
 - “(b) any change known to the person in the circumstances of any other applicable person likely to result in the payment of a higher income-related rent by the first-mentioned person. 35

- “(2) Every person to whom any social housing is let (whether at an income-related rent or a market rent) must promptly advise the agency of—
- “(a) any change in the person’s circumstances likely to result in the person no longer being eligible to be allocated social housing or the particular social housing the person is being let; and 5
 - “(b) any change known to the person in the circumstances of any other applicable person likely to result in the first-mentioned person no longer being eligible to be allocated— 10
 - “(i) social housing; or
 - “(ii) the particular social housing that the first-mentioned person is being let.
- “(3) Every person who is a prospective tenant must promptly advise the agency of any change in the circumstances of the person or the person’s spouse or partner likely to result in the person not or no longer being eligible to be allocated social housing or allocated, assigned, or let any particular social housing. 15
- “**117 Reviews of income-related rents** 20
- “(1) The agency may at any time, of its own motion or on application by the provider of the social housing concerned, review any income-related rent to ascertain—
- “(a) whether it or some other income-related rent is now appropriate; or 25
 - “(b) whether at some earlier time it or some other income-related rent was appropriate; or
 - “(c) both.
- “(2) After reviewing the income-related rent, the agency,— 30
- “(a) if satisfied some other income-related rent is now appropriate, may calculate and notify that other income-related rent for the tenant: 30
 - “(b) if satisfied that at some earlier time a higher income-related rent was appropriate, may take action under **section 126**: 35
 - “(c) if satisfied that at some earlier time a lower income-related rent was appropriate, must make any necessary refund.

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- “(3) The agency—
- “(a) does not have to calculate that other income-related rent under **subsection (2)(a)** unless, in the agency’s opinion, it would result in a material difference to the existing income-related rent; and 5
 - “(b) does not have to give a notification under **section 73, 74, 94, or 95** unless the agency has calculated the income-related rent and, in the agency’s opinion, the result is a material difference from the existing income-related rent; and 10
 - “(c) does not have to act under **subsection (2)(b)** unless—
 - “(i) in the agency’s opinion, there has been a material under-payment of rent for the housing concerned; and
 - “(ii) it has received confirmation from the social housing provider that it did not consider it appropriate to exercise its discretion to set a lower rent for the housing concerned at that earlier time under **section 72(5) or 96(5)**. 15
- “**118 Agency may review housing eligibility** 20
- “(1) The agency may at any time review any 1 or more of the following in relation to a tenant:
- “(a) the housing need of the tenant; or
 - “(b) the eligibility (including continued eligibility) of the tenant for social housing; or 25
 - “(c) the eligibility of the tenant to be or continue to be allocated, assigned, or let particular social housing.
- “(2) Nothing in this section limits or affects any power of the agency to conduct a review under any other enactment.
- “Investigations and information gathering
powers* 30
- “**119 Agency may investigate circumstances relevant to income-related rent**
- The agency may investigate—
- “(a) the present circumstances of— 35

-
- “(i) any tenant of social housing who is paying, or has applied to the agency for the agency to calculate, an income-related rent; or
- “(ii) any person who is an applicable person in relation to the tenant: 5
- “(b) the circumstances (as they existed immediately before the income-related rent concerned was calculated or during any period when it was applicable) of—
- “(i) any tenant or former tenant of social housing who was required to pay an income-related rent for the housing; or 10
- “(ii) any person who was an applicable person in relation to the tenant or former tenant at the time concerned.
- “120 Agency may investigate circumstances of prospective tenant 15**
- The agency may investigate the circumstances of any prospective tenant or of any person who would be an applicable person in relation to that tenant to the extent that those circumstances might be relevant to— 20
- “(a) the eligibility of the prospective tenant to be allocated social housing or to be allocated or referred to any particular social housing provider; or
- “(b) the housing need of the prospective tenant.
- “121 Agency may investigate circumstances relevant to continued eligibility 25**
- The agency may investigate the circumstances of any tenant of social housing (whether paying income-related rent or market rent for the housing) or the circumstances of any applicable person in relation to that tenant, to the extent that those circumstances might be relevant to— 30
- “(a) the continued eligibility of the tenant to be allocated social housing; or
- “(b) the housing need of the tenant; or
- “(c) the eligibility of the tenant to continue to be allocated, assigned, or let particular social housing or to be allocated, assigned, or let some other social housing. 35

“122 Agency may ask questions

For the purpose of any investigation conducted under **section 119, 120, or 121**, the agency—

- “(a) may ask any person whose circumstances it may investigate any relevant questions it thinks fit; and 5
- “(b) may ask any person whose circumstances it may investigate to verify by statutory declaration—
 - “(i) any information he or she has given when answering questions asked under **paragraph (a)**; or 10
 - “(ii) any other information that he or she has at any time given to the agency; or
 - “(iii) any information within his or her personal knowledge that has at any time been given to the agency by— 15
 - “(A) an applicable person in relation to that person (where the person whose circumstances are being investigated is a tenant); or
 - “(B) a person who would be an applicable person in relation to that person (where the person whose circumstances are being investigated is a prospective tenant); or 20
 - “(C) any person who was an applicable person in relation to the tenant or former tenant at the time concerned. 25

“123 Actions that may be taken by agency

- “(1) The agency may take the actions stated in **subsection (2)** if—
 - “(a) any person whose circumstances it may investigate—
 - “(i) fails or refuses to answer (or, in the agency’s opinion, fails or refuses to answer fully) any question asked under **section 122(a)**; or 30
 - “(ii) fails or refuses to verify any information by statutory declaration when asked to do so under **section 122(b)**; or 35
 - “(b) it believes on reasonable grounds that any person whose circumstances it may investigate has deliberately given

a false or misleading answer to any question asked
under **section 122(a)**.

- “(2) The actions are,—
- “(a) to the extent that the tenant is the person or people to whom any social housing is let or to be let,— 5
 - “(i) calculate an income-related rent for the tenant on the basis of its own understanding of the circumstances; or
 - “(ii) calculate the income-related rent for the tenant as being equal to the market rent from time to time 10 for the social housing:
 - “(b) to the extent that the tenant is a prospective tenant only,—
 - “(i) suspend the process of determining whether the tenant is eligible to be allocated social housing; 15 or
 - “(ii) suspend the process of determining whether the tenant is eligible to be referred or allocated to HNZ or any registered community housing provider; or 20
 - “(iii) decline the tenant’s application to become a tenant of social housing:
 - “(c) to the extent that the tenant is an existing tenant only,—
 - “(i) for the purpose of **section 117**, treat the tenant as having had a change in circumstances (and the date of change in circumstances) on the basis of its own understanding of the circumstances; or 25
 - “(ii) review the eligibility of the tenant to be allocated social housing or any particular social housing on the basis of its own understanding of the circumstances; or 30
 - “(iii) treat the tenant as not eligible to continue to be allocated social housing or any particular social housing.

