

SOCIAL SECURITY AMENDMENT BILL (NO. 5)

EXPLANATORY NOTE

General Policy Statement

Context

The measures contained in this Bill are designed to reduce long-term unemployment and benefit dependency by encouraging those in receipt of income support to take up opportunities to move into paid work. They are underpinned by the view that taking part in paid work is a prerequisite to economic independence and improves the welfare of benefit recipients and their families. The Bill also reinforces the concept that the provision of income support implies reciprocal obligations. While the State has an obligation to provide income support and employment assistance to beneficiaries, beneficiaries have an obligation to help themselves, including an obligation to seek paid work if they are able.

Principal Objectives

The principal objectives of this Bill are to:

- (a) Establish and recognise the work capacity of different types of benefit recipients and spouses in terms of reciprocal obligations;
- (b) Reinforce the labour market focus of all benefit recipients and spouses with the capacity to work and enhance their prospects of self-reliance; and
- (c) Reduce disincentives for beneficiaries and spouses to move into paid work, education, or training.

Summary of Key Measures

1. Community Wage (Clause 53)

The Bill introduces the concept of the community wage which will contribute to reducing the duration of unemployment by promoting attachment to the labour force and the community. It will also reinforce the idea that unemployed job seekers should be attempting to move into paid work, in order to become economically independent. From **1 October 1998**, the community wage will become the income support payment for all unemployed job seekers, replacing unemployment, 55+, training and sickness benefits, and young job seekers allowance. Those receiving an emergency benefit under unemployment or sickness benefit conditions of entitlement will also receive the community wage. Existing work test provisions and sanctions will continue to apply, and the Bill will

extend these to trainees and, where applicable, their spouses. People receiving the community wage on the grounds of sickness, injury, or disability will continue to be able to apply under regulations for an exemption from the work test. Eligibility will continue to be restricted to applicants over the age of 18 years or those aged over 16 years who are married with a dependent child. The community wage provisions will also apply to work-tested independent youth benefit recipients.

Supporting Measures

- (a) From 1 July 1998 the rates for new grants of sickness benefit will be aligned with the rates for unemployment benefit. Benefit rates for those receiving sickness benefit before 1 July 1998 will remain unchanged. *(Clauses 4 and 10)*
- (b) Community wage earners (and all other work tested beneficiaries) will be required to sign a job seeker contract under which they agree to be available for and to undertake any organised activity to which they are directed, in addition to being available for and actively seeking paid work. *(Clause 53, new sections 94 to 96)*
- (c) The current unemployment benefit income test, initial stand down provisions and voluntary unemployment provisions will continue to apply to applicants for community wage. *(Clause 53, new section 89 and 98)*
- (d) The range of activities which can qualify a person to access the "clean slate" provisions are extended to include any work test activity, provided that participation in that activity or a combination of activities is for a period of six weeks or more. *(Clause 38)*
- (e) A community wage is to be granted in cases where the standard community wage eligibility criteria are not met but hardship exists. This provision will operate in a similar manner to the current emergency benefit. The standard work test provisions and sanctions will apply. *(Clause 53, new section 90)*
- (f) In recognition that in some situations part-time employment is the best option for improving a job seeker's prospects of full-time employment, provision is made for beneficiaries who are subject to the full-time work test to be referred to opportunities of suitable part-time employment. *(Clauses 18 and 36)*
- (g) The criteria for the invalids benefit will be clarified and made more robust through the addition of a statement describing the purpose of the benefit, the definition of the term "permanently" (as a period of time which is to be set in regulations), and the preclusion of people (other than the totally blind) who are capable of working 15 hours a week in open employment from being eligible for an invalid's benefit. *(Clause 13, new sections 39F and 40)*

2. Work Capacity Assessment (Clause 15)

In support of the principle that work-related reciprocal obligations should be linked to capacity and ability to work, provision is made for the development, trialling and introduction of a work capacity assessment process, primarily for invalids and sickness benefit recipients. The work capacity assessment is designed to change the focus for these groups from what they cannot do by reason of illness or disability to what they can do. It will determine how many hours per week an individual can reasonably be expected to work in open employment, whether and for how long the work expectation should be deferred, or whether further assessment will be necessary. The work capacity assessment will be trialled in two phases, November 1998 to April 1999 and September 1999 to April 2001, and evaluated. Following the completion of the trials and their evaluation,

the availability of the final version of the procedure for assessing work capacity is to be publicly notified in the *Gazette*.

