

SOCIAL WELFARE REFORM BILL (NO. 3)

EXPLANATORY NOTE

Clause 1 relates to the Short Title.

PART I

SOCIAL SECURITY ACT 1964

Clause 2 provides for Part I of the Bill to be read together with and deemed part of the Social Security Act 1964 (in this Part of this Explanatory Note referred to as the principal Act).

Clause 3 amends section 3 (1) of the principal Act, which defines various terms used in the principal Act.

Subclauses (1) and (2) amend the definition of the term “benefit” to include the accommodation supplement payable under the new section 61EA and the tenure protection allowance payable under the new section 61FC (see *clauses 10 and 11*). In addition, cross-references in paragraph (c) are corrected.

Subclause (3) inserts a new definition of “document”. The definition is identical to the definition in section 2 (1) of the Official Information Act 1982.

In addition, new definitions of “disability services” and “home” or “hospital” are inserted.

Subclause (4) amends the definition of the term “income” to exclude any amount of output tax charged in respect of a supply of goods and services made by a person and any amount of goods and services tax payable by the Commissioner of Inland Revenue to a person.

Subclause (5) inserts a new definition of the term “purchaser”.

Subclause (6) adds a new definition of the term “working day”.

Subclause (7) provides for *subclauses (1) and (2)* to come into force on 1 July 1993.

Clause 4 repeals sections 11 and 11A of the principal Act, relating to the power to obtain information and certain offences related thereto, and substitutes new sections 11 and 11A.

The new section 11 extends the power to include the power to require information from officers and employees of the Crown.

Subsection (2) of the new section restricts the purposes for which information may be required, and subsection (3) provides for it to be an offence to refuse to

supply information or to knowingly or recklessly supply false or misleading information.

Subsection (4) of the new section provides for an exemption from the obligation to supply information on the grounds of self-incrimination.

Subsections (5) to (7) of the new section provide for an exemption in respect of information or documents that are legally professionally privileged, with the exception of information in a solicitor's trust account records. The subsections are based on section 20 of the Inland Revenue Department Act 1974.

The new section 11A relates to the power to obtain information for matching purposes.

Subsection (1) of the new section 11A provides that a notice under the new section 11 (1) may be issued in respect of a particular class of individuals for the purpose of detecting incorrect benefit payments or the incorrect issue of entitlement cards or the making of incorrect financial means assessments.

Subsection (2) of the new section provides that where information is obtained and used in an information-matching programme, and discrepancy is produced, adverse action is not to be taken without not less than 5 working days' notice to the person concerned containing certain specified information. It is based on section 18 of the Privacy Commissioner Act 1991.

Subsection (3) of the new section exempts the Director-General of Social Welfare from compliance with subsection (2) if compliance would prejudice any investigation into the commission of an offence or the possible commission of an offence.

Subsections (4) and (5) adopt relevant provisions of the Privacy Commissioner Act 1991 and adopt, specifically, section 16 of that Act and Rules 1, 2, 5, 6, and 7 of the information matching rules set out in the Second Schedule to that Act.

Clause 5 amends section 12j of the principal Act, relating to rights of appeal.

Subclause (1) gives a right of appeal to the Social Security Appeal Authority against any decision or determination of the Director-General of Social Welfare under any regulations in force under section 132A of the principal Act (entitlement cards) or section 132B of the principal Act (assessment of financial means of people requiring disability services—see *clause 33*).

Subclause (2): The amendment provides that the Social Security Appeal Authority does not have the authority to hear and determine any appeal on medical grounds against any decision or determination in respect of a tenure protection allowance under the new section 61Fc (2) (see *clause 11*). Such appeals will be heard under section 53A of the principal Act (as amended by *clause 7*).

Clause 6 abolishes miners' benefits and miners' widows' benefits, but preserves the right of current recipients to continue to receive a benefit at the applicable rate from time to time payable to the recipient of an invalid's benefit who has no annual income.

Clause 7 amends section 53A of the principal Act, relating to rights of appeal on medical grounds in respect of various benefits, to include the declining or cancellation of a tenure protection allowance on medical grounds.

Clause 8 amends section 56 of the principal Act, relating to the requirement for an applicant for a sickness benefit to produce a medical certificate.

The amendment enables midwives to certify that an applicant is incapacitated for work owing to pregnancy, childbirth, or any related condition that is within the ambit of a midwife's profession.

Clause 9 amends section 60F of the principal Act to make it clear that a full-time tertiary student is not entitled to an independent youth benefit.

Clause 10, subclause (1) repeals sections 61E and 61F of the principal Act, relating to accommodation benefits, and substitutes new sections 61E, 61EA, 61EB, and 61EC to provide for an accommodation supplement.

Section 61E defines the terms “accommodation costs”, “beneficiary”, “cash assets”, “deferred payment disposition”, “mortgage security”, “non-beneficiary”, “owner”, “premises”, “tenant”, and “weekly accommodation costs”.

Section 61EA (1) empowers the Director-General of Social Welfare to grant accommodation supplements.

Subsection (2) prevents a person from receiving the accommodation supplement if he or she is making rent or mortgage payments to the Housing Corporation, Housing New Zealand Ltd, or the Crown in right of the Ministry of Māori Development if those payments are at a concessionary rate, or he or she is having a rent rebate granted under the Social Security (Rent Rebate) Order 1992 (S.R. 1992/296) credited against his or her rent.

Subsection (3) prevents an accommodation supplement being paid to a national superannuitant who would not be able to receive an invalid's benefit on income grounds.

Subsection (4) prevents an accommodation benefit being paid to 5 specified categories of person.

Section 61EB makes special provision for cases where premises are occupied by married joint tenants, or married joint tenants living with other joint tenants. It provides that only one spouse shall receive an accommodation supplement, calculated on the basis of the share of the accommodation costs borne by both spouses, reduced as appropriate by their combined income and cash assets.

Section 61EC (1) provides that the accommodation supplement shall be payable at the rate specified in the Eighteenth Schedule of the Act.

Subsection (2) provides that every \$100 of cash assets over \$5,400 held by a married person or a single person with a dependent child or children, and every \$100 of cash assets over \$2,700 held by any other person shall be deemed to be \$1 a week of income.

Subsection (3) provides that an accommodation supplement shall not be payable to a married person or a single person with a dependent child or children, if they have cash assets exceeding \$16,200; and in any other case cash assets exceeding \$8,100.

Subsection (4) provides that an accommodation supplement may be refused, reduced, or terminated if the Director-General is satisfied that the applicant, or the applicant's spouse, has not realised any assets available for the applicant's personal use.

Subsection (5) provides that, for the purposes of section 61EC and of the new *Eighteenth* Schedule, the income and assets of a married person shall include the income and assets of that person's spouse, except in the circumstances specified in the second exception to the new section 61EA (4) (c).

Subclause (3) provides that accommodation benefit may continue to be paid to people receiving it immediately before the commencement of this clause, until 31 July 1994.

Subclause (4) provides that while a person is continuing to receive an accommodation benefit under *subclause (3)*, that person is not entitled to an accommodation supplement or a tenure protection allowance.

Subclause (5) provides for *clause 10* to come into force on 1 July 1993.

Clause 11, subclause (1) inserts new sections 61FC and 61FD to provide for a tenure protection allowance.