“**124 Agency may seek information** 35

- “(1) For the purposes of a review under **section 117 or 118** or an investigation under **section 119, 120, or 121**, the agency may request any person to—

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- “(a) answer questions; or
 - “(b) allow the agency to inspect any document or other written information; or
 - “(c) give the agency—
 - “(i) a copy of any document or other written information; or 5
 - “(ii) a printout of any information stored digitally.
 - “(2) The person does not have to comply with the request, but (for the purposes of section 7(1) of the Privacy Act 1993) this subsection authorises the person to make personal information 10 available in response to the request.
- “**125 Agency may require information for certain purposes**
- “(1) The agency may by written notice require information from any person for any 1 or more of the following purposes:
 - “(a) the purpose of ascertaining the housing need of a prospective tenant: 15
 - “(b) the purpose of ascertaining the eligibility of a tenant to be allocated social housing:
 - “(c) the purpose of calculating an appropriate income-related rent: 20
 - “(d) the purpose of a review under **section 117 or 118**:
 - “(e) the purpose of any investigation under **section 119, 120, or 121**:
 - “(f) the purpose of detecting whether a person has committed or is committing an offence under **section 130**: 25
 - “(g) the purpose of determining or detecting the cost of fraud under **section 129 or 130**:
 - “(h) the purpose of ascertaining whether a person has failed or refused to answer fully, or has deliberately given a false or misleading answer, to any question asked under **section 122(a)**. 30
 - “(2) The agency when requiring any information under **subsection (1)** must do so in accordance with the code of conduct.
 - “(3) The agency may in writing require any person to advise whether any information provided under **subsection (1)** is 35 accurate.

- “(4) A person from whom information is required under **subsection (1)** or advice is required under **subsection (3)** must comply with the requirement—
- “(a) no later than 5 working days after the notice was given; and 5
 - “(b) in the manner specified in the notice, without charge to the agency.
- “(5) This subsection authorises (for the purposes of section 7(1) of the Privacy Act 1993) any person who is required to provide information under **subsection (1) or (3)** to make personal information available in response to the requirement. 10
- “**126 Recovery where rate of rent too low**
- “(1) **Subsection (2)** applies to a tenant of social housing and a period of time if, at any later time, the agency—
- “(a) has in its possession information (whether or not obtained as a result of a review or an investigation under this Act) that— 15
 - “(i) it did not have during that period, or had but did not have reasonable grounds to believe; and
 - “(ii) it now believes on reasonable grounds; and 20
 - “(b) is satisfied that, if it had had the information before the period and had had reasonable grounds to believe the information, it would have calculated for the tenant an income-related rent higher than the income-related rent (being less than the market rent) that the tenant was in fact required to pay for the housing in respect of the period. 25
- “(2) If this subsection applies to a tenant of social housing and a period of time, the agency may calculate, and recover as a debt due to the Crown, the difference between— 30
- “(a) the higher income-related rent it would have calculated for the tenant, but capped at the market rent for the housing, in respect of the period; and
 - “(b) the income-related rent the tenant was in fact required to pay for the housing in respect of the period. 35
- “(3) Amounts recoverable under **subsection (2)** are not rent in arrear for the purposes of the Residential Tenancies Act 1986.

“Allocation of social housing

“127 Allocation of social housing

- “**(1)** The matters to which the agency may have regard in doing any of the things stated in **subsection (2)** may include criteria that have, or are capable of having, the effect that tenants, people who are or might be applicable persons in relation to those tenants, and other people who are or might be residing in the housing concerned are treated differently on the basis of—
- “**(a)** their marital status, disability or absence of disability, age, or family status (as the terms marital status, disability, age, and family status are defined in section 21(1)(b), (h), (i), and (l) of the Human Rights Act 1993); or
 - “**(b)** whether or not they are resident, or ordinarily resident, or permanently resident, or lawfully resident, in New Zealand; or
 - “**(c)** their incomes; or
 - “**(d)** their property; or
 - “**(e)** 2 or more of those factors.
- “**(2)** The things are any thing that the agency does in the course of determining eligibility for social housing or social housing offered by a particular provider, and include—
- “**(a)** assessing the eligibility of prospective tenants to be allocated social housing:
 - “**(b)** reviewing the eligibility of tenants to be or continue to be allocated social housing:
 - “**(c)** operating a waiting list of tenants who have been assessed as being eligible for social housing, but who have yet to be referred or allocated to a social housing provider:
 - “**(d)** providing the results of its assessments of need and eligibility to HNZ or registered community housing providers:
 - “**(e)** referring or allocating prospective tenants to social housing providers.
- “**(3)** Nothing in this section affects the application of the New Zealand Bill of Rights Act 1990.

“Offences

“128 Offence to fail to advise change of circumstances

“(1) A person to whom any social housing is let commits an offence if the person fails or refuses, without reasonable excuse, to comply with **section 116(1) or (2)**, as the case may require, within 4 weeks of the change of circumstances having occurred. 5

“(2) A person who commits an offence against this section is liable to a fine not exceeding \$2,000.

“129 Offence not to provide information or to provide false or misleading information 10

“(1) A person who is required to provide information under **section 125(1)** commits an offence if the person—

“(a) fails or refuses to provide, without reasonable excuse, the information required: 15

“(b) provides false or misleading information in response to the requirement.

“(2) A person who is required under **section 125(3)** to advise whether the information provided under **section 125(1)** is accurate commits an offence if the person— 20

“(a) fails or refuses to provide that advice, without reasonable excuse:

“(b) provides false or misleading information in response to the requirement.

“(3) A person who commits an offence against this section is liable to a fine not exceeding \$2,000. 25

“130 Offence to mislead agency for certain purposes or results

“(1) A person commits an offence who, for the purpose described in **subsection (2)** or with the result described in **subsection (3)**,— 30

“(a) makes any statement knowing it to be false in any material particular; or

“(b) deliberately does or says anything, or omits to do or say anything, for the purpose of misleading or attempting to mislead the agency. 35

“(2) The purpose is—

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- “(a) for that person or another person to be eligible or continue to be eligible to be allocated social housing:
- “(b) for that person or another person to be eligible or continue to be eligible to be allocated, assigned, or let particular social housing, or to be allocated, assigned, or let some other social housing: 5
- “(c) for that person or another person to have calculated for them, or to pay or continue to pay as rent for social housing, an income-related rent or lower income-related rent than they would otherwise be entitled to under this Act or an income-related rent that they are not entitled to under this Act. 10
- “(3) The result is that that person or another person, whether or not entitled to it under this Act,—
 - “(a) is or continues to be assessed as eligible to be allocated social housing: 15
 - “(b) is or continues to be allocated or assigned to a particular social housing provider:
 - “(c) is or continues to be allocated, assigned, or let particular social housing: 20
 - “(d) is allocated, assigned, or let some other social housing:
 - “(e) is let social housing at an income-related rent or lower income-related rent.
- “(4) A person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000, or both. 25
- “()

