

# INTRODUCTION COPY

## REPEAL OF ASSET TESTING FOR ELDERLY LONG STAY CARE BILL

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### EXPLANATORY NOTE

SINCE 1 July 1993 all people entering long term geriatric care have been subject to income and assets tests. Since long term care, and especially hospital care, is very expensive, and since the assets test has thresholds as low as \$6,500 total wealth, this regime can be especially severe.

In addition, the way in which people caught by this regime are treated, when compared with those affected by other types of illness or disability, seems arbitrary. It is unclear why the insurance provided by the public health system should cover other catastrophic events but not this particular one.

The regime is seen by a large section of the population as unfair.

Those affected most severely are not rich people, but those who have displayed thrift and perhaps sacrifice during their working lives. Understanding feelings about this regime requires understanding the way in which dignity and self-respect can be linked to the moderate assets generated by that life-style.

The regime has generated avoidance activity. This will lead to further unfairness, since being caught or not being caught will depend on nothing more substantial than the quality of financial advice obtained. It will also mean increasing cost over time as avoidance becomes more widespread. Recent publicity has also brought to attention a number of more specific instances of unfairness, such as those concerning non-spouse carers, or surviving children with special needs.

This Bill provides for the abolition of the current assets tests for the provision of long stay care. Income tests remain.

The Bill also provides for the setting up of multi-party talks to consider the issue within a wide context. The objective is to settle on measures which are widely seen to be comprehensive, equitable and affordable. Affordability will be an important aspect of this Committee's consideration. The Committee is required to report by 1 August 1994.

### PART I

#### AMENDMENTS TO SOCIAL SECURITY ACT 1964

Part I of the Bill amends the Social Security Act 1964 to remove the asset tests introduced in the Social Security Amendment Act (No. 3) 1993 for people

required to contribute towards the cost of residential care disability services in hospitals and rest homes.

*Clause 3: Repeal of asset testing:* Subclause (1) of this clause amends section 69F of the principal Act, which is the section setting out the principal elements of the financial means assessment of people receiving residential care disability services. That section currently requires people to pay either the full cost of residential care disability services or the total amount of the person's and his or her spouse's income and assets, whichever is the lesser. Subclause (1) of this clause removes "assets" from that calculation.

The combined effect of this clause and clause 4 of the Bill is that people receiving residential care disability services in private hospitals and rest homes will have their income, but not assets, assessed under the principal Act. People in public hospitals will not be required to pay for residential care disability services.

The definition of "income" in section 69E of the principal Act specifically excludes income derived from "realisable assets", but only below certain specified limits. For the purposes of calculating this exclusion, the Bill leaves intact the definitions of assets and realisable assets and the asset limits specified in Part I of the Twenty-seventh Schedule to the principal Act.

*Subclause (2)* of this clause amends the regulation making power in section 132B of the principal Act. Section 132B is left unchanged for the reasons given in the paragraph above, except that a proviso currently applying to certain regulations is extended to all regulations made under this section. The proviso fetters the regulation making power to ensure that entitlements cannot be reduced.

*Subclause (3)* of this clause makes a consequential change to the heading of Part I of the Twenty-seventh Schedule to the principal Act to help make clear that the asset limits specified relate to the assessment of income. Income derived from realisable assets that are less than the limits specified is excluded from the Director-General of Social Welfare's calculation of income under section 69F of the principal Act.

*Clause 4: Financial means assessment:* This clause adds a proviso to section 69F of the principal Act to exclude people receiving residential care disability services in public hospitals from the requirement to contribute in any way to the cost.

## PART II

### MULTI-PARTY INVESTIGATION OF ELDERLY LONG STAY CARE

This Part of the Bill establishes a multi-party committee to investigate the funding and provision of long stay care of the elderly in New Zealand.

*Clause 5: Multiparty committee established:* This clause requires a committee to be established which will report to the House of Representatives on the funding and provision of long stay care for the elderly. The function of the committee is to be given the widest possible interpretation and the committee is obliged to consult widely.

*Clause 6: Membership:* This clause provides that the committee is to consist of 6 members of Parliament, drawn from all the parties represented in this Parliament.

*Clause 7: Report:* This clause requires the committee to make its first report to the House by 1 August 1994, but it is empowered to make further reports from time to time.

