Social Security Legislation Rewrite Bill

Government Bill

As reported from the Social Services Committee

Commentary

Recommendation

The Social Services Committee has examined the Social Security Legislation Rewrite Bill and recommends by majority that it be passed with the amendments shown.

Introduction

This bill would repeal and replace the Social Security Act 1964 and the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990. The main aim of the bill is to make New Zealand's social security law easier to understand by modernising its language, drafting style, and structure.

Although the bill's main aim is to rewrite existing law, it also proposes several policy changes. They are set out in Schedule 11 of the bill.

To improve consistency between the amount of detail in primary legislation and that in delegated legislation, the bill would move some provisions from statute into delegated legislation.

The bill sets out

- people's eligibility for social security benefits
- obligations and sanctions
- rights to review and appeal decisions
- how assistance is delivered to beneficiaries.

Provisions about residential care and disability support services are in Part 9 of the bill. Provisions about the Artificial Limb Service are in Part 10. It is intended that, at the Committee of the Whole House stage, the bill would be divided into

- a social security bill
- a residential care and disability support services bill

- an Artificial Limb Service bill.

This commentary explains the main amendments that we recommend. It does not discuss minor, consequential, or technical amendments. Some of the changes are recommended as a consequence of new legislation that has or is about to come into force, including provisions in the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016.

Family breakdown should qualify for supported child's payment

One of the policy changes proposed in the bill is to merge the orphan's benefit and the unsupported child's benefit into a new "supported child's payment".

Under clause 42(1), the supported child's payment would be available for a child with no parent willing and able to care for them or to provide for their support.

We consider that clause 42 should mirror more closely the wording in section 29(b) of the Social Security Act, which refers to a "breakdown in the child's family". It should be able to cover situations where, for example, a parent may be willing and able to care for their child, but it may be inappropriate or unsafe for them to do so.

We recommend amending clause 42 by changing subclause (1) and inserting new subclause (3). The new subclause would allow caregivers to claim the supported child's payment for a child whose parents are dead, are missing, or have a long-term disablement, or when there has been a breakdown in the child's family.

Transitional provisions for step-parents appealing a decision about a benefit

Under the existing legislation, step-parents can receive an orphan's benefit for their step-children. Clause 43(b) and Schedule 2 of the bill would effectively remove this benefit by defining step-parents as parents, reflecting their legal obligation to care for their step-children.

The transitional provisions in Schedule 1 would allow step-parents to be granted the supported child's payment if they applied before 3 July 2017. Step-parents would not be granted a supported child's payment after that date.

We recommend inserting new clause 12A into Schedule 1 to ensure that, when step-parents who have applied for this benefit before 3 July 2017 appeal or ask for a review of their entitlement, they are deemed to be eligible caregivers—despite clause 43(b) and the definition of parent in Schedule 2.

Clearer description of primary parent

In clause 179, which is about separated parents who share a child's care, we recommend changing the phrase "primary parent" to "primarily responsible parent". This would be clearer for clients and staff assessing benefits. The new wording would complement clauses 179(3) and 180, which set out how to decide which parent has greater responsibility for a child.

Allowing certain health practitioners to do more

Clause 27(2) would rewrite existing provisions allowing "prescribed health practitioners"—such as nurse practitioners[1]—to certify that a person's work capacity is affected by a health condition, injury, or disability.

Nurse practitioners play an increasing role in primary health care, and we consider that, when appropriate, they should be able to endorse certificates in other situations.

Therefore, we recommend replacing the phrase "medical practitioner" with "prescribed health practitioner" in clauses 27, 28, 36, 40, 41, 70, 71, 78, 120, 149, 152, and 358.

We recommend inserting new paragraph (aa) into clause 397(1) to enable regulations to be made prescribing which health practitioners may perform the functions of each provision.

We recommend amending Schedule 2 (the bill's "dictionary") to include a definition of "prescribed health practitioner". To reduce the risk of a practitioner making an assessment in an area of healthcare in which they are not an expert, the definition would require the practitioner to act within their scope of practice.

Accommodation supplement boundaries

We propose a change in Schedule 1 relating to accommodation supplements.

The amount of accommodation supplement that a person is entitled to is based on their income, cash assets, accommodation costs, family make-up, and residential area.

Accommodation supplement areas are based on statistical boundaries. A legislative change in 1996 had an unintended consequence, confirmed in 2011 by the Social Security Appeal Authority, that the boundaries must change every time the Government Statistician changes a boundary, unless an Order in Council is made to retain the boundary.

The transitional provisions in clause 53(2) of Schedule 1 would validate accommodation supplement payments by defining accommodation supplement areas as those set by the Government Statistician on 27 May 2004.

We recommend continuing to protect two groups after the bill comes into force, by inserting new clause 14A into Schedule 1. Both are groups whose supplement is not validated by clause 53.

One group's accommodation supplement payments, technically, should have reduced when their boundaries changed, but they continue at the higher rate.

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[1] Nurse practitioners are health practitioners for the purposes of the existing legislation under regulation 4 of the Social Security (Jobseeker Support—Medical Examinations) Regulations 2010.

The other group are recipients living where a boundary change would result in a higher rate of accommodation supplement and whose payments are adjusted to that higher rate before the bill commences.

New clause 14A in Schedule 1 would require the Ministry of Social Development (MSD) to calculate the accommodation supplement as if the client lived in the area that was used in calculating their existing payment. That protection would continue until the person changed address, the person stopped receiving the supplement, or the definition of their area changed.

Regulations to redirect benefits

Clause 421 would allow regulations to be made about how benefits are paid. Under clause 421(2)(a), regulations could specify groups of beneficiaries whose benefit instalments could be redirected without their consent. Social housing tenants could be among those affected by such regulations, because part of their benefits could be directed to landlords to cover rent.

Clause 421(4) would provide that regulations could be made under clause 421(2)(a) only if the Minister for Social Development was satisfied that the regulations would be likely to help achieve positive outcomes for affected beneficiaries.

We recommend inserting a further safeguard into clause 421(4). It would require the Minister to consult appropriate individuals or organisations before making such regulations. This could help reduce the risk of regulating for groups who would not be helped by the mandatory redirection of their benefits.

Advice from the Regulations Review Committee

Three clauses would allow regulations to be made exempting certain benefits or people from requirements in the bill. Regulations made under

- clause 410 would specify categories of people who could be exempted from the work test or other obligations
- clause 419(2)(a) would specify benefits that could be exempted from a stand-down period
- clause 510(a) would specify categories of people who could be exempted from certain costs of long-term residential care.

The Regulations Review Committee recommended that we consider amending these clauses to

- set out clear purposes and criteria for granting these exemptions
- require a statement of the reasons for granting any of these exemptions
- require exemptions to expire after a specified period of time.

We recommend amending these three clauses to insert clear purposes and criteria for granting exemptions. The criteria would include a requirement that the exemption be consistent with the purpose and principles in clauses 3 and 4 of the bill.

We do not consider it necessary to state the reasons for exemptions that are granted, because the reasons will be self-evident.

Nor do we consider it necessary to require these exemptions to expire after a certain period of time. This is because some grounds for exemptions are permanent, such as disability and elderly victims of crime. Expiry of exemptions could expose some vulnerable people to onerous obligations or other liabilities.

Submissions about existing policies

Many submissions suggested major policy changes. For example, many submissions proposed that benefit rates be increased. However, because the main purpose of the bill is to rewrite existing law, these proposals were considered to go beyond the scope of this bill.

New Zealand Bill of Rights Act 1990

The Attorney-General has made a report on the bill under section 7 of the New Zealand Bill of Rights Act 1990. The report covered the policy changes in the bill as well as the existing policies that the bill would rewrite.

The Attorney-General said that the bill is inconsistent with section 19(1) of the New Zealand Bill of Rights Act, which affirms the right to freedom from discrimination on the grounds of disability. He said that the bill's advantageous treatment of people who are totally blind, compared with its treatment of people with other disabilities, is not demonstrably justified in a free and democratic society.

Under existing law, people who are totally blind can receive a supported living payment regardless of whether they have work or are able to work. They can receive this benefit even if they are working full time.

For people with other disabilities to claim the same benefit, they must prove that they are unable to work more than 15 hours per week.

Provisions about the supported living payment, in Part 2, Subpart 4 of the bill, would not change this.

The provisions that advantage totally blind people are not new. They are part of existing law. Because of the generally policy-neutral approach to this rewrite bill, we do not propose any change to the supported living payment at this time.

New Zealand Labour Party minority view

While Labour supports the idea of bringing much needed clarity, consistency, and modernity to the Social Security Act, Labour must point out that this rewrite does not align with the policy-neutral rewrite that the National Government has publicly claimed it to be.

Since the 1964 Act, continual amendments have made the Act difficult to navigate and disjointed. There is a need for increased accessibility and cohesiveness of legislation. However, this rewrite proposes changes beyond the scope of addressing this issue.

There has been a high level of concern amongst key stakeholders both in what is and is not contained in this rewrite, as well as the length of time that has been allowed for analysing this bill. The length of this bill would suggest that the maximum time available should be allowed for the public to be able to offer considered and thoughtful feedback; however, despite attempts from Labour to extend the deadline, this was denied.

Of primary concern to Labour is the writing into law of the investment approach in the principles. This is further fortified by the high number of submissions that also raised concerns about this.

The increased ability for the Government to make and amend regulations as proposed in this bill is disconcerting as it considerably reduces the space for public accountability and scrutiny.

Labour also opposes the following changes that the bill proposes, and will seek to remove them:

- The emergency benefit has been changed to "exceptional circumstances benefit". This has also come with work obligations. Now work preparation, part-time or full-time obligations, and sanctions can be applied at the discretion of MSD. However, we feel that the application of obligations and sanctions are inappropriate as emergency or exceptional circumstances are by definition unexpected and urgent. Additionally, the primary demographic of this financial assistance are over 65 years old, and do not qualify for New Zealand Superannuation due to their residency status.
- Under the current Act, the redirection of benefit payments can occur without consent, but must have good cause. However, this bill removes the need for good cause. This raises significant concerns around the rights of beneficiaries. It also builds on the assumption that poor people need to have their money managed, and this should be done through force, rather than learning and more sustainable budgeting support.
- This bill allows both parents in split-custody care situations to be eligible for sole parent support, yet those in shared parenting arrangements cannot access this benefit. This provision could place parents under financial pressure to separate children as this would be financially advantageous to the family.

Given that this bill is not a neutral policy rewrite as was proposed and the Government has taken the opportunity to make significant changes, Labour will also be suggesting changes. The changes that Labour will be recommending have been guided by the submissions made and the evidence presented during the public submissions process. It has been disappointing that the Government has not taken the advice from submitters and instead ignored the evidence presented to push ahead with its agenda. The changes that Labour proposes are those that we believe foster a better, fairer welfare system. These are as follows:

- Removing the sanctioning of sole parents who do not identify the other parent of their child. Under the current Act, as well as in this bill, a sole parent benefi-

ciary who is unable/unwilling to identify the other parent of their child will have a $22–$28 sanction imposed per week. This policy is currently affecting 17.7 percent of working-age sole parent beneficiaries, and 17,000 children. This is a discriminatory law that fails to ensure child support, and instead negatively impacts children in hardship.

- Overhauling the principles of the Act. Overall there was strong discontent with the added investment approach-based principle in this bill. There were strong arguments from groups such as the Disabled Persons' Assembly around the very ethos of this principle. They felt the use of the word "dependency" carried "a sense of judgement and appears stigmatising". This can be particularly detrimental to those who may aspire to work but are physically or mentally unable to, either temporarily or permanently. Key stakeholders in the social sector, both in prior meetings and through written and oral submissions, have continually argued for the overhaul of all of the principles.
- Allowing a person who is unable to work on a temporary basis as certified by a medical practitioner to be eligible for the supported living payment. Figures released by MSD from December 2015 showed that 55,257 working-age individuals were receiving the job seeker support with a health condition or disability deferral. Of the total figures of individuals receiving job seeker support for this same period (122,927), 44.95 percent were considered unable to pursue full-time employment. Anecdotal evidence indicates that the job seeker benefit is an inappropriate means of financial support due to the accompanying administrative requirements and obligations.
- Changing the definition of suitable employment so it is in accordance with International Labour Organization (ILO) Convention 44.
- Enforcing a requirement that MSD must provide a breakdown of how a client has accumulated a debt.
- Ensuring individuals who are unemployed and who pursue employment-related training are able to access financial support.
- Removing hardened obligations for beneficiaries with additional children, which enforces a primary obligation to paid employment over caregiving.
- Initiating a requirement for there to be consistent and independent monitoring and evaluating of the implementation of this bill and all related legislation.
- Ensuring that all potential and current Work and Income clients are informed of all their entitlements.
- Ensuring communication methods are appropriate for all Work and Income clients.
- Simplifying benefit levels by removing the differing scale for those under 25 years old.

- Extending the exceptional circumstances benefit to also include civil emergencies. This would enable citizens to be better equipped and under less immediate financial pressure during and after a state of emergency.
- Providing definitions of education-related matters in the Act (core checks and registered schools), rather than leaving them to be determined in regulations.
- Increasing the abatement rate to promote the take-up of varied employment, including part-time and casual. This acknowledges that non-standard work can be an effective means of transitioning from unemployment into full employment, and prevents individuals being financially deterred from working.
- Acknowledging nurse practitioners as health providers consistently throughout the bill.

Green Party of Aotearoa New Zealand minority view

The Green Party will continue to oppose the Social Security Rewrite Bill. We support the intent of simplification and would have supported the legislation if this had been a purely policy-neutral rewrite. Our primary opposition is to the inclusion of a new guiding principle that promotes the identification and targeting of people at risk of long-term welfare dependency. This entrenches the problematic "investment approach" into legislation as well as the harmful concept of welfare dependency as an inherently negative thing. When the investment approach was first introduced, a number of prominent academics noted that the approach fails to understand that people who do receive the lasting support of benefits are more likely to find long-lasting employment than those who are only able to receive a benefit for a limited period of time.

We share the view of several submitters that the concept of welfare dependency undermines the concept of social security, missing the fundamental point that we are all interdependent on each other. The Disabled Persons' Assembly and other groups specifically said this concept increases the stigmatisation of people with disabilities. It positions people who wish to work as being dependent and a burden, and ignores the fact that they are frequently locked out of the job market by employers who are unwilling to adapt to their needs.

We also share concerns regarding the change in language within the legislation: it changes from unemployment to "work gap", and includes the phrase "parental support gap" for young people needing income support. These terms are not clear and reinforce an ideology that the Green Party does not share.

Following on from this, including the investment approach in the principles is particularly problematic; the approach is a heavily contested concept. Submissions have raised concerns that it involves assumptions of a lifetime out of work and involves profiling akin to criminal profiling. The submission from Child Poverty Action Group (CPAG) notes that the Productivity Commission has been critical of MSD's investment approach, saying it is not a cost benefit analysis and recommends that it should be further refined to better reflect the wider costs and benefits of interventions. They specifically note that a "slavish application of an investment approach based purely

on costs and benefits to Government might lead to perverse outcomes". CPAG also criticises the Government's "lifetime cost" of the beneficiary population, noting that the figure is based on flawed assumptions that the Government seems unwilling to release publicly. Other groups have also noted that the reasons for including the investment approach in the legislation seems to be to enable the Government to offer different services to different groups of people based on their profile. This is a problematic concept in relation to social security.

The bill formalises a new power to make regulations for benefit redirections without the beneficiary's consent. A mandatory redirection can leave families without enough to meet essential expenses and no individual discretion to meet those challenges. Given that benefits are often not enough to survive on as it is, we are concerned this will make things harder for those who are struggling. This is unacceptable.

There will also be changes to the emergency benefit, which will be renamed the exceptional circumstances benefit and will require work testing and open people up to sanctions. That is not appropriate, and this is a significant change in policy, as well as an extension of the Government's work-test regime.

The bill also introduces into legislation a requirement for people accessing the unsupported child's benefit to use it for the benefit of the child. This is justified in the regulatory impact statement by saying it is to empower Work and Income staff to discuss issues that fall below the threshold for Child, Youth and Family involvement with carers. This is an incredibly complex social work judgement. Work and Income staff are not trained to make that assessment and we do not believe it would be in the interests of any family to give them that role.

The Green Party also opposes the new policy that directs appeals from supported living payment carers to the Medical Appeal Board. Decisions made by the Medical Appeal Board are only appealable by judicial review and this is out of reach of most low-income New Zealanders.

While acknowledging the advice that the benefits of streamlining the primary legislation justifies more clauses being put in regulation, we remain uncomfortable with the balance and with the inclusion of substantive policies in regulations. However, we acknowledge the amendments to provide more direction in setting regulations.

We heard a significant number of submissions telling stories of very real hardship and humiliation, and we share the view of presenters that this could have been addressed through this legislation. Instead, these issues have been exacerbated. This rewrite has more clauses that create obligations than there are clauses that provide social security.

There have been many submissions trying to get rid of specific clauses that have been carried forward from the current legislation, namely the $22–$28 per week per child sanctions on women who do not name the father of their children. There is an exemption where this money will not be deducted if the mother cannot name the father for reasons of rape or violence. We have heard from advocates, lawyers, nuns, and unions—amongst others—saying this policy has not delivered its intended result, which is to make fathers financially responsible for their children. We have heard that this

has caused undue harm, and most women do not know, or are not told of the exemption, and if they do, they find it humiliating or re-traumatising having to retell (and retell, and retell) their story.

First Union raised concerns about the 13-week stand down when people have left a job or been fired for misconduct. They are spending hours every week advocating for members in this situation when the stand down has been inappropriately applied. Most New Zealanders do not have access to a union or anyone else to advocate for them in this situation, and it is clear the current policy needs clarification to prevent harm.

Furthermore, the Green Party acknowledges the ongoing grievance expressed by couples when one was born overseas or has access to an overseas pension. We also acknowledge the plight of individuals who have been in New Zealand for many years now, and are living in poverty as a result of inconsistencies in our superannuation policy.

Finally, we share the frustration that the Government has used this rewrite as an opportunity to entrench a punitive approach to social security, and did not take the opportunity to fix outstanding policies that are causing harm. We are also incredibly disappointed that the Government did not take the opportunity to include a new principle to give primary consideration to the welfare and best interests of children, as suggested by the Office of the Children's Commissioner.

Appendix

Committee process

The Social Security Legislation Rewrite Bill was referred to the committee on 10 May 2016. The closing date for submissions was 26 June 2016. We received and considered 121 submissions from interested groups and individuals. We formed subcommittees to hear some of the oral evidence, and oral evidence was heard from 52 submitters at hearings in Auckland and Wellington.

We received advice from the Ministry of Social Development.

We received advice from the Regulations Review Committee on the powers contained in clauses 410(e), 419(2)(a), and 510(a).

We considered the bill alongside the "Report of the Attorney-General under the New Zealand Bill of Rights Act 1990 on the Social Security Legislation Rewrite Bill". On 10 August 2016, we heard evidence from the Ministry of Justice on behalf of the Office of the Attorney-General.

Committee membership

Alfred Ngaro (Chairperson)

Darroch Ball

Matt Doocey

Hon Paul Goldsmith

Jan Logie

Jono Naylor

Dr Parmjeet Parmar

Maureen Pugh

Carmel Sepuloni

Phil Twyford

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Anne Tolley

Social Security Legislation Rewrite Bill

Government Bill

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Artificial Limb Service

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Schedule 16 464
Transitional, savings, and related provisions for Artificial Limb Service

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Social Security Legislation Rewrite Act **2016**.

2 Commencement

(1) This Act comes into force on **3 July 2017**.

(2) However, the following specified provisions come into force on **1 January 2017**:

- (a) **section 7** (directions):
- (b) **sections 85 to 88** (notices):
- (c) **section 351** (directions):
- (d) **section 359** (orders):
- (e) **sections 397 to 433** (regulations, directions, notices, and orders):
- (f) **sections 489, 506, and 510 to 512** (notices and regulations):
- (g) **clause 65 of Schedule 1** (regulations):
- (h) **clauses 15 and 17 of Schedule 3** (rules):
- (i) **clauses 10(3) and 18 of Schedule 6** (regulations and orders).

(3) A power that is conferred by those specified provisions, and that is exercised on or after **1 January 2017** and before **3 July 2017**, may be exercised only with effect on or after **3 July 2017**.

(4) If **subsections (2) and (3)** are to be, or have been, relied on to exercise a power,—

- (a) all other enactments relevant to the power's exercise, and that have not yet commenced, must be treated as if they had commenced; and
- (b) a legal position that would be conferred or imposed by an enactment relevant to the power's exercise, and that has not yet commenced, must be treated as if it has accrued or been imposed.

(5) This section does not affect the application of the Interpretation Act 1999 to this Act.

(6) However, the following specified provisions (which relate to 2016 youth services amendments) come into force on a date that is, or is after, **3 July 2017**, and is appointed by the Governor-General by Order in Council:

(a) **sections 150 and 153**:

(b) **clauses 66 to 70 of Schedule 1**.

(7) One or more orders may be made under **subsection (6)** bringing different provisions into force on different dates.

Compare: 1999 No 85 s 11

Part 1
General provisions

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3 Purpose of this Act

The purpose of this Act is—

(a) to enable the provision of financial and other support as appropriate—

(i) to help people to support themselves and their dependants while not in paid employment; and

(ii) to help people to find or retain paid employment; and

(iii) to help people for whom work is not currently appropriate—because of sickness, injury, disability, or caring responsibilities—to support themselves and their dependants:

(b) to enable in certain circumstances the provision of financial support to people to help alleviate hardship:

(c) to ensure that the financial support referred to in **paragraphs (a) and (b)** is provided to people taking into account—

(i) that, where appropriate, they should use the resources available to them before seeking financial support under this Act; and

(ii) any financial support that they are eligible for or already receive, otherwise than under this Act, from publicly funded sources:

(d) to provide services to encourage and help young people to move to or remain in education, training, and employment, rather than receiving financial support under this Act:

(e) to impose, on the following specified people or young people, the following specified requirements or obligations:

(i) on people seeking or receiving financial support under this Act, administrative and, where appropriate, work-related requirements; and

(ii) on young people who are seeking or receiving financial support under this Act, educational, budget management, and (where appropriate) parenting requirements; and

(iii) on people receiving certain financial support under this Act, obligations relating to the education and primary health care of their dependent children.

Compare: 1964 No 136 s 1A; 2007 No 20 s 23

4 Principles

Every person performing or exercising a duty, function, or power under this Act must have regard to the following general principles:

(a) work in paid employment offers the best opportunity for people to achieve social and economic well-being:

(b) the priority for people of working age should be to find and retain work:

(c) people for whom work may not currently be an appropriate outcome should be assisted to prepare for work in the future and develop employment-focused skills:

(d) people for whom work is not appropriate should be supported in accordance with this Act:

(e) to help achieve the best possible outcome for people at risk of long-term welfare dependency (as that risk is defined in **Schedule 2**), MSD may identify appropriate assistance, support, and services, under this Act, for those people.

Compare: 1964 No 136 s 1B; 2007 No 20 s 23

5 Guide to this Act

General provisions

(1) **Part 1** contains general provisions (for example, on definitions).

Assistance

(2) **Part 2** contains provisions on assistance, as follows:

Main assistance

(a) jobseeker support:

(b) sole parent support:

(c) supported living payment—

(i) on the ground of restricted work capacity or total blindness; or

(ii) on the ground of caring for another person:

(d) supported child's payment:

(e) youth payment:

(f) young parent payment:

(g) exceptional circumstances benefit:

Supplementary assistance

(h) accommodation supplement:

(i) childcare assistance:

(j) child disability allowance:

(k) disability allowance:

(l) funeral grants:

Hardship assistance

(m) temporary additional support:

Special assistance

(n) special assistance for visitors affected by overseas epidemics:

(o) approved special assistance programmes (*see* the guide in **section 15**).

Obligations

(3) **Part 3** contains provisions on obligations (for example, MSD's obligations, and each beneficiary's obligations—*see* the guide in **section 90**).

Factors affecting benefits

(4) **Part 4** contains provisions on factors affecting benefits (for example, insurance, entitlement to overseas pensions, failures to assist child support, shared care of a dependent child, hospitalisation, being in custody in prison or on remand, and absence from New Zealand—*see* the guide in **section 168**).

Enforcement, sanctions, and offences

(5) **Part 5** contains provisions on enforcement, sanctions, and offences (for example, sanctions for failing to meet obligations—*see* the guide in **section 214**).

Administration

(6) **Part 6** contains provisions on administration (for example, on applications for and granting of benefits, reviews of entitlement, when benefits commence and end or expire, how benefits are paid, tax on benefits, debts and deductions, notices and communications, and reciprocity agreements with other countries—*see* the guide in **section 277**).

Reviews and appeals

(7) **Part 7** contains provisions on reviews and appeals (reviews by benefits review committees and appeals to the appeal authority, to the courts, or to the medical board—*see* the guide in **section 369**).

Other provisions

(8) **Part 8** contains other provisions (for example, on powers to make regulations or orders, repeals and revocations, and consequential amendments—*see* the guide in **section 395**).

Definitions appear in dictionary

(9) **Schedule 2** lists all terms defined for purposes of this Act, and sets out, or indicates where to find, the definitions.

Act is generally former 1964 and 1990 Acts in rewritten form

(10) The provisions of this Act, as **section 9** indicates, are generally—

(a) the provisions of specified former 1964 and 1990 enactments in rewritten form; and

(b) intended to have the same effect as the corresponding provisions of those former enactments.

(11) **Subsection (10)** is overridden by **section 9(6)** (which relates to identified changes in legislation that are specified in **Schedule 11**, and to amendments to this Act that are made after the beginning of **3 July 2017**).

6 Definitions are in dictionary in Schedule 2

The dictionary in **Schedule 2** defines terms used in this Act.

Compare: 1964 No 136 ss 3(1), (5), 10B(5), 11(8), 11G(1), 11H(1), 20A, 39A(1), 60H(1), 60RAB(1) and (4), 61D(1), 61E, 68A(8), 80B, 88A, 126A(1), 157; 2007 No 97 s AA 3, Part Y

7 Minister may give MSD binding directions

(1) The Minister may give MSD general or special written directions about MSD's performing or exercising any duties, functions, or powers of MSD under enactments in, or made under, either or both of this Act and the New Zealand Superannuation and Retirement Income Act 2001.

(2) Directions given under this section cannot do what is done by the following kinds of directions:

(a) preferred suppliers: transitional or savings provisions directions given under **section 351**:

(b) debt recovery directions given under regulations made under **section 423** (*see* **section 423(1), (2)(c), and (3)**).

(3) MSD must, in performing or exercising a duty, function, or power, comply with all relevant current directions given under this section.

(4) A direction given under this section—

(a) must, as soon as practicable after it is given, be—

(i) published on an Internet site administered by or on behalf of MSD; and

(ii) notified in the *Gazette*; and

(b) must, each time it is amended without also being replaced, as soon as practicable after it is amended, be published—

(i) on an Internet site administered by or on behalf of MSD; and

(ii) as at a stated date; and

(iii) incorporating amendments up to that date; and

(c) is not a legislative instrument, but is a disallowable instrument, for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives not only—

(i) as soon as practicable; but also

(ii) under section 41 of that Act.

(5) A notification in the *Gazette* for the purpose of **subsection (4)(a)(ii)** does not have to include the text of the direction.

Compare: 1964 No 136 s 5

8 Determinations person is single or in de facto relationship

(1) This section applies to a decision by MSD so far as the decision does all or any the following:

(a) determines (that is, grants, or refuses to grant, on any basis) an application for a benefit:

(b) reviews (and suspends, cancels, or varies, from a date determined by MSD) a benefit already granted:

(c) determines the rate of benefit (from a date, or dates, determined by MSD):

(d) grants, or refuses to grant, on any basis, a payment of a funeral grant (*see* **section 80** and regulations made under **section 406**):

(e) grants or refuses to grant, on any basis, a payment under an approved special assistance programme.

(2) MSD may make a determination to regard as single, for the purposes of the decision, an applicant or a beneficiary who is married or in a civil union with the applicant's or beneficiary's spouse or partner, but—

(a) is living apart from the applicant's or beneficiary's spouse or partner; and

(b) is not in a de facto relationship.

(3) A determination under **subsection (2)** may include a date, determined by MSD, on which the spouses or partners must be taken for the purposes of the decision to have commenced to live apart.

(4) MSD may make a determination to regard as a party to a de facto relationship, for the purposes of the decision, any 2 people who, not being legally married or in a civil union, have entered into a de facto relationship.

(5) A determination under **subsection (4)**, for the purposes of the decision, may include either or both of the following dates:

(a) a date, determined by MSD, on which the 2 people must be taken as having entered into the de facto relationship:

(b) a date, determined by MSD, on which the de facto relationship of the 2 people must be taken to have ended.

(6) Every determination under this section also applies for the purposes of every debt-recovery or offence provision in or under this Act.

Compare: 1964 No 136 s 63

9 Interpretation: references to old law, and using it as a guide

(1) A reference in an enactment or a document to the following former enactments or to a provision of them, is to be interpreted as a reference to this Act, or to the corresponding provision of this Act, to the extent necessary to reflect sensibly the intent of the enactment or document:

(a) the Social Security Act 1964 (except sections 69FA and 132D, Part 4, and Schedules 27 and 30, which are provisions rewritten and replaced by **Part 9 and Schedules 13 to 15 of the Social Security Legislation Rewrite Act 2016**):

(b) the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 (except Part 3 and Schedule 3, which are provisions rewritten and replaced by **Part 10 and Schedule 16 of the Social Security Legislation Rewrite Act 2016**).

(2) **Subsection (1)** is subject to the consequential amendments in **Schedule 10**.

(3) The provisions of this Act—

(a) are the provisions of those former enactments in rewritten form; and

(b) are intended to have the same effect as the corresponding provisions of those former enactments.

(4) **Subsection (3)** is subject to **subsections (5) and (6) and section 11**.

~~(5) If the meaning of a provision of this Act that comes into force on **3 July 2017** (the **new law**) is unclear or gives rise to absurdity,~~

~~(a) the wording of a law that is repealed by **section 434 or 435** and that corresponds to the new law (the **old law**) must be used to determine the correct meaning of the new law; and~~

~~(b) it can be assumed that a corresponding old law provision exists for each new law provision.~~

(5) If the meaning of a provision of this Act that comes into force under **section 2** (the **new law**) is unclear or gives rise to absurdity, the wording of a law that is repealed by **section 434 or 435** and that corresponds to the new law (the **old law**) must be used to ascertain the meaning of the new law.

(6) **Subsections (3) to (5)** do not apply—

(a) to a new law listed in **Schedule 11** (identified changes in legislation); or

(b) if a new law is affected by an amendment made after the ~~beginning of **3 July 2017**~~new law's commencement under **section 2**, to that new law after the amendment commences.

Compare: 2007 No 97 s ZA 3(2), (3), (4), (5)

10 Comparative tables of old and new provisions

(1) **Schedule 12** (comparative tables of old and rewritten provisions) sets out corresponding provisions in the following former enactments and this Act as at the beginning of **3 July 2017**:

(a) the Social Security Act 1964 (except sections 69FA and 132D, Part 4, and Schedules 27 and 30, which are provisions rewritten and replaced by **Part 9 and Schedules 13 to 15 of the Social Security Legislation Rewrite Act 2016**):

(b) the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 (except Part 3 and Schedule 3, which are provisions rewritten and replaced by **Part 10 and Schedule 16 of the Social Security Legislation Rewrite Act 2016**).

(2) **Schedule 12** has the following 3 parts:

(a) **Part A** lists each provision in the Social Security Act 1964 and—

(i) indicates the corresponding provision in this Act or **Part 9**; or

(ii) states that the provision has been omitted:

(b) **Part B** lists each provision the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 and—

(i) indicates the corresponding provision in this Act or **Part 10**; or

(ii) states that the provision has been omitted:

(c) **Part C** lists each provision in this Act and the corresponding provision in those former enactments, or states that the provision is new.

(3) **Schedule 12**—

(a) is provided to assist readers to identify corresponding provisions; but

(b) must not be interpreted as a definitive guide to the correspondence of provisions.

Compare: 2007 No 97 s ZA 6

11 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

Compare: 1964 No 136 s 3C, Schedule 32

12 Act binds the Crown

This Act binds the Crown.

13 Status of guides or outlines

All guides or outlines in this Act are by way of explanation only. They do not affect the provisions specified in them.

14 Status of examples

(1) An example used in an enactment in or made under this Act is only illustrative of the provisions to which it relates. It does not limit those provisions.

(2) If an example and a provision to which it relates are inconsistent, the provision prevails.

Compare: 1964 No 136 s 3B

Part 2
Assistance

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Subpart 1—Introduction

15 What this Part does

This Part—

(a) sets out the various types of assistance through which MSD provides people with financial support; and

(b) specifies the requirements for each type of assistance.

16 Residential requirement

(1) This section sets out the residential requirement that must be met by applicants for certain types of assistance under this Part.

(2) A person (**P**) meets the **residential requirement** if—

(a) P is a New Zealand citizen or holds a residence class visa under the Immigration Act 2009, and is ordinarily resident in New Zealand when P first applies for the benefit, and—

(i) has resided continuously in New Zealand for a period of at least 2 years at any one time after becoming a citizen or resident; or

(ii) is recognised as a refugee or a protected person in New Zealand under the Immigration Act 2009; or

(b) P is ordinarily resident in a country with which New Zealand has a reciprocity agreement, and P has resided continuously in New Zealand for a period of at least 2 years before applying for the benefit or before a decision on P's claim for the benefit is made.

(3) For the purposes of **subsection (2)(b)**, New Zealand has a reciprocity agreement with another country if there is in force under **section 359** an order declaring that the provisions contained in an agreement or a convention signed by New Zealand and the Government of that country set out in a schedule of the order have force and effect so far as they relate to New Zealand.

(4) This section does not limit **section 188** (MSD may refuse or cancel benefit if person not ordinarily resident in New Zealand), and is subject to **section 189** (refugee or protected person status).

(5) This section is also subject to any regulations made under **section 400** that specify circumstances in which a person—

(a) is taken to meet the residential requirement; or

(b) must be treated, for the purposes of satisfying the residential requirement, as being resident and present in New Zealand; or

(c) must not be required to comply with the residential requirement.

Compare: 1964 No 136 ss 74AA

17 Rates

(1) Assistance granted under **this Part** must be paid at the appropriate rate specified in **Schedule 4**.

(2) **Subsection (1)** does not apply to the following assistance granted under **this Part**:

(a) an exceptional circumstances benefit under **section 59**:

(b) childcare assistance under **section 67**:

(c) funeral grants (*see* **section 80**):

(d) temporary additional support under **section 82**:

(e) special assistance under **subpart 15**.

(3) **Subsection (1)** is subject to the provisions of this Act that provide for the reduction, suspension, or cancellation of assistance in certain circumstances.

Compare: 1964 No 136 ss 20G, 29A, 39B, 40I, 61(2), 61CB, 61EC, 61G(3), 61GA(3), 69C, 88M, 163, 169

18 General limitation on receiving more than 1 benefit

A person is not entitled to receive at the same time, in his or her own right,—

(a) more than 1 main benefit under this Act; or

(b) a main benefit under this Act and New Zealand superannuation; or

(c) a main benefit under this Act and a veteran's pension.

Compare: 1964 No 136 s 72(a)

19 General limitation on receiving benefit: persons unlawfully resident or present in New Zealand and persons holding temporary entry class visa

(1) A person is not entitled or eligible to receive a benefit if the person is—

(a) unlawfully resident or present in New Zealand; or

(b) lawfully resident or present in New Zealand but only by virtue of holding a temporary entry class visa.

(2) This section is subject to **section 189**.

Compare: 1964 No 136 s 74A(1)

Subpart 2—Jobseeker support

20 Jobseeker support: requirements

A person is entitled to jobseeker support if the person—

(a) has a work gap; and

(b) is ~~ready to~~ available for work; and

(c) meets the age requirement; and

(d) meets the residential requirement; and

(e) has no or minimum income.

Compare: 1964 No 136 s 88B(1), (2), (3), (4)

21 What is work gap

(1) A person (**P**) has a **work gap** if—

(a) P is not in full-time employment; or

(b) P is in employment but is losing earnings through a health condition or injury (for example, is not working at all or is working reduced hours).

(2) For the purposes of **subsection (1)(b)**, P may treat as a loss of P's earnings a payment made to any other person who acts as P's substitute during the period of P's health condition or injury.

(3) Despite **subsection (1)(a)**, P still has a work gap if—

(a) P is receiving jobseeker support at the rate in **item 1(c), (e), or (f) of Part 1 of Schedule 4**; and

(b) during a temporary period, P engages in full-time employment; and

(c) the income from that employment and P's other income (if any) when calculated over a 52-week period is less than the amount that would, under the ~~applicable~~ appropriate income test, ~~fully offset that assistance~~reduce the applicable rate of jobseeker support to zero.

Compare: 1964 No 136 s 88B(1), (6), (7)

22 When person is ~~ready to~~ available for work

A person (**P**) is ~~**ready to**~~ **available for work** if P—

(a) is available for and seeking full-time employment and—

~~(i) is available for it; and~~

(ii) is willing and able to undertake it; and

(iii) has taken reasonable steps to find it; or

~~(b) would satisfy **paragraph (a)** were it not for circumstances that would qualify P for—~~

~~(i) an exemption under the regulations referred to in **section 143** from some or all of the work-test obligations; or~~

~~(ii) a deferral of work-test obligations under the regulations referred to in **section 141**; or~~

(b) would satisfy **paragraph (a)** were it not for circumstances that would qualify P for an exemption under the regulations referred to in **section 143** from some or all of the work-test obligations; or

(c) is willing and able to undertake full-time employment but, because of a health condition, injury, or disability, is limited in P's capacity to seek, undertake, or be available for it.

Compare: 1964 No 136 s 88B(1)

23 Jobseeker support: age requirement

An applicant for jobseeker support meets the **age requirement** if the applicant is—

(a) at least 18 years old, in the case of an applicant without a dependent child:

(b) at least 20 years old, in any other case.

Compare: 1964 No 136 s 88B(2)

24 Jobseeker support: no or minimum income

(1) In this subpart, a person (**P**) has **no or minimum income** if P has—

(a) no income; or

(b) income of less than the amount that would ~~fully offset~~ reduce the applicable rate of jobseeker support to zero.

(2) If, during a temporary period, P has enough income to ~~fully offset~~ reduce the applicable rate of jobseeker support to zero, but P otherwise meets the requirements for jobseeker support, P's entitlement to jobseeker support is not affected by that income.

Compare: 1964 No 136 s 88B(4), (5)

25 Jobseeker support: discretionary grant on ground of hardship

(1) MSD may grant jobseeker support to a person (**P**) who is eligible under **subsection (2)**, **(3)**, or **(4)** if P—

(a) is in hardship; and

(b) is not entitled or eligible to receive any other main benefit under this Act or New Zealand superannuation or a veteran's pension; and

(c) is unable to earn enough income to support P and P's spouse or partner (if any) and dependent children (if any).

(2) P is eligible under this subsection if P meets the requirements in **section 20(a), (b), and (c)**.

(3) P is eligible under this subsection, during the period between the end of one academic year and the start of the next, if P is a full-time student and meets the requirements in **section 20(c) and (d)**.

(4) P is eligible under this subsection, during the period between the end of one academic year and the start of the next, if P is a full-time student who is aged 16 or 17 years and MSD is satisfied that—

(a) P has a parental support gap (as defined in **section 48(1)(a), (b), or (c)**, but not as defined in **section 48(1)(d)**); or

(b) P is in a relationship.

Compare: 1964 No 136 s 88C

26 Jobseeker support: ineligibility

A person (**P**) is not entitled to, or eligible to be granted, jobseeker support if—

(a) P is a full-time student (unless P is eligible under **section 25** ~~or P's work test obligations are deferred under the regulations referred to in **section 141** or P is granted an exemption from some or all of P's obligations under the regulations referred to in **section 143**~~); or

(b) P is unemployed because of P's participation, or participation by fellow members of the same union at the same place of employment, in a strike; or

(c) MSD reasonably believes that P became unemployed or took leave with or without pay from P's employment for the purpose of undertaking employment-related training.

Compare: 1964 No 136 s 88D

27 Jobseeker support: on ground of health condition, injury, or disability: application must include certificate

(1) An applicant (**A**) for jobseeker support on the ground of health condition, injury, or disability must include in the application a certificate that complies with this section.

~~(2) The certificate must be given—~~

~~(a) by a medical practitioner in respect of any condition; or~~

~~(b) by a dentist, midwife or prescribed health practitioner in respect of a condition that is within that person's scope of practice.~~

(2) The certificate must be given by a prescribed health practitioner.

(3) The certificate must—

(a) certify that A's capacity for work is affected by health condition, injury, or disability; and

(b) indicate the nature of the health condition, injury, or disability, the extent to which A's capacity for work is affected by it, and the length of time that effect is likely to last; and

(c) contain any other information that MSD may require.

Compare: 1964 No 136 s 88E(1)–(3)

28 Jobseeker support: on ground of health condition, injury, or disability: medical examination

(1) MSD may at any time require an applicant for, or a person receiving, jobseeker support on the ground of health condition, injury or disability (**P**) to undergo an examination by a ~~medical practitioner or psychologist~~prescribed health practitioner.

(2) The ~~medical practitioner or psychologist~~ prescribed health practitioner must be agreed for the purpose between P and MSD or, failing agreement, must be nominated by MSD.

(3) The ~~medical practitioner or psychologist~~ prescribed health practitioner must prepare, and must send MSD a copy of, a report that indicates—

(a) whether P's capacity for work is affected by health condition, injury, or disability; and

(b) the extent to which that capacity is so affected; and

(c) how long that capacity is likely to continue to be affected.

Compare: 1964 No 136 s 88E(4), (5)

Subpart 3—Sole parent support

29 Sole parent support: requirements

A person is entitled to sole parent support if the person—

(a) meets the sole parent requirement; and

(b) meets the residential requirement; and

(c) is aged 20 years or over.

Compare: 1964 No 136 s 20D

30 What is sole parent requirement

(1) A person (**P**) meets the sole parent requirement if P is the mother or father of, and caring for, at least 1 dependent child aged under 14 years and—

(a) P is single; or

(b) P's spouse or partner has died; or

(c) P's marriage or civil union has been dissolved; or

(d) P is living apart from, and has lost the support of or is being inadequately maintained by, P's spouse or partner; or

(e) P has lost the regular support of P's spouse or partner because that spouse or partner—

(i) is subject to a sentence of imprisonment and is serving the sentence in a prison or is subject to release conditions that prevent that spouse or partner from undertaking employment; or

(ii) is subject to a sentence of supervision, intensive supervision, or home detention and is subject to conditions (including post-detention conditions of a sentence of home detention) that prevent that spouse or partner from undertaking employment.

(2) An additional dependent child aged 1 year or over is not a dependent child for the purposes of P's eligibility for sole parent support (*see* **section 205(2)**).

Compare: 1964 No 136 s 20A

31 When dependent child may be regarded as applicant's child

For the purposes of this subpart, MSD may regard a dependent child as being a child of an applicant (**A**), and A as being the mother or father of the child, if—

(a) the child is being maintained by A and was at any time maintained by A's spouse or partner; or

(b) a supported child's payment is payable in respect of the child; or

(c) the child's parents are unwilling to support the child because of circumstances MSD considers exceptional.

Compare: 1964 No 136 s 20B

32 Expiry of sole parent support, and replacement with jobseeker support, when youngest dependent child turns 14 years old

(1) This section applies to a person (**P**) who is receiving sole parent support.

(2) On the date that the youngest dependent child in P's care turns 14, P's sole parent support expires and is replaced with jobseeker support that commences on that date and is taken to be granted to P as if P had applied for it.

(3) However, if MSD reasonably believes that on that date P would not meet the conditions of entitlement to jobseeker support,—

(a) P's sole parent support expires but is not replaced under **subsection (2)** by jobseeker support; and

(b) MSD must instead invite P to apply for jobseeker support.

(4) Obligations or exemptions that apply to P immediately before the expiry of P's sole parent support continue after that expiry in respect of the jobseeker support to which P is transferred under **subsection (2)** if those obligations or exemptions are any of the following:

(a) the obligation to work with contracted service providers:

(b) work-preparation obligations:

(c) social obligations of certain assistance recipients with dependent children:

(d) the obligation to undergo a work ability assessment:

(e) work-test obligations:

(f) an exemption from work-test obligations or from obligations to prepare for employment (other than any exemption that, under regulations made under **section 410**, is not available to a person receiving jobseeker support).

(5) This section does not preclude a review under **subpart 3 of Part 6** (review of entitlement to, or rate of, benefit granted) of whether P satisfies the conditions of entitlement to jobseeker support.

Compare: 1964 No 136 s 20H

Subpart 4—Supported living payment

Supported living payment on ground of restricted work capacity or total blindness

33 Supported living payment: on ground of restricted work capacity or total blindness: requirements

A person is entitled to the supported living payment if the person—

(a) has restricted work capacity or is totally blind; and

(b) meets the residential requirement; and

(c) is aged 16 years or over.

Compare: 1964 No 136 s 40B(1)–(1B)

34 When person has restricted work capacity

(1) A person (**P**) has restricted work capacity if P is permanently and severely restricted in P's capacity for work because of a health condition, or because of injury or disability arising (in either case) from an accident or existing from birth.

(2) P is permanently restricted in P's capacity for work if MSD is satisfied that—

(a) the restricting health condition, injury, or disability is expected to continue for at the least the period set out in regulations made under **section 397(1)(a)**; or

(b) P is not expected to live for that period because P's condition is terminal.

(3) P is severely restricted in P's capacity for work if MSD is satisfied that P is incapable of regularly working at least 15 hours a week in open employment.

Compare: 1964 No 136 s 40B(1), (2), (3)

35 Supported living payment: on ground of restricted work capacity or total blindness: ineligibility

A person (**P**) must not be granted a supported living payment if MSD is satisfied that P's restricted capacity for work or total blindness was self-inflicted and brought about by P with a view to qualifying for a benefit.

Compare: 1964 No 136 s 40B(5)

36 Supported living payment: on ground of restricted work capacity or total blindness: medical examination

(1) The section applies to a person (**P**) who is an applicant for, or who is receiving, a supported living payment on the ground of restricted work capacity or total blindness.

(2) MSD may at any time require P to undergo an examination by a ~~medical practitioner or psychologist~~prescribed health practitioner.

(3) The ~~medical practitioner or psychologist~~ prescribed health practitioner must be agreed for the purpose between P and MSD or, failing agreement, must be nominated by MSD.

(4) The ~~medical practitioner or psychologist~~ prescribed health practitioner must prepare, and must send MSD a copy of, a report that indicates—

(a) whether P is (or whether there is doubt about whether P is)—

(i) permanently and severely restricted in P's capacity for work; or

(ii) totally blind; and

(b) the grounds on which the opinion given in **paragraph (a)** is based.

(5) The report must, in the case of doubt referred to in **subsection (4)(a)**, and may, in any other case, indicate a date for review of the permanency or severity, or both, of P's health condition, injury, or disability.

Compare: 1964 No 136 s 40C

37 Supported living payment: on ground of restricted work capacity or total blindness: payment not apportioned in specified cases

(1) This section applies to a person (**P**) who is in a relationship and who—

(a) is receiving long-term residential care in a hospital or rest home because P has a disability; and

(b) has not been means assessed under **subpart 6 of Part 9 of the Social Security Legislation Rewrite Act 2016**.

(2) A supported living payment payable to P is not apportioned and must be paid at half of the appropriate rate in **Part 3 of Schedule 4**.

(3) A supported living payment payable to P's spouse or partner (**S**) (if S is not receiving long-term residential care in a hospital or rest home) is not apportioned and must be paid at the rate in **Part 3 of Schedule 4** that would be appropriate if S were entitled to a supported living payment in S's own right and were single.

Compare: 1964 No 136 s 40I(3)–(5)

38 Supported living payment: on ground of restricted work capacity: encouraging open employment

(1) The purpose of this section is to encourage specified recipients of a supported living payment to undertake open employment in order to establish whether they can sustain that employment and cease receiving that benefit.

(2) This section applies to a person (**P**) who—

(a) is receiving a supported living payment granted on the ground of permanent and severe restriction of capacity for work; but

(b) is with MSD's agreement undertaking open employment for a period agreed with MSD in order to establish whether P can sustain open employment.

(3) The period of open employment agreed with MSD must not exceed 26 weeks (even if that employment is, or is expected to be, for a period that is longer than the agreed period).

(4) P does not lose P's entitlement to a supported living payment by reason only of working 15 or more hours a week in open employment during the agreed period.

Compare: 1964 No 136 s 40K

Supported living payment on ground of caring for another person

39 Supported living payment: on ground of caring for another person: requirements

(1) A person (**C**) is entitled to the supported living payment if—

(a) MSD is satisfied that C is required to give full-time care and attention at home to a person (**P**) who would otherwise have to receive institutional care (and who is not C's spouse or partner); and

(b) C meets the residential requirement; and

(c) C is aged—

(i) at least 18 years, in the case of an applicant without a dependent child; or

(ii) at least 20 years, in any other case.

(2) MSD may continue a payment granted under this section for a period of not more than 28 days even though P was not during that period in the full-time care of C.

(3) In this subpart, **institutional care** means care that is, or is equivalent to,—

(a) hospital care, rest home care, or residential disability care, as defined in section 4(1) of the Health and Disability Services (Safety) Act 2001; or

(b) care of the kind referred to in section 141 of the Children, Young Persons, and their Families Act 1989 (which relates to care of severely disabled children and young persons).

Compare: 1964 No 136 s 40D

40 Supported living payment: on ground of caring for another person: application must include certificate

(1) A person (**C**) who applies for a supported living payment on the ground of caring for another person (**P**) must include in the application a certificate that complies with this section.

(2) The certificate must be given by a ~~medical practitioner~~ prescribed health practitioner and must certify—

(a) that P requires C's full-time care and attention; and

(b) that, were it not for that care and attention, P would have to receive institutional care.

Compare: 1964 No 136 s 40E(1)

41 Supported living payment: on ground of caring for another person: medical examination

(1) When considering an application for, or reviewing under **subpart 3 of Part 6**, a supported living payment on the ground of caring for another person, MSD may require that the person being cared for be examined by a ~~medical practitioner~~ prescribed health practitioner nominated for the purpose by MSD.

(2) A ~~medical practitioner~~ prescribed health practitioner nominated under **subsection (1)** must assess whether the person would, were it not for the applicant's full-time care and attention, have to receive institutional care.

Compare: 1964 No 136 s 40E(2)–(3)

Subpart 5—Supported child's payment

42 Supported child's payment: requirements

(1) This section applies if, because of all or any circumstances specified in **subsection (3)**, a child has no parent who is ~~willing and~~ able to—

(a) care for the child; or

(b) provide fully for the child's support.

(2) A person (**P**) is entitled to a supported child's payment for the child if—

(a) P is an eligible caregiver of the child; and

(b) either—

(i) the child is both resident and present in New Zealand; or

(ii) P has been both resident and present in New Zealand for a continuous period of 12 months at any time.

(3) The circumstances are all or any of the following:

(a) each of the child's parents—

(i) is dead; or

(ii) is missing; or

(iii) has a long-term serious disablement:

(b) there has been a breakdown in the child's family.

Compare: 1964 No 136 ss 28, 29

43 Who is eligible caregiver

A person (**P**) is an eligible caregiver if P is—

(a) aged 18 years or over; and

(b) not a parent of the child; and

(c) likely to be the principal caregiver of the child for at least 1 year from the date of application for the supported child's payment.

Compare: 1964 No 136 ss 28, 29

44 Supported child's payment to be used for benefit of child

(1) The purpose of the supported child's payment is to provide weekly financial support for the cost of caring for a child who is not the caregiver's own.

(2) A caregiver who is granted a supported child's payment must use the payment for the benefit of the child in respect of whom it was granted, including the child's maintenance and education.

Compare: 1964 No 136 s 31

Subpart 6—Youth payment

45 Youth payment: requirements

A person (**P**) is entitled to a youth payment if—

(a) P is aged 16 or 17 years; and

(b) P is study ready; and

(c) P has no dependent children; and

(d) P meets the residential requirement; and

(e) P has no or minimum income; and

(f) either—

(i) P has never been in a relationship and has a parental support gap; or

(ii) P is or has been in a relationship, but is not currently in a relationship with a specified beneficiary.

Compare: 1964 No 136 ss 158, 159(1), 160

46 When person is study ready

In this subpart, a person is **study ready** if the person—

(a) is undertaking or is available for full-time education or training leading to—

(i) NCEA level 2; or

(ii) an equivalent (in MSD's opinion) or higher qualification; or

(b) would be available for full-time education or training were it not for circumstances that would qualify the person for an exemption under the regulations referred to in **section 143** from the obligation to undertake education or training.

Compare: 1964 No 136 s 158(2)(c)

47 Youth payment: no or minimum income

(1) In this subpart, a person (**P**) has **no or minimum income** if P has—

(a) no income; or

(b) income of less than the amount that would reduce the applicable rate of youth payment to zero.

(2) If, during a temporary period, P has enough income to reduce the applicable rate of youth payment to zero, but P otherwise meets the requirements for a youth payment, P's entitlement to a youth payment is not affected by that income.

Compare: 1964 No 136 s 158(2)(e), (3)

48 When person has parental support gap

(1) In this subpart, a person (**P**) has a **parental support gap** if—

(a) none of P's parents (and guardians (if any)) is able to support P financially; or

(b) P's relationship with P's parents (and guardians (if any)) has broken down, and none of them is prepared to support P financially; or

(c) P was, but is no longer, subject to a CYPFA order or agreement; or

(d) MSD is satisfied that P cannot reasonably be expected to be financially dependent on P's parents or any other person.

(2) However, P does not have a parental support gap if—

(a) P has the option of living with a parent or guardian but chooses not to; and

(b) MSD is not satisfied that there are good and sufficient reasons for P's choice.

Compare: 1964 No 136 s 159(2)

49 Youth payment: discretionary grant on ground of hardship

MSD may grant a youth payment to a young person (**P**) who meets all of the requirements in **section 45** except for the residential requirement if P—

(a) is in hardship; and

(b) is not entitled or eligible to receive any other main benefit under this Act or New Zealand superannuation or a veteran's pension; and

(c) is unable to earn enough income to support P and P's spouse or partner (if any).

Compare: 1964 No 136 s 161

50 Youth payment: continuation after turning 18 years old

(1) This section sets out the circumstances in which, despite **section 45(a)**, a youth payment granted to a person (**P**) continues (if P is otherwise entitled to it) after P turns 18.

(2) If a youth payment begins less than 6 months before P turns 18, the payment continues until the close of the day that is 6 months after it began.

(3) If P is continuing in a course of education or training or approved work-based learning when P turns 18, P's youth payment continues until,—

(a) if the course is a course of secondary education or if the course ends in December, the close of the following 31 March:

(b) in any other case, the close of the day that the course ends.

(4) While a youth payment continues under **subsection (2)**, P is not eligible to be granted—

(a) sole parent support; or

(b) an exceptional circumstances benefit; or

(c) jobseeker support; or

(d) supported living payment on ground of caring for another person.

Compare: 1964 No 136 s 162

51 Youth payment: incentive payments

(1) If a young person to whom a youth payment is payable meets the criteria prescribed for the purposes of this section by regulations made under **section 397(1)(b)**, the person is also entitled to be paid the appropriate incentive payment stated in **subpart 3 of Part 5 of Schedule 4**.

(2) The entitlement in **subsection (1)** is subject to **sections 269 and 270**.

Compare: 1964 No 136 s 163(2), (3)

Subpart 7—Young parent payment

52 Young parent payment: requirements

(1) A person (**P**) is entitled to a young parent payment if—

(a) P is a parent or step-parent of at least 1 dependent child; and

(b) P is study ready; and

(c) P meets the residential requirement; and

(d) P has no or minimum income; and

(e) P falls into 1 of the following categories:

(i) P is aged 16 or 17 years, has never been in a relationship, and has a parental support gap:

(ii) P is aged 18 or 19 years and has never been in a relationship:

(iii) P is aged 16 to 19 years and is or has been in a relationship, but is not currently in a relationship with a specified beneficiary.

(2) For the purposes of **subsection (1)(a)**, a dependent child of a young person's spouse or partner must also be treated as a dependent child of the young person.

Compare: 1964 No 136 ss 164, 165(2), 166

53 When person is study ready

In this subpart, a person is **study ready** if the person—

(a) is undertaking or is available for full-time education or training leading to—

(i) NCEA level 2; or

(ii) an equivalent (in MSD's opinion) or higher qualification; or

(b) would be available for full-time education or training were it not for circumstances—

(i) under which the obligation to undertake education or training does not, under **section 148**, for the time being apply to the young person; or

(ii) that would qualify the person for an exemption under the regulations referred to in **section 143** from the obligation to undertake education or training.

Compare: 1964 No 136 s 164(2)(c)

54 Young parent payment: no or minimum income

(1) In this subpart, a person (**P**) has **no or minimum income** if P has—

(a) no income; or

(b) income of less than the amount that would ~~fully offset~~ reduce the applicable rate of young parent payment to zero.

(2) If, during a brief period, P has enough income to ~~fully offset~~ reduce the applicable rate of young parent payment to zero, but P otherwise meets the requirements for a young parent payment, P's entitlement to a young parent payment is not affected by that income.

Compare: 1964 No 136 s 164(2)(e), (3)

55 When person has parental support gap

In this subpart, a person (**P**) has a **parental support gap** if—

(a) P is not living with a parent or guardian and—

(i) none of P's parents (and guardians (if any)) is able to support P financially; or

(ii) P's relationship with P's parents (and guardians (if any)) has broken down and none of them is prepared to support P financially; or

(iii) P was, but is no longer, subject to a CYPFA order or agreement; or

(iv) MSD is satisfied that P cannot reasonably be expected to be financially dependent on P's parents or any other person; or

(b) P is living with or being financially supported by a parent or guardian (**F**) and the family scheme income (within the meaning of the Income Tax Act 2007) of F and the spouse or partner of F is less than the amount that would, under sections MD 1 and MD 13 of that Act, ~~fully offset~~ reduce the amount of F's family tax credit entitlement under that Act to zero.

Compare: 1964 No 136 s 165(2), (3)

56 Young parent payment: discretionary grant on ground of hardship

MSD may grant a young parent payment to a young person (**P**) who meets all of the requirements in **section 52** except for the residential requirement if P—

(a) is in hardship; and

(b) is not entitled or eligible to receive any other main benefit under this Act or New Zealand superannuation or a veteran's pension; and

(c) is unable to earn enough income to support P and P's spouse or partner (if any) and dependent children.

Compare: 1964 No 136 s 167

57 Young parent payment: continuation after turning 20 years old

(1) This section sets out the circumstances in which, despite **section 52(1)(e)**, a young parent payment granted to a person (**P**) continues (if P is otherwise entitled to it) after P turns 20.

(2) If a young parent payment begins less than 6 months before P turns 20, the payment continues until the close of the day that is 6 months after it began.

(3) If P is continuing in a course of education or training or work-based learning when P turns 20, P's young parent payment continues until,—

(a) if the course is a course of secondary education or if the course ends in December, the close of the following 31 March:

(b) in any other case, the close of the day that the course ends.

(4) While a young parent payment continues under **subsection (2)**, P is not eligible to be granted—

(a) sole parent support; or

(b) an exceptional circumstances benefit; or

(c) jobseeker support; or

(d) a supported living payment on ground of caring for another person.

Compare: 1964 No 136 s 168

58 Young parent payment: incentive payments

(1) If a young person to whom a young parent payment is payable meets the criteria prescribed for the purposes of this section by regulations made under **section 397(1)(c)**, the person is also entitled to be paid the appropriate incentive payment stated in **subpart 3 of Part 5 of Schedule 4**.

(2) The entitlement in **subsection (1)** is subject to **sections 269 and 270**.

Compare: 1964 No 136 s 169(2), (3)

Subpart 8—Exceptional circumstances benefit

59 Exceptional circumstances benefit: discretionary grant on ground of hardship

(1) MSD may grant an exceptional circumstances benefit on the ground of hardship to a person (**P**)—

(a) who is unable to earn enough income for P or P's dependants (if any); and

(b) who is not entitled to a main benefit under this Act or to New Zealand superannuation or a veteran's pension; and

(c) to whom MSD has determined not to grant 1 of the following benefits on ground of hardship: jobseeker support, youth payment, or young parent payment.

(2) Despite **subsection (1)(b)**, MSD may grant an exceptional circumstances benefit to a person (**P**) who is entitled to a main benefit under this Act instead of or in substitution for a supported living payment, sole parent support, or jobseeker support.

(3) The rate of an exceptional circumstances benefit is at the discretion of MSD.

(4) However, the rate of an exceptional circumstances benefit must not exceed the rate of the **equivalent benefit**, that is, the main benefit under this Act that MSD would grant to a person entitled to the benefit in circumstances similar to P's.

(5) MSD may, on a case by case basis, do either or both of the following:

(a) make the grant of an exceptional circumstances benefit subject to any conditions imposed by MSD:

(b) impose on P the work-test or work-preparation obligations (and associated sanctions) attached to the equivalent benefit (if MSD is satisfied that P has the capacity to comply with those obligations).

Compare: 1964 No 136 s 61

60 Exceptional circumstances benefit: grant during epidemic in New Zealand

(1) This section applies while a domestic epidemic management notice is in force, and for any period after it expires that the Minister thinks reasonable.