“Appeals

“131 Rights of appeal

- “(1) This section and **sections 132 to 134** apply to—
 - “(a) any decision or determination of the agency made under this Part, the calculation mechanism, or Schedule 3 (other than a decision under **section 106**) in respect of an income-related rent; and 30
 - “(b) any assessment by the agency of—
 - “(i) the eligibility of any tenant to be, or to continue to be, allocated social housing; or 35

- “(ii) the housing needs of any tenant.
- “(2) Nothing in this section and **sections 132 to 134**, or in any regulations made under **section 135**, limits or affects the rights of any tenant of social housing under the Residential Tenancies Act 1986. 5
- “132 Tenant may appeal** 10
- A tenant may, in accordance with regulations made under **section 135**, appeal against a decision, determination, or assessment referred to in **section 131(1)** if the agency—
- “(a) has confirmed it (whether as originally made or as varied) under the process for the time being established by the agency to review such decisions, determinations, or assessments; or 10
- “(b) has no such process for the time being established.
- “133 Powers of appeal body** 15
- “(1) In determining the appeal, the appeal body has all the powers, duties, functions, and discretions the agency had in relation to the matter concerned and may—
- “(a) confirm, modify, or reverse the decision, determination, or assessment; or 20
- “(b) refer all or any part of the matter back to the agency for further consideration, together with—
- “(i) any directions it thinks just relating to the reconsideration; and
- “(ii) a written statement of its reasons for doing so. 25
- “(2) The appeal body—
- “(a) may award costs against the agency in respect of any appeal if—
- “(i) it is allowed in whole or in part; or
- “(ii) all or any part of the matter is referred back to the agency for further consideration; and 30
- “(b) may award costs against the appellant in respect of any appeal that is refused, if the appeal body believes that it was frivolous or vexatious, or should not have been brought. 35

“134 Where appeal body established by regulations

- If regulations under **section 135(1)(a)** establish a body to dispose of appeals under **sections 131 to 133**, any party to any appeal to the body who is dissatisfied with any determination of the body may appeal to a District Court and in that case,— 5
- “(a) within 14 days after the date of the determination, the appellant must—
 - “(i) lodge a notice of appeal with the court; and
 - “(ii) give a copy of the notice to every other party to the appeal: 10
 - “(b) the court or a Judge may, on the application of the appellant or intending appellant, extend any time prescribed or allowed under this section for the lodging of a notice of appeal:
 - “(c) except as provided by this subsection, the case must be dealt with in accordance with the District Courts Rules 2009. 15

“Regulations

“135 Regulations for purposes other than calculation mechanism

- 20
- “(1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
 - “(a) for the purposes of **section 132**,—
 - “(i) establishing a body to dispose of appeals under that section, prescribing how its members are to be appointed, and prescribing how it is to hear and dispose of appeals; or 25
 - “(ii) providing that such appeals are to be made to the Social Security Appeal Authority established by the Social Security Act 1964 as if they were appeals against decisions or determinations under that Act, and providing that sections 12J to 12N, and 12P to 12R of that Act apply, with or without modification, to the hearing and disposal of appeals; or 30
 - “(iii) providing that such appeals are to be made to a District Court, and providing that the District Courts Act 1947 and the District Courts Rules 35

- 2009 apply, with or without modification, to the hearing and disposal of appeals; or
- “(iv) providing that such appeals are to be made to the Tenancy Tribunal established by the Residential Tenancies Act 1986 as if they were applications under that Act, and providing that sections 86 to 120 of that Act apply, with or without modification, to the hearing and disposal of appeals: 5
- “(b) providing for any other matters contemplated by the provisions of this Part (other than **sections 108 to 114**), necessary for their administration, or necessary for giving them full effect. 10
- “(2) Any body established under **subsection (1)(a)(i)** is a statutory board within the meaning of the Fees and Travelling Allowances Act 1951, and every member of it is entitled to— 15
- “(a) remuneration by way of fees, salary, or allowances for the member’s services as a member of it:
- “(b) payment of travelling allowances and expenses in respect of time spent travelling in its service.
- “Delegations”* 20
- “136 Delegation of powers under this Part**
- “(1) The agency—
- “(a) may not delegate a power under **section 117(2)(b), 122(b), 123, or section 126**, except to a person who is an employee of the agency; and 25
- “(b) may not delegate any other power under this Part, the calculation mechanism, or Schedule 3, except to a person who is—
- “(i) an employee of the agency; or
- “(ii) engaged by the agency under a contract for services providing for the person to exercise that power. 30
- “(2) Despite **subsection (1)**, if the agency is a department (within the meaning of the State Sector Act 1988), it may delegate any power under this Part to another department, HNZ, or the Corporation, or to an employee of the department, HNZ, or the Corporation. 35

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- “(3) An employee to whom a power has been delegated by the agency in accordance with **subsection (1) or (2)** may, with the consent of the agency, delegate that power to another employee of the agency, department, HNZ, or the Corporation.
- “(4) If the agency delegates a power under this Part, the calculation mechanism, or **Schedule 3** (not being a power referred to in **subsection (1)(a)**) to a body corporate engaged by the agency under a contract for services,—
- “(a) the body corporate cannot subdelegate it except to a person who is an employee of the body corporate; and
- “(b) an employee of the body corporate to whom it is sub-delegated cannot subdelegate it further.
- “(5) This section overrides section 130(1) of the Companies Act 1993.

“Code of conduct” 15

“**137 Code of conduct applying to obtaining information under section 125**

- “(1) The agency, in consultation with the Privacy Commissioner must, within 3 months after the commencement of this section, issue a code of conduct that applies in respect of any requirement for information under **section 125**. 20
- “(2) The code of conduct—
- “(a) must include the matters specified in **section 141**; and
- “(b) may include restrictions on obtaining—
- “(i) specified classes of information; and 25
- “(ii) information from specified classes of persons or from persons in specified relationships; and
- “(c) must specify procedures applying to the obtaining of information under **section 125**.
- “(3) The agency may from time to time, in consultation with the Privacy Commissioner, amend the code of conduct, or revoke the code of conduct and issue a new code of conduct. 30
- “(4) Nothing in the code of conduct may derogate from any code of practice issued by the Privacy Commissioner under Part 6 of the Privacy Act 1993 that applies to the information required under **section 125**, and the agency, in consultation with the Privacy Commissioner, must amend the code of conduct to 35

conform with any such code of practice. This subsection is affected by **section 139**.