3. *Extended Work Testing (Part 4, Clauses 58 to 80)*

In order to promote full-time work as the ultimate goal for all sole parent beneficiaries, work testing is extended to domestic purposes and widow's beneficiaries with no dependent children or with a youngest dependent child aged 6 or older from 1 February 1999. The work test provisions will also apply to spouses of all other beneficiaries (taking into account any caring responsibilities they may have), thus aligning the reciprocal obligations of this group with those of sole parent beneficiaries. In recognition of the childcare responsibilities of domestic purposes and widow's beneficiaries, and beneficiary spouses with younger children, the work test will be deferred for those with a youngest child aged under 6. Those with a youngest dependent child aged 6 to 13 will be subject to a part-time work test. A full-time work test will apply where the youngest dependent child is 14 or over (with provision to work only during school hours if appropriate) and in cases where there are no dependent children. Current work test exemption provisions (contained in regulations) will be expanded to accommodate the particular needs of some beneficiary families. The existing work test sanctions will apply in cases of non-compliance.

Supporting Measures

- (a) From 1 February 1999 all full-time work tested beneficiaries will be subject to Income Test 5 (the current unemployment benefit abatement regime). Income test 1 (the current domestic purposes benefit abatement regime) will apply to domestic purposes and widow's beneficiaries who are part-time work tested or who are not subject to, or are temporarily deferred or exempted from, the work test. (*Schedule 2, new Schedule 3 and 16*)
- (b) From 1 February 1999 domestic purposes and widow's beneficiaries, and spouses of other beneficiaries, who have a youngest dependent child aged under 6 will be required to participate in an annual mandatory planning interview and may also be directed to participate in one employment preparation activity once the child has turned 5. The existing work test sanctions will apply in cases of non-compliance. (*Clause 65*)
- (c) To assist sole parents in establishing their likely financial position if they accept an offer of employment, the Child Support Agency of the Inland Revenue Department will provide the liable parent's child support payment history. (*Clause 80*)
- (d) To ease the financial transition to paid employment benefit debt repayment levels will be remain unchanged for the first 91 days after a sole parent beneficiary's benefit is cancelled or suspended because he or she has moved into employment. (*Clause 76*)
- (e) The extension of work testing is being supported by the extension of the childcare subsidy to cover out of school care and recreation costs. The childcare subsidy is a Ministerial Welfare Programme under section 124 (d) of the Social Security Act 1964.

4. *"Living with a Parent" Rate Of Benefit (Clause 10)*

In recognition that young people who live at home tend to have access to greater parental support to meet their living costs, and in order to reduce the financial disincentives to take up study or to move into employment, and to more closely align the levels of income support available to young job seekers and students, a new "living with a parent" rate of benefit, set at 80% of the existing rate, is introduced. The new rate will apply to single people under the age of 20 who are living at home and who are receiving an unemployment benefit,

young job seeker's allowance, training benefit or sickness benefit. (Other measures in this bill will combine these benefits within the community wage from 1 October 1998). The "living with a parent" rate will only apply to applications received on or after 1 July 1998. Existing beneficiaries will continue to receive their current rate of benefit until their circumstances change.

5. Definitions Of "Living With A Parent" And "Parent" (Clause 2)

To assist in the assessment of applications for benefit where an "living with a parent" rate might apply, definitions of "living with a parent" and "parent" are introduced. Single people aged under 20 years (without dependants of their own) will be deemed to be living at home when they are living in the same house as one or both of their parents. The exception to this will be when a beneficiary is living in the same home as his or her parent(s), but owns or rents the home and is providing support for the parent(s). A parent is defined to include a natural parent, guardian, step parent or any person acting in place of a parent. These definitions are consistent with those applying to the provision of student allowances.