(2) When this section applies, MSD may, with the written approval of the Minister, grant exceptional circumstances benefits to people who would not otherwise be entitled to be granted exceptional circumstances benefits.

(3) Payments made under a benefit granted under **subsection (2)** are subject to regulations made under **section 421(2)(e)**.

(4) This section ~~is subject to regulations made under **section 422**~~overrides every other provision of this Act.

Compare: 1964 No 136 s 61CC(1), (3)

Subpart 9—Accommodation supplement

61 Accommodation supplement: discretionary grant

MSD may grant a person (**P**), for the period that MSD determines, an accommodation supplement if—

(a) P has accommodation costs (as defined in regulations made under **section 402**, but *see also* **clause 18 of Schedule 3**); and

(b) P meets the assets requirement (as set out in regulations made under **section 402**); and

(c) P is not excluded on either of the following grounds:

(i) the social housing exclusion:

(ii) the other funding exclusion.

Compare: 1964 No 136 ss 61EA, 61EC(3)

62 Social housing exclusion

(1) A person is ineligible for an accommodation supplement (on the ground of the **social housing exclusion**) if the person's accommodation costs (as defined in regulations made under **section 402**) include—

(a) rent paid in respect of premises let by or on behalf of Housing New Zealand Corporation; or

(b) rent paid in respect of premises let by or on behalf of a registered community housing provider (but only if that person has been allocated those premises as social housing~~ and is currently paying income-related rent for those premises~~); or

(c) payments, required to be made under a mortgage security to Housing New Zealand Corporation or the Crown in right of Te Puni Kōkiri, that MSD believes are required to be made at a concessionary rate.

(2) In this section,—

~~**income-related rent** has the same meaning as in section 2 of the Housing Restructuring and Tenancy Matters Act 1992~~

registered community housing provider has the same meaning as in section 2 of the Housing Restructuring and Tenancy Matters Act 1992

social housing has the same meaning as in section 2 of the Housing Restructuring and Tenancy Matters Act 1992.

(3) In this section and **section 64**,—

premises, in relation to a person,—

(a) means the place that the person occupies as a home; and

(b) if the person is a boarder or lodger, includes a room, or other accommodation, that the person occupies as a home

tenant, in relation to rented premises, includes a person who pays rent, whether or not the person is a party to the tenancy agreement or lease of the premises.

Compare: 1964 No 136 ss 61E(1), 61EA(2)

63 Other funding exclusion

A person (**P**) is ineligible for an accommodation supplement (on the ground of the **other funding exclusion**) if—

(a) P is the spouse or partner of a person who is already receiving an accommodation supplement (except as provided in **section 64**); or

(b) P—

(i) is receiving a basic grant or an independent circumstances grant under the Student Allowances Regulations 1998 (or under other regulations made under section 303 of the Education Act 1989); or

(ii) would be eligible to receive one of those grants if P were to apply for the grant; or

(iii) would be eligible to receive one of those grants were it not for the level of income of P or of P's parent or parents or spouse or partner; or

(c) P is a resident assessed as requiring care in respect of whom a funder is paying some or all of the cost of contracted care services under **section 490, 491, 492, 493, or 494 of Part 9 of the Social Security Legislation Rewrite Act 2016**; or

(d) P has a psychiatric, intellectual, physical, or sensory disability, and—

(i) P's accommodation costs are wholly or partly funded under the New Zealand Public Health and Disability Act 2000; or

(ii) P's care (other than care in P's own home) is funded wholly or partly under that Act; or

(e) P is receiving New Zealand superannuation or a veteran's pension and the total income of P and P's spouse or partner (if any) is more than the applicable amount specified in **Part 2 of Schedule 5**.

Compare: 1964 No 136 s 61EA(3), (4)

64 Accommodation supplement: special rules for joint tenants who are in relationship

If premises are occupied by 2 or more joint tenants that include 1 or more couples who are in a relationship, then, for the purposes of determining the rate of an accommodation supplement,—

(a) each couple is treated as 1 joint tenant; and

(b) despite the definition of accommodation costs in regulations made under **section 402**, the accommodation costs of that 1 joint tenant are the total of the accommodation costs of both members of the couple; and

(c) the cash assets (as defined in regulations made under **section 402**) and income of that 1 joint tenant are the total of the cash assets and income respectively of both members of the couple.

Compare: 1964 No 136 s 61EB

65 Accommodation supplement: refusal, reduction, or cancellation of grant in certain circumstances

(1) If MSD is satisfied that an applicant for an accommodation supplement (**A**), or A's spouse or partner, has not realised any assets available for A's personal use, MSD may—

(a) refuse to grant an accommodation supplement; or

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

(c) cancel any accommodation supplement already granted.

(2) For the purposes of this section and the assets requirement in regulations made under **section 402**, the assets of A include the assets of A's spouse or partner, if any, except in the circumstances specified in **section 63(c)**.

(3) For the period of 12 months after A or A's spouse or partner receives a specified lump sum payment, **subsection (1)** does not apply to that specified lump sum payment.

(4) This section does not limit MSD's discretion to refuse to grant, to reduce the rate of, or to cancel an accommodation supplement in accordance with the other provisions of this Act.

(5) In this section, **specified lump sum payment** means—

(a) a payment of an impairment lump sum under Schedule 1 of the Accident Compensation Act 2001; or

(b) a lump sum payment of an independence allowance under Part 4 of Schedule 1 of the Accident Insurance Act 1998.

Compare: 1964 No 136 s 61EC(4), (4A), (5)

Subpart 10—Childcare assistance

66 Childcare assistance: purpose

The purpose of childcare assistance is to provide targeted financial assistance to help certain people meet the costs of childcare.

Compare: 1964 No 136 s 61GA(1)

67 Childcare assistance: eligibility

The principal caregiver of a dependent child is eligible for childcare assistance at the prescribed rate if that caregiver meets the criteria and other requirements set out in regulations made under **section 403**.

Compare: 1964 No 136 s 61GA(2)

Subpart 11—Child disability allowance

68 Child disability allowance: discretionary grant

(1) MSD may grant a child disability allowance for a child (**C**) if C—

(a) is a child with a serious disability; and

(b) is being cared for—

(i) in the home of C's principal caregiver; or

(ii) in approved weekly accommodation (and the child is cared for by C's parent or guardian during school holidays or weekends).

(2) In **subsection (1)**, **approved weekly accommodation** means accommodation—

(a) that is operated by an approved voluntary organisation; and

(b) the cost of which C's parent or guardian is required to contribute to.

Compare: 1964 No 136 s 39A(3)

69 Meaning of child with a serious disability

(1) In this subpart, **child with a serious disability** means a dependent child who—

(a) has a disability; and

(b) because of that disability needs constant care and attention; and

(c) is likely to need such care and attention permanently or for a period exceeding 12 months.

(2) In determining for **subsection (1)(b)** whether a child needs constant care and attention, MSD must consider whether the child (**C**) requires from another person—

(a) frequent attention in connection with C's bodily functions; or

(b) substantially more attention and supervision than is normally required by a child of the same age and sex; or

(c) regular supervision in order to avoid substantial danger to C or to others.

Compare: 1964 No 136 s 39A(1), (2)

70 Child disability allowance: MSD may require medical certificate

MSD may require that an application for a child disability allowance be supported by a medical certificate that certifies whether or not, in the opinion of ~~the medical practitioner~~a prescribed health practitioner, the child is a child with a serious disability within the meaning of **section 69**.

Compare: 1964 No 136 s 39C(1)

71 Child disability allowance: MSD may require medical examination

Before granting a child disability allowance, MSD may require the child to be examined by a ~~medical practitioner~~ prescribed health practitioner nominated for the purpose by MSD.

Compare: 1964 No 136 s 39C(2)

72 Child disability allowance: payment

MSD may pay a child disability allowance granted under **section 68(1)** to the principal caregiver for the child or, if there is no such person, to the person for the time being having the care and control of the child.

Compare: 1964 No 136 s 39E

73 Child disability allowance: not payable with other assistance or pension

A child disability allowance is not payable in addition to—

(a) any benefit granted to the child under this Act (except a supported child's payment or a disability allowance):

(b) any pension or allowance granted to the child under the Veterans' Support Act 2014 (except a children's pension):

(c) weekly compensation payable to the child under the Accident Compensation Act 2001.

Compare: 1964 No 136 s 39D

Subpart 12—Disability allowance

74 Meaning of disability

In this subpart, **disability** has the same meaning as in section 21(1)(h) of the Human Rights Act 1993.

Compare: 1964 No 136 s 69C(8)

75 Disability allowance: discretionary grant

(1) MSD may grant a disability allowance to or on account of a person who—

(a) meets the criteria for eligibility in **subsection (2)** (or to the dependent spouse or dependent child of that person); or

(b) falls into a special category of eligibility specified in regulations made under **section 404**.

(2) The criteria for eligibility are that—

(a) the person has a disability that has resulted in a reduction of the person's independent function to the extent that the person requires—

(i) ongoing support to undertake the everyday functions of life; or

(ii) ongoing supervision or treatment by a health practitioner; and

(b) the disability is likely to continue for at least 6 months; and

(c) either—

(i) the person is receiving a main benefit under this Act; or

(ii) the person's income (including the income of the person's spouse or partner and any New Zealand superannuation or veteran's pension payable to the person or the person's spouse or partner) is less than the appropriate amount in **Part 3 of Schedule 5**; and

(d) the person has additional expenses of an ongoing kind arising from the person's disability (subject to **clause 19 of Schedule 3**) and the assistance towards those expenses available under this Act or any other enactment is insufficient to meet them.

(3) Regulations made under **section 404** may override **subsection (1)** of this section by requiring MSD to grant a disability allowance to or on account of a person who falls into a special category of eligibility specified in those regulations.

(4) In this section, **health practitioner**—

(a) has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003; and

(b) includes a person who is receiving training or gaining experience under the supervision of a health practitioner.

Compare: 1964 No 136 s 69C(1), (2), (2A), (8)

76 Disability allowance: excluded expenses

(1) A disability allowance is not payable in respect of—

(a) expenses arising from the disability of a person who is a resident assessed as requiring care in respect of whom a funder is paying some or all of the cost of contracted care services under **section 490, 491,**

492, 493, or 494 of Part 9 of the Social Security Legislation Rewrite Act 2016; or

(b) expenses arising from the disability of a person that are costs of residential care services provided to the person if—

(i) the person has a psychiatric, intellectual, physical, or sensory disability; and

(ii) the person's accommodation costs or care (other than care in the person's own home) is wholly or partly funded under the New Zealand Public Health and Disability Act 2000.

(2) Regulations made under **section 405** (use of disability allowance to fund specified expenses) must be not inconsistent with this section.

Compare: 1964 No 136 s 69C(2B)

77 Disability allowance: refusal, reduction, or cancellation of grant in certain circumstances

Despite anything to the contrary in **section 75**, MSD may refuse to grant a disability allowance or may cancel a disability allowance or may grant a disability allowance at a reduced rate if, in respect of a disability that gives rise to an application for a disability allowance, the applicant is receiving—

(a) a disablement pension under Part 3, or an entitlement under Part 4, of the Veterans' Support Act 2014; or

(b) an entitlement under the Accident Compensation Act 2001; or

(c) ~~an overseas~~ a pension, or ~~overseas~~ a periodical allowance, that—

(ia) is granted elsewhere than in New Zealand; and

(i) is analogous to an entitlement to medical treatment or rehabilitation or other cost of disability-related items under Part 5 of the Veterans' Support Act 2014 or under the Accident Compensation Act 2001; or

(ii) is otherwise analogous to a disability allowance.

Compare: 1964 No 136 s 69C(4)

78 Disability allowance: medical examination

Before granting a disability allowance, MSD may require the applicant (or the spouse or partner or child of the applicant, whichever applies) to be examined by a ~~medical practitioner~~ prescribed health practitioner appointed by MSD.

Compare: 1964 No 136 s 69C(3)

79 Special disability allowance: entitlement in special circumstances

(1) This section applies to a person who—

(a) is in a relationship; and

(b) is receiving—

(i) New Zealand superannuation or a veteran's pension; or

(ii) a supported living payment on the ground of restricted work capacity or total blindness; or

(iii) jobseeker support; or

(iv) a related exceptional circumstances benefit; and

(c) has a spouse or partner who is—

(i) a patient in a hospital and who is receiving a reduced benefit under **section 190**; or

(ii) a qualifying person or a special case person (within the meaning of **section 441 of Part 9 of the Social Security Legislation Rewrite Act 2016**), and in respect of whom a funder is paying some or all of the cost of contracted care services under **section 490, 491, 492, 493, or 494 of that Part**.

(2) MSD must grant a special disability allowance at the rate specified in **item 3 in Part 7 of Schedule 4** to a person to whom this section applies for the purpose of assisting with expenses arising from the hospitalisation of the person's spouse or partner.

Compare: 1964 No 136 s 69C(5)

Subpart 13—Funeral grants

80 Funeral grant: eligibility

A person is eligible for a funeral grant of, or not exceeding, the prescribed amount, if that person meets the criteria and other requirements set out in regulations made under **section 406**.

Compare: 1964 No 136 ss 61D, 61DA, 61DB, 61DC, 61DD

Subpart 14—Hardship assistance

81 Temporary additional support: purpose

The purpose of temporary additional support is to provide temporary financial assistance as a last resort to alleviate the financial hardship of people whose essential costs cannot be met from their chargeable income and other resources, while ensuring that people seeking or granted that assistance take reasonable steps to reduce their costs or increase their chargeable incomes.

Compare: 1964 No 136 s 61G(1)

82 Temporary additional support: requirements

(1) A person (**P**) is entitled to temporary additional support if—

(a) P's chargeable income is less than P's essential costs; and

(b) P has cash assets of not more than the prescribed amount; and

(c) P meets any prescribed criteria and any other requirements set out in regulations made under **section 407**.

(2) However, temporary additional support must not be granted in respect of the cost of residential care services supplied to a person who has a psychiatric, intellectual, physical, or sensory disability if—

(a) the person's accommodation costs are wholly or partly funded under the New Zealand Public Health and Disability Act 2000; or

(b) the person's care (other than care in the person's own home) is wholly or partly funded under the New Zealand Public Health and Disability Act 2000.

(3) Temporary additional support granted under **subsection (1)** must be granted in the prescribed amount and for the prescribed period.

(4) This section is subject to **clause 20** (how commitments for temporary additional support may be affected by debt, or health or disability, insurance payment) of **Schedule 3**.

Compare: 1964 No 136 s 61G(2), (3), (4)

83 Temporary additional support: refusal, reduction, or cancellation of grant in certain circumstances

(1) This section applies in respect of an applicant for temporary additional support if MSD is at any time satisfied that a person who is the applicant, or the applicant's spouse or partner, has—

(a) arranged that person's financial affairs in order to qualify for temporary additional support; or

(b) failed to take reasonable steps to reduce that person's costs or increase that person's chargeable income; or

(c) failed to take all necessary steps to obtain any assistance towards that person's essential costs from any other source from which that person may be entitled to assistance.

(2) If this section applies, MSD may—

(a) refuse to grant temporary additional support; or

(b) grant temporary additional support at a reduced rate; or

(c) reduce the rate of temporary additional support already granted; or

(d) cancel any temporary additional support already granted.

Compare: 1964 No 136 s 61G(5), (6)

84 Interpretation

In this subpart and in **section 407**,—

allowable costs has the meaning prescribed in regulations made under **section 407**, but does not include standard costs

applicant includes a recipient of temporary additional support

cash assets has the meaning prescribed in regulations made under **section 407**

chargeable income has the meaning prescribed in regulations made under **section 407**

essential costs means the sum of a person's allowable costs and standard costs

standard costs has the same meaning as in **section 407(2)(b)**

tax credit means a credit of tax, or an amount, received under—

(a) subparts MA to MF and MZ of the Income Tax Act 2007; or

(b) subpart KD of the Income Tax Act 2004; or

(c) subpart KD of the Income Tax Act 1994.

Compare: 1964 No 136 s 61G(7)

Subpart 15—Special assistance

85 Overseas epidemics affecting visitors to New Zealand: Minister may give overseas epidemic management notice

(1) The Minister may, by written notice, declare that the effects of an outbreak outside New Zealand of a stated quarantinable disease are likely to cause hardship to people temporarily in New Zealand by preventing or hindering their prompt return to stated places.

(2) The notice comes into force on its commencement, and expires on the earliest of the following:

(a) the day 3 months after its commencement:

(b) a day stated in the notice:

(c) a day stated by the Minister by further written notice.

(3) Before or after the notice expires, the Minister can give a new notice in respect of the same disease.

(4) The Minister must not give the notice except on, and after considering, the written recommendation of the chief executive of the Ministry of Health.

(5) In **subsection (1)**, quarantinable disease has the same meaning as in section 2(1) of the Health Act 1956.

Compare: 1964 No 136 s 61CE

86 Special assistance for visitors affected by overseas epidemics

(1) The Minister may, in respect of any period for which an overseas epidemic management notice is in force, by written notice establish programmes of special assistance for visitors to New Zealand who are prevented or hindered from returning promptly to places stated in the notice by the outbreak outside New Zealand of the disease stated in the notice.

(2) The notice must state—

(a) the criteria for determining which people are given assistance; and

(b) any maximum amounts of assistance to be given; and

(c) if different amounts of assistance may be given to different people, the criteria for determining how much assistance people are given; and

(d) for how long assistance may be given; and

(e) any conditions subject to which assistance is to be given.

(3) The programme, and the matters stated in the notice establishing it, override every other provision of this Act.

(4) The Crown may incur, without further appropriation than this subsection, expenses or capital expenditure for the purpose of providing special assistance under this section.

Compare: 1964 No 136 ss 61CF, 124(1C)

87 Approved special assistance programmes

(1) The Minister may from time to time, by written notice, approve and establish welfare programmes for the purpose of granting special assistance.

(2) A welfare programme approved and established by the Minister under **subsection (1)**—

(a) must be administered by MSD; and

(b) may provide for any specified provision of this Act to apply to the programme and to any specified class or classes of person as if the special assistance authorised by the programme were a benefit under this Act.

(3) This section is subject to **clause 21** (how costs, etc, for approved programme of special assistance may be affected by debt, or health or disability, insurance payment) of **Schedule 3**.

Compare: 1964 No 136 s 124(1)(d), (1A), (1B)

88 Special assistance: status of, and access to, notices

(1) A notice given under **section 85, 86, or 87,**—

(a) must, as soon as practicable after it is given, be—

(i) published on an Internet site administered by or on behalf of MSD; and

(ii) notified in the *Gazette*; and

(b) must, each time it is amended without also being replaced, also as soon as practicable after it is amended, be published—

(i) on an Internet site administered by or on behalf of MSD; and

(ii) as at a stated date; and

(iii) incorporating amendments up to that date; and

(c) is not a legislative instrument, but is a disallowable instrument, for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives not only—

(i) as soon as practicable after it is given; but also

(ii) under section 41 of that Act.

(2) A notification in the *Gazette* for the purpose of **subsection (1)(a)(ii)** does not have to include the text of the notice.

Compare: 1964 No 136 s 124(1B)

Subpart 16—Extended payment of benefits for children aged 18 years or over who continue education

89 Provisions relating to children aged 18 years or over who continue education

(1) This section applies where a child (**C**) aged 18 years—

(a) is not financially independent; and

(b) is attending school or a tertiary educational establishment.

(2) Despite C being 18, MSD may for such period as MSD determines (expiring not later than the pay day immediately after 31 December in the year in which C turns 18)—

(a) grant or continue to pay a supported child's payment in respect of C:

(b) pay any other benefit at the appropriate rate that includes C as a dependent child of the beneficiary.

Compare: 1964 No 136 s 63A

Part 3
Obligations

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Subpart 1—Introduction

Guide to this Part

90 What this Part does

This Part sets out the obligations of—

(a) MSD:

(b) beneficiaries and their partners.

91 Failure to comply with obligation under this Part

(1) A person who is subject to an obligation under this Part and who fails to comply with that obligation without good and sufficient reason is liable to a sanction under **Part 5**.

(2) **Subsection (1)** does not apply to MSD.

Compare: 1964 No 136 s 170(5)

Subpart 2—MSD's obligations

Steps to make people affected aware of their obligations, etc

92 MSD must make people affected aware of their obligations, consequences of non-compliance, and their review and appeal rights

MSD must take reasonable and appropriate steps to make a person to whom an obligation under this Part applies—

(a) aware of that obligation; and

(b) aware of the consequences of failure to comply with that obligation and, in particular, the sanctions that may be imposed under **Part 5**; and

(c) aware of that person's rights under **sections 370 and 376** to review and appeal decisions relating to the obligation.

Compare: 1964 No 136 ss 60GAG(2), 60R, 60RB, 100D, 105C, 172

Steps to explain overseas absence rules

93 MSD must explain rules relating to absence from New Zealand

MSD must take reasonable and appropriate steps to explain, to every person who is, or appears to MSD to be likely to be, affected by them,—

(a) the rules about absence from New Zealand contained in the following provisions:

(i) **section 203** (general rule: benefit not payable while beneficiary absent from New Zealand):

(ii) regulations made under **section 415** (regulations that contain exceptions, and other contrary or related provisions); and

(b) how those rules do or may affect payment of benefits.

Compare: 1964 No 136 s 77A

Steps to assist compliance with overseas pensions obligations

94 MSD must assist in relation to obtaining overseas pension, etc

MSD must take all reasonable steps to assist any person to comply with that person's obligations under **sections 158 and 162**.

Compare: 1964 No 136 s 69I

Subpart 3—Beneficiaries' obligations

Beneficiaries: general and specific obligations

95 Outline of beneficiary's general and specific obligations

(1) The general obligations of a beneficiary, that is, obligations that apply to all beneficiaries, are the following:

(a) the obligation to hold, and give MSD details of, a bank account (*see* **section 97**):

(b) the obligation to supply a tax file number (*see* **section 98**):

(c) the obligation to notify a change of circumstances (*see* **section 99**).

(2) The specific obligations that apply to some beneficiaries only, are the following:

(a) the obligation to notify absence from New Zealand (*see* **section 100**):

(b) the obligation to undergo work ability assessments (*see* **sections 101 to 105**):

(c) work-preparation obligations (*see* **sections 106 to 112**):

(d) obligations in relation to dependent children (*see* **sections 113 to 123**):

(e) work-test obligations (*see* **sections 124 to 142**):

(f) youth payment obligations (*see* **sections 147 and 148**):

(g) young parent obligations (*see* **section 149**):

(h) obligations under **section 150(4)** of a young person aged 18 or 19 years who is receiving jobseeker support, who is at significant risk of long-term welfare dependency (*see* **section 150**), and who is required under **section 150(2)** to receive youth services:

(i) obligations of a young person who is the spouse or partner of a beneficiary (*see* **sections 151 to 154**):

(j) the obligation to work with contracted service providers (*see* **sections 155 and 156**).

(k) obligations in relation to overseas pensions (*see* **sections 157 to 165**).

96 When obligations apply

An obligation applies from the time that the benefit in question is paid, except in the case of—

(a) the applicant's or beneficiary's obligation to hold, and give MSD details of, a bank account (*see* **section 97**); and

(b) the **section 147(1)(a)** education or training obligation of a young parent who is the principal caregiver of that young parent's youngest dependent child who is under 12 months old (*see* **section 148(2)**).

Compare: 1964 No 136 ss 82(7), 170(3), (4)

General obligations: holding, and giving details of, bank account

97 Beneficiary must hold, and give MSD details of, bank account

(1) It is a condition of every benefit, unless MSD in a particular case determines otherwise, that the applicant or beneficiary must, by the deadline (specified by regulations made under **section 417(2)(a)(ii)**) for receipt by MSD of any supporting evidence reasonably required by MSD,—

(a) give MSD details of an existing suitable bank account held by the applicant or beneficiary; or

(b) open a bank account, if the applicant or beneficiary does not hold one, and give MSD details of it.

(2) **Bank account**, in this section, means an account with a bank that is a registered bank (as defined in section 2(1) of the Reserve Bank of New Zealand Act 1989), a private savings bank, a credit union, a building society, or a non-bank deposit taker (as defined in section 5 of the Non-bank Deposit Takers Act 2013).

Compare: 1964 No 136 s 82(7); 1994 No 166 s 184A(4); 2006 No 40 s 221(4)

General obligations: supplying tax file number

98 Beneficiary must supply tax file number

(1) MSD may in writing request an applicant for a benefit or a beneficiary to provide evidence, to the satisfaction of MSD, of the tax file number of the applicant or beneficiary.

(2) MSD may refuse to grant a benefit and must suspend payment of a benefit if satisfactory evidence of the tax file number of the applicant or the beneficiary is not received within 10 working days after the date on which the request is made (the **deadline**).

(3) MSD may in writing extend the deadline if an applicant or a beneficiary provides a reasonable explanation for not providing the evidence within the deadline.

(4) This section does not apply to a beneficiary who is unable to provide satisfactory evidence of the beneficiary's tax file number within the deadline or extended deadline specified because of any health condition, injury, or disability.

(5) In this section, **tax file number** has the same meaning as in section YA 1 of the Income Tax Act 2007.

Compare: 1964 No 136 s 82A

General obligations: notification of change of circumstances

99 Beneficiary must notify change of circumstances

(1) A beneficiary must without delay notify MSD of a change in the beneficiary's circumstances if—

(a) the change affects the beneficiary's entitlement to receive a benefit; or

(b) the change affects the rate of a benefit the beneficiary receives.

(2) Examples of a change in a beneficiary's circumstances include—

(a) a change in the beneficiary's relationship status, number of children, income, accommodation, or employment:

(b) a change in the relationship status, income, accommodation, or employment of the beneficiary's spouse or partner:

(c) the beneficiary or his or her spouse or partner becoming entitled to an overseas pension.

(3) In **subsection (2)(a)**, a **change in the beneficiary's relationship status** means the beneficiary's—

(a) entering into a marriage, civil union, or de facto relationship; or

(b) ceasing to live together with, or separating from, a spouse or civil union partner; or

(c) ceasing to live together (as a couple in a relationship in the nature of marriage or civil union) with, or separating from, a de facto partner; or

(d) ceasing to be in a marriage, civil union, or de facto relationship, because it has ended by reason of an event not specified in **paragraph (b) or (c)** (for example, by dissolution, or on a spouse's or partner's death).

Compare: 1964 No 136 s 80A

Specific obligations: notification of absence from New Zealand

100 Obligation to notify absence from New Zealand

(1) A beneficiary who intends to be absent from New Zealand must before leaving New Zealand notify MSD of the beneficiary's intended absence.

(2) However, **subsection (1)** does not apply to a person who receives a benefit payable under—

(a) sections 21 to 35 of the New Zealand Superannuation and Retirement Income Act 2001; or

(b) sections 176 to 196 of the Veterans' Support Act 2014; or

(c) any agreement ~~or convention~~ adopted by an order made under ~~section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990~~**section 359**.

Compare: 1964 No 136 s 77(6), (9)

Specific obligations: work ability assessment

101 Obligation to undergo work ability assessment

Sections 102 to 105 set out the obligation of a person to undergo a work ability assessment.

102 Persons subject to work ability assessment

The following persons must comply with a requirement under **section 104** by MSD that they undergo a work ability assessment:

(a) a person who receives any of the following benefits: jobseeker support, sole parent support, a supported living payment (except as provided in **section 103**), or an exceptional circumstances benefit; or

(b) the spouse or partner of a person listed in **paragraph (a)**.

Compare: 1964 No 136 s 100B(1)

103 Persons not subject to work ability assessment

MSD must not require a person who receives a supported living payment on the ground of restricted work capacity to undergo a work ability assessment if, in MSD's opinion, that person—

(a) is terminally ill; or

(b) has little or no capacity for work, and the person's condition is deteriorating or not likely to improve.

Compare: 1964 No 136 s 100B(2)

104 Work ability assessment

(1) MSD may at any time require a person to whom this section applies to attend and participate in a work ability assessment to determine, or help determine, all or any of the following matters:

(a) whether the person is entitled to a benefit and, if so, what kind of benefit:

(b) if a person granted jobseeker support is subject to a work-test obligation, whether that obligation should be deferred:

(c) if a person is granted jobseeker support on the ground of health condition, injury, or disability, whether that person has the capacity for part-time work:

(d) whether the person should be exempted from a work preparation or work-test obligation:

(e) whether the person has the capacity to comply with a work preparation or work-test obligation:

(f) what is suitable employment for the person for the purposes of **section 131**:

(g) what are suitable activities for the person for the purposes of **section 111(d) or 132(1)(d)**:

(h) what assistance and supports are necessary for the person to obtain employment.

(2) The assessment must be made in accordance with the procedure determined by MSD.

(3) A person who has been assessed under **subsection (1)** may be required by MSD to undergo a reassessment under that subsection as MSD thinks appropriate.

Compare: 1964 No 136 ss 100B(3), (4), 100C(1), (2)

105 Person who fails to comply with requirement to undergo work ability assessment is subject to sanction

A person (**P**) is subject to a sanction under **section 219, 220, or 221** if MSD is satisfied that **P** has, without a good and sufficient reason, failed to comply with a requirement under **section 104** to attend and participate in a work ability assessment or reassessment.

Compare: 1964 No 136 s 116B(1)(d)

Specific obligations: work preparation

106 Work-preparation obligations

(1) **Sections 107 to 112** set out a person's work-preparation obligations.

(2) Those obligations are intended—

(a) to facilitate the movement into ongoing employment (as their parenting responsibilities and individual circumstances allow) of beneficiaries to whom those obligations apply; and

(b) to provide opportunities for them to improve their capabilities and preparation for employment; and

(c) to improve social and economic outcomes for them and their dependent children.

Compare: 1964 No 136 s 60P

107 Persons subject to work-preparation obligations

The following persons must comply with **section 110** and may be required to do any of the things set out in **section 111**:

(a) a person who receives sole parent support and whose youngest dependent child is under the age of 3 years:

(b) a person who would receive sole parent support but has a dependent child under 12 months old and receives jobseeker support instead solely because that child is an additional dependent child (as defined in **section 205**):

(c) a person who is a work-tested beneficiary and who has been granted under regulations made under **section 410** a deferral of that person's work-test obligations:

(d) a person who—

(i) is the spouse or partner of a person who—

(A) receives an exceptional circumstances benefit or jobseeker support paid at a work-test couple rate; and

(B) has a youngest dependent child aged under 3 years; and

(ii) is not the spouse or partner of a young person to whom **section 151, 152, or 153** applies:

(e) the spouse or partner of a person who—

(i) receives a supported living payment on the ground of restricted work capacity or total blindness; and

(ii) has a youngest dependent child aged under 3 years:

(f) a person under the age of 65 granted an exceptional circumstances benefit under section 17(2)(c) of the New Zealand Superannuation and Retirement Act 2001:

(g) a person who has been granted an exceptional circumstances benefit under **section 59(1)** and on whom work-preparation obligations have been imposed under **section 59(5)(b)**.

Compare: 1964 No 136 ss 20E(a), 40G(1), (2)(a), 60Q(1), (1A), 88G(a), 61A(1)

108 Persons not subject to work-preparation obligations

The following persons are not required to comply with **section 110** and must not be required to do any of the things set out in **section 111**:

(a) a person who is a work-tested beneficiary:

(b) a person who is currently exempted under **section 144(1)** from all the person's work-test obligations.

Compare: 1964 No 136 s 60Q(1)

109 Persons subject to work-preparation obligations if sufficient capacity to comply

(1) The following persons are not required to comply with **section 110** but may be required to do any of the things set out in **section 111** if MSD decides that the person is capable of complying with the obligation in question:

(a) a person who receives a benefit under **section 33** (supported living payment on the ground of restricted work capacity or total blindness):

(b) a person who receives a benefit under **section 39** (supported living payment on the ground of caring for another person).

(2) A person referred to in **subsection (1)(a) or (b)** may be required to attend and participate in an interview with an MSD employee or a person on behalf of MSD for the purpose of helping MSD decide whether the person is capable of complying with any of the work-preparation obligations set out in **section 111**.

Compare: 1964 No 136 ss 40F(a), 40H(a), 60Q(1)(bb), (bc), (1B)

110 General obligation to take all steps to prepare for employment

A person to whom this section applies must take all steps that are reasonably practicable in the person's circumstances to prepare for employment.

Compare: 1964 No 136 s 60Q(2)

111 Work-preparation obligations as required by MSD

A person to whom this section applies must, as required by MSD from time to time,—

(a) undertake planning for employment:

(b) attend and participate in an interview with an MSD employee or a person on behalf of MSD:

(c) report to MSD or a person on behalf of MSD on the person's compliance with the work-preparation obligations set out in this section, and must do so as often as, and in the manner that, MSD reasonably requires:

(d) participate in or undertake any of the following activities specified by MSD that MSD considers suitable for improving the person's work-readiness or prospects for employment:

(i) a work assessment:

(ii) a programme or seminar to increase particular skills or enhance motivation:

(iii) a work-experience or work-exploration activity:

(iv) employment-related training:

(v) an education programme:

(vi) any other activity (including rehabilitation) other than medical treatment, recognised voluntary work, or activity in the community.

Compare: 1964 No 136 s 60Q(3)

112 Person who fails to comply with work-preparation obligation subject to sanction

A person (**P**) is subject to a sanction under **section 219, 220, or 221** if MSD is satisfied that P has, without a good and sufficient reason, failed to comply with a work-preparation obligation under **section 110 or 111**.

Compare: 1964 No 136 s 116B(1)(c)

Specific obligations: social obligations in relation to dependent children

113 Obligations in relation to dependent children

Sections 114 to 121 set out obligations in relation to the dependent children of—

(a) a beneficiary receiving certain main benefits under this Act; and

(b) the beneficiary's spouse or partner.

114 Obligations of beneficiary in relation to dependent children

A beneficiary is subject to the obligations set out in **sections 117 to 121** in relation to the beneficiary's dependent children or the dependent children of the beneficiary's spouse or partner if the beneficiary—

(a) receives jobseeker support, sole parent support, a supported living payment, or an exceptional circumstances benefit; and

(b) is not a young person subject to the obligations set out in **section 149**.

Compare: 1964 No 136 ss 20E(b), 40F(b), 40H(b), 40HA(a), 60RA(1), 61AA, 88F(8)

115 Obligations of spouse or partner of beneficiary in relation to dependent children of beneficiary

(1) The spouse or partner of a beneficiary is subject to the obligations set out in **sections 117 to 121** in relation to each dependent child of the beneficiary if—

(a) the beneficiary receives jobseeker support, sole parent support, a supported living payment, or an exceptional circumstances benefit; and

(b) the spouse or partner is not a young person subject to the obligations set out in **section 151 or 152**.

(2) **Subsection (1)** applies whether or not—

(a) the dependent child of the beneficiary is also the dependent child of the spouse or partner:

(b) the spouse or partner receives all or any of the benefit instead of, or as well as, the beneficiary.

Compare: 1964 No 136 ss 40G(1), (2)(b), 60RA(1)(b), (2), 88G(b)

116 Obligations of spouse or partner of beneficiary in relation to dependent children of spouse or partner

(1) The spouse or partner of a beneficiary is subject to the obligations set out in **sections 117 to 121** in relation to each dependent child of the spouse or partner if—

(a) the beneficiary receives jobseeker support, sole parent support, a supported living payment, or an exceptional circumstances benefit; and

(b) the spouse or partner is not a young person subject to the obligations set out in **section 151 or 152**.

(2) **Subsection (1)** applies whether or not—

(a) the dependent child of the spouse or partner is also the dependent child of the beneficiary:

(b) the spouse or partner receives all or any of the benefit instead of, or as well as, the beneficiary.

Compare: 1964 No 136 ss 40HA, 60RA(1)(b), (2), 61A(3)

117 Attendance of dependent child aged 3 to 5 years at early childhood education programme

(1) A person to whom this section applies must take all reasonable steps to ensure that each dependent child aged 3 to 5 years—

(a) is enrolled in an approved early childhood education programme (as that term is defined in regulations made under **section 409**); and

(b) attends that programme in the manner and to the minimum extent prescribed by regulations made under **section 409**.

(2) This section does not apply if the dependent child is enrolled at and regularly attends a registered school (as defined in regulations made under **section 409**).

Compare: 1964 No 136 s 60RA(3)(a)

118 Attendance of dependent child aged 5 or 6 years at early childhood education programme or registered school

(1) A person to whom this section applies (**A**) must take all reasonable steps to ensure that each dependent child aged 5 or 6 years either—

(a) is enrolled in an approved early childhood education programme (as defined in regulations made under **section 409**) and attends that programme in the manner and to the minimum extent prescribed by regulations made under **section 409**; or

(b) is enrolled at and regularly attends a registered school (as defined in regulations made under **section 409**).

(2) This section does not apply if A qualifies for an exemption from his or her work-test obligations on the active teaching out of school grounds specified by—

(a) regulation 6(2)(c) of the Social Security (Exemptions under Section 105) Regulations 1998 (as saved by **clause 26 of Schedule 1**); or

(b) any regulations made under **section 410(e)**.

Compare: 1964 No 136 ss 60RA(3)(b), 60RAB(2)

119 Attendance of dependent child aged 6 to 15 years at registered school

(1) A person to whom this section applies must take all reasonable steps to ensure that each dependent child aged 6 to 15 years is enrolled at and regularly attends a registered school (as defined by regulations made under **section 409**).

(2) This section does not apply if the child is exempted under section 21, 22, or 22A of the Education Act 1989 from enrolment at a registered school.

Compare: 1964 No 136 s 60RA(3)(c)

120 Health care enrolment and compliance with core health checks

(1) A person to whom this section applies must take all reasonable steps to ensure that each dependent child is enrolled with a primary health care provider (for example, a primary health organisation, or a ~~medical practitioner whose scope of practice is or includes general practice~~prescribed health practitioner who is a provider of primary health care).

(2) A person to whom this section applies must take all reasonable steps to ensure that a dependent child under the age of 5 years is up to date with core checks under—

(a) the programme that immediately before 15 July 2013 was known as Well Child; or

(b) any similar programme established in its place.

Compare: 1964 No 136 s 60RA(3)(d), (e)

121 Interviews and reporting

A person to whom this section applies must, as required by MSD,—

(a) attend and participate in an interview with an MSD employee or a person on behalf of MSD:

(b) report to MSD or a person on behalf of MSD on the person's compliance with the obligations in relation to dependent children set out in **sections 117 to 120**, and must do so as often as, and in the manner that, MSD reasonably requires.

Compare: 1964 No 136 s 60RA(3)(f), (g)

122 Person who fails to comply with obligations in relation to dependent children is subject to sanction

(1) A person (**P**) is subject to a sanction under **section 219, 220, or 221** if MSD is satisfied that P has, without a good and sufficient reason, failed to comply with an obligation in relation to dependent children under **sections 117 to 121**.

(2) However, P is not subject to a sanction under **section 216(c)** if imposition of a sanction is precluded by **section 226 or 238**.

Compare: 1964 No 136 s 116B(1)(b)

123 Definitions and attendance: regulations made under section 409

(1) Regulations made under **section 409** may prescribe, for the purposes of **sections 117 to 120**, the meaning of the following terms:

(a) approved early childhood education programme:

(b) core check:

(c) registered school.

(2) Regulations made under **section 409** that prescribe, for the purposes of **sections 117(1)(b) and 118(1)(a)(ii)**, the minimum extent of, or other required manner of, attending an approved early childhood education programme may, without limitation,—

(a) prescribe, for all or any approved early childhood programmes, target numbers of hours of attendance:

(b) prescribe different minimum numbers of hours of attendance for all or any different approved early childhood programmes.

Compare: 1964 No 136 s 60RAB(1), (3), (4)

Specific obligations: work-test obligations

124 Work-test obligations

Sections 126 to 140 set out the work-test obligations.

125 Purpose of sections 126 to 140

The purpose of **sections 126 to 140** is—

(a) to ensure that work-tested beneficiaries maintain an unrelenting focus on entering, retaining, or returning to, employment; and

(b) to reinforce the continuing obligation of work tested beneficiaries to take reasonable steps to support themselves and their families; and

(c) to identify the activities that work-tested beneficiaries may be required to undertake to meet their obligations arising from work tested benefits being paid in respect of them; and

(d) to provide a work test structure applying to all work-tested beneficiaries that is sufficiently flexible to take account of an individual beneficiary's circumstances.

Compare: 1964 No 136 s 101

126 Persons subject to work-test obligations

(1) The following persons must comply with **section 130** and may be required to do any of the things set out in **section 132**:

(a) a person who receives jobseeker support (other than jobseeker support on the ground of health condition, injury, or disability):

(b) a person who receives jobseeker support on the ground of health condition, injury, or disability, if MSD has determined under **section 127(1)** that the person has the capacity to seek, undertake, and be available for part-time work:

(c) a person who—

(i) is the work-tested spouse or partner of a person who receives jobseeker support; and

(ii) is not the spouse or partner of a young person to whom **section 151, 152, or 153** applies:

(d) a work-tested sole parent support beneficiary:

(e) the work-tested spouse or partner of a person granted an exceptional circumstances benefit or a supported living payment on the ground of restricted work capacity or total blindness at a work-test couple rate:

(f) a person under the age of 65 years granted an exceptional circumstances benefit under section 17(2)(c) of the New Zealand Superannuation and Retirement Income Act 2001, if that person is a work-tested spouse or partner:

(g) a person who has been granted an exceptional circumstances benefit under **section 59(1)** and on whom the work test has been imposed under **section 59(5)(b)**.

(2) MSD may, by notice in writing, require the spouse or partner of a person granted an exceptional circumstances benefit at a work-test couple rate to comply with the work test if MSD is satisfied that it is appropriate and reasonable to require that spouse or partner to seek, undertake, and be available for—

(a) part-time work, in the case of a spouse or partner whose youngest dependent child is aged 3 years or older but under 14 years; or

(b) full-time employment, in any other case.

Compare: 1964 No 136 ss 20E(c), 88F(1), (4), 88G(c), 61A(1), (1A), (2)(b)

127 Jobseeker support: work capacity determination and work test

(1) MSD makes every determination under this subsection whether a person granted jobseeker support on the ground of health condition, injury, or disability has, while receiving that benefit, the capacity to seek, undertake, and be available for part-time work (as defined in **Schedule 2**).

(2) MSD—

(a) must make a determination under **subsection (1)** promptly after granting the person that benefit; and

(b) may make a determination under **subsection (1)** at any later time.

(3) A determination under **subsection (1)** must be made after having had regard to—

(a) the relevant certificate given under **section 27**, and any relevant report obtained under **section 28**; and

(b) any relevant work ability assessment under **sections 101 to 105**.

(4) The consequence of a determination under **subsection (1)** that the person has, while receiving that benefit, the capacity to seek, undertake, and be available for part-time work is that the person is required to comply with the work test on and after a date specified in a written notice (of the determination's making and effects) that MSD must give the person.

(5) The date specified in a written notice given under **subsection (4)**,—

(a) in the case of a new grant of jobseeker support, may be the date on which that benefit is first paid; but

(b) in any case, must not be a date before the date on which MSD reasonably considers the person will receive the notice.

(6) MSD may at any time, whether on the application of the person or otherwise, review a determination under **subsection (1)** and may confirm, amend, revoke, or replace it and any related written notice given under **subsection (4)**.

Compare: 1964 No 136 s 88F(2)–(6)

128 Person not subject to work-test obligations

A person (**P**) who is otherwise subject to a work-test obligation is not subject to that obligation if—

(a) the obligation has been deferred under regulations made under **section 410**; or

(b) P has been exempted from the obligation under **section 144**; or

(c) MSD is satisfied that P is undertaking employment of the kind required to satisfy the work test for P.

Compare: 1964 No 136 ss 88J, 102(2)

129 Time when work-test obligation applies

(1) An obligation set out in **section 130 or 132** applies on—

(a) a day that is a day between Monday and Friday (inclusive); or

(b) a prescribed day of the week (*see* **section 397(1)(d)**).

(2) An obligation set out in **section 130 or 132** applies,—

(a) in the case of a person who receives jobseeker support on the ground of health condition, injury, or disability, from the date specified in MSD's notice given under **section 127(4)** that the person has the capacity to seek, undertake, and be available for part-time work:

(b) in any other case, from the date on which the relevant benefit is first paid.

Compare: 1964 No 136 s 102(1), (3)

130 General obligation to be available for suitable employment, etc

A person to whom this section applies must—

(a) be available for, and take reasonable steps to obtain, suitable employment; and

(b) accept any offer of suitable employment, including temporary employment or employment that is seasonal or subsidised; and

(c) attend and participate in an interview for any opportunity of suitable employment to which the beneficiary is referred by MSD.

Compare: 1964 No 136 s 102A(1)(a)–(c)

131 Meaning of suitable employment

In **section 130**, **suitable employment**, in relation to a person (**P**), means employment that MSD is satisfied is suitable for P to undertake for a specific number of hours per week that MSD determines, having regard to the employment required to satisfy the work test for P.

Compare: 1964 No 136 s 3(1)

132 Work-test obligations as required by MSD

(1) A person to whom this section applies must, as required by MSD from time to time,—

(a) undertake planning for employment:

(b) attend and participate in an interview with an MSD employee or a person on behalf of MSD:

(c) report to MSD or a person on behalf of MSD on the person's compliance with the work-test obligations set out in this section or **sections 130 and 133**, and must do so as often as, and in the manner that, MSD reasonably requires:

(d) participate in or undertake any of the following activities specified by MSD that MSD considers suitable for improving the person's work-readiness or prospects for employment:

(i) a work assessment:

(ii) a programme or seminar to increase particular skills or enhance motivation:

(iii) a work-experience or work-exploration activity:

(iv) employment-related training:

~~(v) an education programme:~~

(vi) any other activity (including rehabilitation) other than medical treatment, recognised voluntary work, or activity in the community:

(e) undertake and pass a drug test in accordance with **sections 133 to 137**.

(2) **Subsection (1)(d)** applies whether or not a person is subject to a sanction for failing to comply with a work-test obligation.

(3) If MSD requires a person to undertake an activity under **subsection (1)(d)**, MSD must take reasonable steps to arrange for the person to undertake that activity.

Compare: 1964 No 136 s 102A(1)(d)–(g), (2)–(5)

133 Obligation to undertake and pass drug test

(1) A person to whom an obligation under **section 130(a), 130(c), 132(1)(d)(ii), or 132(1)(d)(iv)** applies must undertake and pass a drug test by a specified date if—

(a) a potential employer or training provider requests the drug test; and

(b) the drug test is lawfully requested and undertaken; and

(c) the drug test is a compliant drug test (*see* **section 134**).

(2) A drug test is lawfully requested and undertaken if it is requested and undertaken for a lawful purpose (for example, for a lawful health or safety purpose), and it does not matter that the employer or provider requesting the drug test is not authorised or required by or under this Act to compel the person to undertake it.

(3) A drug test under this section is presumed to be lawfully requested and undertaken unless the contrary is proved.

Compare: 1964 No 136 ss 102A(1A), 102B(1), (3)

134 Compliant drug test defined

A **compliant drug test** is a drug test that complies with the requirements prescribed by regulations made under **section 410**.

Compare: 1964 No 136 s 102B(2)

135 Failing drug test

(1) For the purposes of this Act, a person is taken to have failed an evidential drug test requested under **section 240** if the person fails a screening test and waives the right to an associated evidential drug test.

(2) A potential employer or training provider may disclose, or authorise the drug test provider to disclose, to MSD that a person who has undertaken a drug test under **section 133** has failed the drug test.

(3) MSD may act on the information disclosed under **subsection (2)** unless MSD has reason to believe that it is not reliable (for example, MSD may have evidence to the contrary).

(4) Consent of a person who has undertaken a drug test under **section 133** to disclosure under **subsection (2)** is not required.

Compare: 1964 No 136 ss 102B(4), (5), 102C(2)

136 Use of drug test result

MSD may, in accordance with regulations made under **section 410**, use the result of a drug test undertaken under **section 133** and disclosed to MSD under **section 135**.

Compare: 1964 No 136 s 102E

137 Costs of drug test

MSD may, in accordance with regulations made under **section 410(c)**, reimburse a potential employer for the costs of a drug test under **section 133** requested by that employer.

Compare: 1964 No 136 s 102C(3)–(5)

138 Definitions for drug-testing provisions

In this section and in **sections 133 to 137**, unless the context otherwise requires,—

controlled drug has the same meaning as in section 2(1) of the Misuse of Drugs Act 1975

drug test, for a person, means a test to detect the presence in the person's body of 1 or more controlled drugs

evidential drug test, for a person, means a drug test that, when undertaken by the person, complies with a standard that is—

(a) a standard for drug tests for evidential purposes; and

(b) a New Zealand standard, joint Australian/New Zealand standard, or other national or international standard; and

(c) prescribed (whether under sections 29 to 32 of the Standards and Accreditation Act 2015 or otherwise) in regulations made under **section 397(1)(e)**

fail, for a person and a drug test, means—

(a) if the drug test is a screening drug test or an evidential drug test, not to pass the drug test; or

(b) if the drug test is an evidential drug test, to waive the right to that test in the situation specified in **section 135(1)**, and so under that section be taken for the purposes of this Act to have failed that test

pass, for a person and a drug test, means to undertake the drug test with the consequence that the drug test produces a valid result that,—

(a) if the drug test is a screening drug test, does not indicate the presence in the person's body of 1 or more controlled drugs at or above the minimum level identified in the standard (prescribed in regulations made under **section 397(1)(f)**) with which the test complies; and

(b) if the drug test is an evidential drug test, does not detect for evidential purposes the presence in the person's body of 1 or more controlled drugs at or above the minimum level identified in the standard (prescribed in regulations made under **section 397(1)(f)**) with which the test complies

screening drug test, for a person, means a drug test that—

(a) may indicate the presence in the person's body of 1 or more controlled drugs; and

(b) is quicker, less formal, and less expensive than, and is designed for use in conjunction with, an evidential drug test; and

(c) complies with a standard that is—

(i) a standard for drug tests for evidential purposes; and

(ii) a New Zealand standard, joint Australian/New Zealand standard, or other national or international standard; and

(iii) prescribed (whether under sections 29 to 32 of the Standards and Accreditation Act 2015, or otherwise) in regulations made under **section 397(1)(g)**.

Compare: 1964 No 136 s 88A

139 Person who fails to comply with work-test obligations is subject to sanction

A person is subject to a sanction (*see* **section 216(d)**) for a breach of a work-test obligation under **section 130 or 132** if MSD is satisfied that the person—

(a) has failed without a good and sufficient reason to comply with the obligation; or

(b) is under **section 140** deemed to have failed without a good and sufficient reason to comply with the obligation.

Compare: 1964 No 136 s 116B(1)(e)–(h)

140 Deemed failure to comply with work-test obligation

A person (**P**) is deemed to have failed without a good and sufficient reason to comply with a work-test obligation under **section 130 or 132** if—

(a) P, without a good and sufficient reason, fails to apply for suitable employment that requires candidates to undertake drug tests; or

(b) P is a full-time work-tested beneficiary and leaves, without a good and sufficient reason, or is dismissed for misconduct from, part-time work or employment averaging less than part-time work; or

(c) P is a part-time work-tested beneficiary who leaves, without a good and sufficient reason, or is dismissed for misconduct from, employment averaging less than part-time work.

Compare: 1964 No 136 s 116B(1)(f)–(h)

Deferral of work-test obligations

141 Deferral of work-test obligations

(1) MSD may defer a person's work-test obligations in accordance with regulations made under **section 410** permitting it to do so.

(2) MSD must defer a person's work-test obligations in accordance with regulations made under **section 410** requiring it to do so.

Compare: 1964 No 136 ss 88F(7), 88H, 88I(1)–(3), (5)–(7)

142 Effect of deferral of work-test obligations

(1) A person's work-test obligations are deferred for the period specified in MSD's notice of deferral and **sections 92 and 124 to 132** apply to that person as if he or she were not a person subject to work-test obligations.

(2) A person whose work-test obligations are deferred in accordance with regulations made under **section 410** must notify MSD as soon as practicable of any change in the person's circumstances that may affect the person's entitlement to the deferral.

Compare: 1964 No 136 ss 88J, 88K

Exemptions: work preparation, work test, and other obligations

143 Regulations may specify categories of exempt persons and grounds for exemption

Regulations made under **section 410** may specify—

(a) categories of persons who may be exempted from some or all of a work preparation obligation, a work test obligation, or ~~other obligation under this Part~~an obligation under **section 147, 149, 151, or 152**; and

(b) the grounds, and any required circumstances, for the grant of an exemption.

Compare: 1964 No 136 s 123D

144 MSD may grant exemption from work preparation, work test, or other obligation

(1) A person may apply to MSD for an exemption from some or all of the person's work-preparation obligations, work-test obligations, or ~~other obligations under this Part~~ obligations under **section 147, 149, 151, or 152** and MSD may grant the exemption if satisfied that the person qualifies for an exemption under regulations made under **section 410**.

(2) MSD may grant the exemption for a period set by MSD, and may make the exemption subject to conditions set by MSD.

(3) A person granted an exemption under **subsection (1)** must notify MSD as soon as practicable of any change in the person's circumstances that may affect the person's entitlement to the exemption.

(4) MSD may from time to time require a person granted an exemption under **subsection (1)** to attend an interview with an MSD employee or a person on behalf of MSD.

Compare: 1964 No 136 s 105(1), (2), (4), (5), (5A)

145 Procedure for grant of exemption

The procedure for the granting of an exemption under **section 144**, including the review, extension, variation, or revocation of the exemption, is prescribed in regulations made under **section 410**.

Compare: 1964 No 136 s 105(3), (6), (7)

146 Person who fails to comply with requirement to attend interview is subject to sanction

(1) A person (**P**) is subject to a sanction (*see* **section 216(e)**) if MSD is satisfied that P has failed, without a good and sufficient reason, to comply with a requirement under **section 144(4)** to attend an interview.

(2) However, P is not subject to a sanction under **section 216(e)** if P is a young person to whom **subpart 3 of Part 5** applies.

Compare: 1964 No 136 ss 105(5), 116B(1)(i)

Specific obligations: young person granted youth support payment

147 Obligations of young person granted youth support payment

(1) A young person who has been granted a youth support payment must do the following things:

(a) be enrolled in and undertake to MSD's satisfaction, or be available for, a full-time course of secondary instruction or tertiary education or approved training or work-based learning leading to—

(i) NCEA level 2; or

(ii) a qualification that in MSD's opinion is equivalent to NCEA level 2; or

(iii) a higher qualification:

(b) as required by MSD, participate in and complete a budgeting programme approved by MSD for the purpose:

(c) as required by MSD, attend and participate in any interview with an MSD employee or a person on behalf of MSD:

(d) as required by a contracted service provider assigned to the person, attend and participate in any interview with that provider:

(e) as required by MSD or a contracted service provider assigned to the person, report to MSD or the service provider on the person's compliance with the obligations set out in **paragraphs (a) to (d)**:

(f) co-operate with MSD or a contracted service provider assigned to the person, in managing the spending of the young person's youth payments or young parent payments:

(g) attend and participate in regular discussions on budgeting with an MSD employee or a contracted service provider:

(h) at budgeting discussions and otherwise as required by MSD, provide ~~information on~~ details of—

(i) the young person's accommodation costs, service costs, and other lawful debts and liabilities:

(ii) how the young person has spent the young person's youth support payments and, if applicable, young parent payments:

~~(i) provide, within 20 working days after the date when the benefit is granted, any information that MSD requires to establish money management under **section 320**, including information about any accommodation provider, service provider, or debtor of the young person.~~

(i) give to MSD or to a contracted service provider assigned to the young person (within 20 working days starting on the day after the date on which MSD informs the young person of the requirement) the following information:

(i) details of the young person's accommodation costs and service costs and other lawful debts and liabilities; and

(ii) any other information reasonably required by MSD to effect money management under **section 320**.

(2) In this section,—

accommodation costs, in relation to any young person, has the same meaning as in regulations made under **section 402** except that, in relation to a person who is a boarder or lodger in any premises, it means 100% of the amount paid for board or lodging

service costs has the same meaning as in regulations made under **section 402**.

(3) In this section and in **sections 151 and 152**,—

approved training means an employment-related training course approved by MSD

full-time course has the same meaning as in—

(a) regulation 2(1) of the Student Allowances Regulations 1998; or

(b) the corresponding provision of replacement regulations made under all or any of sections 303, 306, and 307 of the Education Act 1989.

(4) In this section and in **sections 149 to 152 and 184**, **work-based learning**, in relation to any person, means a course or programme undertaken (or to be undertaken), in the course of or by virtue of his or her employment, that comprises, or includes a component of, practical or on-the-job vocational learning (for example, an industry training programme or apprenticeship).

(5) A failure without good and sufficient reason to comply with obligations under this section is subject to sanctions, as provided in **Part 5**.

Compare: 1964 No 136 ss 157, 170(1)(a), (b), (d)–(g)

148 When education obligation or training obligation begins for young parent

(1) This section applies to a young person—

(a) who receives a young parent payment; and

(b) who is principal caregiver of the young person's youngest dependent child.

(2) The obligation set out in **section 147(1)(a)** begins to apply to the young person only on the earlier of the following days:

(a) the first day on which—

(i) the child is at least 6 months old; and

(ii) a suitable place is available for the young person in a teen parent unit; and

(iii) MSD is satisfied that there are no special circumstances justifying the obligation's beginning to apply later:

(b) the day on which the child becomes 12 months old.

(3) In this section, **teen parent unit** means an educational facility for teenage parents attached to a State school (within the meaning of the Education Act 1989).

Compare: 1964 No 136 s 170(4)

Specific obligations: social obligations of young person granted young parent payment

149 Obligations of young person granted young parent payment

(1) A young person who has been granted a young parent payment must also do the following things:

(a) as required by MSD, participate to MSD's satisfaction in a parenting education programme approved by MSD for the purpose:

(b) enrol each dependent child with a primary health care provider (for example, a primary health organisation, or a ~~medical practitioner whose scope of practice is or includes general practice~~prescribed health practitioner who is a provider of primary health care):

(c) take all reasonable steps to ensure that each dependent child under the age of 5 years is up to date with core checks under—

(i) the programme that immediately before 15 July 2013 was known as Well Child; or

(ii) any similar programme established in its place:

(d) ensure that each dependent child under the age of 5 years attends an approved early childhood education programme or other suitable childcare while the young person is in education, training, work-based learning, or part-time work.

~~(e) provide, within 20 working days after the date when the benefit is granted, any information that MSD requires to establish money management~~

~~under **section 320**, including information about any accommodation provider, service provider, or debtor of the young person.~~

(2) A failure without good and sufficient reason to comply with obligations under this section is subject to sanctions, as provided in **Part 5**.

Compare: 1964 No 136 s 170(1)(c), (2)

Specific obligations: young person aged 18 or 19 years who is receiving jobseeker support and who is at significant risk of long-term welfare dependency

150 Young person aged 18 or 19 years who is receiving jobseeker support in young person's own right and who is at significant risk of long-term welfare dependency

(1) This section applies to a young person (**P**) aged 18 or 19 years without dependent children who is receiving jobseeker support under **sections 20 to 24** in the young person's own right.

(2) If MSD determines that P is at significant risk of long-term welfare dependency (as that risk is defined in ~~**Schedule 2**~~**subsection (6)**), MSD may require P to receive services of a kind referred to in **section 352(1)(a)** (**youth services**).

(2A) In exercising the discretion under **subsection (2)**, MSD may consider factors that affect MSD's ability to provide the young person with youth services (for example, funding and capacity to provide the services in the young person's area).

(2B) However, before requiring the young person to receive youth services, MSD must take reasonable steps to consult the young person about—

(a) the young person's risk of long-term welfare dependency (as that risk is defined in **subsection (6)**); and

(b) the proposal to require the young person to receive youth services.

(3) A requirement under **subsection (2)** that is placed on a young person who is aged 19 years at the time the requirement is made continues—

(a) until the close of the day that is 6 months after the date on which the requirement was placed on the young person, even if the young person turns 20 during that 6-month period; or

(b) in the case of a young person who, on the day on which he or she turns 20, is continuing in a course of education, training, or work-based learning, until,—

(i) if the course is a course of secondary instruction or if the course ends in December, the close of the following 31 March:

(ii) in any other case, the close of the day on which the course ends.

(4) The following apply to a young person who is required to receive youth services under **subsection (2)** as if the person's jobseeker support, or the portion of the jobseeker support or the specified beneficiary's benefit payable to the young person under **section 316**, were a youth payment:

(a) the obligations in **section ~~151(2)(b) and (d) to (g)~~147(1)(b) to (i)** in addition to the young person's work-test obligations or obligations under **sections 107 to 111**:

(b) **sections 51 and 270** as if the appropriate incentive payments were those set out in **items 8 and 9 in subpart 3 of Part 5 of Schedule 4**:

(ba) **section 269**:

(c) **sections 320 and 357**:

(d) regulations 4 and 5 and Part 2 of the Social Security (Criteria for Incentive Payments and Money Management) Regulations 2012 (as saved by **clauses 13 and 38(3) of Schedule 1**), or regulations made under **section 397(1)(b), (c), (j), and (k)**.

(5) MSD may from time to time review a requirement placed on a young person under **subsection (2)** and may confirm or revoke it.