“138 Who must comply with code of conduct

- “(1) The following persons must comply with the code of conduct when requiring information under **section 125**: 5
- “(a) the agency, and every employee of the agency;
 - “(b) every person to whom the power to require such information has been delegated under **section 136**;
 - “(c) every person or body corporate engaged by the agency under a contract for services providing for the person to exercise the power to require such information: 10
 - “(d) every employee of a person or body corporate referred to in **paragraph (c)**.
- “(2) As soon as practicable after issuing any code of conduct and any amendment to it under this section, the agency must arrange for it to be published on an Internet site that is publicly available at all reasonable times or published in a form that is otherwise accessible to the public. 15

“139 Regulations authorising information to be obtained

- “(1) The Governor-General may, on the advice of the Minister given after consultation with the Privacy Commissioner, by Order in Council, make regulations authorising the agency to obtain pursuant to a requirement under **section 125**— 20
- “(a) any specified class of information; or
 - “(b) information from any specified class of persons; or 25
 - “(c) information in any specified manner.
- “(2) **Subsection (1)** applies despite the fact that the making of that requirement under that section would otherwise be in breach of any code of practice issued by the Privacy Commissioner under Part 6 of the Privacy Act 1993. 30

“140 Complaints

- “(1) Any person who is required to provide any information under **section 125** or who is the subject of that information may make a complaint to the Privacy Commissioner that the requirement breaches the code of conduct. 35

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“(2) Part 8 of the Privacy Act 1993 applies to the complaint as if the code of conduct were a code of practice issued under Part 6 of the Privacy Act 1993.

“**141 Matters to be included in code of conduct**

“(1) The code of conduct issued under **section 137** must contain 5
the following matters:

“(a) provisions requiring any information to be first sought, as the case may require, except where compliance with the provision would prejudice the maintenance of the law, from— 10

“(i) the tenant or an applicable person in relation to the tenant; or

“(ii) the prospective tenant or the person who would be an applicable person in relation to the prospective tenant; or 15

“(iii) a former tenant:

“(b) provisions allowing a person referred to in **paragraph (a)** to provide the information within a specified time before the agency requires that information, or advice on the accuracy of that information, from another person or agency, except where compliance with such provision would prejudice the maintenance of the law: 20

“(c) a provision prohibiting a requirement under **section 125** being made in respect of a tenant, prospective tenant, or applicant to any other person (not being a financial institution, or a lawyer, an employer, or former employer of a person referred to in **paragraph (a)**), unless there is reasonable cause to make a requirement under that section: 25

“(d) a provision prohibiting a requirement under **section 125** being made to an employer in respect of any information that relates solely to the marital or relationship status of an employee or former employee of that employer: 30

“(e) provisions otherwise restricting requirements under **section 125** being made to an employer to information specified in the code relating to the employment and 35

the address of an employee or former employee of that employer.

- “(2) In **subsection (1)(c), reasonable cause** includes—
- “(a) cause to suspect that person has committed an offence under this Act or any other Act, or has obtained by fraud any income-related rent or social housing: 5
 - “(b) the fact that the person has failed, within the time specified in the code, or has refused to provide information in accordance with a requirement made to that person under a provision referred to in **subsection (1)(a)**. 10
- “Compare: 1964 No 136 s11C

“Deduction notices

- “**142 Interpretation of deduction notices sections of this Part**
In this section and in **sections 143 to 152**, unless the context otherwise requires,— 15
- “**deduction notice** means a notice issued under **section 143**
- “**overdue amount** means the amount recoverable as a debt due to the Crown under **section 126(2)**, and that remains unpaid and includes any part of any amount of that kind
- “**payment**, in relation to a third party, includes payments made, or to be made, by the third party as— 20
- “(a) salary or wages:
 - “(b) a retiring allowance or pension or other payment of a similar nature:
 - “(c) a benefit: 25
 - “(d) weekly compensation under the Accident Compensation Act 2001:
 - “(e) a bonus or an incentive payment:
 - “(f) a commission:
 - “(g) consideration for work performed under a contract for services 30
- “**tenant**—
- “(a) means 1 or more people to whom social housing is or was let at an income-related rent; and
 - “(b) includes any former tenant 35

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“**third party** means the person required to make 1 or more deductions under a deduction notice.

“Compare: 1957 No 87 ss 2(1), 79

“**143 Deduction of overdue Crown debt**

“(1) The agency may recover an amount as a debt due to the Crown 5
by issuing a deduction notice in accordance with this section if
any overdue amount remains unpaid, after the agency has re-
minded the tenant of the obligation to pay the amount and has
done all it reasonably can to obtain repayment of the unpaid
amount. 10

“(2) Nothing in **subsection (1)** requires the chief executive to take
proceedings in any court to establish or recover the debt before
issuing a deduction notice.

“(3) The deduction notice may require a third party to deduct an
amount specified in the notice due from any payment that is 15
payable or will become payable by the third party to the tenant,
whether that payment will be made—

“(a) on the third party’s own account; or

“(b) in the third party’s capacity as an agent or a trustee; or

“(c) for any other reason. 20

“(4) If there is more than 1 third party to whom the deduction notice
may be issued, the agency must to the extent applicable issue
the deduction notice in the following order:

“(a) first, to the Ministry of Social Development (**MSD**); and

“(b) second, to the Accident Compensation Corporation 25
(**ACC**) (if the money received from MSD is not suf-
ficient to cover required repayments in respect of the
overdue amount); and

“(c) third, to the tenant’s employer or employers (if the
money received from MSD and ACC are not sufficient 30
to the cover the required repayments); and

“(d) fourth, to any other third party, including a bank.

“Compare: 1964 No 136 s 86A

“**144 Matters relating to deduction notice**

“(1) The agency must specify in the deduction notice— 35

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

- “(b) the time or times by which the amounts deducted must be paid to the agency; and
- “(c) the date on which the deduction notice takes effect, being a date not earlier than 7 working days after the date on which it was issued. 5
- “(2) The agency must give the tenant a copy of the deduction notice.
- “(3) A deduction notice is revoked when the agency notifies the third party in writing to that effect or issues a new deduction notice to that third party. 10
- “(4) The agency—
- “(a) may revoke a deduction notice at any time;
- “(b) must revoke the deduction notice if satisfied that the overdue amount has been paid.
- “(5) Every deduction notice is subject to **sections 145 to 152**. 15
- “**145 Issue of deduction notice to State sector employer**
In any case where a tenant is employed within a department (within the meaning of the State Sector Act 1988), a deduction notice may be issued under **section 143** to the chief executive of that department in respect of any salary or wages payable to the tenant. 20
“Compare: 1964 No 136 s 86B
- “**146 Discharge of debt**
In any case where a third party deducts, under a deduction notice, any money payable to a tenant, the tenant is, to the extent of the amount deducted, discharged from his or her debt to the Crown. 25
“Compare: 1964 No 136 s 86C
- “**147 Deduction notices issued to banks**
- “(1) Where the third party is a bank, any money held by the bank to the credit of the tenant is subject to the provisions of **section 143** and the amount required to be deducted under the deduction notice is, without prejudice to any other remedies against the tenant or any other person, deemed to be held in trust for the Crown and is a debt due to the Crown and may be 30 35

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recovered by the agency in any court or tribunal of competent jurisdiction.

- “(2) For the purposes of this section, **bank** means a person carrying on in New Zealand the business of banking, 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).
- “(3) For the purposes of this section, **money held by the bank to the credit of the tenant** includes money, and any interest on money, that is on deposit or deposited with a bank to the credit of the tenant, whether or not—
- “(a) the deposit or depositing is on current account:
 - “(b) the money is to be at interest at a fixed term or without limitation of time:
 - “(c) the tenant has made any application to withdraw or uplift the money.
- “(4) For the purposes of this section, money on deposit with a bank is deemed to be to the credit of the tenant if the money—
- “(a) is held in a joint bank account in the name of the tenant and 1 or more other persons; and
 - “(b) can be withdrawn from the account by or on behalf of the tenant without a signature being required at the time of that withdrawal from, or on behalf of, the other person or persons.