Section 61FC (1) provides that a tenure protection allowance may be granted to a person renting from the Housing Corporation of New Zealand, Housing New Zealand Ltd., or the Crown in right of the Ministry of Maori Development if they meet the conditions specified in section 61FC (2).

Subsection (2) sets out the conditions for receiving a tenure protection allowance. Paragraph (a) provides that an applicant must have been resident in the premises since the 1st day of October 1992.

Paragraph (b) provides that either—

- (a) The applicant was aged at least 65 years on that date, or his or her spouse was at least that age on that date, and has been living with the applicant since that date; or
- (b) The applicant was living in a specially modified home on that date, the modifications being appropriate to the applicant or a member of the applicant's family's disability, who was living in the premises on that date and has lived there since that date; or
- (c) The applicant would be unable to move without exceptional difficulty.

Paragraph (c) provides that the applicant's weekly accommodation costs must exceed the appropriate average regional rental in Part III of the Eighteenth Schedule for a tenure protection allowance to be payable.

Subsection (3) defines exceptional difficulty as being when the applicant, a member of the applicant's immediate family, or a companion of the applicant who has lived with him or her for the previous 24 months, is either totally blind, or has a serious medical condition which in the opinion of the Director-General would be exacerbated by moving from the premises.

Subsection (4) provides that, for the purposes of subsections (2) (b) (iii) and (3), where the other person residing in the applicant's premises is a child who satisfies all of the criteria in subsection (3) (b), it shall not be necessary for the applicant to have lived in the premises since 1 October 1992.

Subsection (5) provides that a tenure protection allowance will cease when the person in respect of whom it was granted either—

- (a) Dies, provided that the tenure protection allowance may continue at the discretion of the Director-General if the applicant or a member of his or her family is still resident in the premises; or
- (b) Vacates the premises; or
- (c) Ceases to have a serious medical condition which would be exacerbated by moving from the premises—

whichever occurs first.

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

Section 61FD provides that a tenure protection allowance shall be the amount by which a person's weekly accommodation costs exceed the appropriate average regional rental specified in Part III of the Eighteenth Schedule.

Subclause (2) provides for *clause 11* to come into force on 1 July 1993.

Clause 12 amends section 61H of the principal Act, under which rates of benefits, etc., may be increased by Order in Council.

The first amendment corrects cross-references.

The other amendments provide for maximum amounts of supplements and average regional rentals to be increased by Order in Council.

Clause 13 amends section 66B of the principal Act to change a reference to accommodation benefits to a reference to accommodation supplements.

Clause 14 amends section 69c of the principal Act, relating to disability allowances, to empower the payment of the special disability allowance to the spouse of a person in a home receiving subsidised disability services.

Clause 15 amends section 71 of the principal Act.

The amendment is intended to make it clear that damages do not have to be recoverable in respect of a disability due to wrongful or unjustifiable dismissal. Where a person has recovered or has a right to recover damages in respect of a wrongful or unjustifiable dismissal for the loss of an expectation of employment, the special provisions contained in the section shall apply.

Clause 16 amends section 74 of the principal Act to empower the Director-General of Social Welfare to make a less favourable assessment of financial means that would otherwise have been made (under regulations in force under the new section 132B of the principal Act) in the circumstances set out in section 74.

Clause 17 amends section 74A of the principal Act, relating to persons unlawfully resident or present in New Zealand.

Subclause (1) deletes a reference to section 17 (2) of the Immigration Act 1987 which, since an amendment to that Act on the 18th of November 1991, is no longer the provision under which applications for residence permits are made.

Subclause (2) provides that persons with refugee status, or who have applied for a residence permit and who are compelled to remain in New Zealand for some unforeseen circumstances, may receive either an emergency benefit or a special benefit.

Subclause (3) provides that a person who is applying for refugee status and is lawfully in the country may receive either of the above benefits.

Subclause (4) provides that *subclause (3)* is to come into force on 1 April 1994.

Clause 18 amends section 75 of the principal Act relating to beneficiaries in hospital.

The amendment provides that reduction of the rate of a benefit after 13 weeks in hospital is not to apply in respect of a person who is a patient in a hospital receiving disability services.

Clause 19 amends section 76 of the principal Act, relating to forfeiture of benefits during detention in a penal institution, to make it clear that escaped prisoners and prisoners on day release are not eligible to receive social security benefits.

Clause 20 amends section 80 of the principal Act, relating to the commencement and payment of benefits.

Subclause (1) inserts a new subsection (1A) in section 80.

The new subsection provides that, where a person applies for a disability allowance at the same time as applying for a widow's, domestic purposes, sickness, or invalid's benefit, payment of the disability allowance is to commence on the same day as payment of the benefit commences.

Subclause (2) provides that if an applicant for a widow's benefit or a domestic purposes benefit was, before the application for the benefit, in employment under a contract of service and the applicant's income during that employment would have prevented payment of the benefit applied for, payment of the benefit applied for is not to commence earlier than the day after the date on which the applicant's employment under that contract of service ceased.

Subclause (3) is an amendment consequential to *subclause (1)*.

Subclause (4) restricts the Director-General's ability to continue paying the domestic purposes benefit or the widow's benefit for 8 weeks after a beneficiary ceases to qualify for those benefits or particular rates of those benefits.

If the beneficiary ceases to qualify for the benefit, or a particular rate of benefit, because there ceases to be a child in respect of whom the benefit or rate of benefit is payable, continuation for 8 weeks is only to occur if the fact that there is no longer such a child is because of some sudden change of circumstances beyond the control of the beneficiary.

Subclause (4) provides for *subclause (3)* to come into force 3 months after this Bill (when passed) receives the Royal assent.

Clause 21 amends section 80b (3) of the principal Act by omitting from the definition of “income” the reference to accommodation benefits, and substituting a reference to accommodation supplements.

Clause 22 amends section 80c of the principal Act relating to the effect of certain sections on entitlement to supplementary benefits.

The amendment substitutes a reference to accommodation supplements for a reference to accommodation benefits.

In addition, it is provided that, if an applicant to whom section 80c applies was receiving an accommodation supplement immediately before applying for a benefit, the accommodation supplement is to continue at the same rate for the period of non-entitlement.

Clause 23 repeals section 81 of the principal Act, relating to review of benefits, and substitutes a new section.

The new section provides that the Director-General of Social Welfare may from time to time review any benefit in order to ascertain—

- (a) Whether the beneficiary remains entitled to receive it; or
- (b) Whether the beneficiary may not be, or may not have been, entitled to receive that benefit or the rate of benefit that is or was payable to the beneficiary.

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

If, after so reviewing a benefit, the Director-General is satisfied that the beneficiary is no longer or was not entitled to receive the benefit or is or was entitled to receive the benefit at a different rate, the Director-General may suspend, terminate, or vary the rate of the benefit from such date as the Director-General reasonably determines.

Clause 24, which comes into force on 1 October 1993, inserts a new section 82A in the principal Act.

The new section requires every applicant for a benefit, and every beneficiary (on demand), to supply the Director-General of Social Welfare with the applicant’s or beneficiary’s tax file number.

If the number is not supplied within 4 weeks after the application or the demand, the Director-General may refuse to grant or suspend the benefit that the person had applied for or is being paid, as the case may be, until the number is supplied.

Clause 25 amends section 86 of the principal Act, relating to recovery of payments made in excess of authorised rates.

Subclause (1) corrects cross-references.