(6) In this section, **risk of long-term welfare dependency**, in relation to a person, means the risk, determined using risk factors set by the Minister for the purposes of this section and **section 153** by direction under **section 7**, that the person will, for an indefinite period, not be able to obtain full-time employment and will be likely to remain wholly or largely dependent for the person's financial support on all or part of a main benefit under this Act.

Compare: 1964 No 136 s 171A

Obligations of, and incentives for, young person who is spouse or partner of beneficiary

151 Young person aged 16 or 17 years who has no dependent child and who is spouse or partner of specified beneficiary

(1) This section applies to a young person (**P**) who—

(a) is 16 or 17 years old; and

(b) is the spouse or partner of a specified beneficiary; and

(c) has no dependent children.

(2) P must do the following things:

(a) be enrolled in and undertake to MSD's satisfaction, or be available for, a full-time course of secondary instruction or tertiary education or approved training or work-based learning leading to—

(i) NCEA level 2; or

(ii) a qualification that in MSD's opinion is equivalent to NCEA level 2; or

(iii) a higher qualification:

(b) as required by MSD, participate in and complete a budgeting programme approved by MSD for the purpose:

(c) as required by MSD, attend and participate in any interview with an MSD employee or a person on behalf of MSD:

(d) as required by a contracted service provider assigned to the person, attend and participate in any interview with that provider:

(e) as required by MSD or a contracted service provider assigned to P, report to MSD or the service provider on P's compliance with the obligations set out in **paragraphs (a) to (d)**:

(f) co-operate with MSD, or a contracted service provider assigned to P, in managing the spending of the benefit received by P, as if that benefit were a youth support benefit:

(g) attend and participate in regular discussions on budgeting with an MSD employee or a contracted service provider.

(3) If P meets the criteria prescribed in regulations made for the purposes of **section 51** under **section 397(1)(b)**, P is entitled to receive the appropriate incentive payment (if any) stated in **subpart 3 of Part 5 of Schedule 4** as if he or she were receiving a youth payment.

(4) P is not subject to the work test, or to work-preparation obligations under **sections 110 and 111**.

(5) If P is aged under 18 years when the obligations in **subsection (2)** start to apply to him or her, those obligations continue—

(a) until the close of the day that is 6 months after the date on which the obligations start to apply to P, even if he or she turns 18 during that 6-month period; or

(b) if P, on the day when he or she turns 18, is continuing in a course of education, training, or work-based learning, until,—

(i) if the course is a course of secondary instruction or if the course ends in December, the close of the following 31 March; or

(ii) in any other case, the close of the day on which the course ends.

(6) While P is subject to obligations under **subsection (2)** (being obligations to which P became subject on or after 25 October 2016), **sections 320, ~~321,~~ and 322** and the obligation in **section 147(1)(i)** apply to P as if he or she were receiving a youth support payment.

~~(7) A failure without good and sufficient reason to comply with obligations under this section is subject to sanctions, as provided in **Part 5**.~~

Compare: 1964 No 136 ss 170(1)(a), (b), (d)–(g), 171(1), (4)

152 Young person aged 16 to 19 years who has dependent child and who is spouse or partner of specified beneficiary

(1) This section applies to a young person (**P**) who—

(a) is 16 to 19 years old; and

(b) is the spouse or partner of a specified beneficiary; and

(c) has 1 or more dependent children.

(2) P must do the following things:

(a) be enrolled in and undertake to MSD's satisfaction, or be available for, a full-time course of secondary instruction or tertiary education or approved training or work-based learning leading to—

(i) NCEA level 2; or

(ii) a qualification that in MSD's opinion is equivalent to NCEA level 2; or

(iii) a higher qualification:

(b) as required by MSD, participate in and complete a budgeting programme approved by MSD for the purpose:

(c) as required by MSD, attend and participate in any interview with an MSD employee or a person on behalf of MSD:

(d) as required by a contracted service provider assigned to the person, attend and participate in any interview with that provider:

(e) as required by MSD or a contracted service provider assigned to the person, report to MSD or the service provider on the person's compliance with the obligations set out in **paragraphs (a) to (d)**:

(f) co-operate with MSD, or a contracted service provider assigned to the person, in managing the spending of the benefit received by the person, as if that benefit were a youth support benefit:

(g) attend and participate in regular discussions on budgeting with an MSD employee or a contracted service provider.

(3) P must also—

(a) as required by MSD, participate to MSD's satisfaction in a parenting education programme approved by MSD for the purpose:

(b) enrol each dependent child with a primary health care provider (for example, a primary health organisation, or a ~~medical practitioner whose scope of practice is or includes general practice~~prescribed health practitioner who is a provider of primary health care):

(c) take all reasonable steps to ensure that each dependent child under the age of 5 years is up to date with core checks under—

(i) the programme that immediately before 15 July 2013 was known as Well Child; or

(ii) any similar programme established in its place:

(d) ensure that each dependent child under the age of 5 years attends an approved early childhood education programme or other suitable childcare while the young person is in education, training, work-based learning, or part-time work.

(4) If P meets the criteria prescribed in regulations made for the purposes of **section 58** under **section 397(1)(c)**, P is entitled to receive the appropriate incentive payment (if any) stated in **subpart 3 of Part 5 of Schedule 4** as if he or she were receiving a young parent payment.

(5) P is not subject to the work test, or to work-preparation obligations under **sections 110 and 111**.

(6) If P is aged under 20 years when the obligations in **subsections (2) and (3)** start to apply to P, those obligations continue—

(a) until the close of the day that is 6 months after the date on which the obligations started to apply to P, even if he or she turns 20 during that 6-month period; or

(b) if P, on the day on which he or she turns 20, is continuing in a course of education, training, or work-based learning, until,—

(i) if the course is a course of secondary instruction or if the course ends in December, the close of the following 31 March; or

(ii) in any other case, the close of the day on which the course ends.

(7) While P is subject to obligations under **subsection (2) or (3)** (being obligations to which P became subject on or after 25 October 2016), **sections 320~~,~~ ~~321,~~ and 322** and the obligation in **section 147(1)(i)** apply to P as if he or she were receiving a youth support payment.

~~(8) A failure without good and sufficient reason to comply with obligations under this section is subject to sanctions, as provided in **Part 5**.~~

Compare: 1964 No 136 ss 170(1)(a)–(f) and (g)(i), 170(2), 171(2), (5)

153 Young person aged 18 or 19 years, who is receiving jobseeker support as spouse or partner of person granted that benefit, or who is work-tested spouse or partner of specified beneficiary, and who is at significant risk of long-term welfare dependency

(1) This section applies to a young person (**P**) aged 18 or 19 years without dependent children who—

(a) is receiving jobseeker support under **sections 20 to 24** as the spouse or partner of the person granted the benefit; or

(b) is the work-tested spouse or partner of a specified beneficiary (other than a spouse or partner described in **paragraph (a)**).

(2) If MSD determines that P is at significant risk of long-term welfare dependency (as that risk is defined in ~~**Schedule 2**~~**subsection (6)**), MSD may re-

quire P to receive services of a kind referred to in **section 352(1)(a)** (**youth services**).

(2A) In exercising the discretion under **subsection (2)**, MSD may consider factors that affect MSD's ability to provide the young person with youth services (for example, funding and capacity to provide the services in the young person's area).

(2B) However, before requiring the young person to receive youth services, MSD must take reasonable steps to consult the young person about—

(a) the young person's risk of long-term welfare dependency (as that risk is defined in **subsection (6)**); and

(b) the proposal to require the young person to receive youth services.

(3) A requirement under **subsection (2)** that is placed on a young person who is aged 19 years at the time the requirement is made continues—

(a) until the close of the day that is 6 months after the date on which the requirement was placed on the young person, even if the young person turns 20 during that 6-month period; or

(b) in the case of a young person who, on the day on which he or she turns 20, is continuing in a course of education, training, or work-based learning, until,—

(i) if the course is a course of secondary instruction or if the course ends in December, the close of the following 31 March:

(ii) in any other case, the close of the day on which the course ends.

(4) The following apply to a young person who is required to receive youth services under **subsection (2)** as if the person's jobseeker support, or the portion of the jobseeker support or the specified beneficiary's benefit payable to the young person under **section 316**, were a youth payment:

(a) the obligations in **section ~~151(2)(b) and (d) to (g)~~147(1)(b) to (i)** in addition to the young person's work-test obligations or obligations under **sections 110 and 111**:

(b) **sections 51 and 270** as if the appropriate incentive payments were those set out in **items 8 and 9 in subpart 3 of Part 5 of Schedule 4**:

(ba) **section 269**:

(c) **sections 318, 319, 320, and 357**:

(d) regulations 4 and 5 and Part 2 of the Social Security (Criteria for Incentive Payments and Money Management) Regulations 2012 (as saved by **clauses 13 and 38(3) of Schedule 1**), or replacement regulations made under **section 397(1)(b), (c), (k), and (l)**.

(5) MSD may from time to time review a requirement placed on a young person under **subsection (2)** and may confirm or revoke it.

(6) In this section, **risk of long-term welfare dependency**, in relation to a person, means the risk, determined using risk factors set by the Minister for the purposes of **section 150** and this section by direction under **section 7**, that the person will, for an indefinite period, not be able to obtain full-time employment and will be likely to remain wholly or largely dependent for the person's financial support on all or part of a main benefit under this Act.

Compare: 1964 No 136 s 171A

154 Interpretation

In **sections 149 to 152**,—

approved early childhood education programme means an early childhood education programme approved by regulations made under **section 403**

core check means a check of a child's health and well-being that is—

(a) done under, and identified in contract or funding arrangements as an essential part of, the programme in question; and

(b) funded, directly or indirectly, through Vote Health

specified beneficiary means a person who is in a relationship and receives in his or her own right—

(a) an exceptional circumstances benefit, supported living payment under **section 33**, or jobseeker support; or

(b) New Zealand superannuation paid at a rate specified in clause 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001; or

(c) a veteran's pension at the relationship (partner not receiving superannuation or pension) rate or the relationship (partner not receiving superannuation or pension) legacy rate (as defined in section 158 of the Veterans' Support Act 2014).

Compare: 1964 No 136 ss 60RAB(1), (4), 157

Specific obligations: obligation to work with contracted service providers

155 Obligation to work with contracted service providers

(1) This section applies to a person (**P**) who receives 1 of the following benefits, whether in P's own right or on behalf of P's spouse or partner:

(a) jobseeker support:

(b) sole parent support:

(c) a supported living payment:

(d) an exceptional circumstances benefit.

(2) P must, when required by MSD,—

(a) attend and participate in any interview with a contracted service provider specified by MSD:

(b) attend and participate in any assessment of P undertaken on behalf of MSD by a contracted service provider specified by MSD:

(c) co-operate with a contracted service provider specified by MSD in facilitating the provision of the services that the provider has been contracted to provide in relation to P's obligations under all or any of the following:

(i) conditions of an exceptional circumstances benefit that MSD imposes or determines under **section 53**:

(ii) work-preparation obligations (*see* **sections 110 and 111**):

(iii) obligations in relation to dependent children (*see* **sections 117 to 121**):

(iv) work-test obligations (*see* **sections 130 and 132**):

(d) report to a contracted service provider specified by MSD on P's compliance with P's obligations under this Act as often as, and in the manner that, the provider reasonably requires.

Compare: 1964 No 136 s 60GAG(1)

156 Person who fails to comply with requirement under section 155(2) subject to sanction

A person (**P**) is subject to a sanction (*see* **section 216(f)**) if MSD is satisfied that P has, without a good and sufficient reason, failed to comply with a requirement to take any of the steps listed in **section 155(2)**.

Compare: 1964 No 136 s 60GAG(3)

General obligations: obligations in relation to overseas pensions

157 Interpretation

In **sections 158 to 165**,—

NZ benefits legislation means all or any of the following enactments:

(a) this Act:

(b) the New Zealand Superannuation and Retirement Income Act 2001:

(c) Part 6 of the Veterans' Support Act 2014

~~**overseas pension** means a benefit, pension, or periodical allowance, or any part of it, that is granted elsewhere than in New Zealand but excludes a Government occupational pension (as defined in **Schedule 2**).~~

overseas pension has the same meaning given to it by **section 172** for the purposes of **sections 172 to 175**.

158 Applicant for benefit, etc, to take reasonable steps to obtain overseas pension

(1) This section applies if—

(a) a person (**A**) is an applicant for a benefit under the NZ benefits legislation; and

(b) 1 or more of the following persons may be entitled to an overseas pension or may be granted an overseas pension:

(i) A:

(ii) A's spouse or partner:

(iii) A's dependant.

(2) If this section applies,—

(a) A and A's spouse or partner must take all reasonable steps to obtain the overseas pension to which either or both of them may be entitled or that may be granted to either or both of them; and

(b) A must take all reasonable steps to obtain the overseas pension to which A's dependant may be entitled or that may be granted to A's dependant.

Compare: 1964 No 136 s 69G(1)

159 MSD may give notice requiring person to take reasonable steps to obtain overseas pension

(1) MSD may give a notice to any of the following persons requiring that person to take all reasonable steps to obtain an overseas pension to which that person may be entitled or which that person may be granted:

(a) an applicant (**A**) for a benefit under the NZ benefits legislation:

(b) a recipient (**R**) of a benefit under the NZ benefits legislation:

(c) the spouse or partner of A or R.

(2) The notice must—

(a) be in writing; and

(b) specify that the person to whom the notice is given must take all reasonable steps to obtain the overseas pension for that person; and

(c) specify the period during which the person must take the necessary steps.

Compare: 1964 No 136 s 69G(2)

160 MSD may give notice requiring person to take reasonable steps to obtain overseas pension for dependant

(1) MSD may give a notice to any of the following persons requiring that person to take all reasonable steps to obtain an overseas pension to which his or her dependant may be entitled or which his or her dependant may be granted:

(a) an applicant for a benefit under the NZ benefits legislation:

(b) a recipient of a benefit under any of those enactments.

(2) The notice must—

(a) be in writing; and

(b) specify that the person to whom the notice is given must take all reasonable steps to obtain the overseas pension for his or her dependant; and

(c) specify the period during which the person must take the necessary steps.

Compare: 1964 No 136 s 69G(3)

161 Failure to comply with MSD's notice given under section 163 or 164

(1) This section applies if a person to whom a notice has been given under **section 159 or 160** fails to comply with that notice.

(2) MSD may—

(a) in the case of an applicant for a benefit, refuse to grant the benefit:

(b) in the case of a beneficiary or his or her spouse or partner, suspend the benefit.

(3) A benefit suspended under **subsection (2)(b)** remains suspended until—

(a) the beneficiary or his or her spouse or partner satisfies MSD that he or she has taken all reasonable steps to obtain the overseas pension; or

(b) MSD cancels the benefit under **subsection (4)**.

(4) MSD may, not less than 40 working days after suspension of a benefit under **subsection (2)(b)**, cancel the benefit from the date that MSD determines.

Compare: 1964 No 136 s 69G(4), (5)

162 Applicant for benefit must provide information as to rate of overseas pension

(1) This section applies if a person (**A**) applies for a benefit under the NZ benefits legislation.

(2) A must provide MSD with information establishing to MSD's satisfaction the rate of any overseas pension that is received by any of the following persons:

(a) A:

(b) A's spouse or partner:

(c) A's dependant.

(3) MSD may refuse to grant a benefit to an applicant who has not complied with **subsection (2)** within 10 working days after applying for the benefit.

Compare: 1964 s 69H(1), (2)

163 MSD may give notice requiring beneficiary to provide information as to rate of overseas pension

(1) This section applies if a person (**P**) receives a benefit under the NZ benefits legislation.

(2) MSD may give P a written notice requiring P to provide MSD with information establishing to MSD's satisfaction the rate of any overseas pension that is received by any of the following persons:

(a) P:

(b) P's spouse or partner:

(c) P's dependant.

Compare: 1964 No 136 s 69H(3)

164 Failure to comply with MSD's notice given under section 163

(1) This section applies if a person to whom a notice has been given under **section 163** fails to comply with that notice within 10 working days after the notice has been given.

(2) MSD may suspend the benefit, which remains suspended until—

(a) the beneficiary establishes to MSD's satisfaction the rate of the overseas pension; or

(b) MSD cancels the benefit under **subsection (3)**.

(3) MSD may, not less than 40 working days after suspension of a benefit under **subsection (2)**, cancel the benefit from the date that MSD determines.

Compare: 1964 No 136 s 69H(4), (5)

165 Meaning of rate

In **sections 162 to 164**, **rate**, in relation to an overseas pension, means the rate of that pension in the currency of the country paying that pension.

Compare: 1964 No 136 s 69H(6)

Miscellaneous

166 Application of health and safety legislation, etc

(1) This section applies if a person (**P**)—

(a) is doing work as part of a job search activity in accordance with P's work-test obligations or under **section 244 or 303**; or

(b) is a beneficiary and is doing work as part of an employment-related activity or activity in the community arranged by MSD.

(2) The Health and Safety at Work Act 2015 and the Human Rights Act 1993 apply to P, and to the person (**B**) providing the work that person P is doing, as if P were—

(a) a worker in B's business or undertaking; or

(b) B's employee.

(3) Except as provided in **subsection (2)**, nothing in this Part creates or implies an employment relationship between P and B.

Compare: 1964 No 136 s 123C

167 Obligations suspended where MSD has exercised discretion to pay benefit while beneficiary overseas

(1) This section applies if MSD has exercised its discretion under any regulations made under **section 415** to pay a benefit to a person (**P**) for a period of absence by P from New Zealand.

(2) During the period of absence for which the benefit is paid, P is not required to comply with his or her work test or work-preparation obligations or young person or young parent obligations.

Part 4
Factors affecting benefits

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Subpart 1—Guide to this Part

168 What this Part does

(1) This Part sets out the factors that may affect a benefit.

(2) The factors affecting a benefit are:

(a) pre-benefit activities:

(b) insurance recovery:

(c) entitlement to an overseas pension:

(d) failure to assist child support:

(e) shared care of a dependent child:

(f) compensation or damages:

(g) the grant of a veteran's entitlement:

(h) a personal benefit excluding a benefit on behalf of a spouse or partner:

(i) a family protection claim:

(j) refugee or protected person status:

(k) hospitalisation:

(l) alcohol and drug treatment:

(m) the issue of a warrant for a beneficiary's arrest:

(n) custody in prison or on remand:

(o) absence from New Zealand:

(p) an additional dependent child:

(q) voluntary unemployment or loss of employment through misconduct, etc:

(r) a non-entitlement period, stand down, or 100% suspension of benefit.

Subpart 2—Factors affecting benefits

Factors affecting benefits: pre-benefit activities

169 Regulations may prescribe pre-benefit activities

MSD may, in accordance with regulations made under **section 411**,—

(a) require a person who contacts MSD requesting financial assistance under this Act or that person's spouse or partner (if any) to undertake 1 or more pre-benefit activities; and

(b) impose consequences for non-compliance, without a good and sufficient reason, with a requirement to undertake the 1 or more pre-benefit activities.

Compare: 1964 No 136 ss 11E, 11G, 11H

170 MSD must explain requirements

MSD must take reasonable and appropriate steps to make every person on whom any requirements are placed under regulations made under **section 411** (the **regulations**) aware of the following:

(a) the person's obligations (as set out in the regulations) in relation to the requirements; and

(b) the consequences (as set out in the regulations) of failure to comply with the requirements; and

(c) when a requirement is to be, or has been, revoked, and when the revocation takes, or took, effect.

Compare: 1964 No 136 s 11F

Factors affecting benefits: insurance recovery

171 Benefit may be subject to repayment of insurance payment

MSD may, in accordance with regulations made under **section 412**, make the grant of a benefit or the rate of the benefit subject to repayment to MSD of all or part of an insurance payment of a kind or description, or that falls within a class or definition, prescribed by those regulations.

Compare: 1964 No 136 s 68A

Factors reducing benefits: entitlement to overseas pensions

172 Interpretation

In this section and in **sections 173 to 175**,—

NZ benefits legislation means all or any of the following enactments:

(a) this Act:

(b) Part 1 of the New Zealand Superannuation and Retirement Income Act 2001:

(c) Part 6 of the Veterans' Support Act 2014

~~**overseas pension** means a benefit, pension, or periodical allowance, or any part of it, that is granted elsewhere than in New Zealand but excludes a Government occupational pension (as defined in **Schedule 2**)~~

~~**qualifying overseas pension**—~~

~~(a) means an overseas pension determined by MSD to be part of a programme that—~~

~~(i) provides benefits, pensions, or periodical allowances for any of the contingencies for which benefits, pensions, or allowances may be paid under NZ benefits legislation; and~~

~~(ii) is administered by or on behalf of the Government of the country from which the benefit, pension, or periodical allowance is received; and~~

~~(b) excludes an overseas pension determined by MSD under regulations made under **section 413** to be in the nature of compensation for death or injury, etc.~~

overseas pension means a benefit, pension, or periodical allowance, or any part of it, that—

(a) is granted elsewhere than in New Zealand; and

(b) is determined by MSD to be a payment that is part of a programme that—

(i) provides benefits, pensions, or periodical allowances for any of the contingencies for which benefits, pensions, or allowances may be paid under NZ benefits legislation; and

(ii) is administered by or on behalf of the Government of the country from which the benefit, pension, or periodical allowance is received; and

(c) is not a Government occupational pension (as defined in **Schedule 2**); and

(d) is not determined by MSD to be in the nature of, and paid for similar purposes as,—

(i) compensation for injury or death for which payment could be made under the Accident Compensation Act 2001 if the injury or death had occurred in New Zealand after the commencement of that Act; or

(ii) a war pension or allowance granted under the Veterans' Support Act 2014 of a type that would not affect any recipient's entitlement to a benefit under **sections 18 and 183 to 185** of this Act unless the pension or allowance is a pension or payment granted under Part 6 of the Veterans' Support Act 2014; or

(iii) a disability allowance.

Compare: 1964 No 136 s 70(1), (1A), (1B), (2)

173 Persons affected by receipt of overseas pension

A person (**P**) is a person affected by the receipt of an overseas pension if P is a person who is qualified to receive a benefit under the NZ benefits legislation and—

(a) P is entitled to receive or receives ~~a qualifying~~ an overseas pension in respect of any of the following persons:

(i) P:

(ii) P's spouse or partner:

(iii) any dependant of P; or

(b) P's spouse or partner is entitled to receive or receives ~~a qualifying~~ an overseas pension; or

(c) any of P's dependant or dependants is entitled to receive or receives ~~a qualifying~~ an overseas pension.

Compare: 1964 No 136 s 70(1)(a)

174 Benefit of person affected is reduced by amount of overseas pension

(1) The rate of the benefit or benefits that would otherwise be payable under the NZ benefits legislation to a person affected by the receipt of an overseas pension must be reduced by the amount of the overseas pension as determined by MSD under regulations made under **section 413**.

(2) **Subsection (1)** does not apply to—

(a) New Zealand superannuation payable overseas under section 26 of the New Zealand Superannuation and Retirement Income Act 2001; or

(b) a veteran's pension payable overseas under section 182 of the Veterans' Support Act 2014.

Compare: 1964 No 136 s 70(1)

175 MSD may enter into arrangement with person affected by receipt of overseas pension

MSD may, in accordance with regulations made under **section 413**, enter into an arrangement with a person affected by the receipt of an overseas pension (**P**) to pay P the rate of a benefit or benefits under the NZ benefits legislation in consideration of MSD receiving an amount that is equivalent to the amount of the overseas pension in question.

Compare: 1964 No 136 s 70(3)–(4)

175A Treatment of certain overseas benefits, pensions, and allowances that are not overseas pensions

(1) This section applies to a benefit, pension, or periodical allowance, or any part of it, that—

(a) is granted elsewhere than in New Zealand; and

(b) is administered by or on behalf of the Government of the country from which the benefit, pension, or periodical allowance is received; and

(c) is determined by MSD to be in the nature of, and paid for similar purposes as,—

(i) compensation for injury or death for which payment could be made under the Accident Compensation Act 2001 if the injury or death had occurred in New Zealand after the commencement of that Act; or

(ii) a war pension or allowance granted under the Veterans' Support Act 2014 of a type that would not affect any recipient's entitlement to a benefit under **sections 18 and 183 to 185** of this Act

unless the pension or allowance is a pension or payment granted under Part 6 of the Veterans' Support Act 2014; or

(iii) a disability allowance.

(2) MSD must treat a benefit, pension, or periodical allowance, or any part of it, to which this section applies as if it were in fact the relevant compensation, pension, or allowance specified in **subsection (1)(c)** (*see*, for example, **sections 18, 77, and 183 to 185**).

Compare: 1964 No 136 s 70(1)

Factors reducing benefits: failure to assist child support

176 MSD must reduce rates of benefits for sole parents for failure to assist child support

(1) This section applies to any person (**P**) who—

(a) is a sole parent; and

(b) receives one of the following benefits:

(i) sole parent support:

(ii) a supported living payment on the ground of restricted work capacity or total blindness:

(iii) jobseeker support (except jobseeker support granted under **section 25(3) or (4)**):

(iv) a young parent payment:

(v) an exceptional circumstances benefit.

(2) MSD must reduce the benefit in **subsection (1)(b)** payable to P in respect of each dependent child in P's care for whom P is not receiving a supported child payment by the prescribed amount (*see* **section 397(1)(h)**) if P fails or refuses to do any of the following things:

(a) identify who is in law the other parent of the child:

(b) apply for formula assessment of child support as required by section 9 of the Child Support Act 1991:

(c) ~~testify against the other parent as required by section 122 of the Child Support Act 1991~~give in evidence, in a proceeding under the Child Support Act 1991, all information that is required of P as a compellable witness under section 122 of that Act.

(3) **Subsection (2)** is overridden by **section 177**.

(4) If P's failure or refusal to do anything referred to in **subsection (2)** resulted in the reduction of P's benefit, and P subsequently does that thing, the reduction of benefit under **subsection (2)** ceases to apply.

Compare: 1964 No 136 s 70A(1), (2), (4)

177 No reduction in certain cases

(1) MSD must not reduce a benefit under **section 176(2)** if MSD is satisfied that—

(a) there is insufficient evidence available to establish who is in law the other parent; or

(b) the beneficiary is taking active steps to identify who is in law the other parent; or

(c) the beneficiary or any of the beneficiary's children would be at risk of violence if the beneficiary did or took steps to do any of the things referred to in **section 176(2)**; or

(d) the child was conceived as a result of incest or sexual violation; or

(e) there is some other compelling circumstance for the beneficiary's failure or refusal to do any of the things referred to in **section 176(2)** and in any event there is no real likelihood of child support being collected in the foreseeable future from the other parent or the other parent's estate.

(2) In **subsection (1)(c)**, **violence** has the same meaning as in section 3 of the Domestic Violence Act 1995.

Compare: 1964 No 136 s 70A(3), (9)

178 Additional reduction in certain cases

(1) This section applies where MSD has reduced a benefit under **section 176(2)**.

(2) MSD must further reduce the benefit by an additional amount prescribed by regulations made under **section 397(1)(h)** if—

(a) a period of least 13 weeks has elapsed since the benefit was first reduced under **section 176(2)**; and

(b) during that period MSD has given the beneficiary a reasonable opportunity to do the thing that (because of the beneficiary's refusal or failure to do that thing) resulted in the reduction; and

(c) the beneficiary continues to refuse or fail to do that thing.

(3) An additional reduction under this section stops when a reduction under **section 176(2)** stops.

Compare: 1964 No 136 s 70A(5), (6), (8)

Factors affecting eligibility for benefit: shared care of dependent child

179 Shared care of dependent child

(1) This section applies if—

(a) the parents of a dependent child live apart; and

(b) both parents receive benefits; and

(c) each parent has the primary responsibility for the care of the child for at least 40% of the time.

(2) In assessing the benefit and rate of benefit of each parent, MSD must ~~take the child into account~~ treat the child as a dependent child in assessing the benefit and rate of the ~~primary~~ primarily responsible parent only.

(3) In **subsection (2)**, the ~~**primary**~~ **primarily responsible parent** is—

(a) the parent who MSD decides has the greater responsibility for the child; or

(b) if MSD is unable to make a decision under **paragraph (a)**, the parent who MSD decides was the child's principal caregiver immediately before the parents began living apart; or

(c) if MSD is unable to make a decision under **paragraph (a) or (b)**, the parent who the parents agree is the ~~primary~~ primarily responsible parent.

(4) If the ~~primary~~ primarily responsible parent cannot be identified under **subsection (3)**, MSD must not take the child into account in assessing the benefit and rate of benefit of either parent until the parents agree who is the ~~primary~~ primarily responsible parent.

Compare: 1964 No 136 s 70B(1), (3), (4)

180 Rules for assessing which parent has greater responsibility for dependent child

For the purposes of deciding under **section 179(3)(a)** which parent has greater responsibility for the child, MSD must have regard primarily to the time that the child is in the care of each parent and then to the following factors:

(a) how the responsibility for decisions about the daily activities of the child is shared; and

(b) who is responsible for taking the child to and from school and supervising that child's leisure activities; and

(c) how decisions about the education or health care of the child are made; and

(d) the financial arrangements for the child's material support; and

(e) which parent pays for which expenses of the child.

Compare: 1964 No 136 s 70B(2)

Factors reducing benefits: compensation or damages

181 Effect of compensation or damages on application for benefit

(1) This section applies if—

(a) a person (**P**) applies for a benefit; and

(b) P has been paid or has a claim for compensation or damages from any other person in respect of—

(i) any disability caused by accident or disease; or

(ii) wrongful or unjustifiable dismissal.

(2) If P has been paid compensation or damages, MSD may refuse the benefit or grant a reduced benefit for the period of disability or loss of expectation of employment for which the compensation or damages have been paid or deemed by MSD to have been paid.

(3) If P has a claim for compensation or damages, MSD may grant the benefit on the condition that MSD may require P to repay MSD all or part of the benefit out of the compensation or damages that are paid to P as a result of the claim.

(4) If a benefit or part of a benefit is granted on the condition set out in **subsection (3)**, the benefit or the part of it—

(a) constitutes a charge on the compensation or damages; and

(b) is a debt due to Crown under regulations made under **section 423** from the beneficiary or any person liable for the payment of the compensation or damages; and

(c) is subject to recovery under regulations made under **section 423** from the beneficiary or any person liable for the payment of the compensation or damages.

(5) In this section, **compensation or damages**—

(a) includes any *ex gratia* payment made in settlement or on account of a claim for compensation or damages; but

(b) does not include any impairment lump sum received under Schedule 1 of the Accident Compensation Act 2001.

Compare: 1964 No 136 s 71

182 Loss of earnings compensation under Accident Compensation Act 2001

(1) This section applies if—

(a) a person (**P**) is entitled to a specified benefit as defined in **subsection (3)**; and

(b) either of the following persons is entitled to receive or receives weekly loss of earnings compensation:

(i) P, on P's own account or in respect of P's spouse or partner or of P's dependent child:

(ii) P's spouse or partner.

(2) MSD must reduce the rate of the specified benefit payable to P by the amount of weekly loss of earnings compensation received by P or P's spouse or partner (unless this subsection does not apply because of the exception in **clause 28A of Schedule 1**).

(3) In this section,—

specified benefit means a main benefit under this Act, a supported child's payment, and a veteran's pension subject to abatement under section 171 of the Veterans' Support Act 2014

weekly loss of earnings compensation means weekly compensation for loss of earnings or loss of potential earning capacity payable to a person under the Accident Compensation Act 2001.

Compare: 1964 No 136 s 71A(1)–(3)

Factors affecting benefit: veteran's entitlement

183 Veteran's entitlement excludes any other benefit

(1) A person (**P**) who is granted an entitlement under the Veterans' Support Act 2014 or in respect of whom an entitlement under that Act is payable is not entitled to any other benefit under this Act.

(2) **Subsection (1)** is subject to **section 184**.

Compare: 1964 No 136 s 72(b)

184 Exceptions to rule that veteran's entitlement excludes any other benefit

(1) **Section 183(1)** does not apply if the entitlement under the Veterans' Support Act 2014 is any of the following:

(a) a pension or allowance granted to P on the ground of P's disablement:

(b) a pension or allowance under Part 6 of the Veterans' Support Act 2014:

(c) a surviving spouse or partner pension granted under Part 3 of the Veterans' Support Act 2014:

(d) an allowance for services rendered as an attendant on a disabled member of the New Zealand or any other Commonwealth forces or of the Emergency Reserve Corps or of the New Zealand mercantile marine.

(2) **Section 183(1)** does not exclude a person who is paid a children's pension under section 72 of the Veterans' Support Act 2014 from eligibility for any of the following benefits:

(a) a supported living payment on the ground of restricted work capacity or total blindness:

(b) jobseeker support on the ground of health condition, injury, or disability:

(c) a youth payment or young parent payment granted to a person who qualifies for an exemption from the obligation to undertake education or training or work-based learning (as defined in **section 147(4)**) on the ground of the person's health condition (for example, sickness), injury, or disability:

(d) a child disability allowance.

Compare: 1964 No 136 s 72(b)

Factors affecting benefit: personal benefit excludes benefit on behalf

185 Personal benefit of spouse or partner excludes benefit on behalf of spouse or partner

(1) This section applies to a part of a benefit if the part is payable in respect of a person's (**P's**) spouse or partner.

(2) The part must not be paid for a period when a personal benefit is payable in respect of P's spouse or partner.

(3) This section is subject to regulations made under **section 421(2)(f)** (regulations: payments: apportionment) for the purposes of **section 316** (how benefits are paid).

Compare: 1964 No 136 s 72(c)

Factors affecting benefit: maintenance claim

186 MSD may refuse or cancel benefit for failure to take reasonable steps to obtain maintenance

(1) This section applies if MSD is satisfied an applicant has failed to take reasonable steps to obtain, or has foregone rights to, maintenance the applicant may be entitled to in respect of the applicant under the Family Proceedings Act 1980 or any other Act.

(2) MSD may refuse to grant a benefit, cancel or reduce a benefit already granted, or grant a benefit at a reduced rate.

Compare: 1964 No 136 s 74(1)(e)

Factors affecting benefit: family protection claim

187 MSD may refuse or cancel benefit if family protection claim not pursued

(1) This section applies if a person (**P**) who is a beneficiary or an applicant for a benefit, in MSD's view,—

(a) has a tenable claim under the Family Protection Act 1955 for a share of or provision out of the estate of a deceased relative; and

(b) has failed to take reasonable steps to advance that claim, including bringing or participating in court proceedings to enforce P's claim.

(2) MSD may refuse to grant the benefit, grant it at a reduced rate, or cancel a benefit already granted.

(3) MSD may intervene in court proceedings for enforcing P's claim under the Family Protection Act 1955 and may give evidence or make submissions in support of P's claim.

Compare: 1964 No 136 s 73

Factors affecting benefit: person not ordinarily resident in New Zealand

188 MSD may refuse or cancel benefit if person not ordinarily resident in New Zealand

(1) MSD may refuse to grant a benefit, cancel or reduce a benefit already granted, or grant a benefit at a reduced rate, if MSD is satisfied that the applicant, or the spouse or partner of the applicant or any person in respect of whom the benefit or any part of the benefit is or would be payable, is not ordinarily resident in New Zealand.

(2) This section does not apply to—

(a) New Zealand superannuation payable to a person resident in a specified Pacific country under section 31 of the New Zealand Superannuation and Retirement Income Act 2001 (*see* section 35(2) of that Act); or

(b) a veteran's pension payable to a person resident in a specified Pacific country under section 191 of the Veterans' Support Act 2014 (*see* section 195(2) of that Act).

Compare: 1964 No 136 s 74(1)(a); 2001 No 84 s 35(2); 2014 No 56 s 195(2)

Factors affecting benefit: refugee or protected person status

189 Refugee or protected person status

(1) This section applies if MSD is satisfied that a person (**P**) is any of the following:

(a) a person lawfully present in New Zealand who is awaiting the outcome of the person's claim for recognition as a refugee or a protected person:

(b) a person who is recognised as a refugee or protected person:

(c) a person applying for a residence class visa under the Immigration Act 2009 who is compelled to remain in New Zealand because of unforeseen circumstances.

(2) MSD may grant P—

(a) an exceptional circumstances benefit under **section 59**:

(b) temporary additional support under **section 82**.

(3) This section overrides **section 16** (residential requirement) and **section 19** (general limitation on receiving benefit: persons unlawfully resident or present in New Zealand and persons holding temporary entry class visa).

Compare: 1964 No 136 s 74A(1A), (1B)

Factors affecting benefit: hospitalisation

190 Hospitalisation

(1) The main benefit under this Act of a person (**P**) is affected by hospitalisation if P—

(a) is in hospital for a period of more than 13 weeks; and

(b) has a spouse or partner but no dependent children or is single.

(2) The rate of P's benefit after the 13th week is the rate specified in **Part 10 of Schedule 4** except that MSD may pay P a higher rate after taking into account P's personal financial circumstances.

(3) The rate of benefit that is paid to P under **subsection (2)** is not affected by any absence or absences from hospital of P—

(a) after the 13th week of hospitalisation; and

(b) lasting no longer than 28 days.

Compare: 1964 No 136 s 75(2)–(4), (6)

191 Benefit of spouse or partner increased after 13th week of hospitalisation

(1) This section applies if—

(a) a person's (**P**'s) main benefit under this Act is reduced under **section 190**; and

(b) P has a spouse or partner who is not in hospital or has been in hospital for less than 13 weeks; and

(c) a main benefit under this Act is payable to or in respect of P's spouse or partner.

(2) On the reduction of P's benefit, the main benefit under this Act of the spouse or partner must be increased with effect from the date of reduction by an amount equal to the difference between—

(a) the maximum rate of benefit payable to a single person; and

(b) the maximum rate of benefit payable in respect of a person who has a spouse or partner and whose spouse or partner is receiving a benefit.

(3) Nothing in this section entitles a single person or a couple who are married or in a civil union or in a de facto relationship to be paid a greater amount of benefit, as a result of hospitalisation, than would otherwise have been payable.

Compare: 1964 No 136 s 75(5), (7)

Factors affecting benefit: alcohol and drug treatment

192 Beneficiary resident in institution for treatment of alcoholism or drug addiction

(1) This section applies if a person (**P**) is—

(a) a beneficiary; and

(b) a resident of an institution for the treatment of alcoholism or drug addiction.

(2) The rate of any benefit payable to P while a resident of the institution is determined by MSD after taking into account P's personal financial circumstances.

(3) In **subsection (1)**, **institution for the treatment of alcoholism or drug addiction** means an institution certified under the Alcoholism and Drug Addiction Act 1966 (the **1966 Act**) (not being a psychiatric security institution within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992) or any institution that fulfils a similar purpose to an institution certified under the 1966 Act.

Compare: 1964 No 136 s 75A

Factors affecting benefit: issue of warrant for beneficiary's arrest

193 Benefit not payable to person who is subject to warrant of arrest

(1) A benefit is not payable to a person (**P**) if MSD is satisfied that—

(a) P is a beneficiary who receives a main benefit under this Act, New Zealand superannuation, or a veteran's pension; and

(b) criminal proceedings have been commenced against P in a New Zealand court for an offence; and

(c) a warrant has been issued by a New Zealand court (or judge or registrar of a New Zealand court) for P's arrest in connection with those proceedings; and

(d) the warrant has not been resolved and at least 28 days have elapsed since the date on which the warrant was issued.

(2) However, MSD must not stop under this section payment of P's benefit unless MSD has first—

(a) followed the procedure set out in **sections 195 and 196**; and

(b) considered P's response, if any, to the unresolved warrant notice given under **section 195**.

(3) A benefit the payment of which is stopped under this section remains not payable until MSD is satisfied that P is not the subject of the warrant or that the warrant has been resolved.

(4) Nothing in this section affects the power of MSD to suspend immediately the benefit of a person under **section 197**.

Compare: 1964 No 136 s 75B(1), (6)

194 Beneficiary and offence defined for section 193

In **section 193**,—

beneficiary excludes a person who is 1 of the following:

(a) a young person (as defined in section 2(1) of the Children, Young Persons, and Their Families Act 1989):

(b) a person who falls within a class, description, or kind of beneficiary that is excluded from the operation of **section 193** by regulations made under **section 414**

offence excludes an offence of a class, description, or kind excluded from the operation of **section 193** by regulations made under **section 414**.

Compare: 1964 No 136 s 75B(2)

195 MSD must give beneficiary notice of unresolved warrant

As soon as practicable after MSD is notified of the issue of the warrant, MSD must give P a notice for the purposes of this section (an **unresolved warrant notice**) that complies with **section 196**.

Compare: 1964 No 136 s 75B(3)

196 Requirements for unresolved warrant notice

(1) An unresolved warrant notice must—

(a) specify a period of 10 working days within which the person to whom the notice is delivered (**P**) may—

(i) dispute that P is the person to whom the warrant applies; or

(ii) take steps to resolve the warrant; and

(b) specify the steps that P may take to dispute that P is the subject of the warrant or to resolve the warrant; and

(c) specify the consequences if P fails to resolve the warrant within the 10-working day period.

(2) An unresolved warrant notice that involves information supplied by the Ministry of Justice under **clause 15 of Schedule 6** may be combined with a notice of adverse action given under section 103(1) of the Privacy Act 1993.

Compare: 1964 No 136 s 75B(3), (4)

197 Immediate suspension of benefit at request of New Zealand Police

MSD may suspend immediately a benefit payable to a person (**P**) if—

(a) MSD is satisfied that—

(i) criminal proceedings have been commenced against P in a New Zealand court for an offence; and

(ii) a warrant has been issued in New Zealand for P's arrest in connection with those proceedings; and

(iii) the warrant has not been resolved; and

(b) the New Zealand Police have given MSD a written notice that—

(i) states that the Commissioner of Police considers on reasonable grounds that P is a risk to public safety; and

(ii) requests MSD on the ground of that risk to suspend the benefit payable to P; and

(iii) is signed by the Commissioner or by a constable who occupies a position of the level of inspector or above.

Compare: 1964 No 136 s 75B(7)

198 Beneficiary and offence defined for section 197

In **section 197**,—

beneficiary excludes a person who is 1 of the following:

(a) a young person (as defined in section 2(1) of the Children, Young Persons, and Their Families Act 1989):

(b) a person who falls within a class, description, or kind of beneficiary that is excluded from the operation of **section 197** by regulations made under **section 414**

offence excludes an offence of a class, description, or kind excluded from the operation of **section 197** by regulations made under **section 414**.

Compare: 1964 No 136 s 75B(2)

199 MSD must give beneficiary notice of immediate suspension

(1) This section applies if under **section 197** MSD suspends immediately a benefit payable to a person (**P**).

(2) As soon as reasonably practicable, MSD must give P a written notice that—

(a) states that the benefit has been suspended; and

(b) states the reason for the suspension; and

(c) specifies the steps that P may take to dispute that P is the subject of the warrant or to resolve the warrant.

Compare: 1964 No 136 s 75B(8)

200 Effect of non-payment or suspension of benefit

(1) The following sections apply to a benefit (as if it had been suspended under **section 215**) that is not payable under **section 193** or is suspended under **section 197**:

(a) **section 213**:

(b) **section 228**:

(c) **section 229**:

(d) **section 231**.

(2) However, **section 228** (which protects a spouse or partner) ceases to apply under **subsection (1)(b)** to the benefit at the close of the 28th day after the date on which it becomes not payable or is suspended.

(3) **Subsection (1)(b)** does not apply if—

(a) the person whose benefit is suspended under **section 197** is not receiving a main benefit under this Act; or

(b) the spouse or partner of the person whose benefit is suspended under **section 197** is receiving a main benefit under this Act in the spouse's or partner's own right.

Compare: 1964 No 136 s 75B(9), (10)

Factors affecting benefit: custody in prison or on remand

201 Benefit not payable during custody in prison or on remand

(1) A benefit is not payable to a person (**P**) for any period during which P is—

(a) in custody in prison; or

(b) in custody on remand; or

(c) an escapee from custody in prison.

(2) In this section and **section 202**,—

custody in prison means custody in prison under a sentence of imprisonment or preventive detention

custody on remand means custody on remand by a court pending a further appearance before a court.

(3) For the purposes of this section,—

(a) MSD may regard as time spent in custody in prison or custody on remand time spent by a beneficiary in a hospital during a period of custody; and

(b) a person does not cease to be in custody by being released for a period of 24 hours or less for a purpose authorised by the Corrections Act 2004.

Compare: 1964 No 136 s 76(1), (5), (6)

202 Exceptions to rule that benefit not payable during custody in prison or on remand

(1) MSD may continue payment to a beneficiary of New Zealand superannuation or a veteran's pension for 2 pay days after the first day of custody in prison.

(2) MSD may pay all or part of a benefit to—

(a) the spouse or partner of a person in custody in prison or of an escapee from that custody; or

(b) any responsible person for the benefit of—

(i) that spouse or partner; or

(ii) the dependent child or children of a person in custody in prison or of an escapee from that custody.

(3) MSD may pay all or part of a benefit to a beneficiary in custody on remand after taking into account the beneficiary's personal financial circumstances.

Compare: 1964 No 136 s 76(2)–(4)

Factors affecting benefit: absence from New Zealand

203 General rule: benefit not payable while beneficiary absent from New Zealand

(1) For any period during which a person is absent from New Zealand, a benefit is not payable to that person.

(2) However, this section does not apply to a benefit payable under—

(a) sections 21 to 35 of the New Zealand Superannuation and Retirement Income Act 2001; or

(b) sections 176 to 196 of the Veterans' Support Act 2014; or

(c) any reciprocity agreement with another country adopted by an order made under **section 359**.

(3) This section is also subject to the exceptions, or other contrary or related provisions, contained in regulations made under **section 415**.

Compare: 1964 No 136 s 77; 2001 No 84 s 35(2); 2014 No 56 s 195(2)

Factors affecting benefit: additional dependent child

204 Purpose of sections 205 to 207

(1) The purpose of **sections 205 to 207** is to improve the financial and social outcomes for families that include people to whom those sections apply.

(2) **Sections 205 to 207** achieve their purpose—

(a) by providing earlier access to employment services and expectations; and

(b) while recognising the care and development needs of children.

Compare: 1964 No 136 s 60GAD

205 Additional dependent child must not be taken into account in certain cases

(1) This section applies when a person (**P**)—

(a) receives 1 of the following benefits (whether in P's own right or as the spouse or partner of the person granted the benefit):

(i) sole parent support:

(ii) a supported living payment:

(iii) jobseeker support:

(iv) an exceptional circumstances benefit; and

(b) is the caregiver, or principal caregiver, of a dependent child or children; and

(c) becomes the caregiver, or principal caregiver, of a dependent child (an **additional dependent child**) who is additional to the existing dependent child or children.

(2) An additional dependent child aged 1 year or over is not a dependent child for the purposes of P's eligibility for sole parent support (*see* **section 30**).

(3) An additional dependent child aged 1 year or over is—

(a) not a dependent child for the purposes of the criteria stated in **section 107** for imposing work-preparation obligations on P or P's spouse or partner under **sections 106 to 111**:

(b) not a dependent child for the purposes of determining whether P or P's spouse or partner falls within the definitions of any of the following terms (*see* **Schedule 2**):

(i) part-time work-tested beneficiary:

(ii) work-tested sole parent support beneficiary:

(iii) work-tested spouse or partner.

(4) **Subsection (1)** does not apply when—

(a) P is the resident of another country; and

(b) there is in force under **section 359** an order declaring that the provisions contained in an agreement (for example, a convention) with the government of that other country set out in a schedule of the order have force and effect so far as they relate to New Zealand.

(5) In applying **subsection (~~3~~2)** to a beneficiary for the purposes only of determining that person's eligibility for sole parent support, in a case where the beneficiary's sole parent support expired on the date that the beneficiary's youngest child turned 14 years old and has been replaced with jobseeker support, "An additional dependent child aged 1 year or over" must be read as "An additional dependent child at all times after that child is born".

Compare: 1964 No 136 s 60GAE(1), (1A), (2), (3A)

206 Extended application of additional dependent child rules

(1) MSD may apply the additional dependent child rules in **section 205(2) and (3)** in relation to any dependent child or children of whom a person (**P**) who already has any dependent child or children becomes a caregiver, or the principal caregiver, if MSD is satisfied that—

(a) P's situation is analogous to that of a person to whom **section 205(1)** applies; or

(b) to apply those rules will best achieve the purpose stated in **section 204**.

(2) An example of a situation that is analogous to that of a person to whom **section 205(1)** applies is that of a woman who gives birth during a period when the woman has temporarily ceased receiving a benefit (whether the woman has ceased receiving the benefit in the woman's own right, or as the spouse or partner of the person granted the benefit).

Compare: 1964 No 136 s 60GAE(4), (5)

207 Limited application of additional dependent child rules

MSD may elect (for any period MSD thinks fit) not to apply the additional dependent child rules in **section 205(2) and (3)** in relation to any additional dependent child or children if MSD is satisfied in any particular case that—

(a) not to apply those rules will best achieve the purpose stated in **section 204**; or

(b) there are circumstances beyond the control of the beneficiary parent concerned making it inappropriate or unreasonable to apply those rules.

Compare: 1964 No 136 s 60GAF

Factors affecting benefit: voluntary unemployment or loss of employment through misconduct, etc

208 Basic rule: no work-tested benefit for 13 weeks after leaving employment or scheme or loss of employment due to misconduct

(1) A person is not entitled to a work-tested benefit for a period of 13 weeks after ceasing employment if MSD is satisfied that the person has—

(a) left that employment voluntarily without good and sufficient reason; or

(b) lost that employment because of misconduct as an employee.

(2) A person is not entitled to a work-tested benefit for a period of 13 weeks after ceasing to participate in a scheme if MSD is satisfied that the person—

(a) has been receiving payments under the scheme and has voluntarily ceased to participate in the scheme without good and sufficient reason; or

(b) has ceased to participate in the scheme because of misconduct.

(3) This section is subject to **section 302**.

Compare: 1964 No 136 s 60H(3), (4)

209 Persons to whom basic rule applies

The basic rule applies to the following persons:

(a) a work-tested beneficiary:

(b) an applicant for a benefit who would become a work-tested beneficiary if the benefit were granted:

(c) the spouse or partner of an applicant for a couple rate of benefit who would become a work-tested spouse or partner if the benefit were granted:

(d) an applicant for jobseeker support on the ground of health condition, injury, or disability who has the capacity for part-time work.

Compare: 1964 No 136 s s 60H(2)

210 What happens if basic rule applies

(1) If the basic rule applies to a person (**P**),—

(a) MSD must cancel the benefit (if granted); and

(b) must not grant P the benefit in any other case; and

(c) P is not entitled, during the 13-week period, to the cancelled benefit or a work-tested benefit.

(2) However, under **section 211** MSD may decide not to apply **subsection (1)**.

(3) **Subsection (1)** is subject to **sections 229 to 231, 299, 302, and 303**.

Compare: 1964 No 136 s 60H(4), (5)

211 MSD's options in case of misconduct

(1) If the basic rule applies to a person (**P**) because of misconduct, MSD has 2 additional options:

(a) MSD may decide that the basic rule should not apply to P; or

(b) MSD may decide that the benefit should be paid to P, or paid without reduction, subject to the condition that MSD may require P to repay the benefit or part of it if a court or person or body authorised by law to determine the matter determines the misconduct to be proved.

(2) Any amount that MSD requires P to repay under **subsection (1)(b)** is a debt due to the Crown under regulations made under **section 423** and may be recovered from P under regulations made under **section 423**.

Compare: 1964 No 136 s 60H(6), (7)

212 Interpretation

For the purposes of this section and **sections 208 to 211**,—

basic rule means the rule set out in **section 208**

benefit means a work-tested benefit

employment,—

(a) in the case of an applicant for a work-tested benefit, means—

(i) full-time employment; or

(ii) part-time employment if MSD is satisfied that, for a period of not less than 13 weeks preceding the termination of the employment, the income from that employment was sufficient to maintain the person; and

(b) in the case of a part-time work-tested beneficiary, means regular part-time work; and

(c) in the case of any other work-tested beneficiary, means full-time employment; but

(d) does not include redundancy

scheme means a Government-assisted scheme that MSD considers analogous to a benefit.

Compare: 1964 No 136 s 60H(1)

Factors affecting benefits: non-entitlement period, stand down, or 100% suspension of benefit

213 How non-entitlement period, etc, affects supplementary benefits, and spouse or partner

(1) This section applies while a person is subject to—

(a) a non-entitlement period; or

(b) a stand down under **section 296** (start and calculation of stand-down period); or

(c) a sanction of suspension of 100% of a benefit under **section 220, 253, or 261**.

(2) The person is not entitled to receive—

(a) an exceptional circumstances benefit; or

(b) an accommodation supplement; or

(c) temporary additional support.

(3) However, an accommodation supplement that an applicant was receiving immediately before the applicant applied for a benefit continues, despite **subsections (1)(b) and (2)(b)**, at the same rate for the period of non-entitlement.

(4) If a person's spouse or partner is under **section 296** (start and calculation of stand-down period) not entitled to a benefit, then (under this subsection, and despite any contrary provision of this Act) the person is also not entitled to the benefit.

Compare: 1964 No 136 s 80C

Part 5
Enforcement: sanctions and offences

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Subpart 1—Guide to this Part

214 What this Part does

This Part sets out—

(a) the sanctions that may be imposed for a breach of an obligation under this Act:

(b) the offences that are created by this Act.

Subpart 2—Sanctions for breach of obligations other than young person or young parent obligations

Types of sanction

215 Sanctions for failure to comply with certain obligations under this Act

(1) MSD must under **section 217** impose a sanction for failure without good and sufficient reason to comply with the obligations under this Act that are specified in **section 216**.

(2) The sanction is 1 of the following:

(a) reduction in a main benefit:

(b) suspension of a main benefit:

(c) cancellation of a main benefit.

Compare: 1964 No 136 s 116B

216 Obligations that carry sanction for failure to comply

The obligations referred to in **section 215(1)** are the following:

(a) obligation to comply with a requirement under **section 104** to attend and participate in a work ability assessment or reassessment:

(b) obligation to comply with a work-preparation obligation under **section 110 or 111**:

(c) obligation to comply with an obligation under **sections 117 to 121** in relation to dependent children:

(d) obligation to comply with a work-test obligation under **section 130 or 132**:

(e) obligation to comply with a requirement under **section 144(4)** to attend an interview:

(f) obligation to comply with a requirement under **section 155(2)** in relation to working with contracted service providers.

Compare: 1964 No 136 s 116B

Hierarchy of sanctions

217 Hierarchy of sanctions

The sanction that MSD must impose is,—

(a) for a first failure, reduction:

(b) for a second failure, suspension:

(c) for a third failure, cancellation.

Compare: 1964 No 136 s 117

218 Failure, and first, second, and third failure, defined for obligations other than young person or young parent obligations

In this **subpart**,—

failure means a failure to comply with an obligation for which MSD must impose a sanction

first failure means the first failure to comply with an obligation for which MSD must impose a sanction

second failure means a failure that occurs after a person has recomplied with the obligation following a first failure

third failure means a failure that occurs after a person has recomplied with the obligation following a second failure.

Compare: 1964 No 136 s 117

219 Sanction for first failure: reduction in main benefit

(1) For a first failure by a person (**P**), MSD must—

(a) reduce P's main benefit by half until P recomplies; and

(b) if P fails to recomply within 4 weeks after the initial reduction takes effect, reduce P's main benefit to zero until P complies.

(2) This section is subject to **sections 228 to 231 and 299 to 303**.

Compare: 1964 No 136 s 117(1)(a)

220 Sanction for second failure: suspension of main benefit

(1) For a second failure by a person (**P**), MSD must suspend P's main benefit until P recomplies.

(2) This section is subject to **sections 228 to 231 and 299 to 303**.

Compare: 1964 No 136 s 117(1)(b)

221 Sanction for third failure: cancellation of main benefit

(1) For a third failure by a person (**P**), MSD must cancel P's main benefit.

(2) On cancellation under this section of P's main benefit,—

(a) P is not entitled to receive any main benefit under this Act for 13 weeks from the date of cancellation; and

(b) to be again entitled to a main benefit under this Act, P must apply for the benefit and establish that P is eligible for it.

(3) This section is subject to **sections 228 to 231 and 299 to 303**.

Compare: 1964 No 136 s 117(1)(c), (2), (3)

222 Reduction or suspension of reduced benefit

If a person's specified benefit (as defined in **section 310**) is reduced under **section 219** or suspended under **section 220**, and the person is regranted a

specified benefit under **section 315**, the reduction or suspension continues to apply to the regranted specified benefit on and after its commencement until the person recomplies.

Compare: 1964 No 136 s 117(4)

How number of failures is counted

223 Failures that can be counted

(1) A failure can be counted if it occurs during a period of continuous payment of a main benefit, whether or not it is the same benefit.

(2) For the purposes of **subsection (1)**, MSD must treat as the same benefit:

(a) a specified benefit that expires under **section 311**; and

(b) a specified benefit regranted to the beneficiary under **section 315**.

Compare: 1964 No 136 s 119(1)(a), (1A), (3A)

224 Meaning of continuous payment

(1) For the purposes of **section 223(1)**, 2 or more different main benefits paid to a beneficiary do not give rise to a period of continuous payment in respect of the beneficiary of those 2 or more different main benefits if—

(a) one of those 2 or more different main benefits is a youth payment or a young parent payment; and

(b) the other of, or (as the case may be) the rest of, those 2 or more different main benefits is 1 or more or all of sole parent support, supported living payment, jobseeker support, and exceptional circumstances benefit.

(2) **Subsection (1)** does not affect **section 223(1)** applying (under **section 268**) with all necessary modifications to the imposition of sanctions under **subpart 3** in respect of failures that—

(a) are failures by a young person who is receiving a youth payment or a young parent payment; and

(b) are failures, without good and sufficient reason, to comply with an obligation placed on the young person by **section 147 or 149**; and

(c) occur during a period of continuous payment in respect of the young person of—

(i) the same benefit (that is, a youth payment or a young parent payment); or

(ii) 2 or more different benefits (that is a youth payment and a young parent payment, in whatever sequence paid).

(3) In determining whether a main benefit has been continuously paid, MSD must disregard any period during which the benefit was cancelled or suspended because the beneficiary commenced in employment that continued for less than 10 working days.

(4) In **subsection (3)**, **working day** means a day on which a person was required to work in the employment in question.

Compare: 1964 No 136 s 119(1A), (1B), (3), (5)

225 Failures that cannot be counted

(1) A failure cannot be counted if it occurred more than 12 months before the failure for which the calculation is made.

(2) For the purposes of **subsection (1)**, a failure occurs on the date MSD decides that the beneficiary has failed, without a good and sufficient reason, to comply with the appropriate obligation.

(3) This section does not affect the implementation, after the 12-month period, of a sanction based on any prior calculation of the number of failures by a person to comply with the appropriate work-test obligation or other obligation imposed by this Act.

Compare: 1964 No 136 s 119(1)(b)(ii), (2), (4)

Special cases: variations on ordinary sanctions rules

226 Exclusion of sanction if failure is subject of prosecution under Education Act 1989

MSD must not impose a sanction for a person's failure to comply with the obligation under **section 119(1)** (which relates to the attendance of a dependent child aged 6 to 15 years at a registered school) if—

(a) the failure is the subject of a prosecution against P for an offence under section 24(1) or 29(1) of the Education Act 1989, as the case may be; and

(b) the prosecution has not been withdrawn before being finally resolved.

Compare: 1964 No 136 s 60RC(2)

227 Variation for failure to comply with work-test obligation to accept offer of suitable employment

(1) MSD must, under **section 221**, cancel a main benefit for any failure to comply with the work-test obligation to accept any offer of suitable employment (*see* **section 130(b)**).

(2) This section overrides **sections 217 to 221**.

Compare: 1964 No 136 s 117(1B), (1C)

228 Variation for breach of work-test obligation by 1 spouse or partner

(1) This section applies when—

(a) a main benefit is payable at a work-test couple rate; and

(b) the benefit is reduced, suspended, or cancelled under **section 210 or 215**; and

(c) the reduction, suspension, or cancellation results from the failure of one spouse or partner to comply with a work-test obligation or results from the application of **section 210**.

(2) In a case to which this section applies,—

(a) the reduction, suspension, or cancellation applies to only half the applicable rate of main benefit before any ~~abatement~~ reduction on account of income; and

(b) the other spouse or partner is entitled to receive half that rate (and the appropriate income test applies to that rate, but at half the abatement rate in that test).

Compare: 1964 No 136 s 120(1)

229 Variation for breach of work-test obligation by both partners or spouses

(1) This section applies when—

(a) a main benefit is payable at a work-test couple rate; and

(b) the benefit is reduced, suspended, or cancelled under **section 210 or 215**; and

(c) the reduction, suspension, or cancellation results from the failure of both partners or spouses to comply with a work-test obligation or results from the application of **section 210**; and

(d) the couple have no dependent children.

(2) The reduction, suspension, or cancellation in respect of each spouse or partner applies to only half the applicable rate of main benefit before ~~abatement~~ reduction on account of income that is payable in respect of that spouse or partner.

(3) Any amount of the main benefit payable to the spouses or partners after the reduction, suspension, or cancellation is applied is subject to the appropriate income test but at half the abatement rate ~~under~~ in that test.

Compare: 1964 No 136 s 120(1A)

230 Variation for suspension or cancellation of benefit or non-entitlement period affecting couple with 1 or more dependent children

(1) This section applies when—

(a) a main benefit is payable at a work-test couple rate; and

(b) the benefit is reduced, suspended, or cancelled under **section 210 or 215**; and

(c) the reduction, suspension, or cancellation results from—

(i) the failure of both spouses or partners to comply with 1 or more specified obligations under this Act; or

(ii) the application of **section 210** to both spouses or partners; and

(d) the couple have 1 or more dependent children.