6. Increasing residential requirements (Clauses 3 and 5 to 8)

To discourage immigration by people who are not able to actively participate in New Zealand's economic, social, and cultural development, the residential qualification for access to the sickness, unemployment, independent youth, and training benefits, and the young job seekers' allowance is to be increased from one year to two years, effective from 1 July 1998. This provision will not apply to people who qualify for these benefits under reciprocal agreements with Australia, United Kingdom, and Jersey and Guernsey.

Clause by Clause Analysis

Clause 1 deals with the Short Title and commencement. *Part 1* commences on 1 July 1998, *Part 2* commences on 1 September 1998, *Part 3* commences on 1 October 1998, and *Part 4* commences on 1 February 1999.

PART 1

AMENDMENTS TO PRINCIPAL ACT COMING INTO FORCE ON 1 JULY 1998

Clause 2 amends section 3 (1) of the principal Act, by making the definitions contained in it apply to the whole Act (instead of just to Part 1 as at present), and by introducing new definitions of "living with a parent", and "parent".

Clauses 3, 5, 6, 7, and 8 change the residency requirement from 12 months to 2 years for applicants for the sickness benefit, the unemployment benefit, the young job seekers' allowance, the training benefit and the independent youth benefit.

Clause 4 changes the rate of sickness benefit for people granted a sickness benefit after 1 July 1998 to the rates contained in the Ninth Schedule, which are those currently applicable to unemployment and training beneficiaries, and to those receiving the young job seeker's allowance. Existing sickness beneficiaries who remain eligible to receive the benefit continue to receive it at the appropriate rate in the Eighth Schedule, until such time as that rate is less than the appropriate rate in the Ninth Schedule.

Clauses 9 and 10 make consequential amendments to the Eighth and Ninth Schedules.

PART 2

AMENDMENTS TO PRINCIPAL ACT COMING INTO FORCE ON 1 SEPTEMBER 1998

Clause 11 amends section 3 (1) of principal Act by inserting new definitions of “capacity for work”, “chief executive”, “employment”, “open employment”, “psychologist”, “sheltered employment”, and “sickness”. It also amends the definition of “income”.

Clause 12 changes the name of the handicapped child’s allowance to the “child disability allowance”, by making changes to a number of provisions.

Clause 13 repeals section 40, and substitutes 2 new sections dealing with invalid’s benefits. *New section 39F* describes the purposes of the invalid’s benefit. *New section 40* sets out the eligibility requirements for an invalid’s benefit, which are that the person is either totally blind, or is permanently and severely restricted in his or her capacity to work by reason of sickness, injury, or disability.

Clause 14 substitutes a *new section 44* (relating to the medical examination of invalids), repeals section 46 (dealing with refusal to undertake vocational training), and inserts a *new section 45*. *New section 44* largely repeats the existing requirements relating to medical examination, but with more detail. *New section 45* changes the current requirement that invalid’s beneficiaries undertake vocational training. Instead, they may be required to participate in activities that would or might improve their prospects of obtaining employment or moving towards independence.

Clause 15 inserts *new sections 47 to 51*, dealing with work capacity assessment. The sections describe—

- the process for the development, trialling, evaluation and publication of a work capacity assessment procedure;
- who will be assessed;
- the content of the assessment;
- the effect of the assessment; and
- reassessment.

Clause 16 amends section 53A, relating to the right of appeal on medical grounds, by extending the right to those who have had a work capacity assessment, and by amending the description of the make-up of individual appeal boards.

Clause 17 inserts a regulation-making power to enable regulations to be made concerning work capacity assessment.

PART 3

AMENDMENTS TO PRINCIPAL ACT COMING INTO FORCE ON 1 OCTOBER 1998

Clause 18 amends section 3 (1) of the principal Act by inserting 10 new definitions, including definitions of “community wage earner”, “job seeker contract”, “participation allowance”, and “part-time work-tested beneficiary”. New definitions are substituted for “non-entitlement period”, “work-tested beneficiary”, “work-tested benefit”, and “work-tested spouse”, and other definitions are amended.