*Hon. Clive Matthewson*

**REPEAL OF ASSET TESTING FOR ELDERLY LONG  
STAY CARE**

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ANALYSIS

Title 1. Short Title	4. Financial means assessment
PART I	PART II
AMENDMENTS TO SOCIAL SECURITY ACT 1964	MULTI-PARTY INVESTIGATION OF ELDERLY LONG STAY CARE
2. This Part to be read with Social Security Act 1964 3. Repeal of asset testing	5. Multi-party committee established 6. Membership 7. Report 8. Powers and procedures

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A BILL INTITULED

**An Act to—**

- 5       (a) Amend the Social Security Act 1964 in order to  
          remove the financial means assessment of the  
          assets of people requiring residential care  
          disability services; and
- (b) Establish a multi-party investigation into funding  
          and provision of long term care for the elderly  
          in New Zealand

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

**1. Short Title**—This Act may be cited as the Repeal of  
Asset Testing for Elderly Long Stay Care Act 1994.

PART I

AMENDMENTS TO SOCIAL SECURITY ACT 1964

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

**3. Repeal of asset testing**—(1) Section 69F of the principal Act (as inserted by section 15 (1) of the Social Security Amendment Act (No. 3) 1993) is hereby amended by—

(a) Omitting from subsection (2) the words “the assets and the”:

(b) Omitting from subsection (3) the words “the assets and the”:

(c) Omitting from subsection (5) (c) the words “assets or”:

(d) Omitting from subsection (6) the words “or realisable assets” and “assets and”.

(2) Section 132B of the principal Act (as inserted by section 33 of the Social Security Amendment Act (No. 3) 1993) is hereby amended by repealing the proviso to paragraph (c) of subsection (2), and adding the following proviso:

“Provided that in no case shall any regulations made under this section provide that a person shall receive less than he or she would have been entitled to receive in his or her own right, if regulations had not been so made.”

(3) The Twenty-seventh Schedule to the principal Act (as added by section 35 of the Social Security Amendment Act (No. 3) 1993) is hereby amended by omitting the words “FOR FINANCIAL MEANS ASSESSMENT” in the heading to Part I, and substituting the words “FOR ASSESSMENT OF INCOME”.

**4. Financial means assessment**—Section 69F of the principal Act (as inserted by section 15 (1) of the Social Security Amendment Act (No. 3) 1993) is hereby amended by adding the following proviso to subsection (1):

“Provided that this section shall not apply to any person who receives residential care disability services in premises used as a hospital by any Crown health enterprise or any subsidiary of an enterprise.”

## PART II

### MULTI-PARTY INVESTIGATION OF ELDERLY LONG STAY CARE

**5. Multi-party committee established**—(1) There is hereby established a Multi-party Committee to investigate into and report to the House of Representatives on the funding and provision of long stay care for the elderly, so as to promote measures which are widely seen to be comprehensive, equitable, and affordable.

(2) The function of the Committee specified in subsection (1) of this section shall be given the widest possible interpretation; and includes consideration of matters such as the effects on

savings behaviour, marriage relationships, quality of care, and current and likely fiscal circumstances.

5 (3) In performing its function, the Committee shall consult widely, and include among the persons it consults members of organisations representing older New Zealanders, caregivers, and health professionals.

**6. Membership**—(1) The Committee shall consist of six members of Parliament,—

10 (a) Two of whom shall be appointed by the Prime Minister:  
(b) Two of whom shall be appointed by the Leader of the Opposition:

(c) One of whom shall be appointed by the Leader of the Alliance Party:

15 (d) One of whom shall be appointed by the Leader of the New Zealand First Party.

(2) One member of the Committee, being an appointee of the Prime Minister, shall be appointed to chair the proceedings of the Committee.

20 **7. Report**—(1) The Committee shall first report to the House of Representatives its findings and opinions on the matters specified in section 5 of this Act, together with such recommendations the Committee thinks fit to make in respect of those matters, no later than the **1st day of August 1994**.

25 (2) Subject to subsection (1) of this section, the Committee may further report its proceedings and findings from time to time to the House of Representatives.

**8. Powers and procedures**—(1) The Committee shall have all such powers as are reasonably necessary or expedient to enable it to carry out its function.

30 (2) Subject to this Act, the Committee may regulate its procedure in such manner and at such time and place within New Zealand as it thinks fit.

35 (3) The powers of the Committee shall not be affected by any vacancy arising in the Committee, nor by the absence at any time of any member of the Committee.