(2) This section also applies when, under **sections 208 and 210**, a person with 1 or more dependent children who is in a relationship has not been granted a main benefit and is not entitled for a period of 13 weeks to a work-tested benefit that would be payable at the work-test couple rate.

(3) In a case to which this section applies,—

(a) the reduction, suspension, cancellation, or non-entitlement period applies to only half the applicable rate of main benefit before any ~~abatement~~ reduction on account of income; and

(b) the spouses or partners are entitled to receive half that rate (and the appropriate income test applies to that rate).

(4) **Subsection (3)(b)** is subject to regulations made under **section 421(2)(f)** (regulations: payments: apportionment) for the purposes of **section 316** (how benefits are paid).

Compare: 1964 No 136 s 120(2), (3)

231 Variation for suspension or cancellation of main benefit or non-entitlement period affecting sole parent

(1) This section applies when the main benefit of a person (**P**) who is a sole parent is suspended or cancelled under **section 210 or 215**.

(2) This section also applies when, under **sections 208 and 210**, a sole parent (**P**) has not been granted a main benefit and is not entitled for a period of 13 weeks to a work-tested benefit.

(3) In a case to which this section applies,—

(a) the suspension or cancellation applies to only half the applicable rate of main benefit before any ~~abatement~~ reduction on account of income; and

(b) P is entitled during the period of suspension, cancellation, or non-entitlement to receive only half of that rate, and the appropriate income test applies to that rate but at half the abatement rate in that income test.

Compare: 1964 No 136 s 121

Good and sufficient reason for non-compliance

232 Good and sufficient reason for non-compliance: default by MSD

A good and sufficient reason for failure to comply with a requirement or obligation set out in **section 216** includes default by MSD if—

(a) compliance was dependent on any assistance specified by MSD; and

(b) MSD failed to provide that assistance, whether at all or to the extent or in the manner specified.

Compare: 1964 No 136 s 116C(1)

233 Good and sufficient reason for failure to comply with drug-testing obligation

(1) A person (**P**) has a good and sufficient reason for not complying with a drug-testing obligation, or for failing to apply for suitable employment that requires candidates to undertake drug tests, or for both, if MSD is satisfied that P—

(a) is addicted to, or dependent on, 1 or more controlled drugs; or

(b) is undertaking addiction treatment; or

(c) is awaiting assessment for, or an opportunity to undertake, addiction treatment; or

(d) is taking, in the dosage prescribed, a controlled drug lawfully prescribed for P by a health practitioner; or

(e) falls within another ground or grounds prescribed for the purposes of this subsection by regulations made under **section 397(1)(i)**.

(2) In **subsection (1)**, **addiction treatment** means treatment that—

(a) is for addiction to, or dependence on, 1 or more controlled drugs; and

(b) is provided by a health practitioner, or other person, who is professionally engaged in the treatment or rehabilitation of people who are using, or have used, controlled drugs; and

(c) is of a kind approved by MSD.

Compare: 1964 No 136 s 116C(2)

234 Good and sufficient reason for failure to supervise dependent child

A good and sufficient reason for failure to comply with an obligation under **section 132(1)(d)** includes supervision of a dependent child during hours when it would be unreasonable to expect a dependent child of the person in question to be without that person's supervision.

Compare: 1964 No 136 s 116C(3)

Procedure for imposing sanction

235 MSD must give notice of sanction

(1) MSD must not under **section 215** reduce, suspend, or cancel a benefit payable to a person (**P**) unless MSD has first given P a written notice for the purposes of this section (a **section 235 notice**) that complies with **subsection (2)**.

(2) The notice must—

(a) state that P has failed to comply with a specified obligation under this Act; and

(b) specify the nature of P's failure to comply; and

(c) state that, on the basis of P's failure, MSD is reducing, suspending, or cancelling P's benefit; and

(d) specify the date on which the reduction, suspension, or cancellation is to take effect; and

(e) in the case of a reduction or suspension, state the nature and duration of the reduction or suspension; and

(f) state that P has 5 working days from the giving of the notice to dispute the reduction, suspension, or cancellation; and

(g) advise P to contact MSD if P wants to dispute or discuss the decision to reduce, suspend, or cancel the benefit; and

(h) contain a clear statement of P's right, under **section 370**, to apply for a review of the decision, and of the procedure for applying for a review.

Compare: 1964 No 136 s 113(1), (2)

236 Notice relates to single failure

(1) A notice of a sanction given to a person (**P**) may specify more than 1 instance of failure.

(2) Each specified instance may relate to the same obligation, or to 2 or more different obligations.

(3) However, for the purposes of imposing a sanction, the combined specified instances are (if at least 2 of them are not disputed by P) treated as a single failure.

Compare: 1964 No 136 ss 113(2A), 117(1AA)

237 How notice of sanction may be given

(1) MSD may give a person (**P**) a **section 235** notice—

(a) by delivering it to P personally; or

(b) by delivering it to P by electronic means; or

(c) by leaving it—

(i) at P's usual or last known place of residence or business; or

(ii) at the address given in the most recent application or other document received by MSD from P; or

(d) by posting it in a letter addressed to P at that place of residence or business or at that address.

(2) The notice is given to P when it is delivered, left, or posted, as the case may be.

Compare: 1964 No 136 s 114

238 Breach of obligation in relation to dependent children: additional steps before notice may be given

MSD must not give a person (**P**) a **section 235** notice in relation to a failure to comply with an obligation in relation to dependent children under **sections 117 to 121** unless MSD is satisfied that, on at least 3 previous occasions, MSD has had communication (of any kind, and in any manner) with P in respect of P's compliance with, or an actual or potential failure of P to comply with, any obligation P has under **sections 117 to 121**.

Compare: 1964 No 136 s 60RC(3)

239 When reduction, suspension, or cancellation of benefit takes effect

The reduction, suspension, or cancellation of a benefit under **section 215** must not take effect before the close of the 5 working days specified in the **section 235** notice in accordance with **section 235(2)(f)**.

Compare: 1964 No 136 s 113(3)

Evidential drug test

240 Request for evidential drug test if sanction imposed for failing screening drug test

(1) A person (**P**) who has failed a screening drug test and has been given a **section 235** notice (the **section 235 notice**) of a sanction on the basis of failing that test may request that P's sample taken for the screening drug test be subjected to an evidential drug test.

(2) P's request for an evidential drug test—

(a) must be in writing in a form approved by MSD for the purpose; and

(b) must include the necessary consents and authorisations; and

(c) may be made only after P has disputed the sanction specified in the **section 235** notice in accordance with **section 235(2)(f)**; and

(d) must be made within a reasonable period, as specified by MSD, of disputing the sanction.

(3) In this section and in **section 241**, **necessary consents and authorisations** means any consent or authority—

(a) of any employer, training provider, or drug-testing provider; and

(b) that MSD specifies as necessary for arranging the evidential drug test and providing the result to MSD.

(4) This section is subject to **section 135(1)** (which provides that a person is taken to have failed an evidential drug test requested under this section if the person fails a screening test and waives an associated evidential drug test).

Compare: 1964 No 136 s 102D(1)–(4)

241 Effect of request for evidential drug test

(1) A request by a person (**P**) for an evidential drug test that complies with the requirements set out in **section 240(2)** has the following effect until the result of the test is notified to MSD:

(a) any sanction imposed on P under **section 215** for failing the associated prior screening drug test is suspended:

(b) any failure for the purposes of **sections 223(1) and 245** based on P failing the associated prior screening drug test is suspended:

(c) P is not liable under **section 243** for the actual and reasonable costs (if any) of P's associated prior screening drug test that have been reimbursed to the employer under **section 137**.

(2) If a request for an evidential drug test does not comply with the requirements set out in **section 240(2)**, MSD may proceed to impose the appropriate sanction as if the request had not been made.

(3) This section is subject to **section 135(1)** (which provides that a person is taken to have failed an evidential drug test requested under **section 240** if the person fails a screening test and waives an associated evidential drug test).

Compare: 1964 No 136 s 102D(5), (6)

242 Effect of failure of evidential drug test

Failure of an evidential drug test that is requested by a person under **section 240** must be treated for the purposes of **section 216(d)** as a new failure of the beneficiary's work-test obligations.

Compare: 1964 No 136 s 102D(8)

243 Costs of evidential drug test

(1) MSD must pay the actual and reasonable costs incurred by a drug-testing provider in doing an evidential drug test arranged by MSD in accordance with a request under **section 240**.

(2) If a person (**P**) fails an evidential drug test arranged by MSD in accordance with a request under **section 240**, the following are a debt due to the Crown from P for the purpose of regulations made under **section 423**:

(a) the actual and reasonable costs incurred by a drug-testing provider in doing that evidential drug test; and

(b) the actual and reasonable costs (if any) reimbursed to the employer under **section 137** of P's associated prior screening drug test.

Compare: 1964 No 136 ss 102C(6), 102D(7), (9)

Recompliance

244 How person recomplies after failure to comply with obligation

(1) A person (**P**) recomplies after a failure to comply with an obligation if P remedies the failure.

(2) If a **section 235** notice specifies more than 1 failure of the same obligation, or a failure of more than 1 obligation, P recomplies if P remedies all the failures.

(3) This section does not apply to recompliance with a drug-testing obligation.

Compare: 1964 No 136 s 122(1)

245 Impossibility of remedying failure of work-test obligation

If it is impossible to remedy a failure to comply with a work-test obligation, a person (**P**) recomplies if P undertakes, to MSD's satisfaction, an activity that is the same as, or substantially similar to, the activity that P failed to undertake under the work-test obligation in question.

Compare: 1964 No 122(2)

246 How person recomplies after failure to comply with drug-testing obligation

(1) In this section, **drug test failure** means a failure by a person (**P**) to comply with a drug-testing obligation.

(2) In the case of a first drug test failure within a 12–month period, P recomplies if P undertakes, in a manner that is satisfactory to MSD, not to use any controlled drugs (except any particular controlled drugs that are lawfully prescribed, and only at the dosage that is lawfully prescribed, for P by a health practitioner).

(3) In the case of a second drug test failure within a 12-month period of the first failure, P recomplies if P undertakes, in manner satisfactory to MSD, to undergo drug-testing in accordance with **section 247**.

(4) MSD must take reasonable and appropriate steps to make a person who has given an undertaking under **subsection (3)** aware of the following matters:

(a) the consequences of failing to comply with the undertaking; and

(b) the location of an appropriate drug-testing provider; and

(c) the matters in **sections 247(5) and 249** (which relate to the costs of drug testing for the purpose of recompliance).

Compare: 1964 No 136 s 122(3), (5)

247 Drug testing for purposes of recompliance

(1) A person (**P**) who has given an undertaking under **section 246(3)** must comply with both **subsections (2) and (3)**.

(2) Within 25 working days after the start date, P must attend at the location of a drug-testing provider for the purpose of undertaking a drug test that is—

(a) a screening drug test and, if P fails that test, an evidential drug test; or

(b) an evidential drug test without any associated prior screening drug test.

(3) Within 30 working days after the start date, P must provide evidence to the satisfaction of MSD that P has passed a screening drug test or evidential drug test, as the case may be.

(4) In this section, **start date** means the date of P's undertaking.

(5) A person who fails a screening drug test or an evidential drug test, or both, that is performed within the testing period may (in order to try to comply with the person's undertaking despite that failure) undertake, at the person's own expense, further drug testing within the testing period.

Compare: 1964 No 136 s 122A(1), (2), (4)

248 Failure of drug test for purposes of recompliance constitutes third failure

A person who fails a drug test stated in **section 247(2)(a) or (b)** must be treated, for purposes of the imposition of a sanction, as a person who has failed for a third time within a 12-month period to comply with a drug-testing obligation.

Compare: 1964 No 136 s 122A(5)

249 Costs of drug testing for purposes of recompliance

(1) MSD must pay the actual and reasonable costs of a drug test undertaken on only 1 occasion in accordance with **section 247(2)**.

(2) Those costs are a debt due to the Crown from the beneficiary for the purpose of regulations made under **section 423**.

Compare: 1964 No 136 s 122A(3)

Miscellaneous

250 Case management support for beneficiary in breach of obligation in relation to dependent children

(1) This section applies if a sanction has been imposed on a person (**P**) for failure to comply with an obligation in relation to dependent children.

(2) MSD may give P a notice that MSD is to intensify its case management support for P.

(3) If MSD has given P a notice under **subsection (2)**, P must, as reasonably required by MSD, attend and participate in any interview with an MSD employee or a person on behalf of MSD.

Compare: 1964 No 136 s 60RC(4)–(6)

Subpart 3—Sanctions for breach of young person or young parent obligations

Interpretation

251 Failure, and first, second, and third failure, defined for young person or young parent obligations

In this subpart,—

failure means a failure to comply with a young person obligation or a young parent obligation

first failure means the first failure of a young person or young parent obligation

second failure means a failure that occurs after the young person concerned has satisfied the obligation to which a first failure related

third failure means a failure that occurs after the young person concerned has satisfied the obligation to which a second failure related

young parent obligation means—

(a) an obligation, under **Part 3**, of a young person who is receiving a young parent payment; or

(b) an obligation under **section 152** (young person aged 16 to 19 years with dependent child and who is spouse or partner of specified beneficiary)

young parent payment, in relation to a young person who is the spouse or partner of a specified beneficiary and is subject to obligations under **section 152**, means—

(a) a young parent payment payable under **subpart 7 of Part 2**; and

(b) the portion of the specified beneficiary's main benefit the young person receives

young person obligation means—

(a) an obligation, under **Part 3**, of a young person receiving a youth payment; or

(b) an obligation under **section 151** (young person aged 16 or 17 years with no dependent child who is spouse or partner of specified beneficiary); or

(c) for the purposes only of **sections 258 and 259**, an obligation, under **Part 3**, of a young person on whom **section 150(4)(a) or 153(4)(a)** imposes that obligation as if the young person's jobseeker support, or the portion of the jobseeker support or the specified beneficiary's benefit payable to the young person under **section 316**, were a youth payment

youth payment, in relation to a young person who is a spouse or partner of a specified beneficiary and is subject to obligations under **section 151**, means—

(a) a youth payment payable under **subpart 6 of Part 2**; and

(b) the portion of the specified beneficiary's main benefit the young person receives.

Compare: 1964 No 136 s 176(3)

Sanctions: young person obligations

252 Sanction for failure to comply with young person obligation

The sanction for failure to comply with a young person obligation depends on whether the failure is a first or second failure or a third failure.

253 Sanction for first or second failure: suspension of in-hand allowance and incentive payments

(1) This section applies if MSD is satisfied that a young person (**P**) who is receiving a youth payment has, without good and sufficient reason, failed to comply with a young person obligation for a first or second time.

(2) For P's first or second failure, MSD must first suspend P's in-hand allowance and any incentive payments until P satisfies the obligation (or all the relevant obligations, if P has failed to comply with more than 1).

(3) If P has not satisfied the obligation or obligations within 4 weeks after the suspension takes effect, MSD must suspend the whole of P's youth payment and any incentive payments until P satisfies the obligation or obligations.

Compare: 1964 No 136 s 173(1)(a)

254 Sanction for third failure: cancellation of youth payment and incentive payments

(1) This section applies if MSD is satisfied that a young person (**P**) who is receiving a youth payment has, without good and sufficient reason, failed to comply with a young person obligation for a third time.

(2) For P's third failure, MSD must cancel P's youth payment and any incentive payments.

(3) On cancellation of P's youth payment under this section,—

(a) P is not entitled to receive any main benefit under this Act for 13 weeks from the date of cancellation; and

(b) to be again entitled to a main benefit under this Act, P must apply for the benefit and establish that P is eligible for it.

(4) This section is subject to **sections 299 to 303**.

(5) For the purposes of **section 299**, an approved activity for P during the period of non-entitlement is any of the following approved by MSD:

(a) if P is not already in part-time work, participation in part-time work or work experience:

(b) participation in ~~recognised community activities~~ recognised voluntary work (as defined in **Schedule 2**):

(c) participation in any other activity that MSD considers will enhance skills or improve motivation.

(6) This section overrides every other provision of this Act.

Compare: 1964 No 136 s 173(1)(b), (2)–(5)

255 Effect of cancellation of youth payment on accommodation supplement or temporary additional support

(1) The cancellation under **section 254(2)** of the youth payment payable to a young person (**P**) has the effect set out in **subsections (2) to (4)**.

(2) If P is single, P is not entitled to receive an accommodation supplement or temporary additional support.

(3) If P is not single, and P's spouse's or partner's youth payment is not also cancelled under **section 254(2)**,—

(a) any accommodation supplement or temporary additional support otherwise payable to P must be reduced by half and be paid to P's spouse or partner; and

(b) any accommodation supplement or temporary additional support otherwise payable to P's spouse or partner must be reduced by half.

(4) If P is not single, and the youth payment of P's spouse or partner is also cancelled under **section 254(2)**,—

(a) P is not entitled to receive an accommodation supplement or temporary additional support otherwise payable to P; and

(b) P's spouse or partner is not entitled to receive an accommodation supplement or temporary additional support payable to P's spouse or partner.

Compare: 1964 No 136 s 175(1)

256 Effect of cancellation of youth payment on exceptional circumstances benefit

A young person whose youth payment is cancelled under **section 254(2)** is not entitled to receive an exceptional circumstances benefit.

Compare: 1964 No 136 s 175(5)

257 Effect of cancellation of youth payment on disability allowance or child disability allowance

Despite the cancellation under **section 254(2)** of the youth payment payable to a young person (**P**), P must be treated as continuing to receive a youth payment for the purposes of **section 75(1)(a) and (2)(c)(i)** and the cancellation

has no effect on P's entitlement to receive a disability allowance or child disability allowance.

Compare: 1964 No 136 s 175(6)

258 Sanctions for failure by young person required to receive youth services to comply with obligations: money management

(1) This section applies to a young person—

(a) who has been required to receive youth services under **section 150(2) or 153(2)**; and

(b) whose benefit is subject to money management under **section 324**; and

(c) who MSD is satisfied has, without good and sufficient reason, failed to comply with an obligation that applies to the young person under **section 150(4)(a) or 153(4)(a)**, and that is—

(i) an obligation in **section 151(2)(b) and (d) to (g)**; or

(ii) the work test (in the case of a work-tested beneficiary); or

(iii) a work-preparation obligation under **section 110 or 111** (in the case of a beneficiary who is required to comply with **section 110**).

(2) MSD must treat the failure as if it were a failure to comply with an obligation under **section 151**, and **sections 253 and 254** apply (and require MSD to impose sanctions for the failure) accordingly.

Compare: 1964 No 136 s 174AB(1), (2)

259 Sanctions for failure by young person required to receive youth services to comply with obligations: other cases

(1) This section applies to a young person—

(a) who has been required to receive youth services under **section 150(2) or 153(2)**; and

(b) whose benefit is not subject to money management under **section 324**; and

(c) who MSD is satisfied has, without good and sufficient reason, failed to comply with an obligation that applies to the young person under **section 150(4)(a) or 153(4)(a)**, and that is—

(i) an obligation in **section 151(2)(b) and (d) to (g)**; or

(ii) the work test (in the case of a work-tested beneficiary); or

(iii) a work-preparation obligation under **section 110 or 111** (in the case of a beneficiary who is required to comply with **section 110**).

(2) MSD must treat the young person's failure referred to in **subsection (1)(c)(i), (ii), or (iii)**,—

(a) in the case of a young person who is subject to the work test, as a failure to comply with the work test for the purposes of **sections 216 and 219 to 222**; and

(b) in the case of a young person who is required to comply with **section 110**, as a failure to comply with a work-preparation obligation under **section 110 or 111** for the purposes of **sections 216 and 219 to 222**.

(3) MSD must, in the case of a young person who is subject to a sanction under **sections 216 and 219 to 222** for a failure that **subsection (2)(a) or (b)** of this section requires to be treated as having occurred:

(a) suspend the young person's incentive payments (if any) (if that sanction is a reduction or suspension of the young person's benefit) until the young person recomplies; or

(b) cancel the young person's incentive payments (if any) (if that sanction is the cancellation of the young person's benefit).

Compare: 1964 No 136 s 174AB(3), (4)

259A Sanctions for failure by young spouse or partner of specified beneficiary to comply with obligations: money management

(1) This section applies to a young person—

(a) who is—

(i) aged 16 or 17 years, without dependent children, and is the spouse or partner of a specified beneficiary; or

(ii) aged 16 to 19 years, with a dependent child or children, and is the spouse or partner of a specified beneficiary; and

(b) whose benefit is subject to money management; and

(c) who MSD is satisfied has, without good and sufficient reason, failed to comply with an obligation that applies to the young person under **section 151(2) or 152(2) and (3)**.

(2) The sanctions in **sections 253 and 254** apply (and **sections 255 to 257 and 264 to 269** apply) as if the young person's benefit were a youth support payment.

Compare: 1964 No 136 s 174A(1), (2)

259B Sanctions for failure by young spouse or partner of specified beneficiary to comply with obligations: other cases

(1) This section applies to a young person—

(a) who is—

(i) aged 16 or 17 years, without dependent children, and is the spouse or partner of a specified beneficiary; or

(ii) aged 16 to 19 years, with a dependent child or children, and is the spouse or partner of a specified beneficiary; and

(b) whose benefit is not subject to money management; and

(c) who MSD is satisfied has, without good and sufficient reason, failed to comply with an obligation that applies to the young person under **section 151(2) or 152(2) and (3)**.

(2) MSD must treat the young person's failure referred to in **subsection (1)(c)**,—

(a) in the case of a young person who would, but for **section 151(4) or 152(5)**, be subject to the work test, as a failure to comply with the work test for the purposes of **sections 216 and 219 to 222**; and

(b) in the case of a young person who would, but for **section 151(4) or 152(5)**, be required to comply with **section 110**, as a failure to comply with a work-preparation obligation under **section 110 or 111** for the purposes of **sections 216 and 219 to 222**.

(3) MSD must, in the case of a young person who is subject to a sanction under **sections 216 and 219 to 222** for a failure that **subsection (2)(a) or (b)** of this section requires to be treated as having occurred,—

(a) suspend the young person's incentive payments (if any) (if that sanction is a reduction or suspension of the young person's benefit) until the young person recomplies; or

(b) cancel the young person's incentive payments (if any) (if that sanction is the cancellation of the young person's benefit).

Compare: 1964 No 136 s 174A(3), (4)

Sanctions: young parent obligations

260 Sanction for failure to comply with young parent obligation

The sanction for failure to comply with a young parent obligation depends on whether the failure is a first or second failure or a third failure.

261 Sanction for first or second failure: suspension of in-hand allowance and incentive payments

(1) This section applies if MSD is satisfied that a young person (**P**) who is receiving a young parent payment has, without good and sufficient reason, failed to comply with a young parent obligation for a first or second time.

(2) For P's first or second failure, MSD must first suspend P's in-hand allowance and any incentive payments until P satisfies the obligation (or all the relevant obligations, if P has failed to comply with more than 1).

(3) If P has not satisfied the obligation or obligations within 4 weeks after the suspension takes effect, MSD must suspend the whole of P's young parent payment and any incentive payments until P satisfies the obligation or obligations.

Compare: 1964 No 136 s 174(1)(a)

262 Sanction for third failure: cancellation of young parent payment and incentive payments

(1) This section applies if MSD is satisfied that a young person (**P**) who is receiving a young parent payment has, without good and sufficient reason, failed to comply with a young parent obligation for a third time.

(2) For P's third failure, MSD must cancel P's young parent payment and any incentive payments.

(3) This section overrides every other provision of this Act.

Compare: 1964 No 136 s 174(1)(b)

263 Effect of cancellation of young parent payment

(1) On cancellation of P's young parent payment under **section 262(2)**,—

(a) P is not entitled to receive any main benefit under this Act for 13 weeks from the date of cancellation; and

(b) to be again entitled to a main benefit under this Act, P must apply for the benefit and establish that P is eligible for it.

(2) **Subsection (1)** is subject to **subsection (3)** and to **sections 299 to 303** (restoration of entitlement after suspension, reduction, cancellation, or non-entitlement).

(3) However, during the period of cancellation,—

(a) P is entitled to receive half of the ~~base~~ applicable rate of the young parent payment and only half the abatement rate in **item 11 or 12 of Part 5 of Schedule 4** (as the case requires) applies to that rate; but

(b) no incentive payments are payable; and

(c) the amounts payable must be paid to the young person, or on the young person's account, personally (*see* **section 318**).

(4) For the purposes of **section 303**, an approved activity for P during the period of non-entitlement is any of the following approved by MSD:

(a) if P is not already in part-time work, participation in part-time work or work experience:

(b) participation in ~~recognised community activities~~ recognised voluntary work (as defined in **Schedule 2**):

(c) participation in any other activity that MSD considers will enhance skills or improve motivation.

(5) In order to satisfy itself that a young person has established continued eligibility for a young parent payment, MSD may require the young person to comply with the requirements of **section 278(1)** as if applying for a young parent payment (and that section, with all necessary modifications, applies accordingly).

Compare: 1964 No 136 ss 174(2)–(5), 177(1), (2)

264 Effect of cancellation of young parent payment on accommodation supplement or temporary additional support

(1) The cancellation under **section 262(2)** of the young parent payment payable to a young person (**P**) affects an entitlement to an accommodation supplement or temporary additional support as provided in **subsections (3) to (5)**.

(2) If P is a sole parent, cancellation has no effect on P's entitlement to receive any accommodation supplement or temporary additional support.

(3) If P is not single, and P's spouse's or partner's young parent payment is not also cancelled under **section 262(2)**,—

(a) any accommodation supplement or temporary additional support otherwise payable to P must be reduced by half and be paid to P's spouse or partner; and

(b) any accommodation supplement or temporary additional support otherwise payable to P's spouse or partner must be reduced by half.

(4) If P is not single, and the young parent payment of P's spouse or partner is also cancelled under **section 262(2)**, P and P's spouse or partner are each entitled to receive only half of any accommodation supplement or temporary additional support that would otherwise be payable to P or P's spouse or partner.

Compare: 1964 No 136 s 175(2)–(4)

265 Effect of cancellation of young parent payment on exceptional circumstances benefit

A young person whose young parent payment is cancelled under **section 262(2)** is not entitled to receive an exceptional circumstances benefit.

Compare: 1964 No 136 s 175(5)

266 Effect of cancellation of young parent payment on disability allowance or child disability allowance

Despite the cancellation under **section 262(2)** of the young parent payment payable to a young person (**P**), P must be treated as continuing to receive a young parent payment for the purposes of **section 75(1)(a) and (2)(c)(i)** and the cancellation has no effect on P's entitlement to receive any disability allowance or child disability allowance.

Compare: 1964 No 136 s 175(6)

How obligation satisfied

267 How young person satisfies obligation after failure to comply

For the purposes of **sections 253, 254, 261, and 262**, a young person (**P**) satisfies an obligation after failure to comply if—

(a) P remedies the failure concerned; or

(b) where in the opinion of MSD that it is not possible to remedy the failure, P undertakes to MSD's satisfaction an activity that is in MSD's opinion the same as or substantially similar to the performance of the obligation.

Compare: 1964 No 136 s 176(1)

Procedure

268 Procedure for imposing sanctions for failure to comply with young person or young parent obligation

Sections 223 to 225 (how number of failures is counted) and **sections 235 to 239** (procedure for imposing sanctions) apply with all necessary modifications to the imposition of sanctions under **sections 253, 254, 261, and 262**.

Compare: 1964 No 136 s 176(2)

Incentive payments

269 Effect of regrant of youth payment on incentive payment

If a young person whose youth support payment has been cancelled under **section 254(2) or 262(2)** is again granted a youth support payment,—

(a) except as provided in **paragraph (b)**, any incentive payments that were payable to the young person before the cancellation must be paid with the youth payment or young parent payment; but

(b) if the failure that led to the cancellation was a failure to comply with **section 147(1)(a)**, an education incentive payment is payable only if the young person again meets the conditions of entitlement to that payment (*see* **section 51 or 58**, and those conditions of entitlement as they are set out in regulations made under **section 397(1)(b) or (c)**).

Compare: 1964 No 136 s 176(4)

270 MSD may cancel incentive payment

(1) MSD may cancel an incentive payment if satisfied that the young person concerned has intentionally acted in a way that is inconsistent with the purpose for which it was granted.

(2) On cancellation, the young person is not eligible to receive the incentive payment again until MSD decides that it may be regranted.

Compare: 1964 No 136 s 178

Subpart 4—Offences

271 Offences: false statements, misleading, or attempting to mislead, to receive or continue to receive benefits

(1) A person (**P**) commits an offence if—

(a) P makes a statement knowing that it is false in a material particular; and

(b) P's statement—

(i) is made for the purpose of receiving or continuing to receive an advantage (whether for P or another person); or

(ii) results in P or another person receiving or continuing to receive an advantage.

(2) A person (**P**) commits an offence if—

(a) P wilfully does or says anything, or omits to do or say anything, for the purpose of misleading or attempting to mislead a person; and

(b) P's act, statement, or omission—

(i) is done or made for the purpose of receiving or continuing to receive an advantage (whether for P or another person); or

(ii) results in P or another person receiving or continuing to receive an advantage.

(3) In this section, **advantage** means—

(a) any benefit under this Act, Part 6 of the Veterans' Support Act 2014, or Part 1 of the New Zealand Superannuation and Retirement Income Act 2001; or

(b) any exemption from an obligation under this Act; or

(c) any payment from a Crown Bank Account in accordance with this Act; or

(d) any entitlement card issued under regulations made under **section 416**; or

(e) a more favourable means assessment under **subpart 6 (and all related provisions) of Part 9 of the Social Security Legislation Rewrite Act 2016** than P would otherwise have been entitled to; or

(f) a more favourable means assessment under **subpart 8 (and all related provisions) of Part 9 of the Social Security Legislation Rewrite Act 2016** than P would otherwise have been entitled to.

(4) A person who commits an offence under this section is liable on conviction to a penalty that is either or both:

(a) imprisonment for a term not exceeding 12 months:

(b) a fine not exceeding $5,000.

(5) This section does not limit **section 508 of Part 9 of the Social Security Legislation Rewrite Act 2016**.

Compare: 1964 No 136 s 127

272 Offences: spouse or partner knowingly benefiting from excess amount obtained by beneficiary's fraud

(1) A person (the **spouse or partner**) commits an offence if the person—

(a) is a spouse or partner of a person (the **beneficiary**) who obtains an excess amount by fraud; and

(b) benefits directly or indirectly from the amount or a part of it knowing that, or being reckless about whether, the amount or part is an amount or part—

(i) in excess of the amount to which the beneficiary is by law entitled or to which the beneficiary has no entitlement; and

(ii) obtained by the beneficiary by fraud.

(2) **Subsection (1)(b)** applies to the amount or part even if the spouse or partner—

(a) does not benefit from it knowingly; and

(b) does not know at all or exactly its value; and

(c) does not know, or (as the case requires) is not reckless about, the precise way in which it was obtained by the beneficiary by fraud.

(3) The beneficiary obtains an excess amount for the purposes of **subsection (1)** if the beneficiary obtains any payment, or receives any credit or advance, in excess of the amount to which the beneficiary is by law entitled or to which the beneficiary has no entitlement.

(4) The excess amount is obtained by the beneficiary by fraud for the purposes of **subsection (1)** if—

(a) the beneficiary obtained that amount by fraud; or

(b) the beneficiary is convicted of a specified offence in respect of obtaining that amount.

(5) In **subsection (4)(b)**, **specified offence** means an offence against **section 271** (offences: false statements, misleading, or attempting to mislead, to receive or continue to receive benefits) of this Act, or an offence against all or any of the following provisions of the Crimes Act 1961:

(a) section 228 (dishonestly taking or using document):

(b) sections 240 and 241 (obtaining by deception or causing loss by deception):

(c) section 256(1) and (2) (forgery):

(d) section 257 (using forged documents):

(e) section 258 (altering, concealing, destroying, or reproducing documents with intent to deceive):

(f) section 259 (using altered or reproduced document with intent to deceive).

(6) **Subsections (4) and (5)** do not limit—

(a) the generality of the references in **subsection (1)** to fraud; or

(b) the operation of section 49 (conviction as evidence in criminal proceedings) of the Evidence Act 2006.

(7) A person who commits an offence under this section is liable on conviction to a penalty that is either or both:

(a) imprisonment for a term not exceeding 12 months:

(b) a fine not exceeding $5,000.

Compare: 1964 No 136 s 127A

273 Offence of demanding or accepting fee or other consideration in relation to grant of benefit

A person commits an offence if the person demands or accepts from any applicant for a benefit or from any other person any fee or other consideration for procuring or endeavouring to procure the grant of a benefit.

Compare: 1964 No 136 s 12(3)

274 Offence of demanding or accepting acknowledgement or undertaking

(1) A person commits an offence if the person demands or accepts from a beneficiary an acknowledgment or undertaking where that demand, acceptance, acknowledgment, or undertaking would constitute a legal or an equitable assignment of, or a charge on, a benefit if the benefit were capable of being legally assigned or charged.

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding $100.

Compare: 1964 No 136 s 84(2)

275 General penalty for offences

(1) This section applies to a person who commits an offence against this Act or any regulations made under this Act for which no penalty is provided elsewhere than in this section.

(2) The person is liable on conviction to a fine not exceeding $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 continues.

Compare: 1964 No 136 s 129

276 Time for filing charging document

(1) The limitation period in respect of an offence against this Act or any regulations made under this Act ends on the date that is 12 months after the date on which the facts alleged in the charging document are brought to the knowledge of any officer concerned in the administration of this Act.

(2) **Subsection (1)** overrides section 25 of the Criminal Procedure Act 2011.

Compare: 1964 No 136 s 128

Part 6
Administration

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Subpart 1—Guide to this Part

277 What this Part does

This **Part** contains provisions on the following matters:

(a) how to apply for a benefit, how MSD inquires into a claim for a benefit, and the granting of a benefit:

(b) reviews by MSD of a beneficiary's past or current entitlement to a benefit or rate of benefit:

(c) how a benefit commences (for example, after a stand-down period), ends, and may expire and be regranted:

(d) how a benefit is paid, tax on benefits, and how debts can be recovered (including by way of deductions):

(e) notices and communications, services, and preferred suppliers:

(f) reciprocity agreements with other countries:

(g) prosecutions for offences, debt-recovery proceedings, and maintenance proceedings.

Subpart 2—Application, inquiry, and grant

Application

278 Application for benefit: making of, help with, lapse, and deemed receipt

(1) An application for a benefit must be completed, may be assisted, may lapse, and is taken to have been received for benefit commencement and stand down purposes, in accordance with regulations made under **section 417**.

(2) This section does not prevent MSD under **section 292** (if applicant paid, but claim fails for, ACC weekly compensation) treating an application for a benefit as having been made at the later of the dates specified in **section 292(2)(a) and (b)**.

Compare: 1964 No 136 s 11D

Inquiry

279 MSD must inquire into claim for benefit

(1) MSD must inquire into every claim for a benefit made by or on behalf of an applicant for a benefit.

(2) **Subsection (1)** is subject to—

(a) **section 280** (inquiry: exception during epidemic):

(b) **section 284** (grant: after death of applicant):

(c) regulations made under **section 411(1) and (3)(e)** (pre-benefit activities: consequences of non-compliance by applicant).

(3) MSD may inquire into the circumstances of a person who has been receiving a benefit as those circumstances existed—

(a) immediately before the benefit was granted; or

(b) during the period or periods that the benefit was paid.

(4) **Subsection (3)** does not limit—

(a) **subsection (1)**; or

(b) **subpart 3** (review of entitlement to, or rate of, benefit granted).

Compare: 1964 No 136 s 12(1), (1A)

280 Exception during epidemic

(1) This subsection applies to any period comprising—

(a) the period when a domestic epidemic management notice is in force; and

(b) a period after the notice expires that the Minister thinks reasonable in the circumstances.

(2) During a period to which **subsection (1)** applies, MSD may grant a benefit to a person even if the claim for it has not been at all, or has not been fully, inquired into as required by **section 279**.

Compare: 1964 No 136 s 61CD

281 Information gathering, disclosure, and matching

(1) Provisions on information gathering, disclosure, and matching are set out in **Schedule 6**.

(2) Rights of complaint are given by the following clauses of **Schedule 6**:

(a) **clause 12** (code of conduct for information or documents requirements):

(b) **clause 21** (disclosure for young person's functions or service provider's contract).

Grant

282 MSD decides whether to grant benefit

MSD must, after ~~inquiring under **section 279** into~~ a claim for a benefit is made (and, if applicable, inquired into under **section 279**), decide whether to grant the benefit.

Compare: 1964 No 136 s 12(1)

283 Immediate provisional grant, and later backdating of other benefit

(1) This section applies to an applicant for a benefit of kind A (for example, a supported living payment on the ground of restricted work capacity or total blindness) if MSD considers—

(a) quick completion of MSD's inquiry into the applicant's claim for a benefit of kind A is unlikely (for example, quick completion is unlikely because of the need to obtain, or to obtain further, medical evidence about whether the applicant is under **section 34**, because of a health condition, permanently and severely restricted in the applicant's capacity for work); but

(b) the applicant is entitled to a benefit of kind B (for example, jobseeker support).

(2) MSD may grant the applicant a benefit of kind B on the basis that a benefit of kind A will be granted retroactively if—

(a) MSD completes its inquiry into the applicant's claim to a benefit of kind A; and

(b) MSD's completed inquiry shows that the applicant is entitled to a benefit of kind A.

(3) If MSD's completed inquiry into the applicant's claim to a benefit of kind A shows that the applicant is entitled to a benefit of kind A, MSD may—

(a) grant the applicant a benefit of kind A, and commencing on the date on which it would have commenced if the inquiry had been completed before the benefit of kind B was granted; and

(b) cancel the benefit of kind B on that date.

Compare: 1964 No 136 s 12(1AA)

284 After death of applicant

(1) This section applies if an applicant for a benefit dies before MSD completes its inquiry into the claim, made by or on behalf of the applicant, for a benefit.

(2) MSD may grant the benefit as if the applicant had not died.

(3) If MSD under this section grants the benefit as if the applicant had not died, **section 80** (funeral grants) and regulations made under **section 406** apply as if the applicant were receiving the benefit at the time the applicant died.

(4) This section does not limit **section 325** (required manner of payment: payment on death of beneficiary).

Compare: 1964 No 136 s 62

Subpart 3—Review of entitlement to, or rate of, benefit granted

285 Review of entitlement and rate payable

(1) MSD may review a benefit that has been granted to ascertain all or any of the following:

(a) whether the beneficiary is, or remains, entitled to receive the benefit, or rate of benefit, that is being paid to the beneficiary:

(b) whether the beneficiary was not entitled to receive the benefit, or rate of benefit, that was paid to the beneficiary.

(2) This subpart applies, so far as applicable and with all necessary modifications, to special assistance granted under a programme approved under **section 86 or 87**.

(3) Rights to seek a review of, or to appeal against, a decision on a review under this subpart are given by the following subparts of **Part 7**:

(a) **subpart 2** (reviews by benefits review committee):

(b) **subpart 3** (appeals to appeal authority):

(c) **subpart 4** (appeals to courts):

(d) **subpart 5** (appeals to medical board).

(4) **Subsection (3)** is by way of explanation only.

Compare: 1964 No 136 ss 81(1)(a) and (b), 124(2), (2A)

286 Information for review

(1) MSD may for the review require the beneficiary or the beneficiary's spouse or partner to provide information, or answer questions,—

(a) in a way MSD specifies; and

(b) by a reasonable deadline MSD specifies.

(2) If the beneficiary or spouse or partner fails to comply with a requirement under **subsection (1)**, MSD may suspend, cancel, or vary the rate of benefit from a date MSD determines.

(3) This section does not limit **sections 41, 99, 271, 281, and clause 2 of Schedule 6**.

Compare: 1964 No 136 s 81(1)

287 No entitlement, or entitlement only at different rate

(1) This section applies if MSD is satisfied because of the review that the beneficiary—

(a) was not or is not entitled (at all, rather than on another eligibility ground for that benefit) to receive the benefit; or

(b) was or is entitled to receive the benefit at a different rate.

(2) MSD may suspend, cancel, or vary the rate of the benefit from a date MSD reasonably determines.

Compare: 1964 No 136 s 81(2)

288 Benefit on another eligibility ground more appropriate

(1) This section applies if MSD is satisfied because of the review that the beneficiary—

(a) was granted the benefit on a stated eligibility ground for that benefit; and

(b) is more appropriately entitled to receive that benefit on another eligibility ground for that benefit.

(2) MSD may cancel the benefit as granted on the stated eligibility ground, and grant the beneficiary that benefit on the other eligibility ground commencing from the date of cancellation.

Compare: 1964 No 136 s 81(4)

289 Another benefit more appropriate

(1) This section applies if MSD is satisfied because of the review that the beneficiary is more appropriately entitled to receive another benefit.

(2) MSD may cancel the benefit, and grant the beneficiary the other benefit commencing from the date of cancellation.

Compare: 1964 No 136 s 81(3)

290 Certain benefits granted, or granted at rate, not taking into account certain insurance payments

(1) This section applies if MSD is satisfied because of the review that the beneficiary has been granted a benefit, or has been granted a benefit at a rate, that does not take into account certain insurance payments specified in regulations made under **section 418**.

(2) MSD may, in accordance with those regulations, suspend, cancel, or vary the rate of, the benefit, from a date MSD determines.

(3) In this section, **benefit** includes special assistance granted under a programme approved under **section 86 or 87**.

(4) For the purposes of this section, the amount of an insurance payment must, to the extent MSD so determines, be reduced by the amount of any costs incurred by an applicant for a benefit or a beneficiary in obtaining receipt of that payment.

Compare: 1964 No 136 s 68A(6), (7), (8)

Subpart 4—Commencement, stand downs, ending, and expiry and regrant

Commencement of benefits

291 General

(1) A benefit commences on the later of the following dates:

(a) the date the applicant became entitled to receive the benefit; and

(b) the date the application for the benefit was received.

(2) This section is subject to—

(a) **section 283** (immediate provisional grant, and later backdating of other benefit); and

(b) **sections 292 to 297** (which contain exceptions and special rules relating to commencement of benefits); and

(c) Part 6 of the Veterans' Support Act 2014; and

(d) Part 1 of the New Zealand Superannuation and Retirement Income Act 2001.

Compare: 1964 No 136 s 80(1); 2001 No 84 s 35(2); 2014 No 56 s 195(2)

292 If applicant paid, but claim fails for, ACC weekly compensation

(1) This section applies to a person if—

(a) a claim is made by or on behalf of the person for weekly compensation under the Accident Compensation Act 2001 in respect of incapacity of the person; and

(b) weekly compensation under that Act is paid in respect of the claim by or on behalf of—

(i) the Accident Compensation Corporation; or

(ii) an accredited employer (within the meaning of section 181 of that Act); and

(c) the person later fails to establish that claim, but would otherwise have been entitled, if that claim had been accepted, to a benefit during all or a part of the period in respect of which the compensation would have been paid.

(2) MSD may treat an application for a benefit made by or on behalf of the person as having been made on the later of the following dates:

(a) the date of first occurrence of the incapacity of the person in respect of which the claim was made under the Accident Compensation Act 2001; and

(b) the date that the person would have become entitled to that benefit.

Compare: 1964 No 136 s 80D

293 Benefits subject to stand down

(1) A benefit is subject to a stand down, and commences on a date calculated under **section 296**, if—

(a) the benefit is a work-tested benefit or a youth payment or a young parent payment (other than a youth payment or a young parent payment granted to a person undertaking employment-related training or who is enrolled in a course of secondary instruction) and the applicant is not subject to a non-entitlement period (as defined in **Schedule 2**); or

(b) the benefit is sole parent support, jobseeker support on the ground of health condition, injury, or disability, or a supported living payment.

(2) This section is subject to **section 295** (exemptions from stand down) and to regulations made under **section 422**.

Compare: 1964 No 136 s 80(2), (3)

294 Work-tested benefit of applicant subject to non-entitlement period

(1) A work-tested benefit granted to an applicant who is subject to a non-entitlement period is subject to a stand down, and is a benefit that commences on a date calculated under **section 296**, if—

(a) the work-tested benefit is granted to the applicant conditionally under **section 303**; and

(b) the applicant is subject to the non-entitlement period because of the application of **section 208**; and

(c) **section 208** applies to the applicant because the applicant is a person described in **section 209(a)**.

(2) Any other work-tested benefit granted to an applicant who is subject to a non-entitlement period is a benefit that commences on the later of—

(a) the date the applicant became entitled to receive it; and

(b) the date the application for it was received.

Compare: 1964 No 136 s 80(4)

295 Exemptions from stand down, and when certain benefits commence

A benefit of a kind specified in regulations made under **section 419**,—

(a) is not subject to a stand down; and

(b) commences as provided in those regulations.

Compare: 1964 No 136 s 80(5), (8), (10), (13), (14)

296 Start and calculation of stand-down period

(1) A benefit to which a person has become entitled, and that **section 293 or 294** requires to commence on a date calculated under this section, is subject to a stand-down period that—

(a) starts on the later of—

(i) the date on which the person became entitled to the benefit; and

(ii) if, before the person applied for the benefit, the person's employment terminated or the person is given notice of termination of employment, the day after the date on which the person's employment ceased; and

(b) is calculated under regulations made under **section 419**.

(2) The benefit commences on the day after the stand-down period ends if the application for the benefit is received within 28 days after the date on which the person becomes entitled to the benefit, and the benefit is—

(a) sole parent support; or

(b) a supported living payment; or

(c) jobseeker support granted on the ground of health condition, injury, or disability; or

(d) jobseeker support granted to a sole parent, or to a person to whom **section 30(1)(e)** (which relates to having lost the regular support of a spouse or partner who is subject to a sentence of imprisonment, etc) applies; or

(e) jobseeker support granted to a person who has recently lost the financial support of the person's spouse or partner because of death, the spouses or partners commencing to live apart, or the ending of a de facto relationship; or

(f) a youth payment; or

(g) a young parent payment.

(3) If the benefit is not one specified in **subsection (2)(a) to (g)**, the benefit commences on the later of the following days:

(a) the day after the stand-down period ends:

(b) the day on which the application for the benefit is received.

(4) This section is subject to any regulations made under **section 419**, and relating to exceptional cases, for example—

(a) of delayed redundancy and retirement payments; or

(b) of seasonal workers who are made redundant after a benefit commences.

Compare: 1964 No 136 s 80BA(1), (2)–(5)

297 Minister may consent to backdating

(1) A benefit (or a benefit of a stated kind) may, with the Minister's consent, commence at a time—

(a) earlier than the time at which an application for it was made; but

(b) not earlier than the time at which the person to whom it is granted became eligible for it.

(2) The Minister may give consent in relation to a particular applicant, or applicants of a stated kind or description.

(3) Consent in relation to applicants of a stated kind or description does not necessarily allow all the benefits concerned to commence at the same time.

(4) If the Minister delegates to MSD the exercise of the power to consent conferred by **subsection (1)**, its exercise by MSD (or a refusal by MSD to exercise it) is a decision under **this Part** for the purposes of **subparts 2 to 5 of Part 7** (reviews and appeals).

Compare: 1964 No 136 ss 80AA(1), (4), (5), (6), 125G(1)

298 No consent unless benefit not granted earlier because of error

(1) The Minister must not give consent under **section 297** unless satisfied that,—

(a) in the case of a particular applicant, the particular applicant—

(i) could not reasonably have been expected to apply at the earlier time because of some erroneous action or inaction by MSD; or

(ii) at or before the earlier time, tried to apply, or applied incompletely, and did not proceed because of an erroneous action or inaction by MSD; or

(b) in the case of applicants of a stated kind or description,—

(i) applicants of that kind or description could not reasonably have been expected to apply at earlier times because of an erroneous action or inaction by MSD in relation to applicants of that kind or description; or

(ii) at earlier times, some applicants of that kind or description tried to apply, or applied incompletely, and did not proceed because of an erroneous action or inaction by MSD.

(2) Examples of erroneous action or inaction, for the purposes of **subsection (1)**, include—

(a) giving wrong advice:

(b) failing or refusing to provide information, help, or some document or form.

(3) In this section, **action or inaction by MSD**, includes action or inaction by a contracted service provider contracted under **section 352(1)(a)** to provide services in relation to young people.

Compare: 1964 No 136 ss 80AA(2), (4), 125G(1)

Restoration of entitlement after suspension, reduction, cancellation, or non-entitlement

299 Effect of no longer being subject to work test or young person obligations

(1) This section applies to a person whose benefit has been suspended or reduced, or who is subject to a 13-week period of non-entitlement to a main benefit, under **section 208, 219, 220, 253, or 261**, if the person—

(a) ceases to be a work-tested beneficiary (other than because of the imposition of that suspension, reduction, or 13-week period); or

(b) ceases to be a beneficiary who is required to comply with obligations under **section 147, 149, 151, or 152** (other than because of the imposition of that suspension, reduction, or 13-week period); or

(c) obtains, under **section 144**, an exemption from the work test or from obligations under **section 147, 149, 151, or 152**.

(2) From the date on which MSD decides it is satisfied that this section applies to a person,—

(a) the period of suspension or reduction of the benefit ends; or

(b) the person is no longer subject to the 13-week period and that period lapses.

(3) If a person to whom **subsection (2)(b)** applies wishes to again become entitled to a main benefit under this Act, the person must apply for the benefit and establish the person's eligibility to receive it.

(4) In **subsection (1)**, **benefit** includes part of a benefit.

Compare: 1964 No 136 s 123(1), (2), (3), (4)

300 Effect of no longer being subject to dependent children obligations

(1) This section applies to a sanction imposed on a person—

(a) under **section 219, 220, or 221** (as applied by **section 122**); and

(b) in respect of an obligation that the person had under any of **sections 117 to 121**.

(2) The sanction ceases to apply to the person on the person ceasing to have that obligation.

Compare: 1964 No 136 s 123(3A)

301 Effect of no longer being subject to work-preparation obligations

(1) This section applies to a sanction imposed on a person—

(a) under **section 219, 220, or 221** (as applied by **section 112**); and

(b) in respect of—

(i) a general obligation of the person under **section 110**; or

(ii) an obligation of the person under **section 109 or 111** to comply with a requirement under **section 111**.

(2) The sanction ceases to apply to the person on the person ceasing to have that obligation.

Compare: 1964 No 136 s 123(3B)

302 Effect of employment on non-entitlement period

(1) This section applies to a person who is not entitled to (or to a part of) a main benefit under this Act for 13 weeks because of the operation of **section 208 or 221**.

(2) If a person to whom this section applies completes an approved period of employment, the remainder of the 13-week period lapses.

(3) **Approved period of employment**, in **subsection (2)**, means a period of employment—

(a) of not less than 6 weeks; and

(b) approved by MSD for the purposes of this section.

Compare: 1964 No 136 s 123A

303 Effect of participation in certain activities on non-entitlement period

(1) This section applies to a person who is subject to a 13-week period of non-entitlement under **section 208, 221, 254, or 263**, and is participating in 1 or more **approved activities**, which are any of the following approved by MSD for the purpose:

(a) activities of the kind referred to in **section 132(1)(d)**:

(b) ~~recognised community activities~~ recognised voluntary work (as defined in **Schedule 2**):

(c) part-time work (in the case of a part-time work-tested beneficiary).

(2) If a person to whom this section applies participates satisfactorily in the approved activity or activities for a continuous period of 6 weeks,—

(a) the remainder of the period of non-entitlement lapses; and

(b) if the person wishes to again become entitled to a main benefit under this Act, the person must apply for the benefit and establish the person's eligibility for it.

(3) Despite **subsection (2)(b)**, if the person applies for a main benefit under this Act, MSD must grant the person a main benefit under this Act during the person's satisfactory participation in the approved activity or activities.

(4) Payment of a benefit granted under **subsection (3)** is subject to the condition that the person is liable to repay the whole of any amount paid during the non-entitlement period if the person fails—

(a) to complete a continuous period of 6 weeks of satisfactory participation in an approved activity or activities; or

(b) (if the period remaining until the end of the non-entitlement period is less than 6 weeks) to continue satisfactory participation until the end of the non-entitlement period.

(5) No obligation to repay under **subsection (4)** arises if the reason for the person's failure is that the person—

(a) ceases to be a work-tested beneficiary or a beneficiary who is required to comply with obligations under **section 147, 149, 151, or 152**; or

(b) obtains, under **section 144**, an exemption from the work test or from obligations under **section 147, 149, 151, or 152**.

(6) If the person is still entitled to the benefit at the end of the period of satisfactory participation or non-entitlement (as the case may be), payment of the benefit is no longer subject to the condition in **subsection (4)**.

(7) Any amount the person is liable to repay under this section is a debt due to the Crown under regulations made under **section 423**, and subject to recovery under regulations made under **section 423**, from the person.

Compare: 1964 No 136 s 123B

Ending of benefits

304 General rule if person's entitlement to benefit ceases

(1) If a person's entitlement to a benefit ceases, the benefit ends on a date that is set by MSD and is—

(a) not earlier than the pay day before the date on which the person's entitlement ceases; and

(b) not later than the pay day after the date on which the person's entitlement ceases.

(2) This section is subject to **sections 305 to 309**.

Compare: 1964 No 136 s 80BD(1), (2)

305 After death of beneficiary receiving specified benefit

(1) This section applies to a person who, when the person died, was receiving one of the following benefits:

(a) New Zealand superannuation:

(b) a veteran's pension:

(c) sole parent support:

(d) a supported living payment:

(e) jobseeker support:

(f) a youth payment:

(g) a young parent payment:

(h) an exceptional circumstances benefit related to a benefit specified in any of **paragraphs (a) to (g)**.

(2) The benefit ends on the 28th day after the date of the death if the person leaves a spouse or partner, or a child, not entitled to a lump sum payment under—

(a) section 56 of the Accident Rehabilitation and Compensation Insurance Act 1992; or

(b) section 444 of the Accident Insurance Act 1998; or

(c) section 382 of the Accident Compensation Act 2001.

(3) In every other case, the benefit ends on a date set by MSD and that is not later than 28 days after the date of the death.

Compare: 1964 No 136 s 80BD(3), (4), (5)

306 Benefits payable to sole parent who stops caring for dependent child due to sudden and uncontrollable circumstances

(1) This section applies to a benefit, or a rate of benefit, payable to a beneficiary who—

(a) is or was a sole parent in respect of a dependent child; but

(b) stops caring for the child because of a change of circumstances that is sudden and beyond the beneficiary's control.

(2) The benefit or rate of benefit ends 28 days after the day on which the beneficiary stops caring for the child.

Compare: 1964 No 136 s 80BD(6)

307 Supported living payment payable to beneficiary who stops caring for another person

(1) This section applies to a supported living payment under **section 39**, or a rate of that benefit, payable to a beneficiary who stops caring for the other person concerned because that person dies, is admitted to hospital, or enters residential care.

(2) The benefit or rate of benefit ends 28 days after the day on which the beneficiary stops caring for the other person.

Compare: 1964 No 136 s 80BD(6A)

308 If child ceases to be entitled to supported child's payment

If a child's entitlement to a supported child's payment ceases, the benefit ends—

(a) on the date the child ceases to be entitled to the benefit; or

(b) on a date that is set by MSD and is after, but not later than 28 days after, the date the child ceases to be entitled to the benefit.

Compare: 1964 No 136 s 80BD(7)

309 Supported living payment on ground of restricted work capacity or total blindness and cancelled on medical grounds

(1) This section applies to a supported living payment on the ground of restricted work capacity or total blindness, and that is cancelled on medical grounds.

(2) The benefit ends on a date set by MSD and that is after, but not later than 28 days after, the date of cancellation of that benefit.

Compare: 1964 No 136 s 80BD(8)

Expiry and regrant of specified benefits

310 Expiry date, and specified benefit, defined

(1) In this section and **sections 311 to 315**,—

expiry date, in relation to a specified benefit, means the expiry date prescribed for that specified benefit by regulations made under **section 420(1)**

specified benefit means a benefit that is—

(a) jobseeker support; or

(b) sole parent support, supported living payment, or exceptional circumstances benefit, unless that benefit is for the time being declared not to be a specified benefit for the purposes of this section and **sections 311 to 315** by regulations made under **section 420(1)**.

(2) Regulations made under **section 420(1)** that declare sole parent support, supported living payment, or exceptional circumstances benefit not to be a specified benefit may, without limitation, declare not to be a specified benefit for the purposes of this section and **sections 311 to 315** any of those benefits:

(a) as granted on only 1 or more specified available eligibility grounds:

(b) as granted to only 1 or more specified categories, classes, or kinds of beneficiaries.

Compare: 1964 No 136 s 80BE(5), (6)

311 General rule

(1) A beneficiary's entitlement to a specified benefit ceases not later than, and the specified benefit expires on, the expiry date for that specified benefit.

(2) This section is subject to **sections 313 and 315**.

Compare: 1964 No 136 s 80BE(1)

312 Exception for specified benefit expiring in week of or before 26 December

(1) This section applies to a specified benefit that expires under **section 311** in the week that is, or is the week immediately before, the week that includes 26 December in a year.

(2) The benefit must continue to be paid until the first Monday after 2 January in the immediately following year.

(3) This section overrides **sections 304 and 311**.

Compare: 1964 No 136 s 80BE(7)

313 Exemptions

(1) MSD may in any prescribed circumstances exempt from expiry under **section 311** all or any specified benefits of—

(a) an identified beneficiary; or

(b) all beneficiaries who fall within an identified class or description.

(2) The exemption must be until an identified event or situation or time, and may be on any identified conditions.

(3) MSD's exemption power is exercisable only by notice in writing copied as soon as practicable to every beneficiary concerned.

(4) In **subsection (1)**, **prescribed circumstances** means any circumstances that are—

(a) circumstances in which an exemption from expiry may be considered; and

(b) prescribed for the purposes of this section by regulations made under **section 420(1)**.

Compare: 1964 No 136 s 80BE(8)

314 MSD must notify or advise beneficiary

(1) MSD must, not less than 20 working days before the expiry date for a specified benefit, give the affected beneficiary a notice that states—

(a) that entitlement to that benefit will cease unless the beneficiary reapplies for that benefit and it is regranted; and

(b) the date on which entitlement to that benefit will cease; and

(c) what the beneficiary must do to reapply for that benefit, and the period within which the beneficiary must do so.

(2) **Subsection (1)** does not apply if, at the time that MSD is required to give a notice under that subsection, the specified benefit—

(a) is suspended because the beneficiary is undertaking temporary employment; or

(b) is not for the time being payable under this Act, for example, under—

(i) **section 201** (benefit not payable during custody in prison or on remand); or

(ii) **section 203** (general rule: benefit not payable while beneficiary absent from New Zealand); or

(c) is suspended under any provision of this Act other than **section 220** (sanction for second failure: suspension of main benefit).

(3) However, if at any time before the expiry date for that benefit any of the circumstances described in **subsection (2)** no longer exist, MSD must, as soon as practicable, take reasonable steps to advise the beneficiary of the matters set out in **subsection (1)(a) to (c)**.

Compare: 1964 No 136 s 80BE(2), (3), (4)

315 Requirements for regrant

(1) The specified benefit may be regranted if that beneficiary reapplies for it in accordance with requirements for regrant of it.

(2) The requirements for regrant of the specified benefit may be in this Act or in regulations made under **section 420(1)**.

Compare: 1964 No 136 s 80BF(1)

Subpart 5—Payment of benefits, tax on benefits, debts and deductions

Payment of benefits

316 How benefits are paid

How benefits are paid is, in general, provided for by regulations made under **section 421 or 422**.

Compare: 1964 No 136 ss 3(1), 61CB, 61CC(2), 82(3), (5), (6A), (6AA), (6AB), (6AC), (6F), (6G), 83; SR 2007/229 r 5

317 Weekly instalments

(1) A benefit is payable in instalments of a number of weeks' benefit.

(2) The number of weeks' benefit is as determined from time to time by MSD.

(3) The instalments are payable on 1 or more days or dates in the month.

(4) The 1 or more days or dates in the month is or are as determined from time to time by MSD.

(5) A main benefit under this Act is payable in respect of a 7-day week.

(6) This section is subject to **section 320** (required manner of payment: money management for certain payments to young people).

Compare: 1964 No 136 ss 82(1), (2A), 179(2), (3)

318 Payment generally to, or on account of, beneficiary personally

(1) ~~An~~ All or part of an instalment of a benefit is paid to, or on account of, the beneficiary personally, or, if MSD for good cause directs,—

(a) to, or on account of, some other person authorised by the beneficiary; or

(b) for a beneficiary who lacks sufficient capacity in law, to a person appointed by MSD for the purpose of receiving it; or

(c) with or without the consent of the beneficiary—

(i) to a person in payment of the beneficiary's lawful debts or other liabilities:

(ii) to, or for the benefit of, the spouse or partner of the beneficiary or a dependent child or children of the beneficiary.

(2) **Subsection (1)** is subject to contrary provisions in, or in regulations made under, this Act (for example,—

(a) exceptions provided for in regulations made under **section 421**; and

(b) **sections 320 and 324**, on when certain payments to a young person are or may be subject to money management; and

(c) **section 330**, which requires an amount for tax paid under **section 329(2)** by MSD to the Commissioner of Inland Revenue to be considered to be a payment of a benefit made on account of, and received by, the beneficiary; and

(d) **sections 347 to 349**, on when MSD must pay a disability allowance, special assistance granted under a programme approved under **section 86 or 87**, or an advance payment, to a preferred supplier of goods or services).