Clauses 20, 21, and 22 amend sections 21, 27B and 27C of the principal Act, which deal with widow’s and domestic purposes beneficiaries. In each case it is made a condition of the benefit that the beneficiary comply with a request under section 60HA (relating to mandatory interviews) and, if he or she is a work-tested beneficiary, comply with the work test.

Clauses 24 and 25 repeal sections 55 to 56, and sections 58 to 60c. These sections provide for the sickness benefit, the unemployment benefit, the young job seeker's allowance, and the training benefit. These benefits are subsumed into the community wage by *new Part 2*.

Clause 27 substitutes a *new section 60FD*, which applies *new sections 92 and 97 (3)* (relating to community wage earners) to applicants for an independent youth benefit.

Clauses 19, 23, 26, 28 to 31, 33 to 37, 39, and 41 to 52 make amendments that are consequential upon changes made elsewhere in this Part, particularly those effecting the merger of sickness benefits, unemployment benefits, young job seekers' allowances and training benefits into the community wage.

Clause 32 amends section 60HC, by removing the references to the requirement for certain beneficiaries to register and maintain registration with the Department of Labour, and makes other consequential changes.

Clauses 38 and 40 substitute a *new section 60KA*, and repeal section 60M of the principal Act, which deal with the community task force. The repeal of section 60M effects the abolition of the community task force. The *new section 60KA* describes the effect of participating in "approved activities", which includes the community task force for a transitional period, and which are part of the work test.

Clause 53 inserts *new Part 2* (containing *new sections 87 to 100*) into the principal Act. This Part deals with the community wage.

New sections 87 and 88 describe the purposes of the Part, and give an overview of its contents.

New section 89 sets out the standard eligibility criteria for a community wage earner. They are that the person—

- (a) Is not in full-time employment, but is seeking it, is available, willing and able to undertake it, and has taken reasonable steps to find it; or
- (b) Is not in full-time employment, is willing to undertake it, but because of sickness, injury, or disability is limited in his or her capacity to seek or undertake it; or
- (c) Is in employment, but is losing earnings because, through sickness or injury, he or she is not actually working, or is working at a reduced level.

Applicants must be over 18 (or be 16, married, and have a dependent child), must have resided continuously in New Zealand at some time for at least 2 years, and have an income below the level that would fully abate the benefit.

New section 90 authorises the chief executive to grant a community wage under *section 89* in certain cases where hardship exists.

New section 91 lists three conditions that make a person ineligible for a community wage.

New section 92 requires applicants for a community wage on the grounds of sickness, injury, or disability to include a medical certificate with the application. The chief executive may require such an applicant to submit to a medical examination.

New section 93 provides that if the chief executive is satisfied that a person is eligible for a community wage, the chief executive must arrange for the person to sign a job seeker contract.

New section 94 describes the job seeker contract, which is an agreement in the nature of a memorandum of understanding between the community wage earner and the chief executive.

New section 95 provides that other work-tested beneficiaries (besides community wage earners) may be required to sign a job seeker contract.

New section 96 provides that the community wage is not payable unless the earner has signed a job seeker contract. The spouse of an earner receiving a married rate of the community wage must also sign a job seeker contract, if he or she is a work-tested spouse.

New section 97 sets out the obligations of earners and spouses. These are to comply with the work test, or, in the case of a non-work-tested spouse, to comply with a request under section 60HA.

New section 98 provides that payment of the community wage is in respect of a 5-day week, which may include a Saturday only by agreement with the earner, and may not include a Sunday.

New section 99 provides that the rates for the community wage are those set out in the Ninth Schedule, except for earners who were receiving the sickness benefit prior to 1 July 1998, and who continued to receive it immediately before 1 October 1998. These people continue to receive the rate set out in the Eighth Schedule.