Subclause (2) repeals subsection (2), and substitutes new subsections (2), (2A), (2B), and (2C).

The new provisions—

- (a) Increase the penalty for obtaining an overpayment by fraud from twice the amount obtained in excess to three times that amount:
- (b) Give the Director-General of Social Welfare a discretion whether or not to recover the penalty, which discretion may be exercised in respect of any particular case or class or classes of case:
- (c) Make it clear that recovery may be from any payment made under section 124 (1) (d) of the principal Act:
- (d) Make it clear that any penalty is recoverable as a debt due to the Crown:
- (e) Set out (in the new subsections (2A) to (2C)) the procedure to be followed in recovering the penalty.

Subclause (3) amends section 86 (9A) to make it clear that amounts of overpayments may be written off under that subsection only in respect of errors made by officers or employees of the Department of Social Welfare, not errors made by other persons.

Clause 26 inserts new sections 86A to 86I in the principal Act.

The new sections, which are based on clauses 73 to 76, 109, 110, and 112 of the Social Welfare Bill (No. 2) (1990), relate to deduction of benefit debts from money payable to the debtor, discharge of debt, deduction notices issued on banks, the holding of deductions in trust, offences in relation to deduction notices, penalties for late deductions, protected earnings, variation or discharge of deduction notices, and wrongful treatment of employees as the result of a deduction notice having been served on an employer.

Clause 27 inserts a new section 86j in the principal Act to prescribe the method of serving notices under the principal Act.

Clause 28 amends section 124 of the principal Act which relates, *inter alia*, to welfare programmes approved by the Minister of Social Welfare.

The amendments provide that every such programme—

- (a) Shall be administered by the Director-General of Social Welfare:
- (b) May provide for any specified provisions of Part I of the principal Act to apply to and in respect of—
 - (i) The programme; and
 - (ii) Any applicant for assistance under the programme; and
 - (iii) Any other specified class or classes of person—

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

Any such purported application of any provision of Part I of the principal Act, before the commencement of the clause, is validated; but the rights of any party under any judgment of any Court or any decision of the Social Security Appeal Authority as the result of proceedings filed, or a notice of appeal lodged, before 1 April 1993, are preserved.

Clause 29 amends section 127 of the principal Act, relating to offences.

Subclause (1) makes it an offence to make any false or misleading statement for the purposes of receiving an entitlement card or of receiving a more favourable means assessment than he or she would otherwise have been entitled to, assessed under regulations in force under the new section 132B.

Subclause (2) increases the maximum monetary penalty from \$500 to \$5,000.

Clause 30 repeals section 128 (2) of the principal Act.

That subsection provides for all offences against the Act to be taken before a District Court Judge.

Clause 31 amends section 129 of the principal Act relating to the general penalty for offences.

The amendment increases the maximum penalty from a fine of \$40 to a fine of \$1,000. In addition, a maximum fine of \$50 a day is prescribed in respect of a continuing offence.

Clause 32 amends section 132A of the principal Act, relating to regulations providing for the issue and use of entitlement cards.

The amendment makes it clear that regulations made under section 132A may provide for entitlement cards to have a magnetic stripe on them, which may contain all or any of the following information:

- (a) The cardholder's name;
- (b) An identifying number assigned by the Department to the cardholder;
- (c) A number or code indicating the cardholder's class of eligibility for the card;
- (d) An identifying number assigned to the card;
- (e) The commencement and expiry dates of the card;
- (f) A code number for mailing purposes.

Clause 33 inserts a new section 132B in the principal Act.

The new section empowers the making of regulations to provide for the assessment of the financial means of people requiring disability services.

Clause 34 substitutes a new Eighteenth Schedule for the existing Eighteenth Schedule.

The new Schedule sets out the rates of accommodation supplements.

PART II

SOCIAL WELFARE (TRANSITIONAL PROVISIONS) ACT 1990

Clause 35 provides for Part II to be read together with and deemed part of the Social Welfare (Transitional Provisions) Act 1990 (in this Part of this Explanatory Note referred to as the principal Act).

Clauses 36 and 37 amend sections 6 and 11 of the principal Act, relating to the rates of national superannuation and veterans' pensions.

The amendments relate to the provision under which a married person may elect to receive an alternative (income-tested) rate of national superannuation or veteran's pension in respect of a non-qualified spouse.

The amendment provides that, where—

- (a) The married person's spouse is or was in employment under a contract of service; and
- (b) The combined income of the couple, during the employment, is or was such as would prevent receipt of national superannuation or veteran's pension at the alternative rate—

an election to receive the alternative rate shall not take effect until the employment has ceased.

Clause 38 inserts new sections 17B and 17C in the principal Act.

Section 17B (1) provides that national superannuation or a veteran's pension payable to a person living in the Cook Islands, Niue, or Tokelau shall be at a rate calculated under the new section 17C of the Act.

Section 17B (2) provides that to receive national superannuation or a veteran's pension in the Cook Islands, Niue, or Tokelau a person must either—

- (a) Be entitled to receive national superannuation or a veteran's pension before leaving New Zealand, be resident and present in New Zealand on the date of application, and intending to reside in the Cook Islands, Niue, or Tokelau for more than 52 weeks; or
- (b) Be receiving national superannuation or a veteran's pension under section 17 of the Act before the commencement of section 17B.

Section 17B (3) specifies the commencement dates of national superannuation or a veteran's pension payable under the section.

Section 17B (4) provides that no one receiving national superannuation or a veteran's pension under the section shall be entitled to any supplementary social assistance.

Section 17B (5) provides that the Director-General may continue to pay national superannuation or a veteran's pension under the section for up to 4 weeks after a person has died.

Section 17B (6) and (7) provide that the provisions of the Social Security Act 1964 shall apply to national superannuation or a veteran's pension paid under the section, but sections 74 (a), 75, 75A, 76, 77, and 80 of that Act, and sections 17 and 17A of this Act will not apply.

Section 17c provides that the rate of national superannuation payable shall be determined as follows:

- (a) In the case of a person who has resided in New Zealand for 40 or more years since the age of 20 years, the amount specified in clause 1 (b) or clause 1 (c) of the First Schedule, as the case may be:
- (b) In the case of a person who has resided in New Zealand for more than 10 years but less than 40 years since the age of 20 years, the amount specified in clause 1 (b) or clause 1 (c) of the First Schedule, as the case may be, multiplied by the number of years resident in New Zealand since the age of 20 years, divided by 40:
- (c) In the case of a person resident in the Cook Islands, Niue, or Tokelau at the commencement of the section who was receiving national superannuation or a veteran's pension under section 17 of the Act, the amount calculated under paragraph (a) or paragraph (b) above, but in no case less than the amount received before the date on which the section came into force.

Clause 39 inserts a new section 18B in the principal Act to provide for the date of commencement of living alone payments.

At present (pursuant to section 80 (3) of the Social Security Act 1964) every living alone payment commences on—

- (a) The date on which the applicant became entitled to receive it; or
- (b) The date on which the application is received—

whichever is the later date.

Subsection (1) of the new section 18B repeats this provision but makes it subject to subsection (2) of the new section.

Subsection (2) of the new section 18B provides that, where an application for a living alone payment is made as a result of the death of the spouse of the applicant, the living alone payment is to commence on—

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

Clause 40 amends section 44 of the principal Act, relating to the functions of the New Zealand Artificial Limb Board.