Compare: 1964 No 136 ss 82(3), 179(9)

319 Required manner of payment: general

(1) ~~An~~ All or part of an instalment of a benefit must be paid in a manner from time to time determined by MSD.

Examples

An instalment of jobseeker support must be paid by electronic transfer of funds into the beneficiary's bank account, if that is what MSD has determined.

An instalment of temporary additional support must be paid by crediting an amount to a payment card, if that is what MSD has determined.

(2) **Subsection (1)** is subject to contrary provisions in, or in regulations made under, this Act (for example,—

(a) **section 320**, on the manner of payment of specified youth support payments; and

(b) default determinations, and exceptions, provided for in regulations made under **section 421**).

(3) A determination made by MSD under this section of a required manner of payment—

(a) may be reviewed under **subpart 3 of this Part**; but

(b) cannot be reviewed, or appealed against, under **Part 7**.

Compare: 1964 No 136 ss 82(4), (7), 179(9)

320 Required manner of payment: money management for certain payments to young people

(1) Regulations made under **section 397(1)(j)** for the purposes of this section may prescribe a manner of payment designed to assist certain young people to manage their money effectively (a **money management manner of payment**).

(2) A money management manner of payment may (but need not) include crediting an amount to a payment card, voucher, or device, that enables a young person to obtain goods or services from a particular supplier and enables the supplier to obtain payment from MSD for the goods or services.

(3) The following must be paid in a money management manner of payment:

(a) any youth support payment (including the in-hand allowance up to the maximum amount set out in **item 7 in Part 5 of Schedule 4**):

(b) any WFF tax credit payable to a young person by MSD:

(c) the amount of any child disability allowance or disability allowance to which a young person is entitled:

(d) any other benefit or payment under this Act to which a young person is entitled specified for the purposes of this paragraph by the regulations made under **section 397(1)(j)**.

(4) **Subsection (3)**—

(a) is subject to the exceptions set out in **sections ~~321 and~~ 322**; and

(b) overrides section 80KS of the Tax Administration Act 1994.

Compare: 1964 No 136 s 179(4)(a), (5), (6)

~~321 Money management for certain payments to young people: exception if no prescribed manner of payment~~

~~(1) A benefit or payment must be paid to or on account of the young person entitled to it if it is a benefit or payment —~~

~~(a) of a kind referred to in **section 320(3)(a) to (d)**; and~~

~~(b) for which regulations made under **section 397(1)(j)** state either —~~

~~(i) no manner of payment; or~~

~~(ii) the manner of payment that is payment to or on account of the young person entitled to it.~~

~~(2) This section overrides section 80KS of the Tax Administration Act 1994, but is subject to any provisions of this Act to the contrary.~~

~~Compare: 1964 No 136 s 179(4)(b)~~

322 Money management for certain payments to young people: exception if young person meets prescribed criteria for managing own payments

(1) This section applies to a young person only if MSD considers the young person has met the criteria—

(a) for managing the young person's own payments; and

(b) stated for the purposes of this section in regulations made under **section 397(1)(j)**.

(2) All or a part of the payments referred to in **section 320(3)(a) to (d)** may be paid to or on account of the young person personally (in line with **section 318(1)**) until a sanction is imposed on the young person under **section 253, 254, 261, or 262**.

Compare: 1964 No 136 s 179(7)

323 Review and appeal of specified determinations made by MSD under regulations

A determination by MSD under regulations made under **section 397(1)(j)** for the purposes of **section ~~324(1)(b) or~~ 322(1)(b)**—

(a) may be reviewed under **subpart 3 of this Part**; but

(b) cannot be reviewed, or appealed against, under **Part 7**.

Compare: 1964 No 136 s 179(8)

324 Young person beneficiaries may elect money management

(1) A young person to whom **section 151** applies may elect to have all or any amounts stated in **subsection (3)** payable to the young person paid in a money management manner of payment.

(2) However, the election may be made by the young person only—

(a) to the extent that regulations made under **section 397(1)(k)** for the purposes of this section allow; and

(b) subject to any conditions prescribed by the regulations.

(3) The amounts are—

(a) any part of a specified beneficiary's benefit:

(b) any part of any other benefit payable under regulations made under **section 421(2)(f)** (regulations: payments, and debts and deductions: apportionment) for the purposes of **section 316** (how benefits are paid):

(c) any WFF tax credit:

(d) any child disability allowance or disability allowance:

(e) any other benefit or payment under this Act to which the young person is entitled.

(4) The young person may revoke the election at any time.

Compare: 1964 No 136 s 180

324A Credit on payment card, etc, at end of money management

(1) This section applies to a young person if—

(a) the young person ceases to be subject to a money management manner of payment; and

(b) the young person has a payment card, voucher, or device to which an amount or amounts payable to the young person have been credited for the purchase of goods or services; and

(c) the amount on the card, voucher, or device has not been fully spent.

(2) MSD may, after receiving an oral or a written application to do so made (in any form, and using any wording, that is reasonable for the purpose) by or on behalf of a young person to whom this section applies,—

(a) cancel the young person's payment card, voucher, or device; and

(b) pay the amount standing to the credit of the young person on the payment card, voucher, or device (after the deduction of any debt recoverable from the young person) to the young person under **section 318**.

Compare: 1964 No 136 s 179(12), (13)

325 Required manner of payment: payment on death of beneficiary

If an instalment of a benefit is payable after the beneficiary's death, that instalment may be paid,—

(a) on application by the surviving spouse or partner of the beneficiary, to that spouse or partner; or

(b) if the beneficiary has no surviving spouse or partner but has a surviving dependent child, on application by the person who has the care of the child, to that person (or to another person appointed by MSD for the purpose) for the benefit of that child and any other surviving dependent children of the beneficiary; or

(c) in any other case, in the manner in which that instalment would have been paid if the beneficiary had not died.

Compare: 1964 No 136 ss 82(3A), 132; SR 2007/229 r 6

326 Advance payment of instalments of benefit

(1) MSD may make an advance payment of ~~some or~~ all or part of 1 or more instalments of a benefit (and that are instalments that are not yet due) if—

(a) MSD is satisfied that an advance payment of the benefit would best meet the beneficiary's immediate needs; and

(b) the beneficiary has applied for an advance payment of the benefit.

(2) The beneficiary's application must be made in a manner and form specified in regulations made under **section 425**, and makes the beneficiary subject to **section 327** (requirement for beneficiary, spouse or partner, or both, to undertake budgeting activity).

(3) The amount so paid in advance is a debt due to the Crown under regulations made under **section 423**, and subject to recovery under regulations made under **section 423**, from the beneficiary.

Compare: 1964 No 136 s 82(6)

327 Requirement for beneficiary, spouse or partner, or both, to undertake budgeting activity

(1) This section applies to a beneficiary who has applied for an advance payment under **section 326** of a benefit.

(2) MSD may, in circumstances prescribed by regulations made under **section 426**, require the beneficiary, the beneficiary's spouse or partner, or both, to undertake to MSD's satisfaction a budgeting activity of a kind specified in regulations made under **section 426**.

Compare: 1964 No 136 s 82(6B)

Tax on benefits

328 Interpretation

In this section and **sections 329 to 331**,—

income-tested benefit has the same meaning as in whichever of the following apply:

(a) section 2 of the Income Tax Act 1976; or

(b) section OB 1 of the Income Tax Act 1994; or

(c) section OB 1 of the Income Tax Act 2004; or

(d) section YA 1 of the Income Tax Act 2007

source deduction payment means a payment that is—

(a) within the meaning of that term in whichever of the following apply:

(i) section 2 of the Income Tax Act 1976; or

(ii) section OB 1 of the Income Tax Act 1994; or

(iii) section OB 1 of the Income Tax Act 2004; or

(b) a PAYE income payment, as that term is defined in section RD 3 of the Income Tax Act 2007 (if applicable)

specified provision, in relation to a source deduction payment, means (as the case requires)—

(a) the fourth proviso to section 343(1) of the Income Tax Act 1976; or

(b) the fourth proviso to section NC 6(1) of the Income Tax Act 1994; or

(c) section NC 6(1D) of the Income Tax Act 1994; or

(d) section NC 6(1D) of the Income Tax Act 2004; or

(e) section RD 11(3) of the Income Tax Act 2007.

Compare: 1964 No 136 s 83A(6)

329 MSD may pay tax on income-tested benefit other than by tax deduction from source deduction payment

(1) This section applies to a source deduction payment that is an instalment or a payment of an income-tested benefit.

(2) MSD may, instead of making a tax deduction from the source deduction payment, pay to the Commissioner of Inland Revenue, at a time the Commissioner determines in consultation with MSD, an amount for income tax payable on that payment, that is calculated under **subsection (3)**.

(3) The amount for income tax payable on a source deduction payment is the amount of the tax deduction that would be made, at the rate determined under the appropriate specified provision, if the payment were increased by an amount that, after the tax deduction were made, would result in an amount equal to the source deduction payment.

Compare: 1964 No 136 s 83A(1)–(3)

330 Status of amount for income tax paid by MSD

An amount for income tax paid by MSD to the Commissioner under **section 329(2)** must,—

(a) for the purposes of this Act, be considered to be a payment of a benefit, within the meaning of that term in **Schedule 2**, made on account of, and received by, the person; and

(b) for the purposes of—

(i) the Income Tax Act 1976, be considered to be assessable income of the person; or

(ii) the Income Tax Act 1994, be considered to be gross income of the person; or

(iii) the Income Tax Act 2004, be considered to be income of the person; or

(iv) the Income Tax Act 2007, be considered to be income of the person.

Compare: 1964 No 136 s 83A(4)

331 Recovery amount paid in excess of amount properly payable

(1) This section applies if, as a result of the review, suspension, or cancellation of an income-tested benefit, MSD determines that an amount for tax on the benefit has been paid under **section 329(2)** to the Commissioner in excess of the amount that is properly payable under **section 329(2)**.

(2) MSD cannot recover the excess amount under regulations made under **section 423**, but may recover that amount by—

(a) making an adjustment to an amount later payable to the Commissioner under **section 329(2)** in respect of the source deduction payments for that or any other benefit payable to that beneficiary; or

(b) making other arrangements for its refund that are agreed with the Commissioner.

Compare: 1964 No 136 s 83A(5)

Debts and deductions

332 Debts and deductions

The following matters are provided for by regulations made under **section 423**:

(a) recovery of sums (for example, identified overpayments, or penalties) specified as debts due to the Crown:

(b) issuing of deduction notices that require a debtor's payer to deduct, and pay MSD, an amount due:

(c) related matters.

Compare: 1964 No 136 ss 3(1), 83AA, 85A, 85B, 86A–86I, 124(2), (2A)

333 Recovery of penalty from beneficiary who obtains by fraud amount in excess of entitlement

(1) This section applies to a person if—

(a) the person obtained a payment, or received a credit or an advance, in excess of the amount to which the person was entitled; and

(b) in MSD's opinion, that payment, credit, or advance in excess, was obtained by fraud.

(2) MSD may recover from the person, by way of penalty that is a debt due to the Crown, an amount not exceeding 3 times the amount in excess.

(3) MSD's discretion may be exercised in respect of a particular case, or in respect of a particular class, or any particular classes, of case.

(4) This section does not relieve the person from any other liability in respect of any fraud committed by the person.

(5) A person must be taken for the purposes of this section to have obtained a payment, credit, or advance by fraud if the person—

(a) has made a statement knowing it to be false in a material particular, or has knowingly said or done anything or omitted to do or say anything for the purpose of misleading MSD in the administration of this Act, for the purpose of obtaining a payment, credit, or advance, under this Act; and

(b) has, as a result of that statement, action, or omission, received that payment, credit, or advance.

Compare: 1964 No 136 s 86(2), (2C)

334 Restriction on imposing penalty under section 333: prosecution for offence

MSD cannot impose a penalty on a person under **section 333** if that person has been prosecuted and dealt with for any offence arising out of the same circumstances that gave rise to liability under that section.

Compare: 1964 No 136 s 86(2A)(b)

335 Restriction on imposing penalty under section 333: notice and period to respond

(1) MSD cannot impose a penalty on a person under **section 333** unless MSD has given to the person a written notice advising—

(a) of MSD's intention to impose a penalty under **section 333**; and

(b) of the amount proposed to be imposed by way of penalty; and

(c) of the particulars of fact on which MSD's intention is based; and

(d) that the person has 5 working days after the date of receipt of the notice to show cause why the action should not be taken.

(2) MSD cannot impose a penalty on a person under **section 333** until after the expiration of those 5 working days.

Compare: 1964 No 136 s 86(2A)(a) and (c)

336 Restriction on recovering penalty under section 333: decision to be final

MSD cannot recover a penalty imposed on a person by a decision under **section 333** unless (as the case requires)—

(a) a benefits review committee review under **subpart 2 of Part 7** of the decision—

(i) has not been applied for by or on behalf of the person within the time allowed (and no application has been made to allow a further time for an application for a review of that kind); or

(ii) has been completed; or

(b) an appeal authority appeal under **subpart 3 of Part 7** against the decision—

(i) has not been begun by a notice of appeal being lodged by or on behalf of the person within the time allowed (and no application has been made to allow a further time for lodging a notice of an appeal of that kind); or

(ii) has been completed.

Compare: 1964 No 136 s 86(2B)

337 Recovery from spouse or partner who misleads MSD of excess amount beneficiary obtained

(1) This section applies to a beneficiary's (**B's**) spouse or partner (**S**) if, in MSD's opinion—

(a) S makes a false statement to, or otherwise misleads, MSD in the administration of this Act, in relation to any matter; and

(b) the benefit or an instalment of benefit is, as a result of the statement or misleading, paid in excess of the amount to which B is by law entitled.

(2) The amount so paid in excess is a debt due to the Crown, and subject to recovery under **section 341**, from S.

(3) The excess amount may be recovered under this section from S on the basis that S is jointly and severally liable.

(4) This section therefore does not limit or affect—

(a) recovery under **section 341** from ~~S~~ B of the excess amount recoverable under this section and **section 341** from S:

(b) any other civil or criminal liability of B, under any other laws, in respect of that excess amount.

Compare: 1964 No 136 s 86(3), (3A)

338 Recovery from spouse or partner of apportioned excess amount beneficiary obtained by fraud

(1) This section applies to a benefit apportioned between spouses or partners so that—

(a) one proportion of the benefit (**proportion B**) is paid to one spouse or partner (**B**); and

(b) another proportion of the benefit (**proportion S**) is paid to the other spouse or partner (**S**); and

(c) the beneficiary entitled to the benefit, for the purposes of those regulations, is either B or S.

(2) However, this section does not apply to the apportioned benefit unless—

(a) ~~some or~~ all or part of proportion B is—

(i) an amount in excess of the amount to which B is by law entitled or to which B has no entitlement; and

(ii) an amount obtained by fraud by B; and

(iii) a debt due to the Crown, and subject to recovery under **section 341**, from B; and

(b) ~~some or~~ all or part of proportion S either is, or is not,—

(i) an amount in excess of the amount to which S is by law entitled or to which S has no entitlement; and

(ii) an amount obtained by fraud by S; and

(iii) a debt due to the Crown, and subject to recovery under **section 341**, from S; and

(c) S either knew, or ought to have known (even if S did not know), of the fraud by B.

(3) S is jointly and severally liable for B's debt referred to in **subsection (2)(a)(iii)**, and that amount is a debt due to the Crown, and subject to recovery under **section 341**, from S.

(4) This section does not limit or affect any civil or criminal liability under any other law—

(a) of B for, or in respect of, the debt referred to in **subsection (2)(a)(iii)**; or

(b) of S for, or in respect of, the debt referred to in **subsection (2)(b)(iii)**.

Compare: 1964 No 136 s 83AA(1), (2), (3)

339 Obtaining amount by fraud: meaning and proof

(1) An amount is **obtained by fraud** by a person (whether B or S) for the purposes of **sections 333, 338, and 340, and clause 9 of Schedule 6** if the person—

(a) obtained that amount by—

(i) making any statement to MSD knowing the statement to be false in a material particular; or

(ii) knowingly saying or doing anything or omitting to do or say anything for the purpose of misleading MSD in administering this Act; or

(b) is convicted of a specified offence (as defined in **section 272(5)**) in respect of obtaining that amount.

(2) This section does not limit references to fraud in **sections 333, 338, and 340, and clause 9 of Schedule 6**.

(3) This section does not limit the operation of section 49 (conviction as evidence in criminal proceedings) of the Evidence Act 2006.

Compare: 1964 No 136 ss 83AA(4), (5), 86AA(2), (3)

340 Recovery from spouse or partner of unapportioned excess amount beneficiary obtained by fraud

(1) This section applies to a beneficiary's (**B's**) spouse or partner (**S**) if—

(a) B has obtained or received an amount (payment, credit, or advance)—

(i) in excess of the amount to which B was entitled; or

(ii) to which B has no entitlement; and

(b) B, in MSD's opinion, obtained that amount (payment, credit, or advance) in excess by fraud; and

(c) none of the amount in excess has been apportioned to S; and

(d) S, in MSD's opinion, either—

(i) knowingly benefited directly or indirectly from B's fraud; or

(ii) ought to have known (even if B did not know) that S was benefiting directly or indirectly from B's fraud.

(2) The amount in excess that S obtained by B's fraud is a debt due to the Crown, and subject to recovery under **section 341**, from S.

(3) The excess amount may be recovered under this section from S on the basis that S is jointly and severally liable.

(4) This section therefore does not limit or affect—

(a) recovery under **section 341** from B of the excess amount recoverable under this section and **section 341** from S:

(b) any other civil or criminal liability of B, under any other laws, in respect of that excess amount.

Compare: 1964 No 136 s 86AA

341 MSD's duty to recover debts

(1) MSD is under a duty imposed by this section to take all reasonably practicable steps to recover sums (for example, identified overpayments, or penalties) that are specified (in this Act, or in regulations made under this Act) as debts due to the Crown.

(2) The duty is subject to the exceptions specified in regulations made under **section 423(2)(b)**.

Compare: 1964 No 136 s 86(1)

342 Duty unaffected by law on mistaken payments

Recovery under **section 341** of a debt is not prevented by the following:

(a) section 94B of the Judicature Act 1908 (payments made under mistake of law or fact not always recoverable):

(b) any other law relating to payment by or under mistake.

Compare: 1964 No 136 s 86(1B)

Subpart 6—Notices and communications, services, and preferred suppliers

Notices and communications

343 Ways MSD or person can meet requirement to give notice or other document

(1) The ways MSD or a person can meet a requirement in this Act to give to another person a written or other notice, or any other document, are specified in regulations made under **section 428**.

(2) This section is subject to **section 237** (how notice of sanction may be given).

Compare: 1964 No 136 s 86J; 2011 No 62 s 211; 2015 No 35 s 4

Young people services

344 Services to encourage young people to move to and remain in education, training, and employment

(1) MSD may do either or both of the following things:

(a) provide services to encourage and help young people to move into or remain in education, training, and employment, rather than receiving financial support under this Act:

(b) enter (under **section 352**) into contracts with service providers to provide services of that kind on MSD's behalf.

(2) A young person who, on the date the young person turns 18 years old is, in MSD's opinion, continuing in a course of education or training may continue to be provided the services of the kind referred to in **subsection (1)(a)** until—

(a) the close of the following 31 March, if the course is one of secondary instruction or one that ends in December; or

(b) the close of the day on which the course ends, if the course is one of any other kind.

Compare: 1964 No 136 s 123E(1), (2)

Goods or services, for beneficiaries or others, supplied by preferred suppliers

345 Preferred suppliers: contracts

MSD may from time to time, on behalf of the Crown, enter into a contract with any person, body, or organisation (a **preferred supplier**) for the supply of goods or services, or classes, descriptions, or kinds of goods or services, specified in a determination under **section 346**,—

(a) by the preferred supplier; and

(b) for purchase by beneficiaries, other persons identified by MSD, or both.

Compare: 1964 No 136 s 125AA(3)

346 Preferred suppliers: determinations

(1) The Minister may from time to time, by written direction, determine the goods or services, or classes, descriptions, or kinds of goods or services, contracts for the supply of which may be entered into under **section 345**.

(2) A determination under this section must be in respect of goods or services, or classes, descriptions, or kinds of goods or services, for all or any of the following (and for no other) purposes:

(a) to meet additional expenses arising from a disability by way of a disability allowance, under **section 75**:

(b) to meet particular needs of a person via special assistance under a programme under **section 86 or 87**:

(c) to satisfy the immediate needs of a beneficiary via an advance payment of a benefit under **section 326**:

(d) to supply goods or services to a beneficiary via redirecting some of the beneficiary's benefit payments, under regulations made under **section 421(2)(a)**.

Compare: 1964 No 136 s 125AA(1), (2)

347 Preferred suppliers: paying them disability allowance, special assistance, or advance payment

(1) This section applies to a person if—

(a) any of the following relate to the supply of any goods or services to the person or a member of the person's family:

(i) the person's ongoing additional expenses under **section 75(2)(d)**; or

(ii) a special assistance payment to the person under a welfare programme approved under **section 86 or 87**; or

(iii) the person's immediate needs under **section 326**; and

(b) the goods or services are of a class, description, or kind supplied by a preferred supplier under a preferred supply contract; and

(c) the preferred supplier is a preferred supplier to, or in respect of, the area in which the beneficiary resides.

(2) The person must purchase the goods or services—

(a) from a preferred supplier nominated by MSD; and

(b) at the price determined by the preferred supply contract with that supplier.

(3) The amount of the special assistance under **section 86 or 87**, or advance payment under **section 326**, for purchasing the goods or services is the lesser of—

(a) the price determined by the preferred supply contract with that supplier; and

(b) the maximum amount available under the approved welfare programme, or of advance payment of benefit, that is available to the person for that purpose.

(4) MSD must pay to that supplier, in consideration of the supply of the goods or services to the person or the person's family member,—

(a) all, or the specified part, of the disability allowance that is granted under **section 75** in respect of the supply of the goods or services; or

(b) the special assistance payment under the welfare programme approved under **section 86 or 87**; or

(c) the advance payment under **section 326**.

(5) A nomination given by MSD under **subsection (2)** of a preferred supplier—

(a) may be given by MSD orally or in writing (but, if given orally, must as soon as practicable be confirmed in writing by MSD); and

(b) may from time to time be amended, revoked, or replaced, by MSD, to recognise changes in preferred suppliers or preferred supply contracts ending without also being replaced.

(6) **Preferred supply contract**, in this section and **section 349**, means a contract MSD has entered into under **section 345** (preferred suppliers: contracts) with a supplier of goods or services.

(7) This section is subject to **sections 348 and 349** (which are disability allowance exceptions).

Compare: 1964 No 136 ss 69C(7A)–(7BA), 82(6AA)–(6AC), 124(1BA)–(1BBA)

348 Preferred suppliers: paying them disability allowance: exception if total benefit payments less than amount required

(1) This section applies if—

(a) a preferred supplier is required under **section 347(4)(a)** to be paid, on a pay day, an amount that is all or the specified part of a disability allowance granted under **section 75** to a person in respect of the supply of the goods or services; and

(b) the person's net total benefit payments due to be paid on that pay day (after deducting any redirection under regulations made under **section 421(2)(a)**, or reduction or deduction required to be made from the person's benefit payments for another purpose (for example, under an attachment order or a deduction notice)) are less than the amount required to pay the preferred supplier on that pay day.

(2) MSD—

(a) is not required by **section 347(4)(a)** to pay to the preferred supplier on the pay day referred to in **subsection (1)** of this section all, or the specified part, of the person's disability allowance due on that pay day; and

(b) may pay the amount due to the preferred supplier on 1 or more later pay days from amounts of disability allowance or other benefit payments due to the person on those 1 or more later pay days.

(3) Non-payment, or deferred payment, under this section does not reduce any amounts due to the preferred supplier from the person under, or make MSD or the Crown liable for breaching, the person's contract of purchase.

Compare: 1964 No 136 s 69C(7BB), (7BC)

349 Preferred suppliers: paying them disability allowance: exception if allowance granted at maximum rate

(1) This section applies if the disability allowance granted to the person to whom **section 347(4)(a)** applies is granted at the maximum appropriate rate specified in **Part 7 of Schedule 4**.

(2) MSD may determine in writing that, despite **section 347(2)**,—

(a) all, or the specified part, of the disability allowance that is granted under **section 75** in respect of the supply of the goods or services must be paid to the person for use only to purchase any 1 or more of the goods or services that the person chooses and that are goods or services in respect of the supply of which the disability allowance is granted; and

(b) if the goods or services that the person chooses and purchases under **paragraph (a)** are goods or services supplied by the nominated preferred supplier under the preferred supply contract, the person must purchase them from that supplier at the price determined by that contract.

Compare: 1964 No 136 s 69C(7C)

350 Preferred suppliers: no appeal lies against MSD decisions

An MSD decision under **sections 347 to 349**—

(a) may be reviewed under **subpart 3 of this Part**; but

(b) cannot be reviewed, or appealed against, under **Part 7**.

Compare: 1964 No 136 ss 69C(7D), 82(4), 124(1BC)

351 Preferred suppliers: transitional or savings provisions directions

(1) The Minister may from time to time give to MSD under this section written directions that set out transitional or savings provisions that apply—

(a) to persons receiving assistance under this Act in respect of goods or services that would be affected by a contract with a preferred supplier in respect of those goods or services; and

(b) at, or within a specified period after, the time or times when a contract under **section 345** (including, without limitation, one that varies or replaces all or any of an earlier contract of that kind) takes effect.

(2) A direction given under this section—

(a) overrides **sections 326, 346(2)(b), and 347 to 349**; and

(b) must be complied with by MSD; and

(c) must, as soon as practicable after it is given, be—

(i) published on an Internet site administered by or on behalf of MSD; and

(ii) notified in the *Gazette*; and

(d) must, each time it is amended without also being replaced, also as soon as practicable after it is amended, be published—

(i) on an Internet site administered by or on behalf of MSD; and

(ii) current as at a stated date; and

(iii) incorporating amendments up to that date; and

(e) is not a legislative instrument, but is a disallowable instrument, for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives under section 41 of that Act.

(3) A notification in the *Gazette* for the purpose of **subsection (2)(c)(ii)** does not have to include the text of the direction.

Compare: 1964 No 136 s 125AA(5), (6)

Administration services provided by contracted service providers

352 Administration service providers: contracts

(1) MSD may from time to time, on behalf of the Crown, enter into a contract with any person, body, or organisation (a **contracted service provider**) for the provision by the contracted service provider of services—

(a) that, in relation to young people, are—

(i) services of either or both of the following kinds:

(A) services of the kind referred to in **section 344(1)(a)** (that is, services to encourage and help young people to move into or remain in education, training, and employment, rather than receiving financial support under this Act):

(B) services in relation to financial support for young people; and

(ii) services of a kind or description stated for the purposes of this paragraph by regulations made under **section 397(1)(l)**; and

(b) that, in relation to people other than young people, are services in relation to all or any of **Parts 1 to 6** (and that may, but need not, be services of a kind or description stated for the purposes of this paragraph by regulations made under **section 397(1)(l)**).

(2) MSD must not enter into a contract with a person, body, or organisation for the provision of services of a kind stated in **subsection (1)** unless MSD is satisfied that the person, body, or organisation—

(a) is suitable to provide the services specified in the contract; and

(b) is suitable to work with people to whom the services relate in providing those services; and

(c) has the powers and capacity to enter into and perform a contract for those services.

Compare: 1964 No 136 s 125A

353 Administration service providers: contents and form of contracts

(1) A contract under **section 352**—

(a) must set out the responsibilities of the contracted service provider and MSD in respect of each of the services the provider is to provide under the contract; and

(b) must require the provider to co-operate with MSD; and

(c) must contain all terms and conditions (if any) stated for the purposes of that section by regulations made under **section 397(1)(m)**.

(2) The contract must be in writing.

(3) **Subsection (1)** is subject to **section 352**.

Compare: 1964 No 136 s 125B

354 Administration service providers: adoption of existing contracts

(1) This section applies to a contract that MSD entered into with another party before 27 July 2012 (which is the date on which section 21 of the Social Security (Youth Support and Work Focus) Amendment Act 2012 came into force).

(2) MSD may agree in writing with the other party to the contract that this Act applies to the contract (to the extent that it was capable of being entered into under **section 352**) as if it had been entered into under **section 352**.

(3) After an agreement under this section takes effect, this Act applies to the contract (to the extent that it was capable of being entered into under **section 352**) as if it had been entered into under **section 352**.

Compare: 1964 No 136 s 125E

355 Administration service providers: MSD to ensure information published

MSD must, not later than 1 October in every year, ensure there is published the following information:

(a) a general description of—

(i) the services provided by contracted service providers during the year ending on 30 June in that year; and

(ii) the contracted service providers; and

(b) details of the providers concerned.

Compare: 1964 No 136 s 125F

356 Conduct of provider of services in relation to young people to be treated for specified purposes as if MSD's conduct

Action or inaction by a contracted service provider contracted under **section 352(1)(a)** to provide services in relation to young people, and that is action or inaction in respect of the provision of those services, must be treated for the purposes of the following provisions as if it were action or inaction by MSD:

(a) **section 99** (beneficiary must notify change of circumstances):

(b) **sections 297 and 298** (Minister may consent to backdating):

(c) any provisions about debts caused wholly or partly by errors to which debtors did not intentionally contribute, and in regulations made under **section 423**.

Compare: 1964 No 136 s 125G

357 MSD may assign contracted service provider to young person

MSD may assign a contracted service provider to a young person—

(a) at a time—

(i) after the young person has contacted MSD for financial assistance; and

(ii) at which MSD considers the most appropriate financial assistance for the young person is likely to be a youth support payment; or

(b) at the time, or at a time after, the youth support payment is payable to the young person; or

(c) at a time when the young person is the spouse or partner of a specified beneficiary, or of a beneficiary, and has obligations under—

(i) **section 151** (young person aged 16 or 17 years with no dependent child and who is spouse or partner of specified beneficiary); or

(ii) **section 152** (young person aged 16 to 19 years with dependent child and who is spouse or partner of beneficiary).

Compare: 1964 No 136 s 181

Medical services

358 Minister determines rates and conditions of employment and payment

The following matters are to be at rates, and subject to conditions, determined by the Minister:

(a) the employment for the purposes of this Act of ~~medical practitioners~~prescribed health practitioners—

(i) paid only by fees or commission; or

(ii) engaged for a specified period under a contract for services:

(b) the payment of those fees (including mileage allowances in connection with that employment).

Compare: SR 2007/229 r 8

Subpart 7—Reciprocity agreements with other countries

Orders

359 Orders adopting reciprocity agreements

(1) The purpose of this section is to enable effect to be given in New Zealand law to an agreement (for example, a Convention), or an alteration to an agreement, with the Government of another country providing for reciprocity in respect of matters relating to social security monetary benefits (a **reciprocity agreement**).

(2) The Governor-General may, by Order in Council, do all or any of the following:

(a) declare all or any provisions of, or of an alteration to, a reciprocity agreement (being provisions set out in a schedule of the order) have force and effect so far as they relate to New Zealand:

(b) declare that the following enactments (and any regulations or orders made, and in force, under the following Acts) have effect subject to any modifications required for the purpose of giving effect to the agreement or alteration:

(i) this Act:

(ii) Part 6 of the Veterans' Support Act 2014:

(iii) Part 1 of the New Zealand Superannuation and Retirement Income Act 2001:

(c) revoke a previous order that applied in respect of, or in respect of an alteration to, a reciprocity agreement if the agreement or alteration is no~~t~~ longer in force or if, on the commencement of the order, the previous order is intended to be no longer ~~be~~ in force.

(3) The Governor-General may, by the same or a later Order in Council, specify the date on which an order made under **subsection (2)** is to come into force (which may be a date before, on, or after, the date on which the order is made under **subsection (2)**).

(4) This section is subject to **section 360**.

Compare: 1990 No 26 s 19(1), (2)

360 Privacy report for orders adopting agreements with mutual assistance provisions

(1) This section applies to a reciprocity agreement, or an alteration to a reciprocity agreement, that contains a mutual assistance provision—

(a) for the Governments of New Zealand and the other country to—

(i) provide each other with assistance in the recovery of social security debts; or

(ii) supply each other with information for social security purposes; and

(b) that does not relate solely to the recovery of moneys paid under the agreement in excess of that to which the recipient was entitled under that agreement.

(2) No order may be made under **section 359** in respect of the agreement or alteration unless the Privacy Commissioner has first presented to the Minister and to the Minister of Justice a report on the following matters:

(a) whether the mutual assistance provision complies with the privacy principles set out in the Privacy Act 1993, having regard to the matters set out in paragraphs (a) to (f) of section 98 of that Act:

(b) if the mutual assistance provision is one for the Governments of New Zealand and the other country to supply each other with information for social security purposes, the adequacy of the privacy protection given in the other country to information about any individual that may be supplied by New Zealand under the provision.

Compare: 1990 No 26 s 19(2A), (2B)

361 Interpretation

In this subpart,—

competent institution means an institution of a party that is responsible for the application of the reciprocity agreement

party means a Government that has entered into a reciprocity agreement

reciprocity agreement means an agreement (for example, one entitled a Convention), or an alteration to an agreement, with the Government of another country providing for reciprocity in respect of matters relating to social security monetary benefits

requested institution means the competent institution of a party to which a request is made by the competent institution of the other party

requesting institution means the competent institution of a party that makes a request to the competent institution of the other party

social security debt,—

(a) in relation to New Zealand, means an amount that is subject to recovery from a person under regulations made under **section 423**; and

(b) in relation to any other country, means an amount that may be recovered from a person—

(i) under the laws relating to social security in that country; or

(ii) for taxation or other contribution levied specifically for social security under the laws of that country

social security laws, in relation to a party, means the laws of that party—

(a) relating to social security; or

(b) relating to taxation, or any other contribution, levied specifically for social security

social security purposes include all or any of the following purposes:

(a) the administration of the social security laws of a party:

(b) the collection of the social security debts of a party:

(c) the maintenance of the social security laws of a party (for example, the prevention, detection, prosecution, and punishment of offences under the social security laws of a party):

(d) the enforcement of any social security laws of a party imposing a pecuniary penalty:

(e) the conduct of any proceedings under the social security laws of a party before any court or tribunal.

Compare: 1990 No 26 ss 2(1), 19A(1), 19D(7)

Agreements

362 Inclusion of mutual assistance provisions in reciprocity agreements

Reciprocity agreements with other countries may contain and include mutual assistance provisions if those provisions being contained and included in those agreements is not inconsistent with regulations made under **section 429**.

Compare: 1990 No 26 ss 2(1), 19A, 19B, 19C

Debt recovery and information exchange

363 MSD may use mutual assistance provisions to recover debts

(1) This section applies if an order is made under **section 359** in respect of a reciprocity agreement that contains a provision for the Governments of New Zealand and the other country to provide each other with assistance in the recovery of social security debts.

(2) A social security debt of the other country may, under and subject to the provision and to the extent that the debt has not been recovered in the other country, be recovered by MSD under regulations made under **section 423** as if it were a debt due to the Crown.

(3) A certificate signed by an authorised officer of the competent institution of the other country and to the effect that the debt is of a kind that New Zealand may under the agreement provide assistance to recover is, in the absence of proof to

the contrary, sufficient evidence for the purposes of **subsection (2)** of the existence of the debt.

(4) Any amount recovered under **subsection (2)** is trust money for the purposes of the Public Finance Act 1989.

Compare: 1990 No 26 s 19D(1), (2)

364 MSD may use mutual assistance provisions to exchange information

(1) This section applies if an order is made under **section 359** in respect of a reciprocity agreement that contains a provision for the Governments of New Zealand and the other country to supply each other with information for social security purposes.

(2) MSD may supply any information in MSD's possession about a person to, or receive information about a person from, the competent institution of the other country under, and subject to, the provision.

(3) MSD may from time to time, in accordance with arrangements made in an agreement with the Commissioner of Inland Revenue, supply any information received from the competent institution of the other country to the Commissioner for either or both of the following purposes:

(a) making an assessment of the tax due by any person under the taxation laws of the requesting party (which, in this subsection, means the party to whom information is supplied by the requested institution of the other party):

(b) detecting tax fraud or tax evasion under the laws of the requesting party:

(4) Sections 100 to 102 and 104 to 106 of the Privacy Act 1993 apply in respect of the provision as if the provision were an authorised information matching programme and MSD were the only specified agency involved in that programme.

Compare: 1990 No 26 s 19D(3)(a), (b), (e)

Adverse action arising from discrepancy

365 Adverse action against individual if discrepancy shown by information from other country

(1) This section applies if information received by MSD from the competent institution of the other country under a mutual assistance provision for information exchange has produced a discrepancy, and as a result MSD proposes to take an adverse action against an individual.

(2) In this section, expressions defined in section 97 of the Privacy Act 1993 have the meanings so defined, with all necessary modifications.

(3) The processes to be followed (if MSD proposes, as a result of the discrepancy, to take an adverse action against the individual) are set out in regulations made under **section 429**.

Compare: 1990 No 26 s 19D(3)(c), (d), (4), (4A), (4B), (4C), (5), (6), (7)

Subpart 8—Prosecutions and debt-recovery proceedings, and maintenance proceedings

366 Prosecutions and debt recovery proceedings: representation and fees

(1) This subsection applies to proceedings in respect of—

(a) offences under this Act or under regulations made under this Act; or

(b) recovery, required by regulations made under **section 423**, of a debt due to the Crown.

(2) In any proceedings to which **subsection (1)** applies,—

(a) any MSD employee authorised either generally or specifically by MSD for the purpose may appear on behalf of MSD; and

(b) the fact that an MSD employee appears on behalf of MSD is sufficient evidence of the MSD employee's authority to do so.

(3) Any proceedings to which **subsection (1)** applies that are commenced by an authorised MSD employee may be continued by the same or any other authorised MSD employee.

(4) No court fees are payable in connection with any proceedings to which **subsection (1)** applies.

Compare: SR 2007/229 r 9

367 Payment of benefit does not affect right to maintenance

Any entitlement to, or payment of, a benefit under this Act, does not—

(a) take away, or restrict, a person's liability under an Act (for example, the Family Proceedings Act 1980, or the Child Support Act 1991) to maintain or support any other person; or

(b) affect a court's power to make a maintenance order under any Act; or

(c) affect the Commissioner of Inland Revenue's power under the Child Support Act 1991 to make an assessment of child support or domestic maintenance, or to accept a voluntary agreement; or

(d) affect a court's power to make an order under the Child Support Act 1991.

Compare: 1964 No 136 s 84A

368 Maintenance proceedings

(1) This section applies to proceedings under the Family Proceedings Act 1980 or the Child Support Act 1991 for, or relating to, all or any of the following during all or any part of a period in which a benefit is payable to a beneficiary:

(a) the maintenance of the beneficiary; or

(b) the payment of child support for a child of the beneficiary; or

(c) the establishment of the paternity of a child of the beneficiary.

(2) An MSD employee may, without special appointment, as if that employee were the beneficiary, institute the proceedings, or appear personally or by agent in the proceedings.

(3) The proceedings under the Family Proceedings Act 1980 for, or relating to, the maintenance of the beneficiary during all or any part of a period in which a benefit is payable to the beneficiary may, without limitation, be proceedings under section 61CA of the Social Security Act 1964 (Family Proceedings Act 1980 maintenance payable to the Crown) (as that section is saved by **clause 46 of Schedule 1**).

(4) This section does not limit **section 186** (factors affecting benefit: maintenance claim).

Compare: 1964 No 136 s 61C

Part 7
Reviews and appeals

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Subpart 1—Guide to this Part

369 What this Part does

This **Part** contains provisions on the following reviews and appeals:

Reviews by benefits review committee

(a) reviews by a benefits review committee, begun by a specified applicant, of a specified decision of MSD made under a delegation:

Appeals to appeal authority

(b) appeals to the appeal authority, begun by a specified appellant, against a specified decision confirmed or varied by a benefits review committee or made by the chief executive personally:

Appeals to courts

(c) appeals to the High Court, using a case stated by the appeal authority on a question of law only, begun by a specified appellant, against a determination by the authority:

(d) appeals to the Court of Appeal, begun by a party to an appeal to the High Court, and with the Court of Appeal's leave, against the determination of an appeal to the High Court:

(e) appeals to the Supreme Court, begun by an application under the Supreme Court Act 2003 for its leave to appeal to it, against the determination of an appeal to the High Court or to the Court of Appeal:

Appeals to medical board

(f) appeals to the medical board, begun by a specified appellant, against a specified decision of MSD made on, or involving, medical or capacity grounds.

Subpart 2—Reviews by benefits review committee

Rights of review

370 Right to seek review of specified decision of MSD made under delegation

(1) A person may make an application to MSD for a review by a benefits review committee of a decision of MSD, but only if—

(a) the person and the decision are of kinds specified in the same row of the following table; and

(b) the decision is made in the exercise of a function, power, or discretion conferred by a delegation; and

(c) the decision is made in relation to the person or estate; and

(d) the decision is not one that **section 319(3)(b), 323(b), 350(b), or 375** prevents from being appealed to the appeal authority (for example, because that kind of decision is appealable to the medical board).

Row	Person who may make application for review	Decision to be reviewed
	Decision under specified social assistance enactment	

Row	Person who may make application for review	Decision to be reviewed
1	An applicant or a beneficiary	A decision of MSD made under an enactment referred to in **section 376(1)(a) to (g)**
Decision under mutual assistance provisions in reciprocity agreement		
2	An applicant or beneficiary or other person	A decision of MSD made using a power under **section 363** (MSD may use mutual assistance provisions to recover debts) (referred to in **section 377**)
Decision to recover from spouse or partner who misleads MSD excess amount beneficiary obtained		
3	A beneficiary's spouse or partner	A decision of MSD— (a) to recover, from a spouse or partner who misleads MSD, an excess amount the beneficiary obtained; and (b) made under regulations made under **section 423** (referred to in **section 378(1)**); and (c) that includes the decisions in **row 1** of the table in **section 378(1)**
Decision to recover from spouse or partner apportioned excess amount beneficiary obtained by fraud		
4	A beneficiary's spouse or partner	A decision of MSD— (a) to recover from a spouse or partner an apportioned excess amount the beneficiary obtained by fraud; and (b) made under regulations made under **section 423** (referred to in **section 378(1)**); and (c) that includes the decisions in **row 2** of the table in **section 378(1)**
Decision to recover from spouse or partner unapportioned excess amount beneficiary obtained by fraud		
5	A beneficiary's spouse or partner	A decision of MSD— (a) to recover from a spouse or partner an unapportioned excess amount the beneficiary obtained by fraud; and (b) made under regulations made under **section 423** (referred to in **section 378(1)**); and (c) that includes the decision in **row 3** of the table in **section 378(1)**
Decision to recover excess amount from deceased beneficiary's estate		
6	The personal representative of a deceased beneficiary	A decision of MSD— (a) to recover from the estate of the deceased beneficiary an excess amount the beneficiary obtained; and (b) made under regulations made under **section 423** (referred to in **row 4** of the table in **section 378(1)**)
Decision to recover excess amount from deceased spouse's or partner's estate		

Row	Person who may make application for review	Decision to be reviewed
7	The personal representative of a beneficiary's deceased spouse or partner	A decision of MSD— (a) to recover from the estate of the beneficiary's deceased spouse or partner an excess amount the beneficiary obtained; and (b) made under regulations made under **section 423** (referred to in **section 378(1)**); and (c) that includes the decision in **row 5** of the table in **section 378(1)**

(2) For the purposes of **subsection (1)(c)**, a decision is not made in relation to a person or an estate by reason only that the decision has an economic or other effect on the person or estate.

Compare: 1964 No 136 s 10A(1), (1A)

371 Application must be made within 3 months after date of notification or further period allowed

(1) The application for review must be made within—

(a) 3 months after the date of receiving notification of the decision; or

(b) a further period the committee has under this section allowed.

(2) An applicant for review is treated as receiving notification of the decision in line with regulations made under **section 428** if—

(a) a decision is made in respect of which an application for review lies to the committee; and

(b) notice of the decision is given to the applicant in a way prescribed by those regulations; and

(c) the notice is (in the absence of evidence to the contrary) taken to have been received by the applicant as provided by those regulations.

(3) The committee may allow a further period within which the application must be made if—

(a) the application is not to be, or has not been, made within that 3-month period; and

(b) the committee is asked, before or after the end of that 3-month period, to allow a further period; and

(c) the committee considers there is good and sufficient reason for the delay.

Compare: 1964 No 136 ss 10A(1B), 12K(11)

Committee

372 Benefits review committee

(1) Every benefits review committee is established, and operates, in accordance with **Schedule 7**.

(2) MSD must refer an application made under **section 370** to the appropriate benefits review committee.

(3) In determining what benefits review committee is the appropriate benefits review committee, MSD must have regard to—

(a) the location of the MSD office in which was made the decision of MSD that is the subject of the application; and

(b) the location of the applicant's usual or last known place of residence; and

(c) how the applicant can conveniently, and at minimum expense, attend in person, or otherwise take part in, a review hearing.

(4) The appropriate benefits review committee may be the benefits review committee of an MSD office other than the MSD office in which was made the decision of MSD that is the subject of the application.

Example

The decision of MSD that is the subject of the application was made in the MSD office at a location. Afterwards, the applicant moves away from that location. The benefits review committee of the MSD office of a location nearer to the applicant's new usual place of residence is appropriate because it enables the applicant conveniently, and at minimum expense, to attend in person, or otherwise take part in, a review hearing.

Compare: 1964 No 136 s 10A(2)

Procedure

373 How to begin, and procedure and powers for, review by benefits review committee

Regulations made under **section 430** provide for the following matters:

(a) how to begin, and the procedure on, a review:

(b) the benefits review committee's power to deal with (for example, confirm, vary, revoke, or refer back for reconsideration) the decision reviewed:

(c) related matters specified in that section.

Compare: 1964 No 136 ss 10A(1A), (1B), (8), (9), 12K(11)

Subpart 3—Appeals to appeal authority

Restrictions on appeals

374 Appeals only against decision confirmed or varied by benefits review committee or made by chief executive personally

No decision can be appealed against under **section 376, 377, or 378** unless the decision—

(a) has been confirmed or varied by a benefits review committee; or

(b) was made by the chief executive personally (not under a delegation of the chief executive's functions or powers).

Compare: 1964 No 136 s 12J(16)

375 Authority cannot hear and determine certain appeals on medical or capacity grounds

(1) The appeal authority must not, despite **sections 376, 377, and 378**, hear and determine any appeal on medical grounds, grounds relating to incapacity, or grounds relating to capacity for work, against any decision of MSD in respect of—

(a) jobseeker support on the ground of health condition, injury, or disability; or

(b) a supported living payment (*see* **rows 11 to 13** of the table in **section 390**); or

(c) a child disability allowance under **section 68**; or

(d) a veteran's pension under section 164 of the Veterans' Support Act 2014.

(2) No appeal lies under **section 376(1)(a)** against—

(a) a decision under **section 141** against which an appeal lies under **row 7 or 8** of the table in **section 390** to the medical board; or

(b) a decision under **section 233(1)(a)** against which an appeal lies under **row 10** of the table in **section 390** to the medical board.

Compare: 1964 No 136 s 12J(2), (3), (17)

Rights of appeal

376 Decision under specified social assistance enactments

(1) An applicant or beneficiary may appeal to the appeal authority against any decision or determination of MSD made in relation to the applicant or beneficiary under—

(a) any provisions of (or of any regulations made for the purposes of any provisions of) **Parts 1 to 6 and Schedules 1 to 5**; or

(b) a special assistance programme approved by the Minister under **section 86 or 87**; or

(c) any regulations in force under **section 416** (regulations: issue and use of entitlement cards):

(d) any provisions of, or of regulations made under, **Part 9 of the Social Security Legislation Rewrite Act 2016**; or

(e) Part 6 of the Veterans' Support Act 2014, subject to section 175(2) of that Act; or

(f) Part 1 of the New Zealand Superannuation and Retirement Income Act 2001; or

(g) the Family Benefits (Home Ownership) Act 1964.

(2) **Subsection (1)(d)** applies to a person in relation to whom a decision is made under any provisions of, or of regulations made under, **Part 9 of the Social Security Legislation Rewrite Act 2016**, as if the person were a beneficiary.

(3) For the purposes of **subsection (1)**, a decision or determination is not made in relation to an applicant or a beneficiary by reason only that the decision or determination has an economic or other effect on the applicant or beneficiary.

(4) This section is subject to provisions to the contrary in this Act (for example, **sections 319(3)(b), 323(b), and 350(b)**).

Compare: 1964 No 136 s 12J(1), (4), (5)

377 Decision under reciprocity agreements

An applicant or beneficiary or other person may appeal to the appeal authority against a decision that was made in relation to that person by MSD under the power conferred by **section 363** (MSD may use mutual assistance provisions to recover debts).

Compare: 1964 No 136 s 12J(7)

378 Decision to recover excess amount

(1) A person specified in a row of the following table may appeal to the appeal authority against a decision that is—

(a) of the kind specified in that row; and

(b) made in relation to the person or estate.

Row	Person who may appeal	Decision of MSD that may be appealed
Decision to recover from spouse or partner who misleads MSD excess amount beneficiary obtained		
1	A beneficiary's (**B's**) spouse or partner (**S**)	A decision of MSD— (a) to recover from S an amount in excess of the amount to which B was by law entitled; and

Row	Person who may appeal	Decision of MSD that may be appealed
		(b) made under regulations made under **section 423**; and (c) that includes the decision that, in MSD's opinion, S has made a false statement to or otherwise misled MSD, in relation to any matter; and (d) that includes the decision that, as a result of S making a false statement to or otherwise misleading MSD, the benefit or an instalment of benefit was paid in excess of the amount to which B was by law entitled; and (e) that is not a decision or determination of MSD that relates only to the temporary deferral, rate, or method or methods of debt recovery from B
Decision to recover from spouse or partner apportioned excess amount beneficiary obtained by fraud		
2	A beneficiary's (**B's**) spouse or partner (**S**)	A decision of MSD— (a) to recover from B an amount in excess of the amount to which S was by law entitled; and (b) made under regulations made under **section 423**; and (c) that includes the decision that ~~some or~~ all or part of proportion B (as referred to in regulations made under **section 423**) is an amount in excess of the amount to which B is by law entitled or to which B has no entitlement, and an amount obtained by fraud by B; and (d) that includes the decision that S either knew, or ought to have known (even if S did not know), of the fraud by B; and (e) that is not a decision or determination of MSD that relates only to the temporary deferral, rate, or method or methods of debt recovery from B
Decision to recover from spouse or partner unapportioned excess amount beneficiary obtained by fraud		
3	A beneficiary's (**B's**) spouse or partner (**S**)	A decision of MSD— (a) to recover from S an unapportioned amount in excess of the amount to which B was by law entitled or to which B has no entitlement; and (b) made under regulations made under **section 423**; and (c) that, for the purposes of S's right of appeal under this row, includes the decision that B obtained by fraud an amount in excess of the amount to

Row	Person who may appeal	Decision of MSD that may be appealed
		which B was by law entitled or to which B has no entitlement; and
		(d) that is not a decision or determination of MSD that relates only to the temporary deferral, rate, or method or methods of debt recovery from B
Decision to recover excess amount from deceased beneficiary's estate		
4	The personal representative of a deceased beneficiary (**B**)	A decision of MSD— (a) to recover from B's estate an amount in excess of the amount to which B was by law entitled; and (b) made under regulations made under **section 423**
Decision to recover excess amount from deceased spouse's or partner's estate		
5	The personal representative of a beneficiary's (**B's**) deceased spouse or partner (**S**)	A decision of MSD— (a) to recover from S's estate an amount in excess of the amount to which B was by law entitled; and (b) made under regulations made under **section 423**; and (c) that, for the purposes of the personal representative's right of appeal under this row, includes the decision that B was paid an amount in excess of the amount to which B was by law entitled

(2) A reference in this section to a decision to recover an amount from a person or estate includes (without limitation, and except as expressly provided in this section) all related decisions on all or any of the temporary deferral, rate, or method or methods, of debt recovery from the person or estate.

Compare: 1964 No 136 s 12J(6), (8)–(15)

379 Appeal must be begun within 3 months of notification or further allowed period

(1) An appeal under **section 376, 377, or 378** must be begun within—

(a) 3 months after the date on which the appellant receives notification of—

(i) the confirmation or variation (if the appeal is against a decision specified in **section 374(a)**); or

(ii) the decision (if the appeal is against a decision specified in **section 374(b)**); or

(b) a further period the appeal authority has under this section allowed.

(2) An appellant is treated as receiving notification of the decision in line with regulations made under **section 428** if—

(a) a decision is made in respect of which in respect of which an appeal lies to the authority; and

(b) notice of the decision is given to the appellant in a way prescribed by those regulations; and

(c) the notice is (in the absence of evidence to the contrary) taken to have been received by the appellant as provided by those regulations.

(3) The appeal authority may allow a further period within which the appeal must be begun if—

(a) the appeal is not to be, or has not been, begun within that 3-month period; and

(b) an application is made to it, before or after the end of that 3-month period, to allow a further period; and

(c) the appeal authority considers there is good and sufficient reason for the delay.

Compare: 1964 No 136 s 12K(1)–(3), (11)

Appeal authority

380 Social security appeal authority

(1) The social security appeal authority (and every special social security appeal authority, if any) is established and operates under **Schedule 8**.

(2) The appeal authority sits as a judicial authority to hear and determine appeals under **section 376, 377, or 378**.

(3) In hearing and determining an appeal, the authority has all the duties, functions, and powers that MSD had in respect of the same matter.

(4) Proceedings before the authority must not be held invalid for want of form.

Compare: 1964 No 136 ss 12A–12I, 12K(9), 12M(6)

381 Act does not affect appeals to authority under other enactments

This Act does not affect appeals under other enactments to the appeal authority (or appeals in respect of determinations by the appeal authority of those appeals), for example,—

(a) appeals under section 133, and in accordance with regulations made under section 136, of the Housing Restructuring and Tenancy Matters Act 1992; or

(b) appeals provided for by regulations made, or deemed to have been made, under section 92(3)(d) of the New Zealand Public Health and Disability Act 2000.

Procedure

382 How to begin, and procedure and powers for, appeal to authority

The authority's procedure, and the authority's powers to deal with (for example, confirm, vary, revoke, or refer back to MSD for reconsideration) the decision appealed, on an appeal under this Act, are—

(a) as provided by this Act (and especially by **sections 374 to 383** and **Schedule 8**) and regulations made under **section 430**; and

(b) for matters not provided for by this Act or those regulations, as the authority may determine.

Compare: 1964 No 136 ss 12K(10), 12M(6)

383 Notice, and carrying into effect, of decision

(1) On the determination of an appeal, the authority's Secretary must send to the chief executive and to the appellant a memorandum of—

(a) the authority's determination; and

(b) the authority's reasons for the authority's determination.

(2) The chief executive must promptly take all necessary steps to carry into effect the authority's determination.

Compare: 1964 No 136 s 12P

Subpart 4—Appeals to courts

Appeals to High Court

384 Right of appeal using case stated on question of law only

A party to a proceeding~~s~~ before the authority may appeal to the High Court, by way of a case stated by the authority for the court's opinion on a question of law only, against a determination—

(a) made by the authority in ~~those~~ the proceeding~~s~~; and

(b) that the party considers involves an error of law.

Examples

An error of law that is a mistake about the meaning or application of a provision of this Act (for example, departing from the Act's plain words by reasoning using not facts but hypothetical examples, as in *Chief Executive of Ministry for Social Development v Morgan* [2015] NZCA 453 at [25]).

An error of law that (in accordance with *Bryson v Three Foot Six Ltd* [2005] 3 NZLR 721 (SCNZ), paras [24]–[26]) is a determination that—

(a) there is no evidence to support; or

(b) is inconsistent with, and contradictory of, the evidence; or

(c) contradicts the only true and reasonable conclusion of fact available on the evidence.

Compare: 1964 No 136 s 12Q(1)

385 Appeal must be begun, and case stated lodged, within time prescribed or allowed

(1) An appellant must begin an appeal within—

(a) 14 days after the date of the determination; or

(b) a further period the High Court, or a High Court Judge, has under **subsection (4)** allowed.

(2) The appellant's case stated must be lodged within—

(a) 14 days after the date on which the appeal is begun; or

(b) a further period the authority's chairperson has under **subsection (3)** allowed; or

(c) a further period the High Court, or a High Court Judge, has under **subsection (4)** allowed.

(3) The authority's chairperson may allow a further period within which the appellant's case stated must be lodged if—

(a) the appellant's case stated is not to be, or has not been, lodged within that 14-day period; and

(b) the chairperson is asked, before or after the end of that 14-day period, to allow a further period; and

(c) the chairperson considers there is good and sufficient reason for the delay.

(4) The High Court or a High Court Judge may allow a period further to one prescribed or allowed under **subsection (1)(a) or (b) or subsection (2)(a), (b), or (c)** if—

(a) the appellant's appeal or case stated is not to be, or has not been, begun or lodged within that prescribed or allowed period; and

(b) the appellant makes an application to the court or Judge, before or after the end of that prescribed or allowed period, to allow a further period; and

(c) the court or Judge considers there is good and sufficient reason for the delay.

(5) The authority's chairperson may certify that an appeal has not been prosecuted by an appellant if the appellant's case stated has not been lodged within the period prescribed, or within a further period allowed, under **subsection (2)(a), (b), or (c)**.

Compare: 1964 No 136 s 12Q(3), (4), (8), (9)

386 How to begin, and procedure for, appeal to High Court

(1) Regulations made under **section 430** provide for—

(a) how to begin, and the procedure on, an appeal:

(b) related matters specified in that section.

(2) The appeal is, subject to regulations made under **section 430**, dealt with under rules of court.

Compare: 1908 No 89 Schedule 2 r 21.14; 1964 No 136 ss 12I(2), 12K, 12L, 12M, 12O, 12OA, 12Q(3), (4), (6), (7), (8), (9), (10), 12R; 2011 No 81 s 306

387 Orders, etc, on successful appeal

(1) This section applies if the High Court allows the appeal.

(2) The High Court may exercise any power that the authority could have exercised under **section 382** if it had allowed the appeal.

(3) This section does not affect rules of court relating to the court's powers to deal with (for example, confirm, vary, revoke, or refer back for reconsideration) the decision appealed.

Compare: 1964 No 136 s 12Q(10); 2011 No 81 s 307

Appeals to Court of Appeal

388 Appeal, with Court of Appeal's leave, against High Court's determination

(1) This section applies to a determination of the High Court ~~on~~ made in a proceeding that is an appeal under **section 384**.

(2) Subpart 8 (appeals on a question of law) of Part 6 (appeals) of the Criminal Procedure Act 2011 applies to the determination—

(a) as far as applicable with the necessary modifications; and

(b) as if the determination had been made under section 300 (first appeal court to determine appeal) of that Act (for example, so that the applicable right of appeal is stated in section 303 of that Act (right of appeal against determination of first appeal court)).

Compare: 1964 No 136 s 12R

Appeals to Supreme Court

389 Appeal, with Supreme Court's leave, against High Court's or Court of Appeal's determination

(1) This section applies to a determination that is—

(a) a determination of the High Court ~~of~~ made in a proceeding that is an appeal under **section 384**; or

(b) a determination of the Court of Appeal ~~of~~ made in a proceeding that is an appeal under **section 388**.

(2) Any ~~person affected by the determination~~ party to the proceeding specified in **subsection (1)(a) or (b)** may apply, in accordance with the Supreme Court Act 2003, to the Supreme Court for leave to appeal against the determination.

(3) This section is by way of explanation only.

Compare: 1964 No 136 s 12S

Subpart 5—Appeals to medical board

Right of appeal

390 Right of appeal on medical grounds

Any applicant or beneficiary may appeal to the medical board against a decision of MSD that is—

(a) made in relation to the applicant or beneficiary; and

(b) of a kind specified in a row of the following table.