New section 100 sets out the Department's obligations in respect of work testing and the community wage.

Clause 54 is the transitional provision describing how certain existing beneficiaries and their spouses become community wage earners as from 1 October 1998. Upon becoming community wage earners, the community wage earner and his or her spouse may be required to sign a job seeker contract at any time.

Clause 55 inserts a regulation-making power, so that regulations can be made providing for the payment of a participation allowance to persons participating in activities under the Act

Clause 56 amends the Ninth Schedule, which contains the rates for community wage earners.

Clause 57 makes the consequential amendments to other enactments that are set out in *Schedule 2*.

PART 4

AMENDMENTS TO THE PRINCIPAL ACT COMING INTO FORCE ON 1 FEBRUARY 1999

Clause 58 amends section 3 (1) of the principal Act by inserting definitions of the new terms "work-test married rate", and "work preparation exercise". It amends the definitions of "work-tested domestic purposes beneficiary" and "work-tested widow's beneficiary", and substitutes new definitions of "part-time work-tested beneficiary" and "work-tested spouse".

Clause 59 amends section 21 of the principal Act by requiring that a widow's beneficiary with no dependent children, or with a youngest dependent child aged 14 or over, must be willing to undertake, and take reasonable steps to obtain, full-time employment. Widow's beneficiaries with a youngest dependent child aged 6 or older, but under 14, must be willing to undertake, and take reasonable steps to obtain, part-time work. This lines up with the new definition of "part-time work-tested spouse".

Clauses 60 and 62 make amendments that are consequential upon the substitution of *new Schedules 3 and 6* by *Clause 79*.

Clause 61 amends section 27B of the principal Act by imposing the same obligations on domestic purposes beneficiaries who are solo parent as are imposed on widow's beneficiaries.

Clause 63 amends section 27C of the principal Act, by changing the kind of work that women alone must be available for, from part-time work to full-time the work.

Clause 64 inserts a new section 42A. It imposes obligations on the spouses of invalids beneficiaries which are in the same terms as those imposed upon other work-tested spouses, namely to comply with a request under section 60HA (relating to work preparation exercises), or to comply with the work test.

Clause 65 substitutes a new section 60HA and repeals section 60HB. The new section describes work preparation exercises, which is a category of activity which includes mandatory interviews. Under the new section, the chief executive may request certain beneficiaries and spouses who are not work-tested (because of the age of their youngest dependent child) to attend an annual mandatory interview, and, once the youngest child turns 5, to participate in an activity to prepare the person for employment. There are sanctions for failing to comply with the request.

Clause 66 amends section 60HC of the principal Act. The repeal of subsection (6) means that work-tested domestic purposes and widow's beneficiaries will face the same work test as other work-tested beneficiaries. This means that education and training are treated like any other work test activity.

Clauses 67, 69, and 70 make amendments to sections 60HD, 60JB, and 60JC that are consequential on the change from mandatory interviews to work preparation exercises made by *clause 66*.

Clause 68 amends section 60JA by extending the penalty regime for failure to comply with a requirement under section 60HA or a work test, to the spouses of invalid's beneficiaries and emergency benefit recipients.

Clause 71 substitutes a new section 60K, and *clause 72* amends section 60KA, as a consequence of changes made elsewhere.

Clause 73 inserts a new section 61A, which imposes the standard obligations of spouses of other beneficiaries onto certain spouses of those receiving an emergency benefit under section 61.

Clauses 74 and 75 amend section 61H and section 77, as a consequence of changes made elsewhere.

Clause 76 amends section 86, by inserting new provisions which freeze the rate of debt recovery from a sole parent beneficiary for 91 days after the commencement of employment.

Clause 77 amends section 95, as a consequence of changes made elsewhere.

Clause 78 is a transitional provision describing when the new regime for widows and domestic purposes beneficiaries takes effect.

Clause 79 substitutes new Schedules 3 and 16 contained in Schedule 2.

Clause 80 amends the Child Support Act 1991 by authorising the release to a sole parent of the liable parent's child support payments history.