“Compare: 1964 No 136 s 86D

“148 Making of deductions

- “(1) Any person who makes a deduction under a deduction notice is deemed to be acting—
- “(a) on the authority of the tenant and any other person concerned, and neither the tenant nor that other person has any claim against the third party or the agency or the Crown in respect of that deduction; and
 - “(b) on behalf of the agency, and, without prejudice to any other remedies against the tenant or any other person, any amount deducted must be held in trust for the

Crown and is a debt due to the Crown and may be recovered by the agency in any court or tribunal of competent jurisdiction.

- “(2) A third party must, on request, give the tenant a statement in writing of any amount deducted, and of the purpose for which the deduction was made. 5

“Compare: 1964 No 136 s 86E

“**149 Offences in relation to deduction notices**

- “(1) Every person commits an offence and is liable on conviction to a fine not exceeding \$2,000 who— 10

“(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 agency within the time specified in the notice; or 15

“(c) permits payment to or on behalf of any person, other than the agency, of any amount deemed to be held in trust for the Crown under **sections 147 to 148**.

- “(2) Every employer commits an offence and is liable on conviction to a fine not exceeding \$1,000 who dismisses an employee or alters an employee’s position in the employer’s business or undertaking to the employee’s prejudice by reason of a deduction notice having been issued to the employer. 20

“Compare: 1957 No 87 s 106A; 1964 No 136 s 86F

“**150 Protected earnings** 25

- “(1) Despite anything in **sections 143 to 148**, where a deduction notice is issued to an employer of a tenant, the employer must not, in making deductions under the deduction notice, reduce the amount paid to the tenant by way of salary or wages in respect of any week to an amount that is less than 60% of the amount calculated as being the tenant’s net ordinary weekly pay for a week. 30

- “(2) For the purposes of this section, the tenant’s net ordinary weekly pay for a week is the balance left after deducting from the tenant’s ordinary weekly pay (as defined in section 8 of the Holidays Act 2003) the amount of tax required to be withheld or deducted in accordance with the PAYE rules of 35

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the Income Tax Act 2007 if that ordinary weekly pay were the only salary or wages paid to the tenant by the employer in respect of a week.

“Compare: 1964 No 136 s 86G

“151 Penalty for late deductions 5

“(1) A third party is liable to pay to the agency a penalty calculated in accordance with **subsection (2)** if the third party fails wholly or in part to—

“(a) deduct the amount required by the notice; or

“(b) pay any amount deducted under the notice to the agency by the time specified in the notice. 10

“(2) The penalty referred to in **subsection (1)** must be calculated as follows:

“(a) on the amount in default, 10% of that amount or \$5, whichever is the greater. 15

“(b) for each additional month or part of a month in which the amount in default or any part of the amount has not been deducted or, as the case may be, has not been paid to the agency, a further penalty of 2% of that amount or part of the amount or \$1, whichever is the greater. 20

“(3) The agency may, in its discretion, remit the whole or part of a penalty if satisfied that the failure to make the deduction or the payment was due to circumstances reasonably beyond the third party’s control, or that, in all the circumstances, the imposition of that penalty would be inequitable. 25

“(4) If the agency decides to remit the whole or part of any penalty and any amount of the penalty has been paid under this section, the agency may refund any excess.

“(5) An amount payable to the agency under **subsection (1)** is a debt due to the Crown and may be recovered by the agency in any court or tribunal of competent jurisdiction. 30

“Compare: 1964 No 136 s 86I

“152 How notice may be given

“(1) Every notice given to any person under any of **sections 143 to 151** may be given by delivering it to that person,— 35

- “(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),—
- “(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
 - “(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
 - “(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.
- “(2) If any such notice is sent to any person by post, then, in the absence of evidence to the contrary, the notice is 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 is sufficient to prove the letter was properly addressed and posted.

“Compare: 1964 No 136 s 86J

“Transitional matters 25

“153 Transitional arrangements for certain tenants

- “(1) This section and Schedule 3 apply to a tenant of HNZ if, but for the provisions of that schedule,—
- “(a) the rent that the tenant would be required to pay for the first rent period commencing on or after the appointed day—
would be greater than—
 - “(b) the rent, after the deduction of any accommodation assistance (within the meaning of clause 1 of Schedule 3) to which the tenant was entitled, that the tenant was required to pay for the last rent period commencing before the appointed day.

“(2) Schedule 3 overrides **section 106**.

“**154 Responsible department may verify entitlement**

For the purposes of **section 153** and Schedule 3,—

- “(a) the agency may, with the consent of the applicable persons concerned, give the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Social Security Act 1964 details of—
- “(i) those persons’ assessable incomes and the components of those incomes, and their cash assets, as supplied—
 - “(A) to the company under **section 43(1)**; or
 - “(B) to the agency for the purpose of **section 106(1)**; and
 - “(ii) the weekly market rent in relation to the housing; and
 - “(iii) the dates of the beginning and end of the rent period in respect of the housing that commenced immediately prior to the appointed day; and
- “(b) an officer or employee of the department may, on the basis of the details given under **paragraph (a)**,—
- “(i) certify in writing to the applicable persons the kinds of accommodation assistance (within the meaning of clause 1 of Schedule 3) they were receiving and, in respect of assistance of each kind, whether they were receiving more than their entitlement, their entitlement, or less than their entitlement immediately before the appointed day; and
 - “(ii) give the agency a copy of the certificate; and
- “(c) the agency may rely on the certificate.

“Part 10

“Regulatory authority

“Preliminary provisions

“**155 Interpretation of Part 10**

In this Part, unless the context otherwise requires,—

“

“**calculation mechanism** has the meaning set out in **section 100**

“**prescribed** means prescribed in regulations made under **section 179**.

*“Appointment, objectives, functions, and
operation of authority”* 5

“156 Regulatory authority

“(1) The Governor-General may by Order in Council made on the recommendation of the joint Ministers appoint a department (within the meaning of the State Sector Act 1988), any specified business unit within a department, or a Crown entity (within the meaning of the Crown Entities Act 2004) to perform the functions and exercise the powers of the regulatory authority under this Part. 10

“(2) If the authority is a Crown entity, then the Crown Entities Act 2004 applies to the authority except to the extent that this Act expressly provides otherwise. 15

“157 Authority’s main objectives

The authority’s main objectives are—

“(a) to register and regulate community housing providers, in order to ensure that their tenants are appropriately housed; and 20

“(b) to support the growth of a fair, efficient, and transparent community housing sector.