Row	Assistance or obligations	Decision to be appealed
1	Any benefit	Determination— (a) made in reliance on a work ability assessment by a health practitioner under **section 104** (work ability assessment); and (b) whether the person assessed is entitled to a benefit and, if so, what kind of benefit
2	Jobseeker support—on the ground of health condition, injury, or disability	Decision that a claim for this benefit is declined, or that this benefit is cancelled, in either case on medical grounds or on grounds relating to a person's capacity for work
3	Jobseeker support—on the ground of health condition, injury, or disability	Determination under **section 127(1)** that a beneficiary has, while receiving this benefit, the capacity to seek, undertake, and be available for part-time work, and so is required to comply with the work test on and after a date specified in a notice given under **section 127(4)**
4	Jobseeker support—on the ground of health condition, injury, or disability	Decision to confirm, amend, revoke, or replace under **section 127(6)** a determination, and that results in a determination under **section 127(1)** that a beneficiary has, while receiving this benefit, the capacity to seek, undertake, and be available for part-time work, and so is required to comply with the work test on and after a date specified in a notice given under **section 127(4)**
5	Jobseeker support—on the ground of health condition, injury, or disability	Determination— (a) made in reliance on a work ability assessment by a health practitioner under **section 104** (work ability assessment); and

Row	Assistance or obligations	Decision to be appealed
		(b) whether the person assessed, being a person receiving this benefit, has for the purposes of **section 127(1)** the capacity to seek, undertake, and be available for part-time work (*see also* **section 141**)
6	Jobseeker support—except on the ground of health condition, injury, or disability	Determination— (a) made in reliance on a work ability assessment by a health practitioner under **section 104** (work ability assessment); and (b) whether the person assessed, being a person receiving this benefit, is entitled on an application or on MSD's own initiative, to deferral of work-test obligations under **section 141**
7	Jobseeker support—except on the ground of health condition, injury, or disability	Decision to decline under **section 141** on medical grounds an application— (a) made by a beneficiary granted this benefit; and (b) made under **section 141**; and (c) for deferral of all or any of the beneficiary's work-test obligations
8	Jobseeker support—on any ground	Decision on medical grounds under **section 141** to revoke a deferral granted under **section 141** of all or any of the beneficiary's work-test obligations
9	Work-test obligations or work-preparation obligations	Determination— (a) made in reliance on a work ability assessment by a health practitioner under **section 104** (work ability assessment); and (b) whether the person assessed, being a person who is subject to work-test obligations or work-preparation obligations under **section 110 or 111**, has the capacity to meet those obligations
10	Drug-testing obligation	Decision under **section 233(1)(a)** to the effect that a beneficiary does not have a good and sufficient reason, on the ground that the beneficiary is addicted to, or dependent on, controlled drugs, for either or both: (a) not complying with a drug-testing obligation: (b) failing to apply for suitable employment that requires candidates to undertake drug tests
11	Supported living payment—on any ground	Decision that a claim for this benefit is declined, or that this benefit is cancelled, in either case on medical grounds

Row	Assistance or obligations	Decision to be appealed
12	Supported living payment—on the ground of restricted work capacity or total blindness	Decision under **section 109(1)(a)** that a person receiving this benefit has the capacity to comply with obligations under **section 111**
13	Supported living payment—on the ground of caring for another person	Decision under **section 109(1)(b)** that a person receiving this benefit has the capacity to comply with obligations under **section 111**
14	Child disability allowance	Decision that a claim for this benefit is declined, or that this benefit is cancelled, in either case on the ground that the child is not a child with a serious disability (as defined in **section 69**)
15	Veteran's pension under section 164 of the Veterans' Support Act 2014	Decision to decline a claim for, or to cancel, this benefit, in either case on the ground of the applicant's or beneficiary's mental or physical infirmity

Compare: 1964 No 136 s 10B(1)

391 Appeal must be begun within 3 months of notification or further allowed period

(1) An appeal to the medical board under **section 390** must be begun within—

(a) 3 months after the date on which the applicant receives notification of the decision; or

(b) a further period the board has under this section allowed.

(2) An appellant is treated as receiving notification of the decision in line with regulations made under **section 428** if—

(a) a decision is made in respect of which ~~in respect of which~~ an appeal lies to the board; and

(b) notice of the decision is given to the appellant in a way prescribed by those regulations; and

(c) the notice is (in the absence of evidence to the contrary) taken to have been received by the appellant as provided by those regulations.

(3) The board may allow a further period within which the appeal may be begun if—

(a) the appeal is not to be, or has not been, begun within that 3-month period; and

(b) an application is made to it, either before or after the end of that 3-month period, to allow a further period; and

(c) the board considers there is good and sufficient reason for the delay.

Compare: 1964 No 136 s 10B(2)

Board

392 Board

The board is established and operates under **Schedule 9**.

Compare: 1964 No 136 s 10B(4)

Procedure

393 How to apply, and procedure and powers, for appeal to board

Regulations made under **section 430** provide for—

(a) how to apply for, and the procedure on, an appeal; and

(b) the board's powers to deal with (for example, confirm, vary, revoke, or refer back to MSD for reconsideration) the decision appealed:

(c) related matters specified in that section.

Compare: 1964 No 136 s 10B(2)

394 Notice of, and carrying into effect, board's decision

(1) On the determination of an appeal under **section 390**, the Board must send to the chief executive and to the appellant a memorandum of—

(a) the board's decision; and

(b) the board's reasons for the board's decision.

(2) The chief executive is bound by the board's decision.

Compare: 1964 No 136 s 10B(3)

Part 8
Other provisions

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Guide to this Part

395 What this Part does

This **Part** contains provisions on the following matters:

(a) benefits being, in general, inalienable (unable to be assigned or charged, or to pass by operation of law):

(b) powers to make regulations:

(c) powers to make orders adjusting rates of benefits, etc:

(d) confirmable instruments (which are revoked, or invalid for their past operation, if not confirmed by an Act of Parliament):

(e) repeals of former Acts, and related revocations of regulations made by Order in Council, or other Orders in Council:

(f) consequential amendments made by this Act to other enactments.

Benefits to be inalienable

396 Benefits cannot, in general, be assigned or charged, or pass by operation of law

(1) No benefit is capable of being assigned or charged, or of passing to any other person by operation of law.

(2) **Subsection (1)** is overridden by contrary provisions in, or in regulations made under or for the purposes of, the following enactments:

(a) **sections 316 to 329, 345 to 351, 421, and 422**:

(b) Family Benefits (Home Ownership) Act 1964:

(c) Child Support Act 1991:

(d) Student Loan Scheme Act 2011.

(3) This section does not limit **section 274** (offence of demanding or accepting acknowledgment or undertaking).

Compare: 1964 No 136 s 84(1)

Regulations

397 Regulations: general

Regulations for purposes of specified provisions

(1) The Governor-General may, by Order in Council, make regulations for the purposes of all or any of the following provisions:

Part 2—Assistance

(aa) **sections 27, 28, 36, 40, 41, 70, 71, 78, 120, 149, 152, 358** (prescription, for provision's purposes, of health practitioners acting within their scope of practice (*see* the definition in **Schedule 2** of prescribed health practitioner)):

(a) **section 34(2)(a)** (supported living payment: on ground of restricted work capacity or total blindness: when does person have restricted work capacity: period prescribed):

(b) **section 51(1)** (youth payment: incentive payments):

(c) **section 58(1)** (young parent payment: incentive payments):

Part 3—Obligations

(d) **section 129(1)(b)** (time when work-test obligation applies):

(e) **section 138**, definition of evidential drug test, **paragraph (c)**:

(f) **section 138**, definition of pass, **paragraphs (a) and (b)**:

(g) **section 138**, definition of screening drug test, **paragraph (c)(iii)**:

Part 4—Factors affecting benefits

(h) **sections 176(2) and 178(2)** (reduction amount, and additional reduction amount):

Part 5—Enforcement: sanctions and offences

(i) **section 233(1)(e)** (excuse of good and sufficient reason: failure to comply with drug-testing obligation):

Part 6—Administration

(j) **sections 320(1) and (3)(d)~~, 321(1)(b),~~ and 322(1)(b)** (which relate to youth support payments):

(k) **section 324(2)** (young person beneficiaries may elect money management):

(l) **section 352(1)(a)(ii) and (b)** (administration service providers: contracts):

(m) **section 353(1)(c)** (administration service providers: contents and form of contracts):

Schedules

(n) **clause 11 of Schedule 3**, definition of appropriate number of weeks, **paragraph (b)** (calculation of income: interpretation):

(o) **clause 10(3) of Schedule 6** (code of conduct: relationship with Privacy Act 1993 code of practice):

(p) **clause 20(2) of Schedule 6** (disclosure of information about people to whom service provider's contract applies).

Regulations for other matters contemplated, necessary for administration, or necessary for giving full effect

(2) The Governor-General may, by Order in Council, make regulations providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

Compare: 1964 No 136 s 132

398 Regulations: general powers not limited by special powers

A power in **section 397** is not limited by any other powers or duties in this Act to make regulations or rules by Order in Council, or to make other Orders in Council.

Compare: 1964 No 136 ss 11B(5), 123D, 132AB, 132A(1), 132AC(1), 132C(1), 132D, 132F(1)

399 Regulations: effect of duties or powers to give directions

A power in this **Part** to make any Orders in Council is not limited by any power or duty in or under this Act to give directions.

400 Regulations: residential requirement

The Governor-General may, by Order in Council, make regulations for the purposes of **section 16** that specify circumstances in which a person—

(a) is taken to meet the residential requirement; or

(b) must be treated, for the purposes of satisfying the residential requirement, as being resident and present in New Zealand; or

(c) must not be required to comply with the residential requirement.

Compare: 1964 No 136 ss 74AA, 78(1), 79

401 Regulations: income exemptions

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **clause 9 of Schedule 3** (exclusion of amounts, items, payments, or income from specified source, declared not to be income).

(2) Regulations made under **subsection (1)** may (without limitation) authorise MSD,—

(a) in calculating the rate of benefit, to take no account of specified income for a specified period and that is up to, in total, a specified maximum amount:

(b) in calculating the rate of benefit, to disregard all or part of the income of a severely disabled person derived from personal effort:

(c) in calculating the income of a person for the purpose of determining the rate of benefit, to take no account of a redundancy or retirement payment.

(3) Regulations made under **subsection (1)** have effect in respect of any income specified in the regulations on and after a date—

(a) specified in the regulations; and

(b) earlier than, the same as, or later than, the date on which the regulations are made.

Compare: 1964 No 136 ss 3(1), definition of income, paragraph (f)(vii), (xiii), (x), (xi), (xii), (xiv), (xv), (xvii), 3(3), 66, 66A, 66B, 68, 132AA, Schedule 10

402 Regulations: accommodation supplement

(1) The Governor-General may, by Order in Council, make regulations that, for the purposes of **subpart 9 of Part 2 and Part 6 of Schedule 4**,—

(a) define the term accommodation costs (*see* **section 61(a)**):

(b) set out the assets requirement (*see* **section 61(b)**):

(c) define the term cash assets (*see* **section 64(c)**):

(d) define Area 1, Area 2, Area 3, and Area 4 (*see* the definitions of those terms in **Schedule 2** and **section 433(1)(a)**):

(e) prescribe 1 or more base rates of accommodation supplement, and how each prescribed base rate is to be assessed:

(f) provide for required income-based ~~abatement of or~~ reductions to the assessed base rate amount of accommodation supplement (including any circumstances when specified income may be disregarded):

(g) require MSD to round up (for example, to the nearest amount in complete single dollars, or in complete multiple dollar amounts) assessed amounts of accommodation supplement.

(2) Regulations made under **subsection (1)(c)** that narrow the definition of cash assets (including, without limitation, by exempting from the definition any specified item, amount, or kind of cash assets) have effect in respect of any cash assets specified in the regulations on and after a date—

(a) specified in the regulations; and

(b) earlier than, the same as, or later than, the date on which the regulations are made.

Compare: 1964 No 136 ss 61E, 61I(1), (3)

403 Regulations: childcare assistance

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **subpart 10 of Part 2**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) prescribe eligibility criteria for receiving childcare assistance, including by prescribing that childcare assistance may be paid for the following kinds of childcare facilities or programmes:

(i) childcare facilities or programmes prescribed by the regulations:

(ii) other childcare facilities or programmes that MSD has approved in accordance with, and applying criteria and for a period specified in, the regulations:

(b) prescribe the kinds of childcare assistance to be provided, which may differ depending on the purposes of the childcare and the age of the child, or in any other prescribed circumstances:

(c) prescribe the amounts of childcare assistance to be paid, which may differ depending on the kind of assistance to be provided, the income of the principal caregiver and that caregiver's spouse or partner, the number of dependent children in the family, and the kind of childcare, or in any other prescribed circumstances:

(d) define the kinds of income, benefits, credits, and receipts to be treated as income for the purposes of **subpart 10 of Part 2**, including any limits on the extent to which any income, benefit, credit, or receipt of that kind is to be treated as income for those purposes:

(e) prescribe the number of hours a week for the weeks during the year for which childcare assistance is available, which may differ depending on the purposes of the childcare or the principal caregiver's activity, employment, or study, or whether the assistance is granted for the school term or during school holidays, or in any other prescribed circumstances:

(f) provide for childcare assistance to be available to keep a child's place open in a childcare facility or programme during temporary absence:

(g) regulate the method of application for, and payment of, childcare assistance (which may include provision for payment to be made directly to a childcare facility or provider of a programme, and subject to any conditions specified in the regulations):

(h) provide for the recovery of any overpayments of assistance from a childcare facility or the provider of a programme or from the person granted the assistance:

(i) prescribe transitional arrangements.

(3) Eligibility criteria prescribed, or provided for, under **subsection (2)(a)** may (without limitation) include criteria based on—

(a) the income of the principal caregiver and the principal caregiver's spouse or partner:

(b) the age of the dependent child and whether the child attends school:

(c) whether the principal caregiver or the dependent child or any of the principal caregiver's other dependent children has a disability or serious illness:

(d) whether there is another person available to care for the child:

(e) whether the principal caregiver is undertaking employment or is engaged in—

(i) an employment-related activity arranged or approved by MSD; or

(ii) an approved course of study; or

(iii) an approved rehabilitation programme.

(4) Regulations made under **subsection (1)(d)** that narrow (including, without limitation, by exempting from) the kinds of income, benefits, credits, and receipts to be treated as income have effect in respect of any income, benefits, credits, and receipts specified in the regulations on and after a date that is—

(a) a date that is specified in the regulations; and

(b) a date before, on, or after the date on which the regulations are made.

Compare: 1964 No 136 s 132AC

404 Regulations: disability allowance: special categories of eligibility

The Governor-General may, by Order in Council, make regulations for the purposes of **section 75(1)(b)**.

Compare: 1964 No 136 s 69C(6), (7)

405 Regulations: use of disability allowance to fund specified expenses

(1) The Governor-General may, by Order in Council, make regulations relating to the use of a disability allowance to fund specified expenses.

(2) Regulations made under **subsection (1)** must be not inconsistent with **section 76** (disability allowance: excluded expenses), but otherwise may (without limitation) do all or any of the following:

(a) specify classes, descriptions, or kinds of expenses that—

(i) must not be funded by way of a disability allowance; or

(ii) may be funded by way of a disability allowance only to an extent specified in the regulations, or only subject to compliance with conditions specified in the regulations, or both:

(b) provide for transitional and savings provisions relating to use of a disability allowance to fund specified expenses.

(3) Regulations made under **subsection (1)** that do what is stated in **subsection (2)(a)(ii)** may specify maximum funded proportions, amounts, numbers, or frequencies relating to all or any of the expenses concerned.

(4) Transitional or savings provisions under **subsection (2)(b)** may (without limitation) provide for all or any of the following:

(a) separate transitional or savings provisions for all or any specified people to or on account of whom a disability allowance is payable immediately before the commencement of this section:

(b) separate transitional or savings provisions for all or any specified expenses to which the regulations apply (when they, or any regulations amending them or made under **subsection (2)(b)**, come into force):

(c) specified transitional or savings provisions to have effect at a time, or on the occurrence of an event (for example, at the end of any existing contractual arrangements), specified by the Minister by a written notice published on an Internet site administered by or on behalf of MSD.

(5) A notice referred to in **subsection (4)(c)**—

(a) must state the date on which it takes effect, and cannot take effect before it is published; and

(b) must, each time it is amended without also being replaced, also as soon as practicable after it is amended, be published—

(i) on an Internet site administered by or on behalf of MSD; and

(ii) current as at a stated date; and

(iii) incorporating amendments up to that date; and

(c) is not a legislative instrument, but is a disallowable instrument, for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives under section 41 of that Act.

Compare: 1964 No 136 s 132AD

406 Regulations: funeral grants

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **section 80**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) set out the criteria and other requirements a person must meet to be eligible to be granted a funeral grant:

(b) specify the amount of the grant, or how MSD must assess it:

(c) specify the method or methods of making payments of funeral grants:

(d) prescribe circumstances in which MSD must not pay a funeral grant for which a person would otherwise be eligible.

Compare: 1964 No 136 ss 61D, 61DA, 61DB, 61DC, 61DD, 61DE

407 Regulations: temporary additional support

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **subpart 14 of Part 2**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) prescribe or provide for the setting of eligibility criteria for receiving temporary additional support:

(b) prescribe amounts for standard living costs that must be met from chargeable income (**standard costs**), or 1 or more means of calculating amounts of standard costs, which may differ depending on whether—

(i) the applicant or the applicant's spouse or partner, or both of them, is or are receiving any benefits or tax credits (and, if so, the kind and amount of them):

(ii) the applicant's spouse or partner is lawfully or unlawfully in New Zealand:

(iii) the applicant has a spouse or partner, or the applicant has dependent children (and, if so, the number and ages of the applicant's dependent children):

(c) define the kinds of costs that are allowable costs, including any limits on the extent to which any such costs are allowable costs:

(d) define the kinds of income, benefits, credits, and receipts that are chargeable income, and any limits on the extent to which any income, benefit, credit, or receipt of that kind is chargeable income:

(e) prescribe amounts of temporary additional support that may be granted or 1 or more means for calculating those amounts, which may differ depending on whether the applicant is in any prescribed circumstances (for example, whether the applicant has a dependent spouse or partner, a dependent child, or both):

(f) define the kinds of assets that are cash assets, including any limits on the extent to which any such assets are cash assets, and prescribe 1 or more cash asset limits, which may differ depending on whether the applicant is in any prescribed circumstances (for example, whether the applicant has a dependent spouse or partner, a dependent child, or both):

(g) prescribe the period or periods for which temporary additional support may be granted:

(h) authorise the payment of temporary additional support in a lump sum up to a specified maximum amount in any prescribed circumstances.

(3) For the purposes of any calculation made under **subpart 14 of Part 2** or any regulations made under **subsection (1)**, the allowable costs, cash assets, and

chargeable income of an applicant include the allowable costs, cash assets, and chargeable income of the applicant's spouse or partner.

(4) Regulations made under **subsection (1)(f)** that narrow (for example, exempt any specified item, amount, or kind, of cash assets from) the definition of cash assets have effect in respect of any cash assets specified in the regulations on and after a date that is—

(a) a date that is specified in the regulations; and

(b) a date before, on, or after the date on which the regulations are made.

Compare: 1964 No 136 s 132AB

408 Regulations: participation allowance for people participating in activities

(1) The Governor-General may, by Order in Council, make regulations to provide for persons participating in activities under this Act to receive allowances of the nature and kind set out in the regulations.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) provide for different allowances to be paid in respect of different activities and categories of person (including any exclusions from those activities and categories):

(b) set conditions for the receipt of allowances:

(c) prescribe the rates of allowances, including providing for all or any of the following:

(i) different rates for different activities and different categories of person:

(ii) maximum total allowances that may be granted to any person for any particular period:

(iii) a total allowance made up of separate allowances granted for different reasons, or in respect of different activities or purposes, and a method or methods of calculating it:

(d) set all or any of the periods for payment of allowances.

Compare: 1964 No 136 s 132F

409 Regulations: specific obligations: obligations in relation to dependent children: definitions and attendance

(1) The Governor-General may, by Order in Council, make regulations for either or both of the following purposes:

(a) defining (in full, or by reference to other enactments, and as contemplated by **section 123(1)**) the terms approved early childhood education programme, core check, and registered school, for the purposes of **sections 117 to 120**; and

(b) prescribing, for the purposes of **sections 117(1)(b), 118(1)(a)(ii), and 123(2)**, the minimum extent of, or other required manner of, attending an approved early childhood education programme.

(2) Regulations made under **subsection (1)(a)** may, without limitation, define an approved early childhood education programme to be or include an early childhood education programme approved by MSD having regard to all relevant approval criteria (if any) prescribed by the Minister by a written notice.

(3) A notice referred to in **subsection (2)**—

(a) must, as soon as practicable after it is given, be—

(i) published on an Internet site administered by or on behalf of MSD; and

(ii) notified in the *Gazette*; and

(b) must, each time it is amended without also being replaced, also as soon as practicable after it is amended, be published—

(i) on an Internet site administered by or on behalf of MSD; and

(ii) current as at a stated date; and

(iii) incorporating amendments up to that date; and

(c) is not a legislative instrument, but is a disallowable instrument, for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives under section 41 of that Act.

(4) A notification in the *Gazette* for the purpose of **subsection (3)(a)(ii)** does not have to include the text of the notice.

Compare: 1964 No 136 s 60RAB(1), (3), (4)

410 Regulations: specific obligations: work-test obligations, and deferrals of, or exemptions from, specified obligations

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

(a) prescribing requirements a drug test must comply with to be a compliant drug test under **section 134**:

(b) prescribing, for the purposes of **section 136**, how MSD may use the result of a drug test undertaken under **section 133** and disclosed to MSD under **section 135**:

(c) prescribing, for the purposes of **section 137**, how MSD may reimburse a potential employer for the costs of a drug test under **section 133** requested by that employer:

(d) prescribing, for the purposes of **sections 141 and 142**, how MSD may or must defer a person's work-test obligations (including, without limitation, how a deferral of a person's work-test obligations may be reviewed, extended, varied, or revoked):

(e) specifying the categories of people who may be granted an exemption under **sections 143 and 144**, on grounds (and in any required circumstances) specified in the regulations, from some or all of their—

(ia) work preparation obligations under **sections 107 to 111**:

(i) work-test obligations:

~~(ii) obligations under **sections 107 to 111** (which relate to work-preparation obligations):~~

(iii) obligations under **section 147** (obligations of young person granted youth support payment):

(iiia) obligations under **section 149** (obligations of young person granted young parent payment):

(iiib) obligations under **section 150** (obligations of young person aged 18 or 19 years who is receiving jobseeker support in young person's own right and who is at significant risk of long-term welfare dependency):

(iv) obligations under **sections ~~151 to 154~~** (~~obligations of young person who is spouse or partner of beneficiary~~young person aged 16 or 17 years who has no dependent child and who is spouse or partner of specified beneficiary):

(v) obligations under **section 152** (young person aged 16 to 19 years who has dependent child and who is spouse or partner of specified beneficiary).

(f) prescribing the procedure for the granting, and for the review, extension, variation, or revocation, of an exemption of that kind.

(2) The purpose of exemption regulations made under **subsection (1)(e)** is to specify the grounds on which, and any circumstances in which, it would be inappropriate for the people concerned to be subject to, and liable to sanctions for failing to meet, the obligations concerned.

(3) Exemption regulations made under **subsection (1)(e)** may be made only on the Minister's recommendation.

(4) The Minister must, before making a recommendation that particular exemption regulations be made under **subsection (1)(e)**,—

(a) have regard to the purpose and principles specified in **sections 3 and 4**, to the purposes of the obligations concerned, and to the purpose of the regulations; and

(b) be satisfied that each exemption provided for in them is not broader than is reasonably necessary to address the matters that gave rise to the regulations.

Compare: 1964 No 136 ss 88F(7), 88H, 88I(1)–(3), (5)–(7), 102B(2), 102C(1), (3)–(6), 102E, 105(3)–(7), 123D

411 Regulations: factors affecting benefits: pre-benefit activities

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for the purposes of **sections 169 and 170**.

(2) The Minister must not recommend the making of regulations made under **subsection (1)** stating pre-benefit activities unless, in the Minister's opinion, each pre-benefit activity concerned is likely to—

(a) increase the awareness of the people undertaking it of opportunities for employment; or

(b) strengthen incentives for the people undertaking it to move into employment; or

(c) facilitate the movement of the people undertaking it into employment.

(3) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) specify the applicants, and applicants' spouses or partners who can, for applications for benefits specified, be required to do pre-benefit activities:

(b) state kinds of pre-benefit activities that may be required under **section 169**:

(c) provide for MSD to require a person who contacts MSD requesting financial assistance under this Act or that person's spouse or partner (if any) to undertake 1 or more stated pre-benefit activities that comply with any requirements specified in the regulations:

(d) provide for the form, and revocation, of requirements to undertake stated pre-benefit activities:

(e) specify the consequences MSD may impose for non-compliance, without a good and sufficient reason, with a requirement to undertake stated pre-benefit activities.

(4) The consequences referred to in **subsection (3)(e)** may be or include lapse of an application for the benefit concerned, or a specified reduction of not more than half of the rate of the benefit concerned or of any other specified benefit to which the applicant and the applicant's spouse or partner would, apart from the regulations, be entitled.

(5) **Subsection (4)** overrides any contrary provision of this Act.

Compare: 1964 No 136 ss 11E, 11G, 11H, 132J

412 Regulations: factors affecting benefits: insurance recovery

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **section 171**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) provide the grant of a benefit or the rate of benefit is subject to repayment to MSD of all or part of an insurance payment of a kind or description, or that falls within a class or definition, prescribed by the regulations:

(b) provide the amount of an income-related insurance payment, a debt insurance payment, or a health or disability insurance payment must, to the extent that MSD determines, be treated as being reduced by the amount of any costs incurred—

(i) by an applicant for a benefit or a beneficiary; and

(ii) to obtain the payment:

(c) provide a benefit, or part of a benefit, subject to repayment under the regulations—

(i) constitutes a charge on the amount of the insurance payment paid to the recipient; and

(ii) is a debt due to the Crown under regulations made under **section 423**; and

(iii) is recoverable under regulations made under **section 423**.

Compare: 1964 No 136 s 68A(5), (7), (8)

413 Regulations: factors affecting benefits: overseas pensions

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

(a) providing for the determination by MSD of the amount of an overseas pension to be deducted under **section 174(1)** from a benefit or benefits, and the date when the deductions will begin, which may be a date before, on, or after the date of the determination:

(b) providing that the currency exchange rate to be used by MSD for the purposes of the determination referred to in **paragraph (a)** must be one of the following:

(i) the average of the currency exchange rates (or, as the circumstances require, averages of different currency exchange rates) between the country paying the overseas pension and New Zealand during a period specified in the regulations; or

(ii) any one of the currency exchange rates that occurs between the country paying the overseas pension and New Zealand within a period specified in the regulations; or

(iii) whichever of the methods specified in **subparagraphs (i) and (ii)** is the more favourable to the overseas pensioner:

(c) prescribing the kinds of currency exchange rates that are to be used for the purposes of **paragraph (b)**:

(d) providing that the period referred to in **paragraph (b)** may be a different period from the period to which the payment of the overseas pension relates and a different period from the period to which the payment of the benefit relates:

(e) prescribing, for the purposes of the determination referred to in **paragraph (a)**, the kinds of bank fees that may be taken into account and the manner in which they may be taken into account:

(f) providing that a determination made under **paragraph (a)**, and made in accordance with regulations made under **paragraphs (b) to (e)**, must be conclusive:

(g) regulating the making, implementation, and variation of arrangements under **section 175**.

(2) Regulations made under **subsection (1)(g)** may (without limitation) include provisions—

(a) prescribing the categories of overseas pensioners with whom MSD may make the arrangements:

(b) prescribing requirements that must be fulfilled before the arrangements can be entered into:

(c) providing that MSD must cancel or revoke an arrangement (including, without limitation, if the overseas pensioner fails to comply with any conditions that are to be included in the arrangements, and that are prescribed under this paragraph):

(d) prescribing methods that may be specified in the arrangements for payment to MSD, and receipt by MSD, of an amount equivalent to the amount of the overseas pension that the overseas pensioner receives, including (without limitation) direct deduction from the overseas pensioner's bank account:

(e) providing that the regulations do not apply (in whole or in part) to any arrangements that are in force when regulations made under this section are made.

(3) Regulations made under **subsection (1)(g)** apply, unless those regulations provide otherwise, to arrangements that are in force when the regulations are made and, in that case,—

(a) the regulations prevail over the arrangements to the extent that there is any inconsistency between the regulations and the arrangements; and

(b) the arrangements are taken to be modified to the extent necessary to give effect to the regulations.

Compare: 1964 No 136 ss 70(2), 132C

414 Regulations: factors affecting benefits: issue of warrant to arrest beneficiary

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **sections 193 to 200**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) prescribe classes, descriptions, or kinds of offences excluded from the operation of **section 193 or 197**:

(b) prescribe a class, description, or kind of person—

(i) excluded from the operation of all of the provisions of **section 193 or 197**; and

(ii) therefore not a **beneficiary** as defined in **section 194 or 198**:

(c) provide for any other matters contemplated by **sections 193 to 200**, necessary for their administration, or necessary for giving them full effect.

Compare: 1964 No 136 s 132L

415 Regulations: factors affecting benefits: absence from New Zealand

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **section 203**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) prescribe exceptions to the general rule in **section 203**, and that the regulations require MSD, or give MSD discretion, to apply in a particular case (for example, because an absence from New Zealand, and a failure to notify MSD of it, in a particular case, is justified for 1 or more humanitarian reasons (as that term is defined by the regulations)):

(b) require beneficiaries of kinds specified in the regulations to notify MSD of their absences from New Zealand, and provide that, despite **section 203** and other provisions of the regulations, their benefits are payable from the date of notification of their absence from New Zealand:

(c) authorise MSD, in its discretion, if a benefit is under the regulations payable on and after a date in respect of a beneficiary's absence from New Zealand, to pay that benefit to the beneficiary for—

(i) a period starting on that date, and of a duration specified in the regulations; or

(ii) a longer period, if MSD is satisfied payment of the benefit complies with any applicable criteria prescribed by the regulations.

(3) Regulations made under **subsection (1)** do not apply to a benefit payable under—

(a) sections 21 to 35 of the New Zealand Superannuation and Retirement Income Act 2001; or

(b) sections 176 to 196 of the Veterans' Support Act 2014; or

(c) any reciprocity agreement with another country adopted by an order made under **section 359**.

Compare: 1964 No 136 s 77

416 Regulations: issue and use of entitlement cards

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

(a) providing for the issue of entitlement cards to various classes of people:

(b) prescribing the classes of people eligible to be issued with entitlement cards:

(c) providing for cardholders' photographs to be affixed to or imaged into a category of entitlement cards and prescribing procedures, requirements, and other matters in relation to those photographs:

(d) prescribing and regulating the use of entitlement cards (including, without limitation, conditions of use, time limits on validity and expiry dates, and obligations to return expired entitlement cards to MSD):

(e) prescribing offences relating to the improper use of entitlement cards or for their non-return after their expiry, and the amounts of maximum fines that may be imposed in respect of those offences.

(2) Regulations made under **subsection (1)(d)** prescribing and regulating the use of entitlement cards may (without limitation) provide for or relate to their use—

(a) to obtain payment of any benefit, allowance, or payment under this Act:

(b) to obtain any payment or exemption from payment in consideration of services supplied to the holder of the entitlement card, or the holder's dependent spouse or partner or child, whether those services are supplied under this Act, any other Act, or otherwise:

(c) as evidence that the holder or a dependent spouse or partner or child of the holder is exempt from any obligation under this Act or any regulations made under this Act.

(3) Regulations made under **subsection (1)(e)** prescribing offences and penalties cannot prescribe—

(a) an offence for improper use of an entitlement card that is conduct that constitutes an offence under **section 271** (offences: false statements, misleading, or attempting to mislead, to receive or continue to receive benefits):

(b) a maximum fine of an amount exceeding $1,000 and, if the offence is a continuing one, a further amount exceeding $50 for every day or part of a day during which the offence has continued (*see also* **section 275**).

(4) Regulations made under **subsection (1)** may provide for entitlement cards to have all or any of a magnetic stripe or a barcode on them, or a microchip embedded in them, which may contain all or any of the following information:

(a) the cardholder's name:

(b) an identifying number assigned by MSD 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.

(5) An Order in Council providing for the embedding of microchips in entitlement cards cannot be made under this section except on the recommendation of the Minister.

(6) The Minister must not recommend the making of an Order in Council referred to in **subsection (5)** unless satisfied adequate consultation about the privacy and security of the information to be contained in the microchip has taken place (to ensure privacy and personal information are fully protected) with—

(a) the State Services Commission; and

(b) the Privacy Commissioner; and

(c) any other State agency, department, or organisation the Minister thinks relevant.

Compare: 1964 No 136 s 132A

417 Regulations: application for benefit: making of, help with, lapse, and deemed receipt

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **section 278**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) specify the deadlines for receipt by MSD of the following:

(i) an application form completed to MSD's satisfaction:

(ii) supporting evidence reasonably required by MSD:

(b) specify exceptions to those specified deadlines:

(c) allow MSD to extend those prescribed deadlines:

(d) provide for lapse of an application, or prohibit grant of a benefit, or both, unless those prescribed deadlines (if applicable, as they are extended by MSD under the regulations) are met:

(e) provide for a duly completed and timely application to be taken for commencement of benefit purposes and stand-down period purposes to have been received on the date of first contact by or on behalf of the applicant:

(f) provide for all reasonable help in te reo Māori to be given by an employee of the State Services (as defined in section 2 of the State Sector Act 1988), without fee or other consideration, in connection with an application for a benefit, if—

(i) the applicant is a Maori (within the meaning of section 4 of the Maori Land Act 1993), and asks for help of that kind; and

(ii) the employee has the necessary knowledge of te reo Māori:

(g) provide an application need not refer to a particular kind of benefit:

(h) provide an application does not, by referring to a particular kind of benefit, prevent MSD from granting any other kind or kinds of benefit:

(i) authorise MSD to require as supporting evidence, if MSD considers that the appropriate benefit for an applicant is a youth support payment, evidence of the applicant's specified costs:

(j) authorise MSD to waive a requirement to complete an application form or some or all of a requirement to provide supporting evidence:

(k) provide for travelling expenses and allowances for any applicant or beneficiary who has to be absent from that person's regular place of residence for a purpose approved by MSD (for example, to be medically examined by, or at the, direction of MSD):

(l) authorise MSD, in MSD's discretion, to make advance payments to the applicant or beneficiary for meals and accommodation during the period of necessary absence, or to pay a refund, in MSD's discretion, for actual and reasonable out-of-pocket expenses for the period of necessary absence:

(m) provide for MSD, in any special case, and despite other regulations, to authorise payment of travelling expenses in respect of any applicant or beneficiary, or applicants or beneficiaries of any description, at rates and subject to conditions determined by MSD:

(n) provide for receipt and deadline requirements for claims for refunds, and allow MSD to extend the deadline in any special circumstances.

Compare: 1964 No 136 s 11D; SR 2007/229 r 4

418 Regulations: certain benefits granted, or granted at rate, not taking into account certain insurance payments

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **section 290**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) specify the insurance payments and benefits or kinds of benefits to which the regulations apply:

(b) authorise MSD to suspend, cancel, or vary the rate of, the benefit, from a date MSD determines.

Compare: 1964 No 136 s 68A(6), (7), (8)

419 Regulations: exemptions from, and calculation of, stand down

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **sections 295 and 296(1)(b) and (4)**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) exempt benefits specified in the regulations, on any grounds and in any circumstances (and subject to any conditions) specified in the regulations, from a stand down:

(b) provide that those benefits commence on a date specified in the regulations:

(c) provide for a benefit to commence on the day on which it is granted if—

(i) the person has become eligible for the benefit while receiving another benefit; and

(ii) the benefit is granted instead of that other benefit:

(d) provide for a benefit to commence on the same day as another benefit commences if they are both applied for, or under regulations made under **section 417** are taken to have been applied for, at the same time:

(e) specify how a stand-down period (for a benefit to which **section 296** applies) is calculated, both in general, and in exceptional cases (for example, of delayed redundancy and retirement payments, or of seasonal workers made redundant after a benefit commences):

(f) provide for a person who is entitled to a benefit to which **section 296** applies to elect to have the person's average income calculated by reference to a period of 52 weeks instead of 26 weeks:

(g) provide that a person of a kind specified in the regulations is entitled to receive the benefit applied for on a provisional basis and to have the stand-down period calculated as if the person's average income did not

include an amount the person is entitled to receive, but has not yet received:

(h) provide that a payment to which **paragraph (g)** applies is a debt due to the Crown under regulations made under **section 423**, and subject to recovery under those regulations, from the person.

(3) The purpose of exemption regulations made under **subsections (1) and (2)(a)** is to specify the grounds on which, and circumstances in which, it would be inappropriate for the people concerned to be subject to a stand down.

(4) Exemption regulations made under **subsections (1) and (2)(a)** may be made only on the Minister's recommendation.

(5) The Minister must, before making a recommendation that particular exemption regulations be made under **subsections (1) and (2)(a)**,—

(a) have regard to the purpose and principles specified in **sections 3 and 4**, to the purposes of the stand down concerned, and to the purpose of the regulations; and

(b) be satisfied that each exemption provided for in them is not broader than is reasonably necessary to address the matters that gave rise to the regulations.

Compare: 1964 No 136 ss 80(5), (8), (10), (13), (14), 80BB, Schedule 28

420 Regulations: expiry and regrant of specified benefits

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **sections 310 to 315**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) prescribe the expiry date or expiry dates for every benefit that is a specified benefit for the purposes of **sections 310 to 315**:

(b) declare a benefit that is sole parent support, supported living payment, or exceptional circumstances benefit, not to be a specified benefit for the purposes of **sections 310 to 315**:

(c) specify circumstances in which MSD may consider an exemption under **section 313(1)** from expiry under **section 311**:

(d) specify, for **section 315(2)**, requirements (not inconsistent with this Act) for the regrant of a specified benefit.

(3) **Subsection (2)(a)** authorises (without limitation) the regulations to prescribe the same expiry date, or 2 or more different expiry dates, for all or any combination of the following:

(a) each specified benefit for the purposes of **sections 310 to 315**:

(b) each specified benefit for the purposes of **sections 310 to 315** insofar as that benefit is granted on each of 2 or more different specified eligibility grounds:

(c) each specified benefit for the purposes of **sections 310 to 315** insofar as that benefit is (on all, or any specified, eligibility grounds) granted to a specified category, class, or kind of applicants, recipients, or beneficiaries.

(4) **Subsection (2)(b)** authorises (without limitation) the regulations to make a declaration in respect of sole parent support, supported living payment, or exceptional circumstances benefit, as that benefit is granted in either or both of the followings ways (specified in **section 310(2)(a) and (b)**):

(a) that benefit as granted on only 1 or more specified available eligibility grounds:

(b) that benefit as granted to only 1 or more specified categories, classes, or kinds of beneficiaries.

Compare: 1964 No 136 s 132M

421 Regulations: payments

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **section 316**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) specify circumstances in which ~~some or~~ all or part of 1 or more instalments of a benefit of a class of beneficiaries can or must be redirected (with or without good cause, and with or without the affected beneficiary's consent) and therefore not be paid to, or on account of, the beneficiary personally:

(b) specify default determinations, and exceptions, for the purposes of **section 319** (required manner of payment: general):

(c) specify when MSD may or must pay an advance payment of a benefit to a preferred supplier of goods or services:

(d) provide for redirection arrangements for requested fixed period preferred supply of goods or services:

(e) provide for payments made in respect of a benefit granted under **section 60** to be provisional only, and, if MSD believes on reasonable grounds that the benefit should not have been granted (or that too much was paid in respect of it), for the person granted it to be liable to repay the amount paid (or what MSD considers to be the amount of the excess) under regulations made under **section 423**:

(f) provide for apportionment, between a beneficiary and spouse or partner, of any benefit that—

(i) is payable at a rate prescribed for a person who is in a relationship (a **couple rate**); and

(ii) is not a benefit specified in **subsection (5)**.

(g) provide that, when a benefit is apportioned under the regulations, the proportion paid to a person is for the purposes of the Income Tax Act 2007 income of that person.

(3) Regulations made under **subsections (1) and (2)(a)**—

(a) must be not inconsistent with **sections 320 to 322, 329 and 330, and 347 to 349**; and

(b) may be made only on the Minister's recommendation.

(4) The Minister must not recommend the making of particular regulations made under **subsections (1) and (2)(a)** unless satisfied that ~~they will, or are likely to, help achieve positive outcomes for the beneficiaries concerned.~~,—

(a) they will, or are likely to, help achieve positive outcomes for the beneficiaries concerned; and

(b) if they require redirection without the affected beneficiary's consent, consultation about them has occurred with people or organisations the Minister considers appropriate, having regard to their subject matter.

(5) No regulations made under **subsection (1) or (2)(f)** can provide for apportionment of—

(a) a benefit paid under **clause 5 or 6 of Part 3 (supported living payment) of Schedule 4**; or

(b) a supported living payment that, under **section 37(2) or (3)**, is not apportioned; or

(c) a youth support payment, or of any other benefit payable to a person receiving a youth support payment; or

(d) New Zealand superannuation payable to a person who under section 12(2) of the New Zealand Superannuation and Retirement Income Act 2001 elects to receive New Zealand superannuation at the appropriate rate stated in either clause 1 or clause 2 of Schedule 1 of that Act.

Compare: 1964 No 136 ss 61CC(2), 82(3), (5), (6A), (6AA), (6AB), (6AC), (6F), (6G), 83, 132; SR 2007/229 r 5

422 Regulations: payments during epidemic in New Zealand

(1) The Governor-General may, by Order in Council, make regulations authorising MSD, when a domestic epidemic management notice is in force, and for a period after the notice expires that the Minister thinks reasonable in the circumstances, to do all or any of the following, with the written approval of the Minister and within any limits stated in the approval (and despite contrary provisions in this Act):

(a) cause benefits to be paid to people otherwise disentitled to them because of stand-down periods or suspensions of benefits:

(b) reinstate cancelled benefits:

(c) grant benefits to or reinstate the benefits of, and for any time or times MSD thinks fit make payments under them to, people who were or are subject to non-entitlement periods:

(d) cause benefits to be paid at a rate not higher than the maximum rate but higher than a lower rate to which people would otherwise be entitled (being a lower rate because of a reduction, variation, suspension, or direct deduction, or because of a sanction, penalty, or non-entitlement period, imposed on a spouse or partner):

(e) refrain from exercising a power, or from meeting a requirement in this Act, to cancel, suspend, vary, or cancel benefits or payments of benefits, in circumstances where the holders satisfy the normal criteria for, or the requirement in this Act applies and requires, cancellation, suspension, or variation of benefits or payments.

(2) Regulations made under this section override every provision of this Act to the contrary.

Compare: 1964 No 136 ss 3(1), 61CB~~, 61CC(2)~~

423 Regulations: debts and deductions

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **section 332**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) specify sums that are debts due to the Crown (which may, but need not, be amounts this Act states are debts due to the Crown, and subject to recovery, under regulations made under this section):

(b) prescribe exceptions to the debt-recovery duty imposed on MSD by **section 341** (for example, because—

(i) a debt was caused wholly or partly by an error to which the debtor did not intentionally contribute:

(ii) debt recovery is remitted or suspended under regulations made under **section 427**:

(iii) MSD determines a debt is uneconomic to recover:

(iv) the Minister and the Minister of Finance have given jointly for public finance purposes generally an authorisation about debts that are to be written off):

(c) require MSD to determine, having regard to Ministerial debt recovery directions given in writing under the regulations, rates and methods of debt recovery:

(d) provide for recovery from the estate of a deceased beneficiary, from the estate of a beneficiary's deceased spouse or partner, or from both estates, an excess amount a beneficiary obtained:

(e) provide for a District Court, on application by an executor or administrator of an estate on whom a notice of assessment is served by MSD, to have jurisdiction to review, confirm or cancel, or make any other order it considers just and equitable in respect of, any MSD determination under the regulations of an excess amount (irrespective of that amount) paid to a person, assessed by MSD under the regulations, and to be recovered under regulations made under **paragraph (d) or (g)**:

(f) authorise the District Court to receive as evidence any statement, document, information, or matter that may in its opinion assist the court to deal effectively with the application, whether or not it would be otherwise admissible in a court of law:

(g) provide for MSD to issue a deduction notice requiring a debtor's payer to deduct, and pay MSD, an amount due.

(3) Ministerial debt recovery directions given in writing under the regulations, and referred to in **subsection (2)(c)**,—

(a) must, as soon as practicable after they are given, be—

(i) published on an Internet site administered by or on behalf of MSD; and

(ii) notified in the *Gazette*; and

(b) must, each time they are amended without also being replaced, also as soon as practicable after they are amended, be published—

(i) on an Internet site administered by or on behalf of MSD; and

(ii) current as at a stated date; and

(iii) incorporating amendments up to that date; and

(c) are not a legislative instrument, but are a disallowable instrument, for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives under section 41 of that Act.

(4) A notification in the *Gazette* for the purpose of **subsection (3)(a)(ii)** does not have to include the text of the direction.

Compare: 1964 No 136 ss 3(1), 83AA, 85A, 85B, 86, 86AA, 86A–86I, 124(2), (2A), 125G(3)

424 Regulations: further provisions on deductions

Regulations for the purposes of **section 423(2)(g)** may (without limitation) do all or any of the following:

(a) require a debtor's payer to deduct the amount due (as a lump sum, or by instalments) from a sum that is or becomes payable by the payer to the debtor; and

(b) require the payer to pay to MSD by a time, or by any times, specified in the notice, the amount or amounts deducted:

(c) provide for the contents, copies, and revocation of a deduction notice:

(d) require the payer, if requested, to issue the debtor a deductions statement:

(e) provide that the debtor is, so far as amounts are deducted, discharged from debt:

(f) provide, if the payer to whom the deduction notice is issued is a bank (as defined in the regulations), any money held by the bank to the credit of the debtor is deemed to be held in trust for the Crown, and recoverable from the bank as if it were money payable under a benefit to which the debtor was not entitled:

(g) provide that neither the debtor, nor any other person concerned, has a claim against the payer making the deduction, or the Crown, in respect of the deduction:

(h) provide any amounts deducted must be held in trust for the Crown, and are debts due to the Crown, and subject to recovery from the payer who makes the deductions, as if the amounts were money payable under a benefit to which the payer who made the deduction was not entitled:

(i) provide for offences, punishable on conviction by a fine not exceeding $2000, for any person—

  (i) failing to make any deduction required by a deduction notice; or

  (ii) failing, after making a deduction, to pay the amount deducted to MSD within the time specified in the notice; or

  (iii) permitting payment to or on behalf of any person, other than MSD, of any amount held in trust for the Crown under the regulations:

(j) provide for protected earnings, if a deduction notice is issued to an employer of a debtor, by prohibiting the employer, in making deductions under the deduction notice, from reducing the amount paid to the debtor by way of salary or wages in respect of any week to an amount that is less than a proportion (prescribed by the regulations) of the amount calculated as being the debtor's net ordinary weekly pay for a week (as that term defined by the regulations):

(k) provide for variation or discharge of a deduction notice:

(l) provide that a payer to whom a deduction notice has been issued is liable to pay MSD a late deduction penalty, calculated in a manner prescribed by the regulations (but not exceeding 2% of the amount in default), if the payer fails wholly or in part to—

  (i) make a deduction required to be made by the notice; or

(ii) pay an amount deducted under the notice to MSD by the time specified in the notice:

(m) provide for MSD to remit all or part of a penalty of that kind payable, and provide that a penalty of that kind payable to MSD is a debt due to the Crown, and subject to recovery from the payer, as if the penalty were money payable under a benefit to which the payer was not entitled.

Compare: 1964 No 136 ss 3(1), 86A–86I

425 Regulations: advance payment of instalments of benefit

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **section 326**.

(2) Regulations made under **subsection (1)** may (without limitation) specify the manner and form in which an application may be made under **section 326** for advance payment of instalments of a benefit.

(3) The specified manner and form may differ depending on (without limitation) the number of times the beneficiary has applied for either or both:

(a) advance payment under **section 326** of instalments of a benefit:

(b) special assistance under **section 87**.

Compare: 1964 No 136 s 132K(1)(a)

426 Regulations: budgeting activities due to application for advance payment of instalments of benefit

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **section 327**.

(2) Regulations made under **subsection (1)** may (without limitation) do either or both of the following:

(a) define the kinds, and any terms and conditions, of budgeting activities that MSD may require a person to undertake under **section 327**:

(b) prescribe the circumstances in which the power referred to in **section 327** may be exercised.

Compare: 1964 No 136 s 132K(1)(b), (c)

427 Regulations: remittance or suspension of debt

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations requiring or permitting—

(a) the recovery of amounts recoverable under regulations made under **section 423** to be suspended; or

(b) those amounts to be remitted.

(2) Regulations made under **subsection (1)** may require or permit the suspension of recovery of amounts, or the remission of amounts,—

(a) of a particular kind or from persons of a particular kind:

(b) of a particular value (which may differ between persons of a particular kind):

(c) in the case of suspension, for periods that may differ for amounts of a particular kind or value, or between persons of a particular kind.

(3) The Minister must not recommend the making of regulations made under **subsection (1)** unless satisfied that they are likely to—

(a) prevent accumulation of debt by any category of beneficiary and assist those beneficiaries to reduce their levels of debt while on a benefit; or

(b) assist any category of beneficiary to move from dependence on a benefit to self-support through employment by ensuring that those beneficiaries do not face increasing benefit debt repayments when they enter the workforce; or

(c) provide a positive incentive for beneficiaries to enter employment or stay in employment; or

(d) achieve more than 1 of the objectives set out in **paragraphs (a) to (c)**.

Compare: 1964 No 136 s 132G

428 Regulations: ways MSD or person can meet requirement to give notice or other document

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **section 343**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) provide for different ways of giving a document to an individual (other than an officer or employee in the service of the Crown in that person's official capacity), and to an officer or employee in the service of the Crown in that person's official capacity, including (without limitation) all or any of the following ways:

(i) giving personally in hard copy form:

(ii) leaving at or posting to an address prescribed by the regulations:

(iii) giving by an electronic means (with ~~or without~~ the individual's express or inferred consent) in accordance with the Electronic Transactions Act 2002:

(b) provide when documents given in different prescribed ways are, in the absence of evidence to the contrary, taken to have been received.

(3) This section is subject to **section 237** (how notice of sanction may be given), and regulations made under this section operate under **sections 371(2), 379(2), and 391(2)**.

Compare: 1964 No 136 s 86J; 2011 No 62 s 211; 2015 No 35 s 4

429 Regulations: reciprocity agreements with mutual assistance provisions, and adverse action if discrepancy shown by information from other country

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **sections 362 and 365**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) provide that a reciprocity agreement may contain (instead of, or as well as, any other kind or kinds of mutual assistance provisions) mutual assistance provisions of kinds specified in the regulations:

(b) provide that mutual assistance provisions of kinds specified in the regulations may be included in a reciprocity agreement only if those mutual assistance provisions comply with terms and conditions that are, or are equivalent in their effect to, terms and conditions specified in the regulations:

(c) provide for the processes to be followed if MSD proposes to take an adverse action against an individual as a result of a discrepancy (for example, a unique identifier discrepancy) produced by information MSD received from the competent institution of the other country under a mutual assistance information exchange provision.

Compare: 1990 No 26 ss 2(1), 19A(1), (2), (3), (4), (5), 19B, 19C, 19D(3)(c), (d), (4), (4A), (4B), (4C), (5), (6), (7)

430 Regulations: how to begin, and procedure and powers for, review or appeal

(1) The Governor-General may, by Order in Council, make regulations for the purposes of **sections 373, 382(a), 386, and 393**.

(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

(a) provide for the procedure the committee, authority, court, or board must follow on the review or appeal:

(b) provide for the committee's, authority's, or board's power to deal with (for example, confirm, vary, revoke, or refer back to MSD with reasons for the referral back and related directions for reconsideration) the decision reviewed or appealed:

(c) require MSD, out of money appropriated by Parliament for the purpose, to pay the actual and reasonable travelling and accommodation expenses (if any) incurred by an appellant who appears before the appeal authority:

(d) require MSD to report to the appeal authority on an appeal, provide for required contents of the report, and require the appeal authority in determining the appeal to have regard to MSD's report on the appeal:

(e) authorise the appeal authority to receive as evidence any statement, document, information, or matter which in the authority's opinion may assist it to deal with the matters before it, whether or not it would be otherwise admissible in a court of law:

(f) authorise the appeal authority to make a costs award or order in favour of, or against, an appellant and, if the appeal authority considers it appropriate, to require MSD to pay a sum fixed by the authority to cover all or part of the costs the appeal authority has incurred in hearing and determining the appeal:

(g) provide for the procedure for appeals to the High Court by way of case stated:

(h) require an appeal to the High Court by way of case stated to be dealt with and determined (in particular, require the High Court to hear and determine the question of law in the case stated), in accordance with rules of court that are applicable and not inconsistent with this Act and the regulations.

Compare: 1908 No 89 Schedule 2 r 21.14; 1964 No 136 ss 10A(1A), (1B), (8), (9), 10B(2), 12I(2), 12K(11); 12L, 12M, 12O, 12OA, 12Q(3), (4), (6), (7), (8), (9), (10), 12R; 2011 No 81 ss 300, 303, 305, 306; 2013 No 60 s 13

Orders adjusting rates of benefits, etc

431 Orders in Council: discretionary increases in rates of benefits, etc

(1) The Governor-General may, by Order in Council, amend a provision to which this subsection applies by increasing an amount that is—

(a) an amount specified in the provision to which this subsection applies (*see* **subsection (2)**); and

(b) an amount of an item to which this subsection applies (*see* **subsection (3)**).

(2) **Subsection (1)** applies to the following provisions:

(a) **section 75(2)(c)(ii) and Part 3 of Schedule 5** (disability allowance):

(b) **Schedule 2**, definitions of Income Test 1, Income Test 2, Income Test 3, and Income Test 4:

(c) **Part 1 of Schedule 4** (rates of jobseeker support):

(d) **Part 2 of Schedule 4** (rates of sole parent support):

(e) **Part 3 of Schedule 4**, including **clause 2**, but excluding **clauses 3 and 4** (rates of supported living payment):

(f) **Part 4 of Schedule 4** (maximum rates of supported child's payment):

(g) **Part 5 of Schedule 4** (rates and component of youth payment and young parent payment, and criteria for incentive payments):

(h) **Part 6 of Schedule 4** (accommodation supplement):

(i) **Part 7 of Schedule 4** (rates of child disability allowance and disability allowance):

(j) **Part 8 of Schedule 4** (rates of generally abolished former widows' benefits under section 21 of Social Security Act 1964 as saved by **clause 52 of Schedule 1** for reciprocity agreement applicants or recipients):

(k) **Part 9 of Schedule 4** (rates of generally abolished former DPB for solo parents under section 27B of Social Security Act 1964 as saved by **clause 52 of Schedule 1** for reciprocity agreement applicants or recipients):

(l) **Part 10 of Schedule 4** (rates of benefits payable to long-term hospital patients):

(m) **Parts 1 and 2 of Schedule 5** (asset and income limits that may be applied to certain assistance):

(n) **Schedule 14** (means assessment for long-term residential care) of **Part 9 of the Social Security Legislation Rewrite Act 2016**:

(o) Schedule 1 (New Zealand superannuation entitlements) of the New Zealand Superannuation and Retirement Income Act 2001.

(3) **Subsection (1)** applies to an item that—

(a) is any benefit, allowance, lump sum payment, subsidy rate (*see* **subsection (6)**), maximum amount of any component, maximum amount of supplements, asset limit, income limit, income exemption, maximum amount of advance, cash assets test, benefit stand-down income test, or annual or weekly income test; and

(b) is not the rate of diminution of any benefit or allowance, or the period of a benefit stand down for a given income.

(4) An Order made under **subsection (1)**—

(a) must state the date from which it is to have effect (which may be a date before the date on which it was made); and

(b) applies to lump sum payments on death in respect of persons who die on or after a date specified in the Order; and

(c) applies to other items as payable or applicable after the date from which the Order has effect (and *see also* **section 433(1)(b)**).

(5) **Subsection (4)** does not authorise any payment to be made before the date on which the Order is made.

(6) In this section, **subsidy rate** means a figure that is the first percentage figure in a particular clause of **Part 6 of Schedule 4**.

Compare: 1964 No 136 s 61H(1), (1A), (2), (7), Schedule 32, cl 3(6)

432 Orders in Council: mandatory annual CPI adjustment of rates of certain benefits

(1) The rates of benefits set out in the provisions to which this subsection applies must be adjusted, by Order in Council, as at 1 April each year so that in each case the new rate is the rate at that date adjusted by any percentage movement upwards in the CPI between—

(a) the CPI for the quarter ended with 31 December 1 year before the immediately preceding 31 December; and

(b) the CPI for the quarter ended with the immediately preceding 31 December.

(2) **Subsection (1)** applies to the following provisions:

(a) **Part 1 of Schedule 4** (rates of jobseeker support):

(b) **Part 2 of Schedule 4** (rates of sole parent support):

(c) **Part 3 of Schedule 4**, including **clause 2**, but excluding **clauses 3 and 4** (rates of supported living payment):

(d) **Part 4 of Schedule 4** (maximum rates of supported child's payment):

(e) **Part 5 of Schedule 4**, other than any rate of incentive payment in **subpart 3 of Part 5 of Schedule 4** (rates and component of youth payment and young parent payment, and criteria for incentive payments):

(f) **Part 8 of Schedule 4** (rates of generally abolished former widows' benefits under section 21 of Social Security Act 1964 as saved by **clause 52 of Schedule 1** for reciprocity agreement applicants or recipients):

(g) **Part 9 of Schedule 4** (rates of generally abolished former DPB for solo parents under section 27B of Social Security Act 1964 as saved by **clause 52 of Schedule 1** for reciprocity agreement applicants or recipients):

(h) **Part 11 of Schedule 4** (rates of benefits payable to long-term hospital patients).

(2A) The adjustments (by any percentage movement upwards in the CPI) required under **subsection (1)** as at 1 April in any year from 2018 to 2021 (inclusive) must, despite **subsections (1) and (2)**, be calculated,—

(a) if, and insofar as, they relate to movements during quarters that end before 29 April 2010, using index numbers for those quarters of the Consumers Price Index (All Groups) published by Statistics New Zealand; and

(b) if, and insofar as, they relate to movements during quarters that end after 28 April 2010, using index numbers for those quarters of the Consumers Price Index (All Groups Excluding Cigarettes and Other Tobacco Products) published by Statistics New Zealand.

(3) An adjustment under **subsection (1)** must not reduce the weekly amounts of benefits payable under those schedules.

(4) Every Order in Council made under **subsection (1)**—

(a) comes into force or is considered to come into force on 1 April of the calendar year in which it is made; and

(b) applies to benefits payable on and after that date.

(5) In this section, **CPI** means the Consumers Price Index (All Groups) published by Statistics New Zealand.

Compare: 1964 No 136 s 61HA

Confirmable instruments

433 Certain orders are confirmable instruments

(1) This section applies to an Order in Council made under all or any of the following sections:

(a) **section 402(1)(d)** (accommodation supplement areas):

(b) **section 431(1)** (apart from, or with, **clause 52(6) of Schedule 1**).

(2) The explanatory note of the Order in Council must indicate that—

(a) it is a confirmable instrument, and an annual confirmable instrument, under **section 47B** of the Legislation Act 2012; and

(b) it is revoked, or taken to have been invalid for past operation, at a time stated in the note, unless earlier confirmed by an Act of Parliament; and

(c) the stated time is the applicable deadline under **section 47C(1)(a) or (b)** of that Act.

Compare: 1964 No 136 ss 61H(3) to (6), 61HA(6), 61I(2), 61IA

Repeals and revocations

434 Social Security Act 1964 repealed

(1) The Social Security Act 1964 (1964 No 136) is repealed.

(2) **Subsection (1)** does not repeal sections 69FA and 132D, Part 4, and Schedules 27 and 30 of that Act (which are provisions rewritten and replaced by **Part 9 of the Social Security Legislation Rewrite Act 2016**).

(3) All regulations made by Order in Council, or other Orders in Council, made under that Act, and in force on the commencement of this section, are revoked by this subsection.

(4) **Subsection (3)** does not revoke orders saved by **Schedule 1** or by **Schedule 13 of Part 9 of the Social Security Legislation Rewrite Act 2016**.

435 Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 repealed

(1) The Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 (1990 No 126) is repealed.

(2) **Subsection (1)** does not repeal Part 3 and Schedule 3 of that Act (which are provisions rewritten and replaced by **Part 10 of the Social Security Legislation Rewrite Act 2016**).

(3) All regulations made by Order in Council, or other Orders in Council, made under that Act, and in force on the commencement of this section, are revoked by this subsection.

(4) **Subsection (3)** does not revoke orders saved by **Schedule 1**.

436 Department of Social Welfare Act 1971 repealed

(1) The Department of Social Welfare Act 1971 (1971 No 60) is repealed.

(2) **Subsection (1)** does not limit—

(a) **section 31** (references to Child Welfare Officer to be read as references to social workers, etc) of the Adoption Act 1955 (as inserted by **Schedule 10** of this Act); or

(b) **clause 55** (references to Child Welfare Officers to be read as references to social workers) of **Schedule 1** of this Act.

437 Employment Services and Income Support (Integrated Administration) Act 1998 repealed

The Employment Services and Income Support (Integrated Administration) Act 1998 (1998 No 96) is repealed.

Consequential amendments

438 Other enactments amended consequentially

Amend the enactments listed in **Schedule 10** as indicated in that schedule.

Part 9
Residential care and disability support services

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Subpart 1—General provisions

439 Purpose of this Part

The purpose of this **Part** is to—

(a) specify the circumstances in which certain older persons are required to pay for their own long-term residential care; and

(b) specify the circumstances in which a funder must contribute toward the cost of those persons' long-term residential care; and

(c) provide for those persons to apply for a means assessment to determine if, and how much, a funder must contribute toward the cost of their long-term residential care; and

(d) provide that those persons are not required to pay more than the maximum contribution (which amount is specified by ~~*Gazette*~~ written notice published on an Internet site and notified in the *Gazette*) for their long-term residential care, if that care is provided by a provider who has a contract with a funder to provide long-term residential care to older persons; and

(e) provide for the assessment of the amount a person is required to pay towards the cost of home-based disability support services supplied to that person; and

(f) ~~to~~ ensure that financial support (that is, a funder's contribution to the cost of long-term residential care, or towards the cost of home-based disability support services) provided under this **Part** is provided to persons taking into account that, where appropriate, they should use the resources available to them before seeking financial support under this **Part**.