The first amendment empowers the Board to carry out its functions in relation to devices similar to artificial limbs as well as in relation to artificial limbs.

The second amendment empowers the Board to provide rehabilitative and other services to persons "in connection with" artificial limbs and similar devices rather than to persons "with" artificial limbs and similar devices.

PART III

PRIVACY COMMISSIONER ACT 1991

Clause 41 provides for Part III of the Bill to be read together with and deemed part of the Privacy Commissioner Act 1991.

Clause 42 amends section 18 of the Privacy Commissioner Act 1991 relating to information matching programmes.

The amendments empower the Department of Social Welfare to immediately suspend a sickness, training, unemployment, independent youth, or emergency benefit, or a job search allowance, paid to an individual where a discrepancy arises in respect of departure information supplied to that Department pursuant to section 305B of the Customs Act 1966, and where before or immediately after the decision to suspend, the Department gives the individual written notice—

- (a) Specifying particulars of the discrepancy and the suspension of benefit, and any other adverse action the Department proposes to take; and
- (b) Stating that the individual has 5 working days from the receipt of the notice to show cause why the benefit ought not to have been suspended or why the adverse action should not be taken, or both.

Adverse action is not to be taken before the expiration of those 5 working days.

PART IV

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

Clause 43 validates and confirms—

- (a) The Social Security (Rent Rebate) Order 1992;
- (b) The Social Security (Rates of Benefits and Allowances) Order 1993.

PART V

WAR PENSIONS (RATES OF PENSIONS AND ALLOWANCES) ORDER CONFIRMATION

Clause 44 validates and confirms the War Pensions (Rates of Pensions and Allowances) Order 1993.

Hon. Jenny Shipley

SOCIAL WELFARE REFORM (NO. 3)

ANALYSIS

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17. Persons unlawfully resident or present in New Zealand	PART II	
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	17B. Payment in Cook Islands, Niue, and Tokelau of	

<p>national superannuation and veteran's pension</p> <p>17c. Rates of payment of national superannuation or veteran's pension payable to people resident in Cook Islands, Niue, or Tokelau</p> <p>39. Commencement of living alone payments</p> <p>40. Functions of New Zealand Artificial Limb Board</p> <p style="text-align: center;">PART III</p> <p style="text-align: center;">PRIVACY COMMISSIONER ACT 1991</p> <p>41. This Part to be read with Privacy Commissioner Act 1991</p>	<p>42. Notice of adverse action proposed</p> <p style="text-align: center;">PART IV</p> <p style="text-align: center;">SOCIAL SECURITY (RENT REBATE AND RATES OF BENEFITS AND ALLOWANCES) ORDERS CONFIRMATION</p> <p>43. Orders validated and confirmed</p> <p style="text-align: center;">PART V</p> <p style="text-align: center;">WAR PENSIONS (RATES OF PENSIONS AND ALLOWANCES) ORDER CONFIRMATION</p> <p>44. Order validated and confirmed Schedule</p>
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A BILL INTITULED

An Act to amend various provisions relating to social welfare

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

1. Short Title—This Act may be cited as the Social Welfare Reform Act (No. 3) 1993. 5

PART I

SOCIAL SECURITY ACT 1964

2. This Part to be read with Social Security Act 1964— This Part of this Act shall be read together with and deemed part of the Social Security Act 1964* (in this Part of this Act referred to as the principal Act). 10

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

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

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

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

(2) Section 3 (1) of the principal Act is hereby amended by repealing subparagraph (b) (vii) and paragraph (c) of the definition of the term “benefit” (as so substituted), and substituting the following subparagraphs and paragraph: 20

“(vii) A transition to work allowance payable under section 69D of this Act: 25

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

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

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

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

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

“(a) Any writing on any material:

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

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

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

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

25 “ ‘Home’ or ‘hospital’ includes—

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

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

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

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

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

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

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

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

“ ‘Purchaser’ has the same meaning as in section 6 of the **Health and Disability Services Act 1993**:”.

(6) Section 3 (1) of the principal Act is hereby amended by adding the following definition: 10

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

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

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

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

4. New sections substituted—The principal Act is hereby amended by repealing section 11 (as substituted by section 5 (1) of the Social Security Amendment Act 1987) and section 11A (as inserted by section 6 of that Act), and substituting the following sections: 20

“11. Power to obtain information—(1) Subject to this section, the Director-General, for any purpose specified in subsection (2) of this section, may by notice in writing require any person (including any person who is an officer or employee in the service of the Crown in a Government department or public body (other than as an officer of a Court), in his or her official capacity,)— 25 30

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

“(b) To produce to the Department or to a specified employee of the Department any document in the custody of or under the control of that person, and to allow copies of or extracts from any such document to be made or taken; or 35

“(c) To furnish to the Department or to a specified employee of the Department any copies or extracts from any document or record in the custody or under the control of that person— 40

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

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

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

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

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

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

“**(e)** Ascertaining the financial circumstances or whereabouts of any person who is indebted to the Crown under this Part of this Act; or

30 “**(f)** Discharging the Director-General’s functions under this Act or under any regulations in force under this Act or under the Social Welfare (Transitional Provisions) Act 1990 or under any ‘welfare programme approved by the Minister under section 124 (1) (d) of this Act.

35 “(3) A person who—

“**(a)** Refuses or fails to comply with a notice under this section to the extent that the person is capable of complying with it; or

40 “**(b)** In purported compliance with such a notice knowingly or recklessly furnishes information which is false or misleading in any material particular, or attempts to do so,—

commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 and, if the offence is a continuing

one, to a further fine not exceeding \$200 for every day or part of a day during which the offence has continued.

“(4) Nothing in subsection (1) of this section shall require any person suspected of—

“(a) An offence against this Act; or 5

“(b) Fraudulently obtaining a benefit or payment under this Act—

to provide any information or to produce any document that would be privileged in a Court of law on the ground of self-incrimination. 10

“(5) Nothing in subsection (1) of this section shall require any person to provide any information or to produce any document that is legally professionally privileged: 10

“Provided that this subsection shall not apply to information or any document that consists wholly or partly of, or relates wholly or partly to,— 15

“(a) The receipts, payments, income, expenditure, or financial transactions of a specified person (whether a law practitioner, his or her client, or any other person); or 20

“(b) Investment receipts (being receipts arising or accruing from any money lodged at any time with a law practitioner for investment) of any person or persons (whether the law practitioner, his or her clients, or any other person or persons)— 25

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

“(6) Where any person refuses to disclose any information or document on the ground that it is privileged under subsection (5) of this section, the Director-General or that person may apply to a District Court Judge for an order determining whether or not the claim of privilege is valid; and, for the purposes of determining any such application, the Judge may require the information or document to be produced to the Court. 30 35

“(7) In this section—

“‘Law practitioner’ means a barrister or solicitor of the High Court; and includes a firm in which any such law practitioner is a partner or is held out to be a partner: 40

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

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

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

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

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

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

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

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

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

(4) The provisions of sections 16, 18, and 19 of the Privacy Commissioner Act 1991, and of Rules 1, 2, 5, 6, and 7 of the Information Matching Rules specified in the Second Schedule to that Act, shall apply, with all necessary modifications, to any information obtained by the Director-General pursuant to **subsection (1)** of this section and to any information-matching programme using that information.