“158 Authority’s functions” 25

The functions of the authority are to—

“(a) approve and register community housing providers in accordance with prescribed standards; and

“(b) suspend or revoke such approval where a community housing provider no longer meets the prescribed standards; and 30

“(c) maintain a register of registered community housing providers; and

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- “(d) recommend to the joint Ministers the making of regulations for the purposes of this Part; and
- “(e) monitor and enforce compliance by registered community housing providers with any regulations made under this Part; and 5
- “(f) comply with any policy directions from the joint Ministers in relation to the regulation of registered community housing providers that are in receipt of income-related rent subsidies; and
- “(g) provide the joint Ministers with such information and reports about the carrying out of its functions under this Part as the joint Ministers may request; and 10
- “(h) perform any other functions conferred on the authority by this Part.
- “159 Ministerial directions to authority 15**
- “(1) The joint Ministers and, if applicable, any other Minister responsible for the authority, may give to the authority policy directions setting out the terms and conditions on which the income-related rent subsidy must be made available to registered community housing providers, including either or both of the number and type of housing units that may be funded using the income-related rent subsidy during any specified period of time. 20
- “(2) The authority must, in carrying out functions under this Act, comply with policy directions that are given to it under this section and that are signed by the joint Ministers. 25
- “(3) If the authority is a Crown entity, **subsections (1) and (2)** do not limit Part 3 of the Crown Entities Act 2004.
- “(4) Within 10 working days after giving a direction under **subsection (1)**, a Minister must publish it in the *Gazette* and present a copy of it to the House of Representatives. 30
- “(5) The Ministers must consult the authority and the agency before giving the direction.
- “Compare: 2004 No 115 ss 103, 115

“Registration of community housing providers

“160 Application for registration

“(1) A community housing provider may apply to the authority to be registered under this Part.

“(2) An application must— 5

“(a) be in the prescribed form; and

“(b) contain the prescribed information; and

“(c) be accompanied by any relevant prescribed fee.

“161 Further information to be provided with registration application 10

“(1) The authority may require a community housing provider to provide any further information that the authority considers appropriate to an application by that provider.

“(2) The authority may refuse an application for registration if the community housing provider does not provide the further information required within a reasonable time after the requirement is made. 15

“162 Authority must decide application for registration

The authority must, as soon as practicable after receiving an application for registration that complies with **section 160**,— 20

“(a) decide whether to register the applicant; and

“(b) give the applicant written notice of its decision.

“163 Approval of registration

“(1) The authority may approve a community housing provider as a registered community housing provider if the authority is satisfied that— 25

“(a) the community housing provider’s application for registration complies with this Part; and

“(b) any relevant prescribed fee has been paid; and

“(c) having regard to the prescribed eligibility criteria and any other relevant matter, registration is appropriate. 30

“(2) The authority must give effect to any approval of a community housing provider under **subsection (1)** by—

“(a) giving notice of the registration of that provider in the *Gazette*; and 35

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- “(b) entering that provider’s name in the register of community housing providers that is established and maintained under **section 169**.
- “(3) The effect of registration is that the community housing provider is eligible to receive income-related rent subsidies from the Crown, on terms and conditions set by the joint Ministers. 5
- “164 Refusal of registration**
- “(1) If the authority is not satisfied that the requirements for registration in **section 163** have been met, the authority must refuse to register the community housing provider. 10
- “(2) The authority must give the community housing provider a written statement of the reasons for the decision to refuse to register the provider under this Part.
- “(3) A statement of reasons may be given personally or by post. 15
- “165 Registration continuous so long as criteria continue to be met**
- “(1) The authority must assess at least annually, and may assess at any other time, whether a registered community housing provider continues to meet the prescribed criteria and standards for registration. 20
- “(2) A community housing provider that continues to meet those criteria and standards is entitled to the continuation of its registration.
- “166 Suspension of registration** 25
- “(1) If, after making an assessment under **section 165**, the authority determines that a registered community housing provider no longer meets the prescribed criteria and standards for registration, the authority must—
- “(a) suspend the provider’s registration until the provider satisfies the authority that it meets those criteria and standards; and 30
- “(b) record the suspension in the register of community housing providers.

- “(2) The authority must give the community housing provider at least 14 days’ written notice and the opportunity to be heard before suspending its registration.
- “(3) During the period for which the provider’s registration is suspended,— 5
- “(a) the provider may not take on any new tenants paying an income-related rent:
- “(b) the provider may be paid an income-related rent subsidy.
- “(4) If the community housing provider does not satisfy the authority for the purposes of **subsection (1)(a)** within 12 months after the suspension, or any further period that the authority may determine, the authority must revoke the provider’s registration in accordance with **sections 167 and 168**. 10
- “167 When registration may be revoked 15**
- “(1) The authority may revoke the registration of a community housing provider under this Part if the authority is satisfied on reasonable grounds that the community housing provider—
- “(a) has failed, or is failing, to meet 1 or more of the prescribed eligibility criteria; or 20
- “(b) has failed, or is failing, to meet 1 or more of the prescribed performance standards; or
- “(c) has failed, or is failing, to comply with a lawful requirement of the authority under this Part; or
- “(d) has ceased to operate as a community housing provider; 25
- or
- “(e) is unable to pay its debts or to continue carrying on its business.
- “(2) The authority may revoke the registration of a community housing provider under this Part on the written request of the community housing provider. 30
- “(3) The authority may revoke the registration of a community housing provider whether or not that registration has been suspended under **section 166**.

“168 Procedure for revocation

“(1) In any case where the authority revokes a community housing provider’s registration under **section 167**, the authority must—

“(a) give notice to the provider specifying the effective date of the revocation; and 5

“(b) give notice of the revocation in the *Gazette*; and

“(c) remove that provider’s name from the register referred to in **section 169**; and

“(d) give notice to the agency of this as soon as practicable. 10

“(2) If the revocation is on any of the grounds referred to in **section 167(1)**, the authority must—

“(a) give the provider at least 14 days’ written notice and the opportunity to be heard before revoking the registration; and 15

“(b) give the provider a written statement of reasons for the revocation decision, personally or by post.

“(3) The effect of the revocation of a provider’s registration is that the provider is no longer eligible to receive the income-related rent subsidy from the agency. 20

“169 Register of community housing providers

The authority must establish and maintain a register of community housing providers that includes the following information about each registered provider:

“(a) the current (and any former) full name and address and incorporation details of the provider; and 25

“(b) the full names and addresses and appointment details of the current (and former) members of its governing body (if applicable); and

“(c) the full details of land of which it is or was a registered proprietor, or over which it holds or held a lease, tenancy agreement, or licence of more than 3 years’ duration, or at which it provides or has provided community housing services to the public; and 30

“(d) its registration details as a registered community housing provider; and 35

“(e) any prescribed information or documents.

*“Provisions relating to registered community
housing providers*

“170 Authority to monitor registered community housing providers

- The authority— 5
- “(a) must monitor the compliance of registered community housing providers with the prescribed eligibility criteria and performance standards; and
 - “(b) may require persons to supply information or produce documents for that purpose under **section 174**. 10

“171 Reporting requirements of registered community housing providers

- “(1) A registered community housing provider must provide reports on its operations to the authority—
 - “(a) annually in accordance with **section 172**; and 15
 - “(b) at any other time as required by the authority.
- “(2) A report must be in the form approved by the authority.