Compare: 1964 No 136 s 136AA

440 Overview of this Part

This **Part**—

(a) sets out the rules relating to liability for the cost of certain long-term residential care:

(b) sets out the rules relating to liability for the cost of home-based disability support services.

Compare: 1964 No 136 s 136AB

441 Interpretation

In this **Part** and in **Schedules 13 to 15**, unless the context otherwise requires,—

accommodation costs has the same meaning as in regulations—

(a) made under **section 402 of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**; and

(b) made for the purposes of **subpart 9 of Part 2 and Part 6 of Schedule 4** (accommodation supplement) of that Act

applicable asset threshold means the applicable asset threshold (which is the value of assets that is applied to determine whether a resident assessed as requiring care must use the resident's assets to pay the maximum contribution towards the cost of LTR contracted care ~~services~~ provided to the resident) set out in **Part 1 of Schedule 14**

assets has, for the purpose of an assets assessment conducted under **section 470**, the meaning given in **clause 4 of Schedule 14**

benefit has the same meaning as in **Schedule 2 of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**

child has the same meaning as in **Schedule 2 of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**

contracted care provider has the meaning given in **section 447**

contracted care services has the meaning given in **section 447**

~~**contribution cap** has the meaning given in **section 451(2)**~~

cost of LTR contracted care means, in relation to the person (**P**) to whom the care is provided, the amount that—

(a) is the cost of the contracted care services provided by a contracted care provider to meet P's assessed long-term residential care needs; and

(b) is specified in the service agreement or section 88 notice that applies to the contracted care provider as the price payable for those services, whether or not the services provided to P are wholly or partly funded under that agreement or notice

date of means assessment has the meaning given in **section 488**

de facto partner and **de facto relationship** have the meanings given to them by sections 29 and 29A of the Interpretation Act 1999

dependent child has the same meaning as in **Schedule 2 of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**

DHB means a district health board established by or under section 19 of the New Zealand Public Health and Disability Act 2000

exempt assets has, for the purpose of an assets assessment conducted under **section 470**, in relation to the person being means assessed, the meaning given in **clause 4 of Schedule 14**

funder means an entity responsible under the New Zealand Public Health and Disability Act 2000 for paying, in accordance with this **Part**, some or all of the cost of contracted care services provided to a qualifying person or a special case person

hospital means a hospital care institution as defined in section 58(4) of the Health and Disability Services (Safety) Act 2001

income has, for the purpose of a person's income assessment under **section 473**, the meaning given in **clause 5 of Schedule 14**

long-term residential care or **LTR care** has the meaning given in **section 447**

maximum contribution has the meaning given in **section 451(2)**

Minister means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this **Part**

MSD—

(a) means the responsible department; but

(b) for a duty, function, or power that MSD must or may perform or exercise, means—

(i) the chief executive of the responsible department; or

(ii) a Public Service employee, or other person, acting under a delegation (direct or indirect) from that chief executive

partner, in the phrase "spouse or partner" and in related contexts, means a civil union partner or de facto partner

personal allowance has the meaning given in **section 460(2)**

~~**long-term residential care** or **LTR care** has the meaning given in **section 447**~~

qualifying person has the meaning given in **section 447**

resident assessed as requiring care means a qualifying person who—

(a) has been positively needs assessed (as defined in **section 450**); and

(b) is receiving contracted care services (irrespective of whether a funder has any liability to pay for any of the cost of the qualifying person's care)

responsible department, for the provisions of this **Part**, means—

(a) the department of State that, with the Prime Minister's authority, is for the time being responsible for the administration of this **Part**; or

(b) a departmental agency that, under the State Sector Act 1988, is part of that department of State, and has duties, functions, or powers relating to that administration

rest home means premises used to provide rest home care—

(a) within the meaning of section 6 of the Health and Disability Services (Safety) Act 2001; and

(b) that is therefore health care services required by that Act to be provided in accordance with section 9 of that Act

section 88 notice means a notice—

(a) given under section 88 of the New Zealand Public Health and Disability Act 2000; and

(b) in respect of the provision of LTR care

service agreement means a service agreement—

(a) entered into under section 25 of the New Zealand Public Health and Disability Act 2000 between a funder and provider; and

(b) in respect of the provision of long-term residential care to a qualifying person or special case person

single means not married or in a civil union or a de facto relationship

special case person has the meaning given in **section 447**

spouse, of a person, means the person's husband or wife.

Compare: 1964 No 136 s 136

442 Interpretation: references to, and using as guide, old law

(1) A reference in an enactment or a document to all or any of the provisions of sections 69FA and 132D, Part 4, and Schedules 27 and 30 of the Social Security Act 1964 (the **former enactments**) is to be interpreted as a reference to, or to the corresponding provisions of, **this Part and Schedules 14 and 15**, to the extent necessary to reflect sensibly the intent of the enactment or document.

(2) **Subsection (1)** is subject to the consequential amendments in **Schedule 10 of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**.

(3) The provisions of **this Part and Schedules 14 and 15**—

(a) are the provisions of the former enactments in rewritten form; and

(b) are intended to have the same effect as the corresponding provisions of the former enactments.

(4) **Subsection (3)** is subject to **subsections (5) and (6) and section 443**.

~~(5) If the meaning of an enactment that is in **this Part or Schedule 14 or 15** and that comes into force on **3 July 2017** (the **new law**) is unclear or gives rise to absurdity,—~~

~~(a) the wording of a law that is repealed by **section 513(1)** and that corresponds to the new law (the **old law**) must be used to determine the correct meaning of the new law; and~~

~~(b) it can be assumed that a corresponding old law provision exists for each new law provision.~~

(5) If the meaning of an enactment in **this Part or Schedule 14 or 15** that comes into force on **3 July 2017** (the **new law**) is unclear or gives rise to absurdity, the wording of a law that is repealed by **section 513(1)** and that cor-

responds to the new law (the **old law**) must be used to ascertain the meaning of the new law.

(6) **Subsections (3) to (5)** do not apply, if a new law is affected by an amendment made after the beginning of **3 July 2017**, to that new law after the amendment commences.

Compare: 2007 No 97 s ZA 3(2), (3), (4), (5)

443 Transitional, savings, and related provisions

The transitional, savings, and related provisions in **Schedule 13** have effect according to their terms.

444 Part binds the Crown

This **Part** binds the Crown.

Subpart 2—LTR contracted care

445 This Part determines who pays for LTR contracted care

(1) This **Part** determines who pays for the cost of LTR contracted care.

(2) Nothing in this **Part** affects the liability of a person to pay, under an agreement between that person and a provider, for any services provided to that person that are not contracted care services.

446 What is LTR contracted care

LTR contracted care is care that meets all of the following criteria:

(a) it is long-term residential care:

(b) it is the care of a qualifying person or a special case person:

(c) it comprises contracted care services:

(d) it is provided by a contracted care provider.

447 Key terms used in definition of LTR contracted care

The following key terms are used in the definition of LTR contracted care (and are also used elsewhere in this **Part**):

contracted care provider means a provider of contracted care services that—

(a) has a service agreement with a funder; or

(b) accepts payment under a section 88 notice

contracted care services means the services provided by a contracted care provider to a qualifying person or a special case person that are necessary to meet that person's assessed long-term residential care needs

long-term residential care ~~**or LTR care**~~ or **LTR care** means age-related long-term residential care in a hospital or rest home

qualifying person means a person described in **section 448**

special case person means one of the following:

(a) a 50+ single person (*see* **section 457**):

(b) an exempt person (*see* **section 459**):

(c) an elderly victim of crime (*see* **section 461**).

Subpart 3—Qualifying persons

Meaning of qualifying person

448 Who is qualifying person

A **qualifying person** is a person who—

(a) is aged 65 years or over; and

(b) is funding eligible; and

(c) has been positively needs assessed; and

(d) receives contracted care services; and

(e) is entitled, under **section 468**, to apply for a means assessment.

Compare: 1964 No 136 s 136

449 Funding eligible

A person is **funding eligible** if the person is eligible for publicly funded health and disability services under an eligibility direction issued under section 32, or continued under section 112, of the New Zealand Public Health and Disability Act 2000.

Compare: 1964 No 136 s 136

450 Positively needs assessed

A person has been **positively needs assessed** if the person has been assessed under **section 464** as requiring ~~indefinite~~ LTR care indefinitely.

Compare: 1964 No 136 s 136

Liability of qualifying person for cost of LTR contracted care: 4 basic rules

451 Rule 1: no qualifying person to pay more than maximum contribution ~~cap~~

(1) No qualifying person is liable to pay more than the maximum contribution ~~cap~~ towards the cost of the contracted care services provided to that person.

(2) The **maximum contribution** ~~**cap**~~ is the maximum amount ~~of contribution by an individual~~ that an individual may be required to pay towards the cost of LTR contracted care provided to the individual and that is set for each region under **section 489**.

(3) **Subsection (1)** applies irrespective of the person's assets or income.

452 Rule 2: qualifying person whose assets are above asset threshold must contribute ~~under-cap cost~~maximum contribution

(1) A qualifying person whose assets as determined by a means assessment under **section 470** are above the applicable asset threshold must contribute the ~~full under-cap cost of that person's LTR contracted care~~ maximum contribution for as long as that person's assets are above the applicable asset threshold.

~~(2) The **under-cap cost** of LTR contracted care means the cost of that care that is equivalent to or less than the contribution cap (and this applies also to **sections 453 and 455**).~~

Compare: 1964 No 136 s 139(1), (2)

453 Rule 3: qualifying person whose assets are equal to or below asset threshold must pay contribution based on income

A qualifying person whose assets as determined by a means assessment under **section 470** are equal to or below the applicable asset threshold must pay a contribution, based on income determined by a means assessment under **section 473**, towards the ~~under-cap~~ cost of that person's LTR contracted care.

Compare: 1964 No 136 s 139(1)–(3)

454 Rule 4: funder must pay difference between qualifying person's contribution and cost of LTR contracted care

In relation to each qualifying person, the appropriate funder must pay the difference between—

(a) the qualifying person's contribution (under **section 452 or 453**, whichever is applicable); and

(b) the cost of the qualifying person's LTR contracted care.

Compare: 1964 No 136 s 140(2)

455 Liability of person who has not been means assessed

(1) This section applies to a person (**P**) who is a qualifying person except that—

(a) P has not been means assessed; or

(b) if P has been means assessed, the result of the means assessment is not yet known.

(2) P must pay the ~~under-cap cost of P's LTR contracted care~~ maximum contribution until P is means assessed.

Compare: 1964 No 136 s 140(1)(b), (2)

Subpart 4—Special case persons

456 Who is special case person

(1) There are 3 categories of special case person:

(a) a 50+ single person:

(b) an exempt person:

(c) an elderly victim of crime.

(2) The definitions of funding eligible and positively needs assessed in **sections 449 and 450** respectively apply also to special case persons.

Compare: 1964 No 136 s 136

50+ single person

457 Who is 50+ single person

A **50+ single person** is a person who—

(a) is aged 50 to 64 years; and

(b) is single; and

(c) has no dependent children; and

(d) is funding eligible; and

(e) has been positively needs assessed; and

(f) receives contracted care services.

Compare: 1964 No 136 s 136

458 50+ single person liable to make income contribution only

(1) A 50+ single person (**A**) is liable to make only an **income contribution** (that is, a contribution based on income as determined by a means assessment under **section 473**) towards the ~~under-cap~~ cost of A's LTR contracted care, that is, A must be treated as if A had been—

(a) means tested as to assets; and

(b) determined to have assets equal to or below the applicable asset threshold.

(2) In relation to each 50+ single person, the appropriate funder must pay the difference between that person's contribution and the cost of that person's LTR contracted care.

Compare: 1964 No 136 s 143

Exempt persons

459 Who is exempt person

An **exempt person** is a person who—

(a) is funding eligible; and

(b) has been positively needs assessed; and

(c) receives contracted care services; and

(d) belongs to a class of exempt persons, as those classes are defined in regulations made under **section 510**.

460 Exempt person liable to contribute benefit only

(1) An exempt person is liable to contribute to the cost of that person's LTR contracted care the amount of any benefit that P receives, less the personal allowance, and a funder must pay the balance of the cost.

(2) **Personal allowance**, in this **Part and Schedule 14**, means an amount of benefit, specified in regulations made under **section 510**, that a person is not required to contribute to the cost of LTR contracted care provided to the person.

Compare: 1964 No 136 ss 136, 142(1), (1A)

Elderly victims of crime

461 Who is elderly victim of crime

An elderly victim of crime is a person who—

(a) is funding eligible; and

(b) has been positively needs assessed; and

(c) receives contracted care services; and

(d) has been assessed, in accordance with regulations made under **section 510**, as being an elderly victim of crime for the purposes of this **Part**.

Compare: 1964 No 136 s 136

462 Elderly victim of crime not liable to contribute to cost of LTR contracted care

A person who is an elderly victim of crime is not liable to contribute any amount to the cost of that person's LTR contracted care and a funder must pay the whole of that cost.

Compare: 1964 No 136 s 142(2)

Subpart 5—Needs assessment

463 Who initiates needs assessment

(1) A person may at any time apply for a needs assessment if the person is—

(a) aged 65 years or over; and

(b) funding eligible.

(2) A person who is a special case person may at any time apply for a needs assessment.

(3) A DHB may at any time on its own initiative conduct a needs assessment of a person who could apply under **subsection (1) or (2)**.

Compare: 1964 No 136 s 137(1), (2)

464 Content of needs assessment

A needs assessment must determine whether the person assessed requires ~~in-definite~~ LTR care indefinitely.

Compare: 1964 No 136 s 137(3)

465 Procedure for needs assessment

(1) A DHB that receives an application under **section 463(1)** must arrange for the needs assessment to be conducted as soon as practicable.

(2) The date of a person's needs assessment is the date shown as such on the assessment.

(3) For the purposes of a needs assessment (and, in particular, consent to a needs assessment), the Code of Health and Disability Services Consumers' Rights (made under section 74 of the Health and Disability Commissioner Act 1994) applies as if—

(a) the needs assessment were a service; and

(b) the person assessed were a consumer of that service; and

(c) the DHB or its delegate were a provider of that service.

Compare: 1964 No 136 s 137(4)–(7)

466 Notification of result of needs assessment

(1) A DHB must provide a copy of the result of a needs assessment as soon as practicable to—

(a) the person assessed; and

(b) the provider (if any) who is currently providing LTR care to that person.

(2) The DHB must at the same time inform the person assessed (**P**) of the following:

(a) the amount of the maximum contribution ~~cap~~; and

(b) the respective liabilities under this **Part** of the person assessed and the funder to contribute to the cost of LTR contracted care; and

(c) how to apply for a means assessment.

Compare: 1964 No 136 s 138(2)

Subpart 6—Means assessment

467 Types of means assessment

This **Part** provides for 2 stages of a means assessment, as follows:

(a) an assets assessment:

(b) if required, an income assessment.

Compare: 1964 No 136 ss 146(1), 147(1)

468 Who may apply for means assessment

(1) A person who has been positively needs assessed may apply to MSD for a means assessment.

(2) An application for a means assessment must be made on a form provided for the purpose by MSD and the applicant must supply any supporting evidence or information that is reasonably required by MSD to complete the assessment.

Compare: 1964 No 136 s 138(1)(c), 144(1), (2)

469 MSD must arrange for means assessment

MSD must arrange for a means assessment to be conducted as soon as practicable after receiving an application.

Compare: 1964 No 136 s 144(3)

First stage: assets assessment

470 Assets assessment

(1) The first stage of a means assessment is an assets assessment.

(2) An assets assessment must be conducted in accordance with **Part 2 of Schedule 14**.

(3) This section does not apply to a special case person (who, under **section 458(1), 460(1), or 462**, is not liable to contribute from that person's assets).

Compare: 1964 No 136 s 146(1)

471 Content of assets assessment

An assets assessment must assess the value of the non-exempt assets of a person as at the date of means assessment and must determine whether those assets are above, equal to, or below the applicable asset threshold.

Compare: 1964 No 136 s 146(2)

Second stage: income assessment

472 When income assessment required

An income assessment is required if an assets assessment has determined that a person's assets are equal to or below the applicable asset threshold.

Compare: 1964 No 136 s 147(2)

473 Income assessment

An income assessment must be conducted in accordance with **Part 3 of Schedule 14**.

Compare: 1964 No 136 s 147(1)

474 Content of income assessment

(1) An income assessment of a person (**P**) must—

(a) assess ~~P's annual income~~ as at the date of means assessment P's annual income; and

(b) determine a weekly contribution, up to the maximum contribution, that P must pay from income towards the cost of contracted care services provided to P; and

(c) determine if and when in the 90-day period P's assets fell below the applicable asset threshold.

(2) In **subsection (1)**, **90-day period** means the period of 90 days before the date of means assessment.

(3) This section is subject to **sections 460(1) and 462**.

Compare: 1964 No 136 s 147(3), (4)

Factors affecting means assessment: deprivation of income or property

475 Deprivation of income or property: means assessment as if deprivation had not occurred

(1) This section applies where MSD is satisfied that a person who has applied for a means assessment (**P**), or P's spouse or partner, has directly or indirectly deprived himself or herself of any income or property.

(2) In conducting P's means assessment, MSD may include the income or property as if the deprivation had not occurred.

(3) In this section, **property** does not include an exempt asset.

Compare: 1964 No 136 s 147A(1)

476 Deprivation of income or property: inclusion in review of means assessment

(1) This section applies where MSD is satisfied that a person who has been means assessed (**P**), or P's spouse or partner, has directly or indirectly deprived himself or herself of any income or property.

(2) In conducting a review of P's means assessment, MSD may include the income or property as at the date of the means assessment as if the deprivation had not occurred.

(3) In this section, **property** does not include an exempt asset.

Compare: 1964 No 136 s 147A(2)

Notice of means assessment

477 Means assessment must be recorded in writing

MSD must ensure that every means assessment is recorded in writing, whether the means assessment is a first assessment or a subsequent assessment on re-

view, and whether or not the assessment relates only to assets or to assets and income.

Compare: 1964 No 136 s 148(1)

478 Notice of means assessment

(1) MSD must ensure that a copy of the record of the means assessment is provided to the person to whom it relates.

(2) MSD must ensure that the provider, the funder, and the Ministry of Health are advised of the following in respect of every person (**P**) who is means assessed or whose means assessment is reviewed:

(a) whether P's assets are above the applicable asset threshold; or

(b) if P's assets are equal to or below the applicable asset threshold, the assessment of P's weekly contribution from income.

Compare: 1964 No 136 s 148(1), (2)

Change in circumstances

479 Obligation to notify MSD of change in circumstances

(1) A person (**A**) listed in **subsection (2)** must advise MSD of any change in the financial or other circumstances of a person who has been means assessed (**B**), or of B's spouse or partner, if A—

(a) knows or ought to know of the change in circumstances; and

(b) knows or ought to know that the change might mean that the means assessment is no longer accurate.

(2) For the purposes of **subsection (1)**, A is any of the following:

(a) B, the person who has been means assessed:

(b) B's spouse or partner:

(c) the provider who provides contracted care services to B:

(d) the holder of an enduring power of attorney (given in accordance with Part 9 of the Protection of Personal and Property Rights Act 1988) who acts under the enduring power of attorney in relation to the property of B or B's spouse or partner.

(3) **Subsection (1)** does not apply if—

(a) B has been found to have assets equal to or below the applicable asset threshold and the change relates to the value of B's assets, or to the value of the assets of B's spouse or partner; or

(b) a funder has no liability under this **Part** in respect of the contracted care services provided to B.

Compare: 1964 No 136 s 149(1)–(2)

Notice of right of review

480 Funder must ensure person assessed advised of right of review

A funder must take all practicable steps to ensure that a person who has undergone a means assessment (**P**)—

(a) is advised of the right to apply for a review of P's means assessment; and

(b) is notified whenever a change is made to the tests used in means assessments (such as an increase to applicable asset thresholds, or a change to the personal allowance (as defined in **section 460(2)**)) that might mean that, if P's means assessment were reviewed, the result would be different from the result of P's latest means assessment.

Compare: 1964 No 136 s 149(3)

Relationship status

481 Relationship status for purpose of means assessment: determination that person is single

(1) For the purpose of a means assessment under this **Part**, MSD may make a determination to regard as single a person (**P**) who is married or in a civil union, but is—

(a) living apart from P's spouse or partner; and

(b) not in a de facto relationship.

(2) However, MSD cannot under **subsection (1)** determine that P is single by reason only that P or P's spouse or partner—

(a) has been assessed as requiring ~~indefinite~~ LTR care indefinitely; or

(b) has become unable to affirm P's marriage or civil union.

(3) A determination under **subsection (1)** may include a date, determined by MSD, on which the spouses or partners must be taken for the purposes of the determination to have commenced to live apart.

(4) Every determination under this section also applies for the purposes of every debt-recovery or offence provision in, under, or for the purposes of, this **Part**.

Compare: 1964 No 136 ss 63, 151

482 Relationship status for purpose of means assessment: determination that person is in de facto relationship

(1) For the purpose of a means assessment under this **Part**, MSD may make a determination to regard as a party to a de facto relationship any 2 people who, not being legally married or in a civil union, have entered into a de facto relationship.

(2) A determination under **subsection (1)**, for the purposes of the assessment, may include either or both of the following dates:

(a) a date, determined by MSD, on which the 2 people must be taken as having entered into the de facto relationship:

(b) a date, determined by MSD, on which the de facto relationship of the 2 people must be taken to have ended.

(3) Every determination under this section also applies for the purposes of every debt-recovery or offence provision in, under, or for the purposes of, this **Part**.

Compare: 1964 No 136 ss 63, 151

Review of means assessment

483 Review by MSD

MSD must review a means assessment of a person (**P**) if—

(a) P applies for a review on a form provided for the purpose by MSD; or

(b) MSD has reason to believe that there was a mistake in P's earlier assessment, whether as a result of wrong information being supplied or otherwise; or

(c) the circumstances of P's spouse or partner (**S**) have changed because—

(i) S has become a qualifying person or a special case person; or

(ii) S has died; or

(iii) MSD has determined under **section 481** that S's relationship status has changed for the purposes of this **Part**.

Compare: 1964 No 36 s 150(1)

484 Review if assets subsequently fall below applicable asset threshold

(1) This section applies if a person (**P**) has been means assessed and been found to have assets above the applicable asset threshold.

(2) MSD may review P's means assessment at any time if MSD considers that P's assets have fallen, or are about to fall, to a level below or equal to the applicable asset threshold.

Compare: 1964 No 136 s 150(2)

485 Review if assets below applicable asset threshold

(1) This section applies if a person (**P**) has been means assessed and been found to have assets equal to or below the applicable asset threshold.

(2) MSD—

(a) may annually review P's means assessment; and

(b) may at any time review P's means assessment if MSD considers that P's annual income has changed or is about to change.

Compare: 1964 No 136 s 150(2A)

486 Review under section 484 or 485 not obligatory

Nothing in **section 484 or 485** obliges MSD to conduct a review of a means assessment following a change in the tests used in means assessments (such as an increase to applicable asset thresholds or a change to the personal allowance (as defined in **section 460(2)**)) unless the person to whom the means assessment relates applies for a review under **section 483**.

Compare: 1964 No 136 s 150(3)

487 Scope and date of review under section 483, 484, or 485

(1) A review must review the person's means assessment as to assets and, if necessary, the person's means assessment as to income unless **subsection (2)** applies.

(2) A review must review the person's means assessment as to income only (and not the person's means assessment as to assets) if the review is conducted under—

(a) **section 483(a)** and the person has been means assessed and determined to have assets equal to or below the applicable asset threshold; or

(b) **section 485**.

(3) A review is conducted as at the date of means assessment.

(4) **Section 474(1)(c)** applies if a review determines that, as at the date of means assessment, the assets of the person were equal to or below the applicable asset threshold.

Compare: 1964 No 136 s 150(4)–(5)

Date of means assessment

488 Date of means assessment

In this **Part and Schedule 14**, **date of means assessment** means,—

(a) in the case of a first means assessment conducted under this **Part**, the date on which the application for the means assessment is received:

(b) in the case of a review of a means assessment for which the person has applied under **section 483(a)**, the date on which the application for the review is received:

(c) in the case of a review under **section 483(b)**, the date of means assessment that applied to the earlier, apparently mistaken, means assessment:

(d) in the case of a review under **section 483(c)**, the date, determined by MSD, on which the person's circumstances changed:

(e) in the case of a review under **section 484**, the date on which MSD initiated the review:

(f) in the case of a review under **section 485**—

(i) conducted by MSD in the event of a general adjustment of rates of benefits or allowances, the date of that general adjustment; or

(ii) conducted as a result of advice received by MSD under **section 479(1)**, the date on which that advice was received; or

(iii) conducted by MSD in any other case, the date on which MSD initiated the review.

Compare: 1964 No 136 s 145

Subpart 7—Funding and funder's liability

~~*Contribution cap*~~*Maximum contribution*

489 Determination of maximum contribution ~~cap~~

(1) The Director-General of Health must, by written notice, determine the maximum contribution ~~cap~~ that applies in each region.

(2) By way of explanation, the maximum contribution ~~cap~~ that applies in a region is the amount agreed at a national level between funder representatives and provider representatives as being the amount that funders in that region are to pay to providers in that region for providing rest-home-level care services.

(3) However, if the amount identified under **subsection (2)** for a region is less than $636, the maximum contribution for that region must be set at $636.

(4) A notice given under this section—

(a) must, as soon as practicable after it is given, be—

(i) published on an Internet site administered by or on behalf of the Ministry of Health; and

(ii) notified in the *Gazette*; and

(b) must, each time it is amended without also being replaced, also as soon as practicable after it is amended, be published—

(i) on an Internet site administered by or on behalf of the Ministry of Health; and

(ii) current as at a stated date; and

(iii) incorporating amendments up to that date; and

(c) is not a legislative instrument, but is a disallowable instrument, for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives under section 41 of that Act.

(5) A notification in the *Gazette* for the purpose of **subsection (4)(a)(ii)** does not have to include the text of the notice.

Compare: 1964 No 136 s 152

Funder's liability

490 Funder's liability for cost of LTR contracted care of exempt person

In respect of the cost of an exempt person's LTR contracted care, the funder must pay the amount determined under the following formula:

$$p = c – (b – a)$$

where—

p is the amount the funder must pay

c is the cost of the LTR contracted care provided to the exempt person

b is the amount of any benefit received by the exempt person

a is the personal allowance (as defined in **section 460(2)**).

Compare: 1964 No 136 s 142(1)

491 Funder's liability for cost of LTR contracted care of elderly victim of crime

In respect of the cost of an elderly victim of crime's LTR contracted care, the funder must pay the full cost.

Compare: 1964 No 136 s 142(2)

When funder's liability arises

492 When funder's liability arises for cost of LTR contracted care of qualifying person

(1) If the assets of a qualifying person (**P**) have been means assessed and determined to be above the asset threshold, the funder's liability for the ~~over-cap~~ difference between P's maximum contribution (under **section 452**) and the cost of P's LTR contracted care begins—

(a) on the relevant date of needs assessment, if P is already receiving contracted care services; or

(b) on the date from which P receives contracted care services, in any other case.

(2) If the assets of a qualifying person (**P**) have been means assessed and determined to be equal to or below the asset threshold, the funder's liability for the cost of P's LTR contracted care (less any income contribution that P must pay under **section 453**) begins on the day during the 90-day period when P's assets were first equal to or below the asset threshold.

~~(3) In this section,—~~

~~**90-day period** means the period of 90 days before the relevant date of means assessment~~

~~**over-cap cost** means the cost of LTR contracted care in excess of the contribution cap.~~

(3) In this section, **90-day period** means the period of 90 days before the relevant date of means assessment.

Compare: 1964 No 136 s 140(3), 141(3)

493 When funder's liability arises for cost of LTR contracted care of exempt person or elderly victim of crime

A funder's liability for the cost of the LTR contracted care of an exempt person or elderly victim of crime arises—

(a) on the date on which the person is confirmed under regulations made under **section 510** as being an exempt person or elderly victim of crime, as the case requires; or

(b) in the case of a person to whom section 10 of the Social Security (Long-term Residential Care) Amendment Act 2004 applies, on the date on which this section comes into force.

Compare: 1964 No 136 s 142(3)

494 When funder's liability arises for cost of LTR contracted care of 50+ single person

A funder's liability for the cost of the LTR contracted care of a 50+ single person arises on the later of the following dates:

(a) the relevant date of needs assessment, if the person is already receiving contracted care services:

(b) the date from which the person receives contracted care services.

Compare: 1964 No 136 s 140(3)

Subpart 8—Home-based disability support services

495 Application of this subpart

(1) This **subpart** applies to a person who—

(a) has been assessed by or on behalf of a DHB as requiring home-based disability support services; and

(b) is not a child; and

(c) is not entitled to be the holder of—

(i) a community services card issued under the Health Entitlement Cards Regulations 1993; or

(ii) a corresponding card issued under corresponding regulations made or deemed to have been under either or both of section 92(3) of the New Zealand Public Health and Disability Act 2000 and **section 416** of the **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**.

(2) For the purposes of this **subpart** and **Schedules 13 and 15**, **home-based disability support services** means disability services that are supplied to a person, and that are services—

(a) in relation to the person's domestic affairs (other than medical services, personal care services, attendant care services, and relief care services) that support and allow the person to remain in the person's home; and

(b) of a kind that are funded under the New Zealand Public Health and Disability Act 2000.

(3) For the purposes of this **subpart** and **Schedules 13 and 15**,—

child means a single person under the age of 18 years, other than a person who is—

(a) aged 16 or 17 years; and

(b) financially independent

health practitioner—

(a) has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003; and

(b) includes a person who is receiving training or gaining experience under the supervision of a health practitioner

medical services means services supplied to a person by a health practitioner relating to the treatment or relief of the person's disability condition or the rehabilitation of the person from that condition.

Compare: 1964 No 136 s 69FA(1), (2)

496 MSD may assess person's financial means and required payments

(1) MSD may, from time to time, on application by or on behalf of a person to whom this **subpart** applies, assess in accordance with **Schedule 15** the weekly amount that person is required to pay toward the cost of the home-based disability support services provided to that person.

(2) The person is required to pay that amount in accordance with the assessment.

(3) MSD's information-gathering powers under **clauses 1 to 7 of Schedule 6 of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** can (in line with **clause 3(e)** of that schedule) be used for determining, under this **subpart**,—

(a) the amount that a person is required to pay towards the cost of the home-based disability support services supplied to that person; and

(b) whether a person who has been so assessed is entitled to that assessment.

Compare: 1964 No 136 ss 11(2)(da), 69FA(3)

497 Cash assets and income

(1) For the purposes of this **subpart** and **Schedules 13 and 15**,—

cash assets—

(a) means—

(i) money saved with a bank or other institution, money invested with a bank or other institution, or money banked with a bank or other institution:

(ii) money invested in securities, bonds, or debentures, or advanced on mortgage:

(iii) money withdrawn from a KiwiSaver scheme registered under subpart 2 of Part 4 of the Financial Markets Conduct Act 2013:

(iv) money invested in shares in a partnership or limited liability company or other incorporated or unincorporated body; but

(b) does not include any contributions to, or any member's interest in, any KiwiSaver scheme that is registered under subpart 2 of Part 4 of the Financial Markets Conduct Act 2013; and

(c) does not include any assets or any amount of cash assets excluded by regulations made under **section 510(1)(k) or (l)**

income means any thing that—

(a) is income as defined in **Schedule 2 of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**, or is the gross amount of a payment received in consideration of providing board and lodgings to any person in excess of 2 people, or is a benefit or allowance received under or pursuant to—

(i) **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**; or

(ii) the New Zealand Superannuation and Retirement Income Act 2001; or

(iii) the Veterans' Support Act 2014 (other than a disablement pension under Part 3 of that Act); and

(b) is not an amount specified in regulations made under **section 510(1)(l)**.

(2) For the purposes of this **subpart** and **Schedules 13 and 15**,—

(a) the following are taken to be income of $1 per week:

(i) every $100 of cash assets over $5,400 held by a person who is married or in a civil union or in a de facto relationship:

(ii) every $100 of cash assets over $5,400 held by a single person who has 1 or more dependent children:

(iii) every $100 of cash assets over $2,700 held by any other person; and

(b) the income of a person who is married or in a civil union or in a de facto relationship includes the income of the person's spouse or partner.

Compare: 1964 No 136 s 69FA(1), (4)

498 Unrealised assets available for personal use

(1) This section applies to assets that—

(a) are available for the personal use of a person to whom this **subpart** applies; and

(b) MSD is satisfied have not been realised by that person, or by that person's spouse or partner.

(2) MSD may for the purposes of this **subpart** treat the assets as cash assets.

Compare: 1964 No 136 s 69FA(5)

499 Deprivation of income or assets

(1) This section applies if—

(a) a person has applied for, or has received, an assessment under this **subpart**; and

(b) MSD is satisfied that the person or the person's spouse or partner has directly or indirectly deprived the person of any income or assets.

(2) MSD may assess, or revise the assessment of, the person's ability to pay for that person's home-based disability support services as if that deprivation had not occurred.

Compare: 1964 No 136 s 69FA(8)

500 Assessment must state date and payments and be given to person

Each assessment made by MSD under this **subpart**—

(a) must state the date of the assessment and the amount that the person has been assessed as being required to pay; and

(b) must be given by MSD to that person.

Compare: 1964 No 136 s 69FA(6)

501 MSD may supply assessment to applicable DHB

MSD may supply the details of an assessment under this **subpart** to the applicable DHB.

Compare: 1964 No 136 s 69FA(6)

502 MSD must review, and may revise, assessment

(1) MSD—

(a) must from time to time review an assessment under this **subpart**; and

(b) may revise that assessment if—

(i) MSD is satisfied the assessment is in error; or

(ii) the person to whom the assessment relates or that person's spouse or partner fails to provide any relevant information requested or to answer any relevant question; or

(iii) after reviewing the assessment, MSD is satisfied that, owing to a change in circumstances of that person or that person's spouse or partner, the assessment is no longer an accurate reflection of that person's ability to pay for that person's home-based disability support services.

(2) A revised assessment under **subsection (1)(b)(iii)** takes effect from a date MSD determines (being a date that is, or is after, the date on which the change of circumstances concerned may reasonably be held to have occurred).

Compare: 1964 No 136 s 69FA(7)

503 Person must advise MSD of change in person's circumstances

A person who has received an assessment under this **subpart** must advise MSD without delay of any change in circumstances that affects that person's ability to pay for that person's home-based disability support services.

Compare: 1964 No 136 s 69FA(9)

Subpart 9—Miscellaneous

504 Information gathering under Schedule 6 of Parts 1 to 8 of Social Security Legislation Rewrite Act 2016

(1) MSD may, by notice given under **clauses 2 to 7 of Schedule 6 of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**, obtain information for all or any of the following purposes:

(a) determining whether a person who has made a claim for, is receiving, or has received, a benefit or payment under this **Part** is or was entitled to receive that benefit or payment:

(b) conducting or reviewing a means assessment under this **Part**, or determining whether a means assessment of that kind is correct:

(c) determining, under **subpart 8 of this Part**, the amount that a person is required to pay towards the cost of the home-based disability support services supplied to that person, and whether a person who has been so assessed is entitled to that assessment:

(d) ascertaining the financial circumstances or whereabouts of a person who is indebted to the Crown under this **Part**:

(e) discharging MSD's functions under, or under any regulations in force under, this **Part**.

(2) This section is by way of explanation only.

505 Rights of review and appeal in Part 7 of Parts 1 to 8 of Social Security Legislation Rewrite Act 2016

(1) This section applies to decisions or determinations of MSD made under any of the provisions of—

(a) this **Part**; or

(b) regulations made under **section 510**.

(2) **Part 7 of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** gives rights of review and appeal in respect of the decisions or determinations (*see*, for example, **row 1 of the table in section 370(1)**, and **section 376(1)(d)**, of that Act).

(3) This section is by way of explanation only.

506 Residential care loan scheme

(1) A qualifying person (**P**) who has been means assessed as to assets under **section 470** may apply for a loan under the residential care loan scheme operated by the Ministry of Health if—

(a) P's assets are above the applicable asset threshold; and

(b) P meets the criteria for eligibility for the residential care loan scheme specified in a written notice given by the Director-General of Health.

(2) A notice given under this section—

(a) must, as soon as practicable after it is given, be—

(i) published on an Internet site administered by or on behalf of the Ministry of Health; and

(ii) notified in the *Gazette*; and

(b) must, each time it is amended without also being replaced, also as soon as practicable after it is amended, be published—

(i) on an Internet site administered by or on behalf of the Ministry of Health; and

(ii) current as at a stated date; and

(iii) incorporating amendments up to that date; and

(c) is not a legislative instrument, but is a disallowable instrument, for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives under section 41 of that Act.

(3) A notification in the *Gazette* for the purpose of **subsection (2)(a)(ii)** does not have to include the text of the notice.

Compare: 1964 No 136 s 153

507 Clothing allowance

Regulations may be made under **section 510** that provide for payment of a clothing allowance to either or both of the following classes of person:

(a) qualifying persons who have been means assessed and found to have assets equal to or less than the applicable asset threshold:

(b) qualifying persons who have entered into a loan agreement with the Crown under the residential care loan scheme.

Compare: 1964 No 136 s 154

508 Offences: false statements, misleading, or attempting to mislead, to receive or continue to receive advantages

(1) A person (**P**) commits an offence if—

(a) P makes a statement knowing that it is false in a material particular; and

(b) P's statement—

(i) is made for the purpose of receiving or continuing to receive (whether for P or another person) an advantage; or

(ii) results in P or another person receiving or continuing to receive an advantage.

(2) A person (**P**) commits an offence if—

(a) P wilfully does or says anything, or omits to do or say anything, for the purpose of misleading or attempting to mislead a person; and

(b) P's act, statement, or omission—

(i) is done or made for the purpose of receiving or continuing to receive an advantage (whether for P or another person); or

(ii) results in P or another person receiving or continuing to receive an advantage.

(3) In this section, **advantage** means—

(a) any benefit under this **Part**; or

(b) any payment from a Crown Bank Account in accordance with this **Part**; or

(c) a more favourable means assessment under **subparts 8 and 9 of this Part** than P would otherwise have been entitled to; or

(d) a more favourable means assessment under **subparts 1 to 7 of this Part** than P would otherwise have been entitled to.

(4) A person who commits an offence under this section is liable on conviction to a penalty that is either or both of the following:

(a) imprisonment for a term not exceeding 12 months:

(b) a fine not exceeding $5,000.

(5) This section does not limit **sections 271 and 272 of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**.

Compare: 1964 No 136 s 127

509 Time for filing charging document

(1) The limitation period in respect of an offence against this **Part** ends on the date that is 12 months after the date on which the facts alleged in the charging document are brought to the knowledge of any officer concerned in the administration of this **Part**.

(2) **Subsection (1)** overrides section 25 of the Criminal Procedure Act 2011.

Compare: 1964 No 136 s 128

510 Regulations

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

(a) identifying a class or classes of exempt persons:

(b) prescribing how a person is to be assessed as being, or no longer being, an elderly victim of crime:

(c) providing, in accordance with **section 507**, for payment of a clothing allowance, and setting the amount of any clothing allowance payable:

(d) prescribing, for the purpose of **section 475**, rules relating to deprivation of property, income, or both, and the circumstances in which those rules apply:

(e) prescribing the gifting period and the allowable gifts, or the value of any allowable gifts, for the purpose of **paragraph (b)** of the definition of assets in **Part 2 of Schedule 14**:

(f) amending the maximum value of pre-paid funerals for the purpose of **paragraph (d)** of the definition of exempt assets in **Part 2 of Schedule 14**:

(g) prescribing assets, or an amount of assets, that are exempt assets for the purpose of **paragraph (g)** of the definition of exempt assets in **Part 2 of Schedule 14**:

(h) increasing the applicable asset thresholds, and the income-from-assets exemption, in accordance with **section 511**:

(i) prescribing an amount or a type of income, or an amount of a certain type of income, that is not to be included in a means assessment as to income, as provided for in **paragraph (i)** of the definition of income in **Part 3 of Schedule 14**:

(j) prescribing the amount of personal allowance (as defined in **section 460(2)**):

(k) defining terms to be excluded as cash assets for the purpose of **subpart 8** (*see* the definition of cash assets in **section 497(1)**):

(l) specifying that certain amounts of cash assets or income are not to be included within the financial means assessment of a person under **subpart 8** (*see* the definitions of cash assets and income in **section 497**):

(m) providing for any other matters contemplated by this **Part**, necessary for its administration, or necessary for giving it full effect.

(1A) The purpose of exemption regulations made under **subsection (1)(a)** is to specify a class or classes of persons who, because of their circumstances (for example, a requirement to undergo compulsory treatment), should be liable to contribute to the cost of their LTR care only the amount of any benefit that they receive, less the personal allowance (*see* **sections 459 and 460 and subsection (1)(j)**).

(1B) Exemption regulations made under **subsection (1)(a)** may be made only on the recommendation of the Minister.

(1C) The Minister must, before making a recommendation that particular exemption regulations be made under **subsection (1)(a)**,—

(a) have regard to the purpose of this **Part** (as set out in **section 439**), to the purpose of **section 460** (exempt person liable to contribute benefit only), and to the purpose of the regulations; and

(b) be satisfied that each exemption provided for in them is not broader than is reasonably necessary to address the matters that gave rise to the regulations.

(2) Regulations made under **subsection (1)(i), (l), or (m)** have effect in respect of any amounts or types of cash assets, income, or amounts of certain types of income, or defined terms to be excluded as cash assets, specified in the regulations on and after a date that is—

(a) specified in the regulations; and

(b) earlier than, the same as, or later than, the date on which the regulations are made.

Compare: 1964 No 136 ss 132D, 155(1)

511 Annual adjustments for increase in New Zealand Consumers Price Index

(1) The applicable asset thresholds set out in **Part 1 of Schedule 14** must be increased on 1 July 2018, and on every following 1 July by an amount that reflects the upwards movement (if any) in the ~~All Groups~~ index number of the ~~New Zealand~~ Consumers Price Index (All Groups) published by Statistics New Zealand~~)~~ for the year ending on the previous 31 March.

(2) The income-from-assets exemption (as defined in **Part 3 of Schedule 14**) must be increased on 1 July 2018, and on every following 1 July, by an amount that reflects the upwards movement (if any) in the ~~All Groups~~ index number of

the ~~New Zealand~~ Consumers Price Index (All Groups) published by Statistics New Zealand~~)~~ for the year ending on the previous 31 March.

(2A) The adjustments (by any percentage movement in the index number of the Consumers Price Index (All Groups)) required under **subsection (2)** as at 1 July in any year from 2018 to 2021 (inclusive) for the income-from-assets exemption must, despite **subsection (2)**, be calculated,—

(a) if, and insofar as, they relate to movements during quarters that end before 29 April 2010, using index numbers for those quarters of the Consumers Price Index (All Groups) published by Statistics New Zealand; and

(b) if, and insofar as, they relate to movements during quarters that end after 28 April 2010, using index numbers for those quarters of the Consumers Price Index (All Groups Excluding Cigarettes and Other Tobacco Products) published by Statistics New Zealand.

(3) If the adjusted amount of an applicable asset threshold or, as the case requires, of the income-from-assets exemption is not a whole number of dollars,—

(a) it must be rounded up to the nearest whole number of dollars; but

(b) the adjustment made in the following year must be based on the applicable asset threshold or the income-from-assets exemption as it was before it was rounded up.

(4) This section does not limit **section 431 of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** (about orders making discretionary increases to specified amounts in **Schedule 14** of this **Part**).

Compare: 1964 No 136 s 155(2)–(3)

512 Annual published notice of amount of income-from-assets exemption

(1) The Director-General of Health must, as soon as practicable after 1 July in each year, give written notice of the current amount of the income-from-assets exemption.

(2) A notice given under this section—

(a) must, as soon as practicable after it is given, be—

(i) published on an Internet site administered by or on behalf of the Ministry of Health; and

(ii) notified in the *Gazette*; and

(b) is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012, and does not have to be presented to the House of Representatives under section 41 of that Act.

(3) A notification in the *Gazette* for the purpose of **subsection (2)(a)(ii)** does not have to include the text of the notice.

Compare: 1964 No 136 s 155(4)

513 Repeals and revocations

(1) Sections 69FA and 132D, Part 4, and Schedules 27 and 30 of the Social Security Act 1964 are repealed.

(2) All regulations made by Order in Council, or other Orders in Council made under those provisions of that Act, and in force on the commencement of this section, are revoked by this subsection.

(3) **Subsection (2)** does not revoke orders saved by **Schedule 13**.

Part 10
Artificial Limb Service

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General provisions

514 Purpose of this Part

The purpose of this **Part** is to continue, state the functions of, and otherwise provide for, a New Zealand Artificial Limb Service.

515 Interpretation

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

artificial limb means a device that is—

(a) an artificial arm, hand, leg, or foot; or

(b) a similar device

Minister means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this **Part**

Service means the New Zealand Artificial Limb Service continued by **section 518**.

Compare: 1938 No 7 s 106B; 1963 No 47 s 56; 1964 No 136 s 126; 1990 No 26 s 42

516 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 16** have effect according to their terms.

517 Part binds the Crown

This **Part** binds the Crown.

Service's continuation, functions, and operation

518 New Zealand Artificial Limb Service continued

(1) This section continues the New Zealand Artificial Limb Service.

(2) The Service is the New Zealand Artificial Limb Board—

(a) established on 1 April 1990 by section 43(1) of the Social Welfare (Transitional Provisions) Act 1990, which on 5 December 2013 was renamed the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990; and

(b) replacing the Artificial Limb Board (also known as the New Zealand Artificial Limbs Board) that the Rehabilitation Board, purporting to act under section 13 of the Rehabilitation Act 1941, purported to establish under an instrument of delegation made pursuant to a resolution of the Rehabilitation Board dated 5 March 1970; and

(c) renamed, and to be known as, the New Zealand Artificial Limb Service, after the commencement, on 5 December 2013, of the Social Welfare (Transitional Provisions) Amendment Act 2013.

(3) After 4 December 2013, a reference to the New Zealand Artificial Limb Board (established on 1 April 1990 by section 43(1) of the Social Welfare (Transitional Provisions) Act 1990) in an agreement, or in any other document, in force at the close of 4 December 2013 must be read as a reference to the Service.

Compare: 1990 No 26 s 43(1), (1A)

519 Functions

The functions of the Service are—

(a) to manufacture, import, export, market, distribute, supply, fit, repair, and maintain artificial limbs:

(b) to provide rehabilitative and other services to persons in connection with artificial limbs:

(c) to carry out research and development in relation to artificial limbs:

(d) to advise the Minister on matters relating to artificial limbs.

Compare: 1990 No 26 s 44

520 Crown entity

(1) The Service is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

(2) The Crown Entities Act 2004 applies to the Service except to the extent that this **Part** expressly provides otherwise.

(3) Members of the Service are the board for the purposes of the Crown Entities Act 2004.

Compare: 1990 No 26 ss 43(2), (3), 46(2)

521 Membership

The Service consists of 6 members appointed under section 28(1)(a) of the Crown Entities Act 2004, including—

(a) 1 member to be appointed by the Minister to represent the interests of war amputees:

(b) 1 member to be appointed by the Minister on the nomination of the Amputees Federation of New Zealand Incorporated:

(c) 1 member to be appointed by the Minister on the nomination of the New Zealand Orthopaedic Association:

(d) 1 member to be appointed by the Minister to represent District Health Boards, and appointed on the nomination of the Minister of Health:

(e) 1 member to be appointed by the Minister on the nomination of a majority of the current members of the Service.

Compare: 1990 No 26 s 46(1)

522 Deputies of members

(1) The Minister may appoint a person to be the deputy of an appointed member of the Service.

(2) The person may be appointed under **subsection (1)** only if eligible to be appointed as an appointed member of the Service.

(3) A person appointed as the deputy of an appointed member of the Service may attend a meeting of the Service in the place of that appointed member.

Compare: 1990 No 26 s 49, Schedule 3 cl 7

523 Superannuation

(1) To help provide a superannuation fund or retiring allowance for officers or employees of the Service, sums by way of subsidy may from time to time be paid into—

(a) an existing scheme containing provision for employer subsidy; or

(b) an employer-subsidised scheme approved by the Minister of Finance for the purposes of this section.

(2) In **subsection (1)(a)**, **existing scheme** has the meaning in sections 2 and 34(c) of the National Provident Fund Restructuring Act 1990.

Compare: 1990 No 26 s 49, Schedule 3 cl 16

524 Exemption from income tax

The income of the Service is exempt from income tax.

Compare: 1990 No 26 s 49, Schedule 3 cl 22

525 Review of Service's operation and this Part

As soon as practicable after 5 years after the date of the last review carried out under section 48 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990, and then at intervals of not more than 5 years, the Service must—

(a) review the Service's operation since—

(i) the date of the last review carried out under that Act (for the first review carried out under this paragraph); or

(ii) the date of the last review carried out under this paragraph (for every later review); and

(b) consider—

(i) whether the Service should be retained or abolished; and

(ii) whether any amendments to this **Part** are necessary or desirable; and

(c) report its findings to the Minister.

Compare: 1990 No 26 s 48

Repeal and consequential amendment

526 Repeal

Repeal Part 3 and Schedule 3 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990.

527 Public Bodies Contracts Act 1959 amended

(1) This section amends the Public Bodies Contracts Act 1959.

(2) In Schedule 1, Part 2, replace "Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 (1990 No 26)" with "**Part 10 of the Social Security Legislation Rewrite Act 2016 (2016 No 000)**".

Schedule 1
Transitional, savings, and related provisions

s 11

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Interpretation

1 Changeover and saved defined

In this schedule,—

changeover, for a provision of the Social Security Act 1964, means the time at which the provision is repealed by **section 434(1)**

saved, in relation to any arrangement, contract, decision, enactment, increase, instrument, period, reduction, or status (in each case, however described), means—

(a) continued in force only if, and as, in force immediately before the changeover; and

(b) continued in force under, and with all necessary modifications for, the enactment under which it is continued; and

(c) able to be amended, revoked, or replaced, under that enactment (or by any other enactment).

General provisions (Part 1)

2 Ministerial directions

(1) Directions given under section 5 (alone, or with 1 or more related provisions) of the Social Security Act 1964 are saved as if given under **section 7** (alone, or with 1 or more corresponding related provisions) of this Act.

(2) **Subclause (1)** is subject to **subclauses (3) to (5)**.

(3) If the directions were given for the purposes of section 125AA(5) of the Social Security Act 1964, they are saved as if they were directions—

(a) given under **section 351**; and

(b) of the kind referred to in **section 351(1)**.

(4) If the directions were given for the purposes of section 132AD(4)(c) of the Social Security Act 1964, they are saved as if they were notices—

(a) given under regulations made under **section 405**; and

(b) of the kind referred to in **section 405(2)(b) and (4)**.

(5) If the directions were given for the purposes of section 60RAB(1)(b) of the Social Security Act 1964, they are saved as if they were notices—

(a) given under regulations made under **section 409(1)(a)**; and

(b) of the kind referred to in **section 409(2)**.

(6) A reference in the directions to a provision of the Social Security Act 1964 is to be interpreted as a reference to this Act, or to the corresponding provision of this Act, to the extent necessary to reflect sensibly the intent of the directions (*see* **section 9** of this Act).

3 Determinations of conjugal status for benefit purposes

(1) This clause applies to determinations—

(a) made under section 63 of the Social Security Act 1964; and

(b) not made, or so far as they were not made, for the purposes of section 69FA or 132D, Part 4, or Schedule 27 or 30, of that Act (*see* **clause 1 of Schedule 13 of Part 9 of the Social Security Legislation Rewrite Act 2016**).

(2) The determinations specified in **subclause (1)** are saved as if made under **section 8(2) or (4)**.

(3) However, the determinations specified in **subclause (1)** that are made under section 63(b) of the Social Security Act 1964 continue under **subclause (2)** as if they were determinations made under **section 8(4)**.

Assistance (Part 2)

4 Assistance continued

(1) This clause applies to a person who, immediately before the changeover, was receiving, or had been granted, a benefit, or any other assistance, under the Social Security Act 1964 (the **former assistance**).

(2) The former assistance may be a benefit, or any other assistance, under the Social Security Act 1964 (for example, special assistance under section 124(1)(d) of that Act), whether or not entitlement to that benefit or assistance arises by virtue of an agreement or a convention given effect in relation to New Zealand by an order made under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990.

(3) After the changeover, the person is entitled to receive the benefit, or other assistance, under this Act that corresponds to the former assistance (the **corresponding assistance**), and at the appropriate rate under this Act, until the corresponding assistance ends or expires, or is for any reason cancelled.

Examples

Former assistance	Corresponding assistance
Jobseeker support on the ground of sickness, injury, or disability	Jobseeker support on the ground of health condition, injury, or disability
Supported living payment under section 40B on the ground of sickness, injury, disability, or total blindness	Supported living payment on the ground of restricted work capacity or total blindness
Orphan's benefit under section 28	Supported child's payment
Unsupported child's benefit under section 29	Supported child's payment
Emergency benefit under section 61	Exceptional circumstances benefit

(4) This clause is subject to **clause 5**.

5 Conditions of entitlement under clause 4

(1) Entitlement to the corresponding assistance, and the rate of benefit that is being or was paid, may be reviewed under **subpart 3 of Part 6**.

(2) Entitlement to the corresponding assistance is subject to conditions, obligations, exemptions from obligations, failures, and related sanctions (for example, reductions, suspensions, and cancellations, and disentitlements to receive benefits for a specified period) for the former assistance and under provisions of the Social Security Act 1964, and those conditions, obligations, exemptions from obligations, failures, and related sanctions continue for the corresponding assistance, and under the corresponding provisions of this Act.

(3) Entitlement to the corresponding assistance is subject to the expiry date of the former assistance, and also to a notice given to, or requirement imposed on, the person under the Social Security Act 1964 before the changeover (for example, a notice stating that the person's entitlement to the former assistance will cease unless the person reapplies for the former assistance and it is regranted). The notice or requirement continues in force after the changeover as if it had been given or imposed under the corresponding provisions of this Act and in respect of the corresponding assistance.

(4) Entitlement to the corresponding assistance is subject to non-entitlement periods under the Social Security Act 1964, and those non-entitlement periods continue for the corresponding assistance, and under the corresponding provisions of this Act.

(5) Entitlement to the corresponding assistance is subject to any other reductions, and to increases, in the rate of benefit, that were in place under the Social Security Act 1964 (for example, under section 61EC(4)(b), 61G(6)(c), 63, 69C(4), 70(1), 70A, 71A, 73(1), 74(1), or 75 of that Act, or under a provision of that Act requiring or permitting an income-based adjustment to a rate of benefit).

(6) Those other reductions, and increases, are saved by this subclause as if they were required or permitted, and put in place, under the corresponding provisions of this Act, and in respect of the assistance or corresponding assistance concerned.

6 Applications for or related to former assistance and that are made, but not determined, before changeover

(1) This clause applies to an application—

(a) for all or any of the following under the Social Security Act 1964:

(i) a benefit, or any other assistance, under that Act (the **former assistance**):

(ii) an advance payment under section 82(6) of a benefit:

(iii) an exemption under section 105 from, or deferral under sections 88H and 88I of, obligations:

(iv) a review by the chief executive under section 88F(6) of a determination under section 88F(2) (which is a determination about capacity to seek, undertake, and be available for part-time work); and

(b) made, but not decided or determined, before the changeover.

(2) The former assistance may be a benefit, or any other assistance, under the Social Security Act 1964 (for example, special assistance under section 124(1)(d) of that Act), whether or not entitlement to that benefit or assistance arises by virtue of an agreement or a convention given effect in relation to New Zealand by an order made under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990.

(3) After the changeover, the application is treated as one for the corresponding benefit, other assistance, advance payment, exemption or deferral, or review, under this Act (and, if it is for a benefit, as one for which the applicant has the same date of first contact).

(4) This clause is subject to **clause 7**.

7 Exception for applications for orphan's benefit made, but not determined, before changeover

If an application for an orphan's benefit under section 28 of the Social Security Act 1964 is made, but not decided or determined, before the changeover,—

(a) the application must (despite **clause 6(1)(a)(i), (2), and (3)**) be determined under section 28 of the Social Security Act 1964; and

(b) any granting of the application must be taken to be the granting of a supported child's payment.

8 Backdating of corresponding former benefit if application made under this Act after changeover

(1) This clause applies to an application—

(a) for a benefit under this Act; and

(b) made under this Act, and after the changeover; and

(c) to the extent that the benefit is ~~(under regulations referred to in **section 296(4)** and made under **section 419**, or~~ under **sections 297 and 298**~~)~~ to be backdated and payable for a period ending both before the application is made and before the changeover.

(2) MSD may, instead of backdating for that period ~~(and under regulations made under **section 419**, or~~ under **sections 297 and 298**~~)~~ the benefit under this Act, backdate for that period ~~(~~and under section 80AA or 80BA(4)(b) of the Social Security Act 1964~~)~~ the corresponding former benefit under that Act.

9 Jobseeker support: validation of payments when spouse's or partner's regular support lost due to sentence of imprisonment, etc

(1) This clause applies to jobseeker support under the Social Security Act 1964 that was, or is yet to be, paid—

(a) to a person to whom section 20A(d) or (e) of that Act applies; and

(b) in respect of a period—

(i) on or after 15 July 2013; and

(ii) before the changeover.

(2) That jobseeker support is payable as if—

(a) the person were a single beneficiary for clauses 1(ba) and (c) and 5A of Schedule 9 of that Act; and

(b) section 80BA(4)(b)(iv) of that Act applied to jobseeker support granted to the person.

10 Jobseeker support: validation of eligibility if temporarily engaging in full-time employment with income less than would ~~fully abate benefit~~reduce benefit to zero

(1) This clause applies to the reference in section 88B(6) of the Social Security Act 1964, as that section was in force on and after 15 July 2013 and until the changeover, to a person receiving jobseeker support at the rate in clause 1(ab) or (ba) of Schedule 9 of that Act.

(2) That reference must be taken to include, and to have always included, a reference to a person receiving jobseeker support at the rate in clause 1(c) of Schedule 9 of that Act.

11 Jobseeker support: correction of reference in saving related to transfer to jobseeker support

Clause 2(15) of Schedule 32 of the Social Security Act 1964 must be taken—

(a) to apply, and always to have applied, to a person to whom clause 2(9) of that Schedule applies; and

(b) not to apply, and never to have applied, to a person to whom clause 2(6) of that Schedule applies.

12 Supported living payment: regulations prescribing minimum expected period of restricting sickness, injury, or disability

(1) This clause applies to the Social Security (Supported Living Payments Benefit) Regulations 1998 made under section 132 of the Social Security Act 1964 for the purposes of section 40B(2)(a) of that Act.

(2) Those regulations are saved as if made under **section 397(1)(a)** for the purposes of **section 34(2)(a)**.

(3) A sickness referred to in the regulations (as saved by this clause) is for the purposes of **section 34(2)(a)** treated as a health condition.

12A Supported child's payment: review of, or appeal against, entitlement based on former orphan's benefit

(1) This clause applies to a step-parent who,—

(a) immediately before the changeover, was receiving, or had been granted, an orphan's benefit under section 28 of the Social Security Act 1964; and

(b) after the changeover, is entitled to receive under **clause 4(3)** of this schedule, as the corresponding assistance, a supported child's payment.

(2) This clause also applies to a step-parent who is taken to have been granted a supported child's payment because of an application for an orphan's benefit under section 28 of the Social Security Act 1964—

(a) that was made, but not decided or determined, before the changeover; and

(b) the granting of which, after the changeover, must under **clause 7(b)** of this schedule be taken to be the granting to the step-parent of a supported child's payment.

(3) For a review of, or an appeal relating to, entitlement (for example, for a review under **subpart 3 of Part 6**, as contemplated by **clause 5(1)**), a step-parent to whom this clause applies must be taken to be an eligible caregiver under **section 43**.

(4) This clause overrides **section 43(b)** and the definition of parent in **Schedule 2**.

13 Youth payment and young parent payment: incentive payments regulations

(1) This clause applies to Part 1 of the Social Security (Criteria for Incentive Payments and Money Management) Regulations 2012 made under section 132 of the Social Security Act 1964 for the purposes of sections 163(2) and 169(2) of that Act.

(2) Those regulations are saved as if made under **section 397(1)(b) and (c)** for the purposes of **sections 51(1) and 58(1)**.

14 Accommodation supplement: cash assets exemptions regulations

(1) This clause applies to the Social Security (Income and Cash Assets Exemptions) Regulations 2011 made under sections 132 and 132AA of the Social Security Act 1964, but only so far as they declare any specified item or amount of cash assets, or cash assets of a specified kind, not to be cash assets for that Act's purposes.

(2) Those regulations are saved as if made under **section 402** for the purposes of **subpart 9 of Part 2 and Part 6 of Schedule 4**.