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

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

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

“(d) Any regulations in force under section 132A or section 132B of this Act.” 15

(2) Section 12J of the principal Act (as so inserted) is hereby amended by repealing subsection (2) (as amended by section 4 of the Social Security Amendment Act 1978), and substituting the following subsection: 20

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

“(a) An invalid’s benefit; or 25

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

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

(3) Section 4 of the Social Security Amendment Act 1978 is hereby consequentially repealed. 30

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

6. Abolition of miners’ benefits—(1) Sections 47 to 53 of the principal Act are hereby repealed. 35

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

(3) The principal Act is hereby amended—

(a) By omitting from section 12J (2) (as inserted by section 4 (1) of the Social Security Amendment Act 1973) the words “or a miner’s benefit”: 40

- (b) By repealing section 53A (1) (c) (as inserted by section 13 of the Social Security Amendment Act 1986):
- 5 (c) By omitting from section 61H (1) (b) (as substituted by section 24 (2) of the Social Security Amendment Act 1991) the words “Sixth to Ninth”, and substituting the words “Sixth, Eighth, Ninth”:
- (d) By omitting from section 69c (5) (a) (as substituted by section 14 (10) of the Social Welfare (Transitional Provisions) Act 1990) the word “miner’s,”:
- 10 (e) By omitting from section 73 (1) (as amended by by section 27 of the Social Security Amendment Act 1991) the words “, a miner’s benefit, or a miner’s widow’s benefit”:
- 15 (f) By omitting from paragraph (a) of the proviso to section 80 (8) (as substituted by section 32 (1) of the Social Security Amendment Act 1991) the word “miner’s,”.
- (4) The following enactments are hereby consequentially repealed:
- 20 (a) Section 12 of the Social Security Amendment Act 1986:
(b) Section 27 of the Social Security Amendment Act 1991.
(5) The Social Security (Rates of Benefits) Order 1992 (S.R. 1992/57) is hereby amended by revoking so much of the First Schedule as relates to the Seventh Schedule to the principal Act.
- 25 (6) Notwithstanding the provisions of this section, if, immediately before the commencement of this section, a person is in receipt of a miner’s benefit under section 47 of the principal Act or a miner’s widow’s benefit under section 53 of that Act, the Director-General shall continue to pay that benefit
- 30 as if this section had not been enacted; but at the appropriate rate from time to time payable to the recipient of an invalid’s benefit who has no annual income.

7. Right of appeal on medical grounds—(1) Section 53A (1) of the principal Act (as inserted by section 13 of the Social Security Amendment Act 1986) is hereby amended by

35 inserting, after paragraph (c), the following paragraph:

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

40 medical grounds under **section 61Fc (4) (c)** of this Act—”.

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

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

“(1) Every application for a sickness benefit shall be supported by the certificate of— 5

“(a) A medical practitioner; or

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

“(c) A registered midwife in respect of a pregnancy, childbirth, or any related condition that is within the ambit of his or her profession— 10

certifying that the applicant is incapacitated for work, and containing such other particulars as the Director-General may require.” 15

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

“(iii) Is not enrolled in a full-time course within the meaning of paragraph (b) of the definition of that term set out in clause 2 (1) of the Student Allowances Regulations 1991 (S.R. 1991/295); and”.

 20

10. Accommodation supplement—(1) The principal Act is hereby amended by repealing sections 61E and 61F, and substituting the following heading and sections: 25

“Accommodation Supplement

“61E. **Interpretation**—In this section and sections 61EA, 61EB, 61EC, 61FA, 61FB, 61FC and 61FD of, and in the Eighteenth Schedule to, this Act, unless the context otherwise requires,— 30

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

“(a) In relation to premises that are rented by the person— 35

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

“(ii) Where the premises are rented from the Housing Corporation of New Zealand, Housing New Zealand Limited, or the Crown in right of the Ministry of Maori Development— 40

5

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

10

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

15

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

20

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

25

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

30

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

35

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

40

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

45

- “Beneficiary’ means any person who is being paid—
- “(a) A widow’s, domestic purposes, invalid’s, sickness, training, unemployment, independent youth, or emergency benefit, or a job search allowance; or 5
- “(b) National superannuation or a veteran’s pension:
- “Cash assets’ means—
- “(a) Money saved, invested, or banked with a bank or other institution: 10
- “(b) Money invested in securities, bonds, or debentures, or advanced on mortgage:
- “(c) Money invested in shares in a partnership or limited liability company or other incorporated or unincorporated body: 15
- “Deferred payment disposition’ has the meaning ascribed to it by section 2 of the Credit Contracts Act 1981:
- “Mortgage security’ includes—
- “(a) A deferred payment disposition; and in any such case, the balance of the purchase price required to be paid to the vendor of the premises under any such disposition shall, for the purposes of paragraph (b) of the definition of the term ‘accommodation costs’, be treated as money advanced under a mortgage security: 20
- “(b) Money secured over the person’s share or shares in any flat owning company within the meaning of the Companies Amendment Act 1964:
- “(c) Money payable under and secured by a deferred payment licence under the Land Act 1948: 25
- “(d) Money payable under and secured by a deferred payment licence under the Land Act 1948: 30
- “Non-beneficiary’ means a person who is not a beneficiary:
- “Owner’ includes a person legally entitled to occupy the premises under—
- “(a) A deferred payment disposition; or 35
- “(b) A lease, where the occupier is also the lessor as owner or one of the lessors as one of the owners; or
- “(c) A license to occupy under the Companies Amendment Act 1964; or
- “(d) A deferred payment licence under the Land Act 1948— 40
- and ‘owned’ has a corresponding meaning:
- “Premises’, in relation to any person, means the place that he or she occupies as a home; and includes, in relation to a person who is a boarder or lodger, any 45

room or other accommodation occupied as a home by that person:

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

“‘Weekly accommodation costs’ means the greater of—

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

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

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

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

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

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

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

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

- “(a) Is receiving a basic grant or an independent circumstances grant under the Student Allowances Regulations 1991; or
- “(b) Would be eligible to receive a basic grant or an independent circumstances grant under the Student Allowances Regulations 1991, but for the level of that person’s income or the level of the income of that person’s parent or parents; or 5
- “(c) Except as provided in **section 61EB** of this Act, is the spouse of a person who is already receiving an accommodation supplement under this section, except where that person is receiving disability services, while residing in a home or hospital for more than 13 weeks, which have been purchased without the financial assistance of a purchaser; or 10
- “(d) Is receiving disability services which have been purchased by a purchaser, or with the financial assistance of a purchaser, while he or she is residing in a home or hospital for more than 13 weeks; or 15
- “(e) Is receiving disability services while he or she is residing in a home or hospital for less than 13 weeks, whether purchased with the assistance of a purchaser or otherwise, unless he or she is maintaining outside premises, and to the extent that accommodation costs are incurred in respect of those premises. 20 25

“**61EB. Special provision for married joint tenants**—In any case where any premises are occupied by 2 or more joint tenants, and at least 2 of those joint tenants are married to each other,— 30

- “(a) Each 2 of those joint tenants who are married to each other shall, except for the purpose of the proviso to the definition of the term ‘accommodation costs’ contained in **section 61E** of this Act, be treated as one joint tenant; and 35
- “(b) Where **paragraph (a)** of this section applies—
- “(i) The accommodation costs of that one joint tenant shall be the total of the accommodation costs of each of the 2 persons who are treated pursuant to that paragraph as one joint tenant; and 40
- “(ii) The cash assets and income of that one joint tenant shall be the total of the cash assets and income respectively of each of the 2 persons who

are treated pursuant to that paragraph as one joint tenant.