“172 Annual reports provided by registered community housing providers

- “(1) The reports to be provided annually by a registered community housing provider must include— 20
 - “(a) a report setting out its performance against the prescribed performance standards; and
 - “(b) a report containing its financial statements and accounts in accordance with a direction from the authority under this section; and 25
 - “(c) any other reports that the authority may require.
- “(2) The authority may give directions in relation to the contents of financial statements and accounts to be provided by registered community housing providers. 30
- “(3) The authority must publish a direction under this section in the *Gazette*.
- “(4) Reports must be provided to the authority in each year not more than 28 days after the annual general meeting of the registered community housing provider. 35

- “173 Complaints about registered community housing providers**
- “(1) Any person may complain to the authority alleging that a registered community housing provider has failed, or is failing, to meet prescribed performance standards. 5
- “(2) As soon as practicable after receiving a complaint, the authority must—
- “(a) inform the registered community housing provider concerned of the complaint; and
- “(b) decide whether to accept or decline the complaint. 10
- “(3) The authority must, immediately after making a decision under **subsection (2)**,—
- “(a) give written notice of the decision to the person who made the complaint and the registered community housing provider concerned; and 15
- “(b) if the authority decides to accept the complaint, proceed to investigate the complaint.
- “(4) The authority may decline to accept, and is not required to investigate, a complaint that it considers vexatious or frivolous.
- “(5) Nothing in this section affects the rights and obligations of community housing providers and their tenants under the Residential Tenancies Act 1986. 20
- “174 Authority may require person to supply information or produce documents**
- “(1) If the authority considers it necessary or desirable for the purposes of performing or exercising its functions, powers, or duties under this Act, the authority may, by written notice served on any person, require the person— 25
- “(a) to supply to the authority, within the time and in the manner specified in the notice, any information or class of information specified in the notice; or 30
- “(b) to produce to the authority, or to a specified person named in the notice, any document or class of documents specified in the notice (within the time and in the manner specified in the notice); or 35
- “(c) if necessary, to reproduce, or assist in reproducing, in usable form, information recorded or stored in any document or class of documents specified in the notice

(within the time and in the manner specified in the notice).

“(2) Information supplied in response to a notice under **subsection (1)(a)** must be—

“(a) given in writing; and 5

“(b) signed in the manner specified in the notice.

“(3) If a document is provided in response to a notice under **subsection (1)**, the authority, or the specified person to whom the document is produced, may—

“(a) inspect and make records of that document; and 10

“(b) take copies of the document or extracts from the document.

“(4) In this section, **specified person** means—

“(a) an employee of the authority; or

“(b) another person to whom the authority has delegated the power to receive the relevant information. 15

*“Intervention powers in respect of registered
community housing providers*

“**175 Use of intervention powers by authority**

“(1) The intervention powers of the authority under this Part may be used in relation to a registered community housing provider if— 20

“(a) there has been a failure by the registered community housing provider to meet the prescribed eligibility criteria or the prescribed performance standards; or 25

“(b) the registered community housing provider fails to comply with a legal requirement or direction that is given within the powers of the authority; or

“(c) as a result of a change to the constitution or rules of the registered community housing provider, or to the business activities carried on by the registered community housing provider, the authority believes that the ability of the registered community housing provider to do either or both of the following things is, or will be, adversely affected: 30 35

“(i) comply with the prescribed eligibility criteria and the prescribed performance standards:

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- “(ii) carry out its function of providing social or affordable housing to people.
- “(2) The authority must not exercise a power under this Part unless it is satisfied that the exercise of the power—
- “(a) is appropriate in the circumstances; and 5
- “(b) accords with any guidelines established under **subsection (3)**.
- “(3) The joint Ministers may establish guidelines for the exercise of the authority’s powers under this Part.
- “(4) Guidelines established under **subsection (3)** must be published in the *Gazette*. 10
- “(5) The authority must make a copy of the current guidelines available to each registered community housing provider.
- “176 Authority may appoint to governing body of registered community housing provider 15**
- “(1) The authority, after consulting the governing body of a registered community housing provider and considering any nominations made by that governing body, may appoint 1 or more persons, whom the authority considers to be appropriately qualified, to that governing body. 20
- “(2) The appointment may be in place of 1 or more existing members of the governing body or in addition to the existing members of the governing body of the registered community housing provider.
- “(3) If the appointment is in place of an existing member, the governing body must terminate the existing member’s appointment. 25
- “(4) An appointment or termination under this section has effect as if made in accordance with the constitution or rules of the registered community housing provider. 30
- “(5) This section applies despite anything to the contrary in the constitution or rules of the registered community housing provider.

“177 Authority may give binding instructions to registered community housing provider

- “**(1)** The authority may, after consultation with the governing body of a registered community housing provider, give binding instructions to a registered community housing provider or the members of the governing body of a registered community housing provider. 5
- “**(2)** The instructions may relate to—
- “**(a)** the entering by the registered community housing provider into arrangements that the authority considers appropriate with 1 or more other registered community housing providers: 10
 - “**(b)** the appointment of an administrator to control and direct the registered community housing provider:
 - “**(c)** any other matter relating to the registered community housing provider that the authority thinks fit. 15
- “**(3)** The instructions may specify—
- “**(a)** the time within which a matter referred to in **subsection (2)** must be complied with; and
 - “**(b)** conditions to which that matter is subject, including a requirement for prior approval of the authority. 20
- “**(4)** In giving an instruction or an approval under this section, the authority must have regard to the interests of the tenants of the registered community housing provider.
- “**(5)** A registered community housing provider must comply with an instruction given to it under this section. 25
- “**(6)** A member of the governing body of a registered community housing provider must comply with an instruction given to the members of the governing body under this section.
- “**(7)** The authority may give more than 1 set of instructions to a registered community housing provider in relation to the same matter. 30

“Other reporting

“178 Reporting obligations

The Minister may, by notice to the authority, request that the authority inquire into, and report on, any matter relating to the community housing sector. 35

“Regulations under this Part

“179 Regulations relating to community housing providers

- “(1) The Governor-General may, by Order in Council made on the recommendation of the joint Ministers, make regulations for all or any of the following purposes: 5
- “(a) providing for the way or form in which applications for registration as a community housing provider must be made or the information that those applications must contain:
- “(b) specifying any relevant fee that applies to applications or the method by which it may be calculated: 10
- “(c) prescribing the eligibility criteria that must be met to be registered, including—
- “(i) financial viability requirements; and
- “(ii) requirements related to organisational capacity and capability: 15
- “(d) prescribing the performance standards that must continue to be met to maintain registration, including matters that relate to—
- “(i) governance and management: 20
- “(ii) financial viability:
- “(iii) tenancy management:
- “(iv) asset and property management:
- “(e) prescribing procedures, requirements, and other matters for the register of community housing providers established and maintained under **section 169**, including matters that relate to— 25
- “(i) the operation of the register:
- “(ii) the form of the register:
- “(iii) the information and documents that must be included on the register: 30
- “(iv) access to the register:
- “(v) the location of, and hours of access to, the register:
- “(vi) search criteria for the register: 35
- “(f) specifying—
- “(i) the information that must be provided by persons who make complaints against a registered com-

-
- community housing provider or a former registered
community housing provider; and
- “(ii) the way in which that information must be evaluated; and
- “(iii) the way in which decisions on whether to proceed with the complaint must be made and implemented: 5
- “(g) specifying the date on which (in accordance with this Part, the calculation mechanism, and the terms of the contracts between the authority and registered community housing providers)— 10
- “(i) the income-related rent subsidy will become available to some or all registered community housing providers; and
- “(ii) an income-related rent will be available to some or all tenants of registered community housing providers: 15
- “(h) providing for any other matters contemplated by this Part, necessary for its administration, or necessary for giving it full effect. 20
- “(2) Any fee prescribed under **subsection (1)(b)** must be reasonable, having regard to the need to recover the costs incurred by the authority in performing its functions under this Part.
- “180 Consultation requirements for making regulations**
- “(1) Before making a recommendation for the making of an Order in Council under **section 179**, the joint Ministers must be satisfied that the authority has consulted in accordance with **subsections (2) and (3)**. 25
- “(2) The authority must do everything reasonably practicable to consult with the persons or organisations that appear to the authority to be representative of the interests of persons likely to be substantially affected by the making of the relevant order. 30
- “(3) The process for consultation must, to the extent practicable in the circumstances, include—
- “(a) giving adequate and appropriate notice of the intention to make the order; and 35
- “(b) giving a reasonable opportunity for interested persons to make submissions; and

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- “(c) adequate and appropriate consideration of submissions.
“(4) A failure to comply with this section does not affect the validity of any Order in Council made.”

20 Part 5 repealed

Part 5 is repealed on the date that Part 7 comes into force. 5

21 Schedule 2 amended

- (1) In Schedule 2, clause 2, replace “section 46(2)” with “**section 108(2)**”.
- (2) In Schedule 2, clause 4, replace “sections 46(2)(c) and 46(3)(b)” with “**sections 108(2)(c) and 108(3)(b)**”. 10
- (3) In Schedule 2, clause 5, replace “sections 46(2)(c)(ii) and 46(3)(b)(ii)” with “**sections 108(2)(c)(ii) and 108(3)(b)(ii)**”.
- (4) In Schedule 2, clause 7, replace “HNZ” with “social”.
- (5) In Schedule 2, clause 8, replace “section 48(2)” with “**section 110(2)**”. 15
- (6) In Schedule 2, clause 8(a), (b), and (c), replace “HNZ” with “social”.
- (7) In Schedule 2, clause 10, replace “section 49(1)(b)” with “**section 111(1)(b)**”. 20
- (8) In Schedule 2, clause 11, replace “section 50(2)” with “**section 112(2)**”.

22 Schedule 3 amended (Transitional matters)

- (1) In Schedule 3, clause 3(4), replace “company” with “agency”.
- (2) In Schedule 3, clause 4(1)(a)(i), replace “section 55” with “**section 154**”. 25
- (3) In Schedule 3, clause 4(3), replace “company” with “agency”.
- (4) In Schedule 3, clause 4(3)(a), replace “section 57” with “**section 117**”.
- (5) In Schedule 3, clause 5(1)(a), replace “replacement HNZ housing” with “replacement social housing”. 30

Schedule	s 18
Transitional provisions	
Schedule 4	s 3AA
Transitional provisions relating to Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013	5
1 Transfer of employees of Corporation to agency	
(1) The chief executive of the Corporation must identify and consult the employees of the Corporation—	
(a) who are likely to be affected by the transfer of functions of the Corporation or HNZ to the agency; and	10
(b) whose duties are overall more closely connected with the functions of the agency than with the Corporation; and	
(c) whose positions will, as a result of the transfer of functions to the agency, cease to exist within the Corporation.	15
(2) An employee who is identified under subsection (1) must be offered equivalent employment by the agency, being employment that is—	20
(a) in substantially the same position; and	
(b) in the same general locality; and	
(c) on terms and conditions that are no less favourable than those applying to the employee immediately before the date the offer of employment is made to that employee; and	25
(d) on terms that treat the period of service with the Corporation (and every other period of service recognised by the Corporation as continuous service) as if it were continuous service with the agency.	30
(3) The employee is not entitled to receive any payment or other benefit on the ground that the position held by the person in the Corporation has ceased to exist if—	
(a) the employee's position ceases to exist because the duties of the position are more closely connected with the functions of agency; and	35

Schedule	Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Bill	
	(b) the employee is offered employment in an equivalent position in the agency (whether or not the employee accepts the offer).	
(4)	This section overrides any provision to the contrary in Part 6A of the Employment Relations Act 2000.	5
(5)	Nothing in sections 60, 61, and 65 of the State Sector Act 1988 applies to the appointment of an employee to a position in the agency as a result of the transfer of functions of HNZ and the Corporation to the agency.	
2	No compensation for technical redundancy of employees of Corporation	10
(1)	An employee of the Corporation is not entitled to receive any payment or other benefit on the ground that the position held by the person in the Corporation has ceased to exist if the employee's position ceases to exist because the duties of the position are more closely connected with the functions of the agency, and—	15
	(a) the employee is offered employment in an equivalent position in the agency (whether or not the employee accepts the offer); or	20
	(b) the employee is offered and accepts employment in the agency.	
(2)	In subsection (1)(a) , employment in an equivalent position means employment that is—	
	(a) in substantially the same position; and	25
	(b) in the same general locality; and	
	(c) on terms and conditions that are no less favourable than those applying to the employee immediately before the date the offer of employment is made to that employee; and	30
	(d) on terms that treat the period of service with the Corporation (and every other period of service recognised by the Corporation as continuous service) as if it were continuous service with the agency.	
3	Consequences of transfer of functions to agency	35
(1)	On the date that section 3AA commences,—	

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- (a) all relevant information held by HNZ or the Corporation is held by the agency; and
- (b) any relevant thing done, or omitted to be done, or that is to be done, by or in relation to HNZ or the Corporation is to be treated as having been done, or having been omitted to be done, or to be done, by or in relation to the agency. 5
- (2) In this section—
- relevant information** means all information that relates to the exercise of a function or power of HNZ or the Corporation that is, on the commencement of **section 3AA**, a function or power of the agency 10
- relevant thing** means any thing that relates to a function or power of HNZ or the Corporation that, on the commencement of **section 3AA**, is a function or power of the agency. 15
- (3) The transfer of information from HNZ or the Corporation to the agency under **subsection (1)(a)** does not constitute an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993.
- 4 No claims for breach of contract** 20
- No claim for breach of contract lies against HNZ, the Corporation, the agency, or any of their employees in respect of any information, knowledge, intellectual property, or goods to which the agency has gained access or has acquired as a result of the transfer of functions of HNZ and the Corporation to the agency. 25