5 “61EC. **Rates of accommodation supplement**—(1) The rate of accommodation supplement granted under **section 61EA** of this Act shall, in each case, be paid at the appropriate rate specified in the **Eighteenth** Schedule to this Act.

“(2) For the purposes of the **Eighteenth** Schedule to this Act—

10 “(a) Every \$100 of cash assets over \$5,400 held by a married person or a single person with a dependent child or children; and

“(b) Every \$100 of cash assets over \$2,700 held by any other person—
shall be deemed to be \$1 a week of income.

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

“(a) \$16,200 in the case of—

“(i) A married person; or

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

“(b) \$8,100 in any other case.

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

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

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

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

35 “(5) For the purposes of this section and of the **Eighteenth** Schedule to this Act, the income and assets of a married person shall include the income and assets of that person’s spouse, except in the circumstances specified in the second exception to **section 61EA (4) (c)** of this Act.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 24 of the Social Security Amendment Act 1987:

40 (b) Sections 16 and 17 of the Social Security Amendment Act (No. 2) 1988:

(c) Section 35 (1) of the Finance Act 1989:

(d) Section 14 (6) of the Social Welfare (Transitional Provisions) Act 1990:

(e) Section 22 of the Social Security Amendment Act 1991:

(f) Section 3 of the Social Security Amendment Act (No. 3) 1992.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 “(i) The applicant; or

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

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

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

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

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

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

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

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

“(b) Vacates the premises; or

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

whichever first occurs.

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

“61FD. **Rate of tenure protection allowance**—Any person who has been granted a tenure protection under section 61Fc (1) of this Act, shall be entitled to receive a tenure protection allowance equal to the amount by which his or her weekly accommodation costs exceeds the appropriate average regional rental specified in Part III of the Eighteenth Schedule to this Act.” 5

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

12. Rates of benefits, etc., may be increased by Order in Council—(1) Section 61H (1) (a) of the principal Act (as substituted by section 3 (1) of the Social Security Amendment Act 1990) is hereby amended by omitting the expression “61DC, 61DD, 61DE,” and substituting the expression “61DB, 61DC, 61DD,”. 10

(2) Section 61H (1) of the principal Act (as so substituted) is hereby amended by inserting, after the words “lump sum payment,”, the words “maximum amount of supplements, average regional rental,”. 15

(3) Section 61H (2) of the principal Act (as so substituted) is hereby amended by inserting, after the words “lump sum payments,”, the words “maximum amounts of supplements, average regional rentals,”. 20

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

13. Redundancy payments not to be taken into account in determining rates of benefits—(1) Section 66B of the principal Act (as inserted by section 4 of the Social Security Amendment Act (No. 4) 1992) is hereby amended by omitting the words “accommodation benefit”, and substituting the words “accommodation supplement”. 25

(2) This section shall come into force on the 1st day of July 1993. 30

14. Disability allowance—Section 69c (5) (b) of the principal Act (as added by section 11 (2) of the Social Security Amendment Act 1982) is hereby amended by adding the words “or is a person in a home receiving disability services purchased by or with the assistance of a purchaser”. 35

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

(a) By omitting the words “disease or due to”, and substituting the words “disease or in respect of”: 40

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

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

10 **17. Persons unlawfully resident or present in New Zealand**—(1) Section 74A (1) of the principal Act (as inserted by section 29 of the Social Security Amendment Act 1991) is hereby amended by omitting the words “is in the process of applying for a residence permit under section 17 (2) of the Immigration Act 1987, and”.

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

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

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

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

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

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

18. Beneficiaries in hospital—Section 75 (3) of the principal Act (as substituted by section 17 (1) of the Social Security Amendment Act (No. 2) 1985 and amended by section 14 (14) of the Social Welfare (Transitional Provisions) Act 1990) is hereby amended by inserting, after the words “veteran’s pension”, the words “or a person who is a patient in a hospital receiving disability services”.

40 **19. Forfeiture of benefit during detention in a penal institution**—(1) Section 76 (1) of the principal Act (as substituted by section 13 (1) of the Social Security Amendment Act 1982) is hereby amended by inserting, after the words

“imprisoned or detained in”, the words “, or is an escapee from,”.

(2) Section 76 (3) of the principal Act (as so substituted) is hereby amended by inserting, after the words “so imprisoned or detained,”, the words “or who has escaped from such imprisonment or detention,”. 5

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

“(6) For the purposes of this section, a person shall still be considered to be imprisoned or detained if he or she has been released from a penal institution, for any purpose authorised by the Penal Institutions Act 1954, for a period not exceeding 24 hours.” 10

20. Commencement and payment of benefits—

(1) Section 80 of the principal Act (as substituted by section 32 (1) of the Social Security Amendment Act 1991) is hereby amended by inserting, after subsection (1), the following subsection: 15

“(1A) Where any person applies for a disability allowance under section 69c of this Act at the same time as he or she applies for one of the benefits referred to in subsection (1) of this section, payment of that allowance shall commence on the same day as payment of that benefit commences.” 20

(2) Section 80 of the principal Act (as so substituted) is hereby amended by inserting, after subsection (2A), the following subsection: 25

“(2B) If an applicant for a widow’s benefit or a domestic purposes benefit was, before the application for the benefit, in employment under a contract of service and the applicant’s income during that employment would have prevented payment of the benefit applied for, payment of the benefit applied for shall not commence earlier than the day after the date on which the applicant’s employment under that contract of service ceased.” 30

(3) Section 80 (3) of the principal Act (as so substituted) is hereby amended by inserting, after the expression “subsection (1)”, the expression “or **subsection (1A)**”. 35

(4) Section 80 (8) of the principal Act (as so substituted) is hereby amended by repealing paragraph (d) of the proviso, and substituting the following paragraph: 40

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

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

5 “(ii) In the case of a benefit under section 27C of this Act, the patient has died or been admitted to hospital—
the Director-General shall continue to pay instalments of the benefit, or, as the case may
10 require, continue to pay the benefit at the rate previously payable, covering the period of 8 weeks following the date on which the beneficiary ceased to so qualify.”

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

21. Effect of high income on entitlement to benefits—

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

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

22. Effect of certain sections on entitlement to supplementary benefits—(1) Section 80c (1) of the principal
25 Act (as inserted by section 21 of the Social Security Amendment Act (No. 2) 1991) is hereby amended by repealing paragraph (b), and substituting the following paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(a) The application for the benefit; or

“(b) The demand for that evidence—

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

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

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

25. Recovery of payments made in excess of authorised rates—(1) Section 86 (1B) of the principal Act (as inserted by section 16 of the Social Security Amendment Act 1982) is hereby amended by omitting the words “section 61DC, section 61DD, or section 61DE”, and substituting the words “section 61DB, section 61DC, or section 61DD”.

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

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

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

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

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

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

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

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

“(2B) Where the Director-General imposes any penalty under **subsection (2)** of this section, no action to recover that penalty shall be taken until any review of that decision under section

10A of this Act or any appeal under section 12J of this Act has been completed.

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

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

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

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

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

“(b) As an agent; or

“(c) As a trustee; or

“(d) For any other reason—

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

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

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

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

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

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

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

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

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

20 “**86B. Discharge of debt**—Where a person to whom a deduction notice has been issued deducts, pursuant to the notice, any money payable to a debtor, the debtor is, to the extent of the amount deducted, discharged from his or her debt due to the Crown under section 86 of this Act.

25 “**86c. Deduction notices issued on banks**—(1) Where the person to whom the deduction notice is issued is a bank, any money held by the bank to the credit of the debtor shall be subject to the provisions of **section 86A** (1) of this Act; and, during the subsistence of the deduction notice, the amount recoverable from the debtor shall be deemed to be held in trust for the Crown and, without prejudice to any other remedies against the debtor or any other person, any such amount shall be held in trust for the Crown and shall be recoverable from the bank under section 86 of this Act as if it were money payable under a benefit to which the debtor was not entitled.

30 “(2) For the purposes of this section, ‘bank’ means a bank within the meaning of the Banking Act 1982, a credit union within the meaning of the Friendly Societies and Credit Unions Act 1982, and a building society within the meaning of the Building Societies Act 1965; but does not include the Reserve Bank of New Zealand established under the Reserve Bank of
40 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 debtor’ includes interest on any

money that is on deposit or deposited with a bank to the credit of the debtor, 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: 5

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

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

“(a) That is held in a joint bank account in the name of the debtor and one or more other persons; and 10

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

is deemed to be money that is on deposit with a bank to the credit of the debtor. 15

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

“(a) On the authority of the debtor and any other person concerned; and neither the debtor nor that person shall have any claim against the person making the deduction, or the Crown, in respect of that deduction; and 20

“(b) On behalf of the Crown; and, without prejudice to any other remedies against the debtor or any other person, any amounts deducted shall be held in trust for the Crown and shall be recoverable under section 86 of this Act as if it were money payable under a benefit to which the person who made the deduction was not entitled. 25 30

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

“(a) Fails to make any deduction required by a deduction notice; or 35

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

“(c) Permits payment to or on behalf of any person, other than the Department, of any amount held in trust for the Crown under section 86c or section 86D of this Act. 40

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

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

“86G. **Variation or discharge of deduction notice**—(1) If a person to whom a deduction notice is issued or a debtor considers that a deduction notice has been issued in error, or contains an error, that person or the debtor may bring the matter to the notice of the office of the Department from which the notice was issued.

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

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

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

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

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

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

or

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

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

“(d) For each additional month or part of a month the amount in default or any part thereof that has not been deducted or, as the case may be, has not been paid to the Department, a further penalty of the greater of 2 percent of that amount or part thereof or \$1. 5

“(2) Where any penalty is payable by any person under subsection (1) of this section, the Director-General, in his or her discretion, may remit the whole or part of that penalty where he or she is satisfied that the failure to make the deduction or make the payment was due to circumstances reasonably beyond the person’s control, or that in all circumstances, the imposition of that penalty would be inequitable; and, where the debtor has already paid any penalty under this section, the Director-General may refund any excess. 10 15

“(3) An amount payable to the Department under subsection (1) of this section may be recovered under section 86 of this Act as if it were money payable under a benefit to which the person was not entitled. 20

“**86i. Wrongful treatment of employee**—(1) Every employer commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who dismisses any employee or alters any employee’s position in the employer’s business or undertaking to the employee’s prejudice by reason of a deduction notice having been served on the employer. 25

“(2) In any prosecution for an offence against subsection (1) of this section in which it is proved that the employer, within 6 months after the serving on the employer of a deduction notice in respect of an employee, dismissed the employee or altered the employee’s position in the employer’s business or undertaking to the employee’s prejudice, it shall be deemed to be proved that the action was taken by reason of the notice having been served on the employer unless the employer proves to the contrary.” 30 35

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

“86j. (1) Every notice given to any person under this Part of this Act may be given by delivering it to that person— 40

- “(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)—
- 5 “(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
10 “(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,—
- 15 “(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.
- 20 “(2) If any such notice is sent to any person by post, then, in the absence of evidence to the contrary, the notice shall be deemed to have been received by that person on the fourth day after the day on which it is posted, and, in proving the delivery, it shall be sufficient to prove the letter was properly addressed
25 and posted.”

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

- 30 “(1A) Every welfare programme approved by the Minister of Social Welfare under subsection (1) (d) of this section—
- “(a) Shall be administered by the Director-General of Social Welfare:
- “(b) May provide for any specified provision of Part I of this Act to apply to and in respect of—
- 35 “(i) The programme; and
 “(ii) Any applicant for assistance under the programme; and
 “(iii) Any other specified class or classes of person—
- 40 as if the special assistance authorised by the programme was a benefit under Part I of this Act.”
- “(2) The purported application of any provision of Part I of this Act to and in respect of—

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

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

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

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

(3) Nothing in **subsection (2)** of this section shall affect the rights of any party under any judgment of any Court, or any decision of the Social Security Appeal Authority, as the result of proceedings filed, or a notice of appeal lodged, as the case may be, before the **1st day of April 1993**.

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

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

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

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

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

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

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

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

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

- 5 “(a) The cardholder’s name:
- “(b) An identifying number assigned by the Department to the cardholder:
- “(c) A number or code indicating the cardholder’s class of eligibility for the card:
- 10 “(d) An identifying number assigned to the card:
- “(e) The commencement and expiry dates of the card:
- “(f) A code number for mailing purposes.”

33. Regulations providing for assessment of financial means of people requiring disability services—The principal Act is hereby amended by inserting, after section 132A, the following section:

15 “132B. (1) Without limiting the general power to make regulations conferred by section 132 of this Act, the Governor-General may from time to time, by Order in Council, make regulations to provide for the assessment of the financial means of persons, who have been assessed by a purchaser as requiring particular disability services, to determine their ability to pay or contribute to the cost of those services.

20 “(2) Any such regulations may—

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

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

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

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

40 “(ii) After reviewing any such financial assessment, the Director-General is satisfied that, owing to a change of circumstances, that financial assessment is no longer an accurate reflection of how much that person is able to pay or contribute to the cost of the disability services that he or she is receiving, to take effect from such date as the

Director-General determines, being a date on or after the date on which that change may reasonably be held to have occurred; and

“(d) Impose a duty on a person who has had his or her financial means assessed to advise the Department of any change in circumstances which affects that person’s ability to contribute to the cost of the disability services provided to that person; and 5

“(e) Differentiate between classes of persons on the basis of—

“(i) The type of disability services that are or will be provided; or 10

“(ii) The level or type of State support received before a particular date; or

“(iii) The type of disability; or

“(iv) Age; or 15

“(v) The length of time that disability services are likely to be required; or

“(vi) Any other factor which the Governor-General considers relevant.

“(3) In this section— 20

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

“ ‘Purchaser’ has the same meaning as in section 6 of the **Health and Disability Services Act 1993**.”

34. New Eighteenth Schedule substituted—(1) The principal Act is hereby amended by repealing the Eighteenth Schedule (as substituted by section 41 (1) of the Social Security Amendment Act 1991), and substituting the Eighteenth Schedule set out in the Schedule to this Act. 25

(2) Section 41 of, and the Second Schedule to, the Social Security Amendment Act 1991 are hereby consequentially repealed. 30

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

PART II

SOCIAL WELFARE (TRANSITIONAL PROVISIONS) ACT 1990 35

35. This Part to be read with Social Welfare (Transitional Provisions) Act 1990—This Part of this Act shall be read together with and deemed part of the Social Welfare (Transitional Provisions) Act 1990* (in this Part of this Act referred to as the principal Act). 40

*1990, No. 26

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

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

“Provided that, where—

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

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

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

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

“Provided that, where—

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

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

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

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

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

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

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

“(a) Unless—

40 “(i) On the date of application for such payment he or she is resident and present in New Zealand and is, on that date, entitled to receive national

superannuation or a veteran's pension or will be so entitled before leaving New Zealand; and

- “(ii) The applicant intends to reside for more than 52 weeks in the Cook Islands, Niue, or Tokelau; or
 5
 “(b) Unless he or she was receiving national superannuation or a veteran's pension while resident in the Cook Islands, Niue, or Tokelau, before the commencement of this section, under section 17 of this Act.
 10
 “(3) The date of commencement of payment overseas of national superannuation or a veteran's pension under this section shall be—
 15
 “(a) In the case of a person to whom subsection (2) (a) of this section applies, the first pay day after the date of the applicant's departure from New Zealand:
 20
 “(b) In the case of a person to whom subsection (2) (b) of this section applies, the first pay day after the date on which this section comes into force.
 25
 “(4) A person who is receiving national superannuation or a veteran's pension in the Cook Islands, Niue, or Tokelau under this section shall not be entitled to receive—
 30
 “(a) Any supplementary or special benefit, lump sum payment, payment under a welfare programme approved under section 124 (1) (d) of the Social Security Act 1964, or any other assistance under that Act; or
 35
 “(b) A living alone payment under section 18A of this Act.
 “(5) On the death of a person in receipt of national superannuation or a veteran's pension in the Cook Islands, Niue, or Tokelau under this section, the benefit shall terminate on a date to be determined by the Director-General, being a date not more than 4 weeks after the date of death.
 40
 “(6) Except as otherwise provided in this section, the provisions of the Social Security Act 1964 (other than sections 75, 75A, and 76) shall apply in respect of national superannuation and veteran's pension being paid in the Cook Islands, Niue, or Tokelau under this section.
 “(7) Nothing in section 74 (a) or section 77 or section 80 of the Social Security Act 1964 or section 17 or section 17A of this Act shall affect the application of this section.
 “17c. **Rates of payment of national superannuation or veteran's pension payable to people resident in Cook Islands, Niue, or Tokelau—**(1) The rate of national

superannuation or veteran's pension payable under **section 17b** of this Act shall be—

5 “(a) In the case of a person who has resided in New Zealand for 40 or more years since the age of 20, the base rate:

“(b) In the case of a person who has resided in New Zealand for more than 10 but less than 40 years since the age of 20, an amount calculated in accordance with the following formula:

10
$$\frac{a \times b}{40}$$

where a is the base rate, and b is the whole number of years the person resided in New Zealand since the age of 20 years:

15 “(c) In the case of a person who is resident in the Cook Islands, Niue, or Tokelau and was receiving national superannuation or a veteran's pension under section 17 of this Act on the date of commencement of this section, the appropriate amount calculated in accordance with **paragraph (a)** or **paragraph (b)** of this subsection, but in no case shall the amount payable be less than the amount received before the date on which this section came into force.

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

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

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

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

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

35 “18B. (1) Except as provided in **subsection (2)** of this section, every living alone payment shall commence on—

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

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

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

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

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

- (a) By inserting, after the words “artificial limbs” wherever they occur, the words “and similar devices”;
- (b) By inserting in paragraph (b), after the words “persons”, the words “in connection”.

PART III

PRIVACY COMMISSIONER ACT 1991

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

*1991, No. 126

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

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

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

- “(a) Specifying particulars of the discrepancy and the suspension of benefit, and any other adverse action the Department proposes to take; and
- “(b) Stating that the individual has 5 working days from the receipt of the notice to show cause why the benefit ought not to have been suspended or why the adverse action should not be taken, or both—

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

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

- 5 (a) By inserting in subsection (2), after the expression “subsection (1)”, the expression “or **subsection (1A)**”:
(b) By inserting in subsection (3), after the expression “subsection (1)”, the expression “or **subsection (1A)**”.

PART IV

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

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

- 15 (a) The Social Security (Rent Rebate) Order 1992:
(b) The Social Security (Rates of Benefits and Allowances) Order 1993.

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

PART V

20 WAR PENSIONS (RATES OF PENSIONS AND ALLOWANCES) ORDER CONFIRMATION

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

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

Section 34

SCHEDULE

NEW EIGHTEENTH SCHEDULE TO PRINCIPAL ACT

"EIGHTEENTH SCHEDULE"

Sections 61E, 61EA, 61FC, 61FD

ACCOMMODATION SUPPLEMENT

PART I

PRELIMINARY

1. For the purposes of this Schedule—

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

'Base rate' means—

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

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

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

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

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

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

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

SCHEDULE—*continued*

NEW EIGHTEENTH SCHEDULE TO PRINCIPAL ACT—*continued*

“EIGHTEENTH SCHEDULE—*continued*

ACCOMMODATION SUPPLEMENT—*continued*

of benefit that would have been payable in respect of his or her spouse.

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

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

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

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

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

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

PART II

RATES OF ACCOMMODATION SUPPLEMENT

- | | |
|---|---|
| 1. To a married person with dependent children, or a sole parent with 2 or more dependent children, whose accommodation costs are rent or payments for board and lodgings | 65 percent of the amount by which an applicant’s weekly accommodation costs exceeds 25 percent of the base rate, but not more than— |
| | (a) \$100 a week, if the applicant resides in Auckland: |
| | (b) \$65 a week, if the applicant resides in Wellington: |
| | (c) \$55 a week, if the applicant resides elsewhere in New Zealand. |

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

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

SCHEDULE—*continued*

NEW EIGHTEENTH SCHEDULE TO PRINCIPAL ACT—*continued*

“EIGHTEENTH SCHEDULE—*continued*”

ACCOMMODATION SUPPLEMENT—*continued*

- | | |
|---|--|
| <p>5. To a married person without dependent children, or a sole parent with 1 dependent child, whose accommodation costs are the sum of payments required under any mortgage security, and other payments that the Director-General is satisfied are reasonably required to be made in respect of the person's home</p> | <p>65 percent of the amount by which an applicant's weekly accommodation costs exceeds 30 percent of the base rate, but not more than—</p> <ul style="list-style-type: none"> (a) \$75 a week, if the applicant resides in Auckland: (b) \$60 a week, if the applicant resides in Wellington: (c) \$50 a week, if the applicant resides elsewhere in New Zealand. |
| <p>6. To any other person whose accommodation costs are the sum of payments required under any mortgage security, and other payments that the Director-General is satisfied are reasonably required to be made in respect of the person's home</p> | <p>65 percent of the amount by which an applicant's weekly accommodation costs exceeds 30 percent of the base rate, but not more than—</p> <ul style="list-style-type: none"> (a) \$60 a week, if the applicant resides in Auckland: (b) \$50 a week, if the applicant resides in Wellington: (c) \$42 a week, if the applicant resides elsewhere in New Zealand. |

PART III

AVERAGE REGIONAL RENTAL

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

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

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

PART IV

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

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