14A Accommodation supplement: special rate because of pre-changeover application, appeal, proceedings, or payments based on in-force pre-changeover definition of areas

(1) This clause applies to a person if,—

(a) immediately before the changeover, the person was receiving, or had been granted, an accommodation supplement under the Social Security Act 1964; and

(b) because of **clause 53(3) to (6)**, **clause 53** does not apply to, or to payments of, that supplement; and

(c) that supplement, or payments of it, is or are therefore calculated (until the changeover) based on a specified part (whether called an urban area, urban zone, or area unit) of New Zealand as defined by the Government Statistician after 27 May 2004; and

(d) that supplement is under **clause 4** continued as an accommodation supplement under **subpart 9 of Part 2**.

(2) The person's accommodation supplement under **subpart 9 of Part 2** for periods before the end date must be calculated, despite **clause 4(3)**, based on the definition referred to in **subclause (1)(c)**.

(3) The end date is the date on which the first of the following events occurs:

(a) the person's primary residence changes:

(b) the person ceases to be eligible to be granted accommodation supplement because the person ceases to meet the criteria in **section 61(a) and (b)**:

(c) all or any of the terms Area 1, Area 2, Area 3, and Area 4 are defined or redefined by regulations made under **section 402(1)(d)**, with the effect that, on a date later than **3 July 2017**, the person's primary residence ceases to be covered by one of those terms, and is instead covered by another of those terms.

15 Saving for emergency benefit granted if analogous benefit is New Zealand superannuation or veteran's pension

(1) This clause applies to a benefit if—

(a) the benefit ~~is~~ was an emergency benefit granted under section 61 of the Social Security Act 1964, and payable to a person immediately before the changeover; and

(b) the analogous benefit ~~is~~ was determined under section 61(2) of that Act to be New Zealand superannuation or a veteran's pension.

(2) The benefit continues as an exceptional circumstances benefit under **subpart 8 of Part 2**—

(a) at the rate that would apply if the analogous benefit continued to be New Zealand superannuation or a veteran's pension; and

(b) until the person no longer qualifies to receive the exceptional circumstances benefit.

(3) **Subclause (2)(a)** applies even if the rate it requires is contrary to **section 59(4)** (about exceptional circumstances benefits not exceeding the rate of the equivalent main benefit under this Act).

16 Childcare assistance regulations

Regulations made under section 132AC of the Social Security Act 1964 are saved as if made under **section 403**.

17 Temporary additional support regulations

Regulations made under section 132AB of the Social Security Act 1964 are saved as if made under **section 407**.

18 Special benefit under Social Security (Working for Families) Amendment Act 2004

(1) This clause applies to a special benefit—

(a) continued under section 23 of the Social Security (Working for Families) Amendment Act 2004; and

(b) payable immediately before the changeover.

(2) The special benefit continues to be payable under that section (as saved by this clause).

(3) This clause overrides **section 434(1)** (Social Security Act 1964 repealed).

19 Programmes of special assistance for visitors to New Zealand

(1) Overseas epidemic management notices given under section 61CE of the Social Security Act 1964 are saved as if they were given under **section 85**.

(2) Programmes of special assistance (to visitors to New Zealand affected by overseas epidemics) established under section 61CF of the Social Security Act 1964 are saved as if they were programmes established under **section 86**.

20 Ministerial welfare programmes

(1) Welfare programmes approved and established under section 124(1)(d) of the Social Security Act 1964 are saved as if they were special assistance programmes approved and established under **section 87**.

(2) A reference in the programmes to a provision of the Social Security Act 1964 is to be interpreted as a reference to this Act, or to the corresponding provision

of this Act, to the extent necessary to reflect sensibly the intent of the programmes (*see* **section 9** of this Act).

Obligations (Part 3)

21 Attendance of dependent child at recognised early childhood education programme regulations

(1) This clause applies to the Social Security (Social Obligations—Attendance at Recognised Early Childhood Education Programme) Regulations 2013 made under sections 60RA(3), 60RAB, and 132 of the Social Security Act 1964 for the purposes of section 60RA(3)(a)(ii) and (b)(i) of that Act.

(2) Those regulations are saved as if they were made under **sections 123(2) and 409(1)(b)** for the purposes of **sections 117(1)(b) and 118(1)(a)(ii)**.

22 Application of work-test obligations regulations

(1) This clause applies to the Social Security (Application of Work Test Obligations) Regulations 2007 made under section 132 of the Social Security Act 1964 for the purposes of section 102(3)(b) of that Act.

(2) Those regulations are saved as if they were made under **section 397(1)(d)** for the purposes of **section 129(1)(b)**.

23 Maximum reimbursement amounts of costs of drug test regulations

(1) This clause applies to the Social Security (Work Test Obligations—Drug Testing Obligations) Regulations 2013 made under section 132 (read in the light of section 102C(3) and (4)) of the Social Security Act 1964, so far as they prescribe maximum reimbursement amounts for the purposes of section 102C(3) of that Act.

(2) Those regulations are saved as if they were made under **section 410(c)** for the purposes of **section 137**.

24 Drug-testing obligation regulations

Regulations made under section 132 (read in the light of sections 88A, 102C(3) and (4), and 116C(2)(e)) of the Social Security Act 1964 are saved as if they were made under **section 397(1)(e), (f), and (g)** for the purposes of the definitions in **section 138** of evidential drug test, pass, and screening drug test.

25 Participation allowance regulations

Regulations made under section 132F of the Social Security Act 1964 are saved as if they were made under **section 408**.

26 Obligations exemption regulations

Regulations made under section 123D of the Social Security Act 1964 are saved as if they were made under **section 410(e)**.

26A Obligations of spouses or partners of specified beneficiaries: exception to section 151

(1) This clause applies to a young person—

(a) who is the parent or step-parent of a dependent child or dependent children; and

(b) who is the spouse or partner of a specified beneficiary (as defined in section 157 of the Social Security Act 1964 as in force immediately before 8 July 2016) who is aged 20 years or older; and

(c) who, immediately before 8 July 2016 (the date on which section 25 of the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016 came into force), is aged 19 years.

(2) The young person is not subject to the obligations specified in **section 151** of this Act.

(3) This clause applies despite **section 151** of this Act, and does not affect the operation, before the changeover, of clause 26(3) and (4) of Schedule 32 of the Social Security Act 1964.

26B Obligations of spouses or partners of specified beneficiaries: exception to section 152

(1) This clause applies to a young person who, immediately before 8 July 2016 (the date on which section 25 of the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016 came into force),—

(a) is aged 18 years; and

(b) has a dependent child or children; and

(c) is the spouse or partner of a specified beneficiary (as defined in section 157 of the Social Security Act 1964 as in force immediately before 8 July 2016) who is aged 20 years or older.

(2) The young person ceases to be subject to the obligations specified in **section 152** of this Act on the day that the young person attains the age of 19 years.

(3) This clause applies despite **section 152** of this Act, and does not affect the operation, before the changeover, of clause 26(1) and (2) of Schedule 32 of the Social Security Act 1964.

Factors affecting benefits (Part 4)

27 Pre-benefit activities

(1) Requirements and determinations made under section 11E(2) of the Social Security Act 1964 are saved as if they were made under **section 169**.

(2) Regulations made under section 132J of the Social Security Act 1964 are saved as if they were made under **section 411**.

28 Overseas pensions regulations, arrangements, and contracts

(1) Regulations made under section 132C of the Social Security Act 1964 are saved as if they were made under **section 413**.

(2) Arrangements entered into under section 70(3)(a) of the Social Security Act 1964 are saved as if they were entered into under **section 175** and in accordance with regulations made under **section 413**.

(3) Contracts entered into under section 70(3A) of the Social Security Act 1964 are saved as if they were entered into for the purpose of implementing—

(a) arrangements saved by **subclause (2)**; and

(b) arrangements entered into under **section 175** and in accordance with regulations made under **section 413**.

28A Loss of earnings compensation under Accident Compensation Act 2001

Section 182(2) does not apply if—

(a) a person (**P**) mentioned in **section 182(1)(a)** is entitled to receive, and is receiving, a specified benefit as defined in **section 182(3)**; and

(b) P was immediately before 1 July 1999 receiving a benefit under the Social Security Act 1964 that is the same as, or that corresponds to, the specified benefit, and is identified in section 71A(1) of that Act as an income-tested benefit to which section 71A of that Act applies; and

(c) P was immediately before 1 July 1999 receiving compensation for loss of earnings or loss of potential earning capacity under the Accident Rehabilitation Compensation and Insurance Act 1992; and

(d) section 71A(2) of the Social Security Act 1964 (as that section was before it was repealed and substituted by the Accident Insurance Act 1998) required the compensation payments to be brought to charge as income in the assessment of P's income-tested benefit under that Act.

Compare: 1964 No 136 s 71A(4)

29 Effect on benefit of issue of warrant to arrest: validation about modification applying when benefit suspended immediately

(1) This clause applies to section 75B(9)(b) of the Social Security Act 1964 as in force on and after 15 July 2013 and until the changeover.

(2) By way of explanation, that section 75B(9)(b) provides that section 120 of that Act (modified effect in some cases of sanctions on rate of benefit for people married or in civil union or de facto relationship) applies to a benefit that is suspended under section 75B(7) of that Act, as if the benefit had been suspended under section 117 of that Act (sanctions that may be imposed for failures).

(3) That section 75B(9)(b) must be taken to include, and to have always included, a provision to the effect that section 120 of the Social Security Act 1964 (as applied by that section 75B(9)(b)) does not apply—

(a) if the person whose benefit is suspended under section 75B(7) is not receiving a main benefit under this Act (as defined in section 3(1) of that Act); or

(b) if the spouse or partner of the person whose benefit is suspended under section 75B(7) is receiving a main benefit under this Act (as so defined) in the spouse's or partner's own right.

30 Regulations about effect on benefit of issue of warrant to arrest

Regulations made under section 132L of the Social Security Act 1964 are saved as if they were made under **section 414**.

31 Regulations about effect of absence from New Zealand

(1) This clause applies to the Social Security (Effect of Absence of Beneficiary from New Zealand) Regulations 2013 made under section 132 of the Social Security Act 1964 for the purposes of section 77 of that Act.

(2) Those regulations are saved as if they were made under **section 415** for the purposes of **section 203**.

Enforcement: sanctions and offences (Part 5)

32 Drug-testing obligations: good and sufficient reason regulations

(1) This clause applies to the Social Security (Work Test Obligations—Drug Testing Obligations) Regulations 2013 made under section 132 (read in the light of section 116C(2)(e)) of the Social Security Act 1964, so far as they prescribe a ground on which a beneficiary may for the purposes of section 116B of that Act have a good and sufficient reason for specified failures.

(2) Those regulations are saved as if they were made under **section 397(1)(i)** for the purposes of **section 233(1)(e)**.

33 Good and sufficient reason: failure to comply with drug-testing obligation: approvals of kinds of addiction treatment

Approvals under section 116C(2)(b)(iii) of the Social Security Act 1964 are saved as if they were given under **section 233(2)(c)**.

Administration (Part 6)

34 Chief executive reviews

(1) **Subpart 3 of Part 6**, and all related provisions, of this Act apply (with all necessary modifications), and section 81 of the Social Security Act 1964 does not apply, to a benefit granted before the changeover (whether or not the benefit is continued under **clause 4**), if the chief executive—

(a) immediately before the changeover could have begun under section 81 of the Social Security Act 1964 (apart from, or with, section 124(2) and (2A) of that Act) a review of the benefit; and

(b) did not begin, before the changeover, and under section 81 of the Social Security Act 1964, a review of the benefit.

(2) Reviews by the chief executive begun under section 81 of the Social Security Act 1964 (apart from, or with, section 124(2) and (2A) of that Act), and not withdrawn or completed at the changeover, may be continued or completed by MSD as if they were reviews under **subpart 3 of Part 6** (review of entitlement to, or rate of, benefit granted).

(3) Requirements made under section 81(1) of the Social Security Act 1964 to provide information, if not withdrawn and not met at the changeover, are saved as if they were requirements made under **section 286(1)** (information for review).

(4) Suspensions, terminations, or variations of rate, of benefit, and effected under section 81(1) of the Social Security Act 1964 are saved as if they were equivalent suspensions, cancellations, or variations, effected under **section 286(2)** (information for review).

35 Elections and stand-down periods

Elections and stand-down periods under section 80BA of the Social Security Act 1964 are saved as if they were (as the case requires)—

(a) elections for the purposes of regulations made under **section 419(2)(f)**; or

(b) stand-down periods under **section 296**.

36 Effect of participation in certain activities on non-entitlement period

Approvals of activities, if given under section 123B of the Social Security Act 1964, are saved as if they were given under **section 303**.

37 Expiry and regrant of specified benefits regulations and exemptions

(1) The Social Security (Expiry and Re-grant of Specified Benefits) Regulations 2013 made under section 132M of the Social Security Act 1964 are saved as if they were regulations made under **section 420** for the purposes of **sections 310, 313, and 315**.

(2) For the purposes of **subclause (1)**, references in those saved 2013 regulations to an emergency benefit under the Social Security Act 1964 must be read as references to an exceptional circumstances benefit under **subpart 8 of Part 2**.

(3) An exemption under section 80BE(8) of the Social Security Act 1964 is saved as if it were an exemption under **section 313(1) and (2)**.

38 Payment of benefits

(1) Directions given under paragraph (a) of the proviso to section 82(3) of the Social Security Act 1964 are saved as if they were decisions by MSD to make payments under **section 318(1)(a) or (b)**.

(2) Directions given under paragraph (b) of the proviso to section 82(3) of the Social Security Act 1964 are saved as if they were decisions by MSD to make payments under **section 318(1)(c)**.

(3) Part 2 (Money management) of the Social Security (Criteria for Incentive Payments and Money Management) Regulations 2012 made under section 132 of the Social Security Act 1964 for the purposes of section 179 and 180 of that Act is saved as if that Part were made under **section 397(1)(j) and (k)** for the purposes of **sections 320(1) and (3)(d), ~~324(1)(b),~~ 322(1)(b), and 324(2)**.

(4) Determinations made under section 82(4) of the Social Security Act 1964 are saved as if they were made under **section 319**.

(5) Decisions made under section 82(6) of the Social Security Act 1964 to make an advance payment of a benefit are saved as if made under **section 326**.

(6) The Social Security (Advance Payment of Benefit) Regulations 2010, so far as they were made under section 132K(1)(a) of the Social Security Act 1964, are saved as if made under **section 425** for the purposes of **section 326**.

(7) Decisions made under section 82(6AA) to (6AC) of the Social Security Act 1964 to make an advance payment of a benefit to a preferred supplier of goods or services (including nominations given under section 82(6AB) of that Act—*see* **clause 43(4)**) are saved as if they were made under **section 347**.

(8) Redirection arrangements made under section 82(6F) and (6G) of the Social Security Act 1964 are saved as if they were payments authorised by regulations made under **section 421(2)(a)**.

39 Budgeting activities regulations

(1) This clause applies to the Social Security (Advance Payment of Benefit) Regulations 2010, so far as they were made under section 132K(1)(b) and (c) of the Social Security Act 1964.

(2) Those regulations are saved as if they were made under **section 426** for the purposes of **section 327**.

40 Debts: excess amounts, regulations, determinations, etc

(1) This Act (for example, MSD's duty under **section 341** to recover debts) applies to debts due to the Crown under the Social Security Act 1964, and that at the changeover are not yet recovered, as if they were specified in this Act, or in regulations made under this Act, as debts due to the Crown.

(2) Regulations made under **section 423** apply to, or in respect of, an amount that a person has obtained or received—

(a) in excess of the amount to which the person is by law entitled or to which the person has no entitlement; and

(b) before or after the commencement of this clause.

(3) Regulations (providing for remittance or suspension of debt) made under section 132G of the Social Security Act 1964 are saved as if they were made under **section 427**.

(4) Method of recovery determinations under section 86(1BA)(a) of the Social Security Act 1964 are saved as if they were made under regulations made under **section 423**.

(5) Temporary deferral decisions under section 86(1BA)(b) of the Social Security Act 1964 are saved as if they were made under regulations made under **section 423**.

(6) Directions given under section 86(1BC) of the Social Security Act 1964 are saved as if they were given under regulations made under **section 423**.

(7) Assessments made under section 86(4) or (5) of the Social Security Act 1964 are saved as if they were made under regulations made under **section 423**.

(8) Written notices of assessments given under section 86(7) of the Social Security Act 1964, if served, are saved as if given and served under regulations made under **section 423**.

(9) Applications made under section 86(7) of the Social Security Act 1964, if made and not withdrawn or finally determined before the changeover, continue with all necessary modifications as if they were applications made under regulations made under **section 423**.

41 Deductions: deduction notices

(1) Deduction notices issued under section 86A of the Social Security Act 1964 are saved as if they were issued under regulations made under **section 423**.

(2) Applications made to a District Court under section 86H of the Social Security Act 1964, if not withdrawn or finally determined before the changeover, continue with all necessary modifications as if they were applications made under regulations made under **section 423**.

42 Reciprocity agreement orders, etc

(1) Orders made under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 are saved as if they were made under **section 359**.

(2) Reciprocity agreements entered into under sections 19A to 19C of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990, if in force at the changeover, continue in force with all necessary modifications as if entered into under regulations made under **section 429**.

(3) Agreements under section 19C(1)(d) of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 between the competent institutions of the parties, if in force at the changeover, continue in force with all necessary modifications as if entered into under regulations made under **section 429**.

(4) Actions (recovery of social security debts, exchanges of information, and adverse actions in respect of discrepancies produced by information received) under section 19D of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990, if begun but incomplete at the changeover, may be continued and completed under regulations made under **section 429** (which apply with all necessary modifications).

43 Preferred suppliers: contracts, determinations, directions, and nominations

(1) Contracts entered into under section 125AA(3) of the Social Security Act 1964 are saved as if they were entered into under **section 345**.

(2) Determinations made under section 125AA(1) of the Social Security Act 1964 are saved as if they were made under **section 346**.

(3) Directions given under sections 5 and 125AA(5) of the Social Security Act 1964 are, under **clause 2(3)** of this schedule, saved as if they were directions—

(a) given under **section 351**; and

(b) of the kind referred to in **section 351(1)**.

(4) Nominations given under section 69C(7B) and (7BA), 82(6AB) and (6AC), or 124(1BB) and (1BBA) of the Social Security Act 1964 are saved as if they were given under **section 347(2) and (5)**.

(5) Determinations made under section 69C(7C) of the Social Security Act 1964 are saved as if they were made under **section 349**.

44 Administration service providers: contracts and regulations

(1) Contracts entered into under section 125A(1) of the Social Security Act 1964 are saved as if they were entered into under **section 352(1)**.

(2) Parts 1 and 1A of the Social Security (Contracts and Information Sharing with Service Providers) Regulations 2012 made under section 132 (for the purposes of sections 125A(1)(b) and 125B(1)(c)) of the Social Security Act 1964 are saved as if those Parts were made under **sections 352(1)(a)(ii) and (b), 353(1)(c), and 397(1)(l) and (m)**.

45 Providers of services in relation to young people: actions between 15 July 2013 and changeover

Section 125G of the Social Security Act 1964 must be taken to have applied, on and after 15 July 2013 and until the changeover, only to a contracted service

provider contracted under section 125A(1)(a) of that Act to provide services that, in relation to young people, are—

(a) services of the kind referred to in section 123E(a) of that Act; or

(b) services in relation to Part 5 of that Act.

46 Family Proceedings Act 1980 maintenance payable to the Crown

Section 61CA of the Social Security Act 1964, as in force at the changeover, continues in force (as if it had not been repealed) for the purposes of the recovery by the beneficiary, or the chief executive, on behalf of the Crown, and the payment to the Crown, of any maintenance debt (as defined in section 61CA (1) of that Act).

Reviews and appeals (Part 7)

47 Benefits review committee reviews

(1) **Subpart 2 of Part 7** applies (with all necessary modifications), and the provisions of the Social Security Act 1964 ~~does~~ about reviews by a benefits review committee do not apply, to a decision made before the changeover, and made in relation to a person who, or made in relation to an estate whose personal representative,—

(a) immediately before the changeover could have begun under section 10A of that Act (within a specified, or a further allowed, period) a review of the decision; and

(b) before the changeover did not begin under section 10A of that Act a review of the decision.

(2) Reviews begun under section 10A of the Social Security Act 1964 and not withdrawn or completed at the changeover must be completed under **subpart 2 of Part 7**.

(3) For the purpose of ~~**subclause (1)**~~**subclause (2)**, every benefits review committee under section 10A of the Social Security Act 1964 and existing at the changeover continues as if it were established under **Schedule 7**.

48 Appeals to appeal authority

(1) **Subpart 3 of Part 7** applies (with all necessary modifications), and the provisions of the Social Security Act 1964 ~~does~~ about appeals to the Social Security Appeal Authority do not apply, to a decision made before the changeover, and made in relation to an applicant, a beneficiary, or any other person who, or made in relation to an estate whose personal representative,—

(a) immediately before the changeover could have begun under sections 12J and 12K of that Act (within a specified, or a further allowed, period) an appeal against the decision; and

(b) before the changeover did not begin under sections 12J and 12K of that Act an appeal against the decision.

(2) However, a decision to which **subsection (1)** applies is appealable to the medical board (rather than the appeal authority) if the decision is one—

(a) in respect of a supported living payment on the ground of caring for another person; and

(b) based on medical grounds, grounds relating to incapacity, or grounds relating to capacity for work; and

(c) covered by **section 375(1)(b)** and **row 11 or 13** of the table in **section 390**.

(3) Appeals begun under section 12K of the Social Security Act 1964 and not withdrawn or finally determined at the changeover must be completed under **subpart 3 of Part 7**.

(4) Every appeal authority established by or under section 12A or 12D of the Social Security Act 1964 and existing at the changeover continues as if it were established by or under **Schedule 8**.

(5) Despite **subclause (4)**, members of a special appeal authority under section 12D of the Social Security Act 1964 who hold office at the changeover—

(a) have no maximum term of office under **clause 4(3)(a) of Schedule 8**; and

(b) cease to hold office only under **clause 3 of Schedule 8** and by death, resignation, or removal from office.

49 Appeals to courts

(1) **Subpart 4 of Part 7** applies (with all necessary modifications), and the provisions of the Social Security Act 1964 ~~does~~ about appeals to courts do not apply, to a determination made before the changeover, if a party to the proceedings that resulted in~~, or a person affected by,~~ the determination,—

(a) immediately before the changeover could have begun under section 12Q, 12R, or 12S of that Act (within a specified, or a further allowed, period) an appeal against the determination; and

(b) before the changeover did not begin under section 12Q, 12R, or 12S of that Act an appeal against the determination.

(2) Appeals begun under sections 12Q to 12S of the Social Security Act 1964 and not withdrawn or finally determined at the changeover must be completed under **subpart 4 of Part 7**.

50 Appeals to medical board

(1) **Subpart 5 of Part 7** applies (with all necessary modifications), and the provisions of the Social Security Act 1964 ~~does~~ about appeals to the Medical Board

do not apply, to a decision made before the changeover, if an applicant or a beneficiary—

(a) immediately before the changeover could have begun under section 10B of that Act (within a specified, or a further allowed, period) an appeal against the decision; and

(b) before the changeover did not begin under section 10B of that Act an appeal against the decision.

(2) Appeals begun under section 10B of the Social Security Act 1964 and not withdrawn or finally determined at the changeover must be completed under **subpart 5 of Part 7**.

(3) For the purpose of **subclause (2)**, every medical board established under section 10B of the Social Security Act 1964 continues after the changeover as if it were established under **Schedule 9**.

Other provisions (Part 8)

51 Rates of benefits and allowances order

(1) This clause applies to an order made, or so far as it is made, under section 61H of the Social Security Act 1964.

(2) The order is saved as if it were made under **section 431**.

(3) The order is also a confirmable instrument and an annual confirmable instrument (*see* **section 433(1)(b)**).

52 Reciprocity agreement applicants for, or recipients of, certain DPBs for solo parents or widows' benefits

Reciprocity agreement applicants may be granted former benefit as if it had not been abolished

(1) This subclause applies to a widow or widower who, immediately before 15 July 2013, was ordinarily resident in New Zealand or an overseas country and had made an application pursuant to an agreement or convention given effect in relation to New Zealand by an Order in Council made pursuant to section 19 of the Social Welfare (Transitional Provisions) Act 1990 for, and had entitlement to, but had not yet in response to the application been granted,—

(a) a widow's benefit under section 21 of the Social Security Act 1964; or

(b) a domestic purposes benefit under section 27B of the Social Security Act 1964 for an applicant (as defined in section 27B(1)(f) of that Act).

(2) A widow or widower to whom **subclause (1)** applies may be granted the benefit in **subclause (1)(a) or (b)** (as the case requires) as if that benefit had not been abolished (by clause 2(1) of Schedule 32 of the Social Security Act 1964) and as if the provisions on that benefit had not been repealed, and if granted to the widow or widower that benefit commences as it would have done had those provisions not been repealed, and continues so long as—

(a) the widow or widower continues to meet the conditions of entitlement to that benefit in those provisions; and

(b) the agreement or convention, or any replacement agreement or convention, continues in force in relation to New Zealand; and

(c) the widow or widower continues to be ordinarily resident in New Zealand or the overseas country to which that agreement or convention applies.

Reciprocity agreement recipients' entitlement continues as if former benefits not abolished

(3) This subclause applies to a person who, immediately before 15 July 2013, was ordinarily resident in an overseas country and was receiving, or was granted and entitled to receive, pursuant to an agreement or a convention given effect in relation to New Zealand by an Order in Council made pursuant to section 19 of the Social Welfare (Transitional Provisions) Act 1990,—

(a) a widow's benefit under section 21 of the Social Security Act 1964; or

(b) a domestic purposes benefit under section 27B of the Social Security Act 1964 for an applicant (as defined in section 27B(1)(f) of that Act).

(4) **Subclause (3)** applies to a person even if the benefit in **subclause (3)(a) or (b)** was, immediately before 15 July 2013, 100% reduced or suspended under section 117 or another provision of the Social Security Act 1964, but in that case no benefit of the person that is continued by **subclause (5)** commences until the suspension or reduction would have ended, or the benefit in **subclause (3)(a) or (b)** would otherwise have become payable again.

(5) A person to whom **subclause (3)** applies is, subject to **subclause (4)** and to a review under **subpart 3 of Part 6**, entitled to the benefit in **subclause (3)(a) or (b)** (as the case requires) as if that benefit had not been abolished and as if the provisions on that benefit had not been repealed, and that benefit continues so long as—

(a) the person continues to meet the conditions of entitlement to that benefit in those provisions; and

(b) the agreement or convention, or any replacement agreement or convention, continues in force in relation to New Zealand; and

(c) the person continues to be ordinarily resident in New Zealand or the overseas country to which that agreement or convention applies.

Alteration, and annual CPI adjustment, of rates of saved former benefits

(6) **Sections 431 and 432** authorise amendments and require adjustments to **Parts 9 and 10 of Schedule 4**.

53 Areas for purposes of accommodation supplement

(1) This clause applies to the definitions, in clause 1 of Part 1 of Schedule 18 of the Social Security Act 1964, of the terms Area 1, Area 2, and Area 3.

(2) Those definitions must be taken (for example, for the purposes of decisions on payments) to have referred, on and after 27 May 2004 and until the changeover, to the specified parts (whether called urban areas, urban zones, or area units) of New Zealand as at 27 May 2004 (rather than as from time to time) defined by the Government Statistician.

(3) This clause does not apply in respect of any application, appeal, or proceedings that is or are related to all or any of those definitions, and that was or were made or commenced before the changeover (whether or not it is, or they are, finally determined before the changeover).

(4) The application, appeal, or proceedings may be—

(a) an application for review under section 10A of that Act:

(b) an appeal under section 12J, 12Q, or 12R of that Act:

(c) any other proceedings.

(5) However, this clause does apply (despite **subclauses (3) and (4)**) insofar as the application, appeal, or proceedings is or are after the changeover (and before it is, or they are, finally determined) amended to challenge a matter that is—

(a) made clear or validated by this clause; and

(b) not challenged expressly in the application, appeal, or proceedings before the changeover.

(6) This clause also does not apply in respect of any payments made before, and made in accordance with those definitions as in force before, the changeover.

54 Entitlement cards regulations

Regulations made under section 132A of the Social Security Act 1964 are saved as if they were made under **section 416**.

55 References to Child Welfare Officers to be read as references to social workers

(1) Every reference in any enactment, regulation, rule, order, agreement, deed, instrument, application, notice, licence, or other document in force on 1 April 1972 to a Child Welfare Officer must after 31 March 1972 be read as a reference to a social worker.

(2) **Subclause (1)** applies—

(a) subject to the amendments made by sections 15 to 29 of the Department of Social Welfare Act 1971; and

(b) unless the context otherwise requires.

(3) This clause does not limit the operation of section 30(a) to (c) of the Department of Social Welfare Act 1971 (which related to references to the Minister of Social Security, to the Social Security Department or to the Child Welfare Div-

ision of the Department of Education, or to the Superintendent or Deputy Superintendent of Child Welfare) at any time or times—

(a) on or after 1 April 1972; and

(b) before their repeal, on 1 October 1999, by section 14(a) of the Department of Child, Youth and Family Services Act 1999.

Compare: 1971 No 60 s 30(d)

Schedules

56 Income exemption regulations

(1) This clause applies to the Social Security (Income and Cash Assets Exemptions) Regulations 2011 made under sections 132 and 132AA of the Social Security Act 1964, but only so far as they declare any specified item or amount of income, or income from a specified source, not to be income for that Act's purposes.

(2) Those regulations are saved as if they were made under **section 401** for the purposes of **clause 9 of Schedule 3**.

57 Period of income assessment regulations

(1) This clause applies to the Social Security (Period of Income Assessment) Regulations 1996 made under section 132, and for the purposes of section 64(2A), of the Social Security Act 1964.

(2) Those regulations are saved as if they were made under **section 397(1)(n)** for the purposes of **paragraph (b)** of the definition of appropriate number of weeks in **clause 11 of Schedule 3**.

58 Code of conduct for requirements to give information or documents

The code of conduct issued under sections 11(1), 11B, and 11C of the Social Security Act 1964 is saved as if it had been issued under **clauses 2(4), 4, 8, and 9 of Schedule 6** (code of conduct for information or documents requirements).

59 Information disclosure arrangements and determinations

Arrangements or determinations made under section 126A, 126AB, or 126AC of the Social Security Act 1964 are saved as if they were arrangements or determinations made under (as the case requires) **clause 13, 14, or 15 of Schedule 6**.

60 Information disclosure: order and regulations

(1) The Social Security (Youth Support—Authorised Agencies) Order 2012 made under section 125D of the Social Security Act 1964 is saved as if it were made under **clause 18 of Schedule 6**.

(2) The Social Security (Contracts and Information Sharing with Service Providers) Regulations 2012 (except Parts 1 and 1A) made under section 125C of the Social Security Act 1964 are saved as if they were made under **clause 20(2) of Schedule 6 and section 397(1)(p)**.

61 Saving of transfers, validations, other status, or saving effected or provided for by Schedule 32 of 1964 Act

The repeal, by **section 434(1)** of this Act, of Schedule 32 of the Social Security Act 1964, does not affect a transfer, validation, other status, or other saving effected or provided for by that schedule.

Examples

The transfers effected by clauses 2, 4, 7, 8, ~~and~~ 21, and 24 of Schedule 32 of the Social Security Act 1964.

The validations effected by clauses 21 to 23 of Schedule 32 of the Social Security Act 1964.

A saving of failures and sanctions provided for by clause 15 of Schedule 32 of the Social Security Act 1964.

A saving (of an information-sharing agreement made under section 123F of the Social Security Act 1964, and made before 8 July 2016 (the date on which section 18(1) of the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016 came into force)) provided for by clause 25 of Schedule 32 of the Social Security Act 1964.

62 Validation and savings effected or provided for by Part 2 of Social Security Amendment Act 2015

The repeal, by **section 434(1)** of this Act, of the Social Security Amendment Act 2015, does not affect the validation and savings effected or provided for by Part 2 of that Act.

63 Amendments with retrospective effect in Social Security (Commencement of Benefits) Amendment Act 2015

The repeal, by **section 434(1)** of this Act, of the Social Security (Commencement of Benefits) Amendment Act 2015, does not affect the operation of any amendment made by, or saving or other provision of, that Act.

64 Assistance to financially disadvantaged persons regulations made under clause 21 of Schedule 32 of 1964 Act

(1) This clause applies to regulations (for provision of financial assistance to financially disadvantaged persons)—

(a) made under clause 21 of Schedule 32 of the Social Security Act 1964; and

(b) in force at the changeover.

(2) Those regulations continue in force with all necessary modifications for the purposes of the corresponding provisions of this Act, and may be amended, revoked, or replaced, as if clause 21 of Schedule 32 of that Act had not been repealed by **section 434(1)**.

Regulations

65 Regulations for transitional and savings purposes

(1) The Governor-General may, by Order in Council made on the Minister's recommendation, make regulations prescribing transitional provisions, savings provisions, or both, for either or both of the following purposes:

(a) facilitating or ensuring the orderliness of the transition to this Act from the former enactments specified in **section 9(1)**:

(b) ensuring that existing rights or obligations continue as part of, or despite, that transition.

(2) The Minister must not recommend the making of regulations made under **subclause (1)** unless satisfied that those regulations—

(a) are reasonably necessary for either or both of the purposes in **subclause (1)(a) and (b)**; and

(b) are consistent with the purposes of this Act.

(3) The transitional provisions or savings provisions prescribed by regulations made under **subclause (1)** may be provisions in addition to or instead of all other provisions ~~(except validation provisions)~~ of this schedule (except validation provisions and **clauses 66 to 70**), and may—

(a) provide that, for a transitional period, in any circumstances, or subject to any conditions, specified in the regulations, 1 or more provisions (including definitions) of ~~those amendments to~~ this Act do not apply, or apply with modifications or additions:

(b) provide that, for a transitional period, in any circumstances, or subject to any conditions, specified in the regulations, 1 or more provisions repealed, amended, or revoked by ~~those amendments to~~ this Act are to continue to apply, or apply with modifications or additions, as if they had not been repealed, amended, or revoked:

(c) provide for any other matter necessary for either or both of the purposes in **subclause (1)(a) and (b)**.

(4) Regulations made under this clause cannot be made after, and are revoked by this clause on, the beginning of **3 July 2020**.

Compare: 1964 No 136 Schedule 32 cl 17

2016 youth services amendments

66 Clauses 67 to 70 amend this Act

Clauses 67 to 70 amend this Act.

67 Section 22 amended (When person is available for work)

Replace **section 22(b)** with:

(b) would satisfy **paragraph (a)** were it not for circumstances that would qualify P for—

(i) an exemption under the regulations referred to in **section 143** from some or all of the work-test obligations; or

(ii) a deferral of work-test obligations under the regulations referred to in **section 141**; or

68 Section 26 amended (Jobseeker support: ineligibility)

In **section 26(a)**, after "unless P is eligible under **section 25**", insert " or P's work-test obligations are deferred under the regulations referred to in **section 141** or P is granted an exemption from some or all of P's obligations under the regulations referred to in **section 143**".

69 Schedule 2 amended

(1) In **Schedule 2**, definition of **risk of long-term welfare dependency**, after "**section 4(e)**" insert "and **clause 16 of Schedule 6**".

(2) In **Schedule 2**, replace the definition of **risk of long-term welfare dependency** with:

risk of long-term welfare dependency,—

(a) in relation to a person, and for the purposes of **section 4(e)**, means the risk that the person—

(i) will, for an indefinite period, not be able to obtain full-time employment; and

(ii) will be likely to remain wholly or largely dependent for the person's financial support on all or part of a main benefit under this Act; but

(b) is defined in **section 150(6)** for the purposes of **section 150**; and

(c) is defined in **section 153(6)** for the purposes of **section 153**

(3) In **Schedule 2**, definition of **young person**, **paragraph (b)(iii)**,—

(a) replace "**section 152**" with "**section 151 or 152**"; and

(b) replace "**section 152(6)**" with "**section 150(3) or 152(6) or 153(3)**".

70 Schedule 6 amended

(1) In **Schedule 6**, **clause 16(1)**, after "**section 344(1)(a)**", insert "or assessing young people's risk of long-term welfare dependency (as that risk is defined in **Schedule 2**)".

(2) In **Schedule 6**, replace **clause 16(2)(a)** with:

(a) may provide to MSD any information to which **subclause (1)** applies and that the chief executive of the Ministry of Education considers—

(i) may facilitate the provision by MSD of services of a kind described in **section 344(1)(a)**; or

(ii) is required for the assessment of the young people's risk of long-term welfare dependency; and

Schedule 2
Dictionary

s 6

In this Act, unless the context otherwise requires,—

abatement rate means the rate at which a rate of benefit (for example, specified in **Schedule 4**) must, under the appropriate income test, be reduced on account of income

accommodation costs—

(a) is defined in regulations made under **section 402** for the purposes of **subpart 9 of Part 2 and Part 6 of Schedule 4**; and

(b) is defined in **section 147** for the purposes of that section; but

(c) is modified, for both of those purposes, by **clause 18 of Schedule 3** (how accommodation costs affected by debt insurance payment in relation to mortgage security)

action or inaction on MSD's part, in **section 298**, includes the meaning given to it by **section 298(3)**

activity in the community means an activity associated with a community project under the supervision of a sponsor who is contracted by MSD to provide the activity

addiction treatment is defined in **section 233(2)** for the purposes of **section 233(1)**

advantage is defined in **section 271(3)** for the purposes of **section 271**

allowable costs is defined in **section 84** for the purposes of **subpart 14 of Part 2 and section 407(2)(c)**

appeal authority or **authority** means an authority that is—

(a) the social security appeal authority established under **section 380(1)** and **clause 1 of Schedule 8**; or

(b) a special social security appeal authority established under **section 380(1)** and **clause 4 of Schedule 8**

applicant,—

(a) in relation to a benefit,—

  (i) means a person by whom or on whose behalf an application is made for the benefit; and

  (ii) if the context so requires, includes a beneficiary; but

(b) in **subpart 14 of Part 2 and section 407**, is modified by **section 84**

application means an application for a benefit

apportioned, in relation to a benefit, and for the purposes of **sections 37, 338, 340, 370, and 378**, means apportioned under regulations made under **section 421(1), (2)(f), and (5)**

appropriate number of weeks is defined in **clause 11 of Schedule 3** for the purposes of **clauses 12 to 14 of Schedule 3**

approved activities is defined in **section 303(1)** for the purposes of **section 303**

approved early childhood education programme—

(a) is defined in regulations made under **section 409** for the purposes of **sections 117 to 120** (*see also* **sections 123 and 403(a)(ii) and clause 4 of Schedule 1**); and

(b) is defined in **section 154** for the purposes of **sections 149 to 152**

approved period of employment is defined in **section 302(3)** for the purposes of **section 302(2)**

approved training is defined in **section 147(3)** for the purposes of **sections 147, 151, and 152**

approved weekly accommodation is defined in **section 68(2)** for the purposes of **section 68(1)**

Area 1, Area 2, Area 3, and Area 4 are defined in regulations made under **section 402** for the purposes of **subpart 9 of Part 2** and **Part 6 of Schedule 4** (accommodation supplement)

bank account is defined in **section 97(2)** for the purposes of **section 97(1)**

base rate, of accommodation supplement, has the meaning given to it by regulations made under **section 402(1)(e)**

beneficiary—

(a) means a person who is—

(i) a person who has been granted a benefit; or

(ii) a person in respect of whom a benefit, or part of a benefit, has been granted; but

(b) is defined in **clause 13(6) of Schedule 6** for the purposes of **clause 13 of Schedule 6**

benefit—

(a) means any of the following:

(i) a monetary benefit payable under this Act (including, without limitation, payable under a reciprocity agreement adopted by an order made under **section 359**) other than a funeral grant lump sum payable under regulations made under **section 406**:

Examples

Jobseeker support

Sole parent support

Supported living payment on the ground of restricted work capacity or total blindness

Supported living payment on the ground of caring for another person
Supported child's payment
Youth payment
Young parent payment
Incentive payment
Exceptional circumstances benefit
Accommodation supplement
Childcare assistance
Child disability allowance
Disability allowance
Temporary additional support

(ii) a special benefit continued under section 23 of the Social Security (Working for Families) Amendment Act 2004 (as that section is saved by **clause 18 of Schedule 1** of this Act):

(iii) New Zealand superannuation (including, without limitation, New Zealand superannuation payable under a reciprocity agreement adopted by an order made under **section 359**):

(iv) a veteran's pension (including, without limitation, a veteran's pension payable under a reciprocity agreement adopted by an order made under **section 359**):

(v) an amount for income tax that is paid under **section 329(2)**, and that under **section 330(a)** must, for the purposes of this Act, be considered to be a payment of a benefit; but

(b) is defined in **section 212** for the purposes of **sections 208 to 212**; and

(c) is defined in **section 290(3)** for the purposes of **section 290**; and

(d) is defined in **clause 13(6) of Schedule 6** for the purposes of **clause 13 of Schedule 6**

capacity for work means, in relation to a person, the person's capacity to engage in employment, as determined having regard to any health condition, injury, or disability the person may have

cash assets—

(a) is defined in regulations made under **section 402** for the purposes of **subpart 9 of Part 2 and Part 6 of Schedule 4**; and

(b) is defined in **section 84** for the purposes of **subpart 14 of Part 2 and section 407(2)(f)**

ceased, in relation to a person's employment, means,—

(a) if the person received no specified termination payments in relation to the termination of the person's employment, the date on which the person's employment terminates; or

(b) if the person received specified termination payments in relation to the termination of the person's employment, a date that is the number of days (excluding Saturdays and Sundays) after the date on which the person's employment terminated that is equal to the nearest whole number produced by dividing the aggregate amount of those payments by the amount of the person's normal daily wage or salary before termination of the person's employment

change in the beneficiary's relationship status is defined in **section 99(3)** for the purposes of **section 99(2)(a)**

changeover is defined in **clause 1 of Schedule 1** for the purposes of that schedule

chargeable income is defined in **section 84** for the purposes of **subpart 14 of Part 2 and section 407(2)(d)**

chief executive means the chief executive of the responsible department

child means a single person under the age of 18 years, other than a person who is—

(a) aged 16 or 17 years; and

(b) financially independent

child with a serious disability is defined in **section 69** for the purposes of **subpart 11 of Part 2**

compensation or damages is defined in **section 181(5)** for the purposes of **section 181**

competent institution is defined in **section 361** for the purposes of **subpart 7 of Part 6**

contract of insurance includes a contract or an arrangement that, in MSD's opinion, is similar to a contract of insurance

contracted service provider has the same meaning as in **section 352(1)**

controlled drug—

(a) is defined in **section 138** for the purposes of **sections 133 to 138**; and

(a) has, in **sections 233, 246, and 390**, the same meaning as in **section 138**

core check—

(a) is defined in regulations made under **section 409** for the purpose of **section 120** (*see also* **section 123**); and

(b) is defined in **section 154** for the purposes of **section 149 and 152**

corresponding assistance is defined in **clause 4 of Schedule 1** for the purposes of that clause

CPI is defined in **section 432(5)** for the purposes of **section 432**

custody in prison is defined in **section 201(2)** for the purposes of **sections 201 and 202**

custody on remand is defined in **section 201(2)** for the purposes of **sections 201 and 202**

CYPFA order or agreement means—

(c) an order made under section 78, 101, or 283(n) of the Children, Young Persons, and Their Families Act 1989; or

(d) a sole guardianship order made under section 110 of that Act; or

(e) an agreement made under section 140 of that Act

date of first contact, in relation to a person's application for a benefit, means the date on which MSD first received from the person (or some other person acting on the person's behalf) the oral or written request for financial assistance that led to the making of the application

debt insurance payment, in **section 412(2)(b)** and **clauses 18, 20, and 21 of Schedule 3**, in relation to a person, means a payment made, or the value of any credit provided, on the occurrence of a contingency, and—

(a) under a contract of insurance or by reason of the person's membership of any society, organisation, or body whether corporate or unincorporate; and

(b) to the person or to some other person on behalf of or for the benefit of the person; and

(c) for the sole purpose of, and used for, repaying or paying any amounts on account of any debt or liability of the person that is—

  (i) in existence (whether or not due for payment) on the date on which a contingency occurs that gives rise to a right or an eligibility of the person to receive a payment under a contract of insurance, or by reason of the person's membership of any (corporate or unincorporated) society, organisation, or body; and

  (ii) not a liability in connection with the future supply of goods or services, transport, or accommodation to the person or a member of the person's family; and

(d) that must, to the extent MSD determines, be reduced by the amount of any costs incurred by the person in obtaining receipt of that payment or provision of that credit

debtor's payer, in relation to a debtor, means any of the following:

(a) a person who is or becomes liable to pay a sum of money to the debtor:

(b) the Accident Compensation Corporation (continued by section 259 of the Accident Compensation Act 2001) or an accredited employer (as defined in section 6(1) of that Act) in respect of weekly compensation payable to the debtor under that Act:

(c) a department (of the Public Service) specified in Schedule 1 of the State Sector Act 1988 in respect of salary or wages payable to the debtor as an employee of the department

de facto partner and **de facto relationship** have the same meanings as in sections 29 and 29A of the Interpretation Act 1999

dentist means, for the purposes of **section 27**, a health practitioner who is, or is deemed to be, registered with the Dental Council established by section 114(2) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of dentistry

dependent child, in relation to a person, means any other person who—

(a) is a child (other than a child in respect of whom payments are being made under section 363 of the Children, Young Persons, and Their Families Act 1989)—

  (i) whose care is primarily the responsibility of the person; and

  (ii) who is being maintained as a member of that person's family; and

  (iii) who is financially dependent on that person; or

(b) is a child or a young person (as defined in section 2(1) of the Children, Young Persons, and Their Families Act 1989)—

  (i) of whom the person is a parent within the meaning of that Act; and

  (ii) to whom section 361 of that Act applies; and

  (iii) who, under section 362 of that Act, is placed in the charge of the person; and

(c) is not a child in respect of whom a young parent payment is being paid in relation to a person who is not the child's parent or step-parent; and

(d) is not a child in respect of whom a supported child's payment is being paid (but the exclusion in this paragraph applies only for the purposes of **Parts 1, 2, 3, 5, 6, 9, and 10 of Schedule 4**)

disability is defined in **section 74** for the purposes of **subpart 12 of Part 2**

document means any of the following:

(a) any material, whether or not it is signed or otherwise authenticated, that bears symbols (including words and figures), images, or sounds or from which symbols, images, or sounds can be derived, including (without limitation) material that is any of the following:

  (i) a label, marking, or other writing that identifies or describes a thing of which it forms part, or to which it is attached:

  (ii) a book, map, plan, graph, or drawing:

  (iii) a photograph, film, or negative:

(b) information electronically recorded or stored (including, without limitation, an audio or video file or recording), or information derived from that information:

(c) a copy of, or part of, a document as defined in **paragraph (a) or (b)**

domestic epidemic management notice means a notice given under section 8(1) of the Epidemic Preparedness Act 2006 stating that the application of this Act is modified in order to deal with the practical effects of the outbreak of the disease referred to in the notice

drug test—

(a) is defined in **section 138** for the purposes of **sections 133 to 138**; and

(b) has, in **sections 140, 233, 247, 248, and 249**, the same meaning as in **section 138**

drug test failure is defined in **section 246(1)** for the purposes of **section 246**

drug-testing obligation, in **sections 233, 244, 246, and 397(1)(i)**, means an obligation under **section 132(1)(e)** (*see also* **sections 248 and 390**)

employee is defined in **clause 20(5) of Schedule 6** for the purposes of **clause 20 of Schedule 6**

employment,—

(a) means paid employment; but

(b) is defined in **section 212** for the purposes of **sections 208 to 212**

employment required to satisfy the work test means,—

(a) for a part-time work-tested beneficiary, part-time work:

(b) for any other work-tested beneficiary, full-time employment

equivalent benefit is defined in **section 59(4)** for the purposes of **section 59**

essential costs is defined in **section 84** for the purposes of **subpart 14 of Part 2 and section 407**

evidential drug test is defined in **section 138** for the purposes of **sections 133 to 138**

expiry date, in relation to a specified benefit, is defined in **section 310** for the purposes of **sections 310 to 315**

fail—

(a) is defined in **section 138** for the purposes of **sections 133 to 138**; and

(b) in **sections 241 to 243, 247, and 248**, has the meaning given to it by **section 138**

failure—

(a) is defined in **section 218** for the purposes of **subpart 2 of Part 5** (*see also* the definitions, in this schedule, of first, second, and third failure); and

(b) in **section 216(d)**, is affected by the operation of **section 242**; and

(c) is defined in **section 251** for the purposes of **subpart 3 of Part 5** (*see also* the definitions, in this schedule, of first, second, and third failure)

fees framework means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest

financially independent, in relation to a person, means—

(a) in full employment; or

(b) receiving a basic grant or an independent circumstances grant under—

(i) the Student Allowances Regulations 1998; or

(ii) corresponding replacement regulations made under all or any of sections 303, 306, and 307 of the Education Act 1989; or

(c) receiving payments under a Government-assisted scheme that MSD considers analogous to a main benefit under this Act; or

(d) receiving a main benefit under this Act

fine is defined in **clause 13(6) of Schedule 6** for the purposes of **clause 13 of Schedule 6**

first failure—

(a) is defined in **section 218** for the purposes of **subpart 2 of Part 5**; and

(b) is defined in **section 251** for the purposes of **subpart 3 of Part 5**

former assistance—

(a) is defined in **clause 4 of Schedule 1** for the purposes of **clauses 4 and 5 of Schedule 1**; and

(b) is defined in **clause 6(1)(a)(i) of Schedule 1** for the purposes of **clause 6 of Schedule 1**

friendly society means a friendly society, or a friendly society's branch, registered under the Friendly Societies and Credit Unions Act 1982

full employment or **full-time employment**, in relation to any person, means—

(a) employment under a contract of service or an apprenticeship, and that requires the person to work, whether on time or piece rates, no less than an average of 30 hours each week; or

(b) self-employment of the person in any business, profession, trade, manufacture, or undertaking, and that is carried on for pecuniary profit for no less than an average of 30 hours each week; or

(c) employment of the person for any number of hours, and that is regarded as full-time employment for the purposes of any award, agreement, or contract relating to that employment

full-time course—

(a) is defined in **section 147(3)** for the purposes of **sections 147, 151, and 152**; and

(b) in this schedule, has the same meaning as in **section 147(3)**

full-time education or training, in **sections 46 and 53**, means a full-time course of—

(a) secondary instruction; or

(b) tertiary education; or

(c) approved training; or

(d) approved work-based learning

full-time student means a person—

(a) who is enrolled in a full-time course within the meaning of—

(i) the Student Allowances Regulations 1998; or

(ii) corresponding replacement regulations made under all or any of sections 303, 306, and 307 of the Education Act 1989; or

(b) who, during an academic year that has just ended or is about to end, was so enrolled, and who intends to so enrol in the next academic year

goods or services, in **sections 318, 320, 345 to 351, and 421, clause 38(7) of Schedule 1**, and this schedule, includes goods and services

Government occupational pension, in **sections 157 and 172**,—

(a) means a benefit, pension, or periodical allowance paid by or on behalf of the Government of a country to a person by reason of—

(i) a period of employment, direct or indirect, by that Government of that person or that person's deceased spouse or partner or that person's deceased parent; or

(ii) a period of service to that Government (including, without limitation, service in the armed forces, service in the Police, and service as a judicial officer or other person acting judicially) by that person or that person's deceased spouse or partner or that person's deceased parent; but

(b) does not include any part of that benefit, pension, or periodical allowance that is paid by the Government of that country by reason of anything other than that period of employment or service; and

(c) does not include any part of that benefit, pension, or periodical allowance to which the Government of that country contributes by reason of anything other than that period of employment or service; and

(d) does not include a benefit, pension, or periodical allowance of the kind specified in **paragraph (a)** if the person would have been entitled to receive a similar benefit, pension, or periodical allowance paid by, or on behalf of, the Government of that country under a scheme or other arrangement in respect of persons who were not employees or in the service of that Government

health condition includes pregnancy after the 26th week

health or disability insurance payment, in relation to a person, means a payment made, or the value of any credit or service provided, on the occurrence of a contingency, and that is a payment, credit, or service—

(a) made or provided—

(i) under a contract of insurance, or by reason of the person's membership of any society, organisation, or body (whether corporate or unincorporate), that provides for the payment or reimbursement of the costs of

health or disability care for the person or a member of the person's family; and

(ii) to the person, or to some other person on behalf of, or for the benefit of, the person or a member of the person's family; and

(b) used for paying or reimbursing those costs; and

(c) that must, to the extent MSD determines, be reduced by the amount of any costs incurred by the person in obtaining receipt of that payment

health practitioner—

(a) means a person who is, or is deemed to be, registered with an authority as a practitioner of a particular health profession under the Health Practitioners Competence Assurance Act 2003; but

(b) is defined in **section 75(4)** for the purposes of **section 75**

held, in relation to personal information about a person, is defined in **clause 20(5) of Schedule 6** for the purposes of **clause 20 of Schedule 6**

hospital—

(a) means a hospital care institution as defined in section 58(4) of the Health and Disability Services (Safety) Act 2001; but

(b) in **sections 190 and 191**, means a hospital operated by a district health board within the meaning of the New Zealand Public Health and Disability Act 2000

in a relationship, for a person, means that the person is—

(a) married; or

(b) in a civil union; or

(c) in a de facto relationship

in-hand allowance means, for the purposes of **sections 253, 261, and 320**, the component of a youth support payment set out in **clause 7 of Part 5 of Schedule 4**

incentive payment, for the purposes of **sections 51, 58, 150, 151, 152, 153, 253, 254, 259, 261 to 263, 269, 270, 397(1)(b) and (c), 431(2)(g), and 432(2)(e)**, means a payment referred to in any of **clauses 8 to 10 of Part 5 of Schedule 4**

income has the meaning given to it by **Part 2 of Schedule 3**, unless that meaning is modified by other enactments in or made under this Act (for example, the following enactments:

(a) rules made under **clause 15 of Schedule 3**, on MSD's determining the income of people engaged in business or trade:

(b) **clause 16(3) of Schedule 3**, which modifies that meaning for the purposes of **clauses 16 and 17 of Schedule 3**)

income-related insurance payment, in relation to a person, means a payment, or the value of a credit or service, that, in MSD's opinion, having regard to the matters specified in **clause 10 of Schedule 3**, is—

(a) made or provided on the occurrence of a contingency under a contract of insurance or by reason of the person's membership of any society, organisation, or body whether corporate or unincorporate; and

(b) made or provided to the person, or to some other person on behalf of, or for the benefit of, the person or a member of the person's family; and

(c) made or provided or used for an income-related purpose

income-related purpose, in relation to a person, means the purpose of—

(a) replacing lost or diminished income; or

(b) maintaining the person or a member of the person's family; or

(c) purchasing, for the person, or for a member of the person's family, goods or services of a kind that are commonly paid for from income; or

(d) enabling the person to make payments that the person is liable to make and that are commonly made from income

~~**income-related rent** is defined in **section 62(2)** for the purposes of **section 62**~~

income tax means income tax under the Income Tax Act 2007

Income Test 1 means that the applicable rate of benefit must be reduced—

(a) by 30 cents for every $1 of the total income of the beneficiary and the beneficiary's spouse or partner that is more than $100 a week but not more than $200 a week; and

(b) by 70 cents for every $1 of that income that is more than $200 a week

Income Test 2 means that the applicable rate of benefit must be reduced—

(a) by 15 cents for every $1 of the total income of the beneficiary and the beneficiary's spouse or partner that is more than $100 a week but not more than $200 a week; and

(b) by 35 cents for every $1 of that income that is more than $200 a week

Income Test 3 means that the applicable rate of benefit must be reduced by 70 cents for every $1 of total income of the beneficiary and the beneficiary's spouse or partner that is more than,—

(a) if the rate of benefit is a rate of New Zealand superannuation stated in clause 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001, $100 a week; or

(b) in any other case, $80 a week

Income Test 4 means that the applicable rate of benefit must be reduced by 35 cents for every $1 of the total income of the beneficiary and the beneficiary's spouse or partner that is more than $80 a week

income-tested benefit is defined in **section 328** for the purposes of **sections 328, 329, 330, and 331**

information-matching programme is defined in **clause 6(4)(a) of Schedule 6** for the purposes of **clauses 6 and 7 of Schedule 6**

institution for the treatment of alcoholism or drug addiction is defined in **section 192(3)** for the purposes of **section 192(1)**

institutional care is defined in **section 39(3)** for the purposes of **subpart 4 of Part 2** (supported living payment)

job-search activity means an activity undertaken by a work-tested beneficiary for the purpose of seeking or obtaining employment

lawyer is defined in **clause 4(7) of Schedule 6** for the purposes of **clauses 4 and 9 of Schedule 6**

living with a parent is defined in **clause 8** of, for the purposes of **clause 1(a)(i)** of, **Part 1 of Schedule 4** (rates of jobseeker support)

main benefit under this Act or **main benefit**, means a benefit under this Act that is—

(a) jobseeker support; or

(b) sole parent support; or

(c) a supported living payment on the ground of restricted work capacity or total blindness, under **section 33**; or

(d) a supported living payment on the ground of caring for another person, under **section 39**; or

(e) a youth payment; or

(f) a young parent payment; or

(g) an exceptional circumstances benefit

maintenance debt is defined in **clause 46 of Schedule 1** for the purposes of that clause

Maori is defined in **section 417(2)(f)(i)** for the purposes of **section 417(2)(f)**

medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

~~**midwife** means, for the purposes of **section 27**, a health practitioner who is, or is deemed to be, registered with the Midwifery Council established by section 114(3) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of midwifery~~

Minister, for the provisions of this Act, means (except so far as any other enactment overrides this definition) the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of those provisions

money management manner of payment, in relation to payment of a benefit, means a manner of payment, prescribed in regulations made under **section 397(1)(j)**, that is designed to assist certain young people to manage their money effectively

mortgage security, for the purposes of **subpart 9 of Part 2 and Part 6 of Schedule 4** (accommodation supplement), includes—

(a) a deferred payment disposition (which means a contract under which a person sells or agrees to sell property or provides or agrees to provide services (whether or not possession of the property is given, or the services are provided, before all money payable under the contract has been paid) in consideration of a promise by another person to pay, or to procure the payment of, in the future and in respect of the sale or provision, a sum or sums of money exceeding in aggregate the cash price of the property or services):

(b) money secured over a person's share or shares in any flat owning company within the meaning of Part 7A of the Land Transfer Act 1952:

(c) money payable under and secured by a deferred payment licence under the Land Act 1948

MSD—

(a) means the responsible department (as defined in this schedule); but

(b) for a duty, function, or power that MSD must or may perform or exercise, means—

  (i) the chief executive of the responsible department; or

  (ii) a Public Service employee, or other person, acting under a delegation (direct or indirect) from that chief executive; and

(c) in **clause 2 of Schedule 6** (power to obtain information by notice), includes (*see* **clause 2(2) of Schedule 6**) an MSD employee who is identified in a notice given under that clause

MSD employee means an employee—

(a) of the chief executive of the responsible department; and

(b) acting under a delegation for the purposes of this Act (direct or indirect) from that chief executive

NCEA level 2, in **sections 46, 53, 147, 151, and 152**, means a level 2 National Certificate of Educational Achievement issued by the New Zealand Qualifications Authority established under Part 20 of the Education Act 1989

necessary consents and authorisations is defined in **section 240(3)** for the purposes of **sections 240 and 241**

New Zealand superannuation means New Zealand superannuation payable under Part 1 of the New Zealand Superannuation and Retirement Income Act 2001

non-entitlement period, in relation to a person, means a period during which the person is not entitled to a benefit because the person—

(a) became voluntarily unemployed; or

(b) lost the person's employment, or position on a scheme, through misconduct; or

(c) failed to comply with the work test or a work-test obligation, or with any other obligation referred to in **section 216** (obligations that carry sanction for failure to comply); or

(d) failed to comply with an obligation under **section 147** (obligations of young person granted youth support payment) or **151 or 152** (obligations of young person who is spouse or partner of specified beneficiary); or

(e) failed to comply with an obligation under **section 149** (obligations of young person granted young parent payment)

nurse is defined in **clause 1(4) of Schedule 9** for the purposes of **clause 1(3)(b) of Schedule 9**

NZ benefits legislation—

(a) is defined in **section 157** for the purposes of **sections 158 to 165**; and

(b) is defined in **section 172** for the purposes of **sections 172 to 175**

obtained by fraud is defined in **section 339** for the purposes of **sections 333, 338, and 340, and clause 9 of Schedule 6**

occupational therapist is defined in **clause 1(5) of Schedule 9** for the purposes of **clause 1(3)(c) of Schedule 9**

offence—

(a) is defined in **section 194** for the purposes of **section 193**; and

(b) is defined in **section 198** for the purposes of **section 197**

open employment means employment that is—

(a) available to anyone with the required skills; and

(b) paid at not less than the rate of minimum hourly wage that applies under the Minimum Wage Act 1983; and

(c) not sheltered employment

ordinarily resident in New Zealand, in relation to a person, excludes the person's being unlawfully resident in New Zealand

overseas epidemic management notice means a notice given under **section 85** (overseas epidemics affecting visitors to New Zealand)

~~**overseas pension**—~~

~~(a) has the same meaning given to it by **section 157** for the purposes of **sections 158 to 165**; but~~

~~(b) is defined in **section 172** for the purposes of **sections 172 to 175**~~

overseas pension has the same meaning given to it by **section 172** for the purposes of **sections 172 to 175**

overseas pensioner means a person to whom an overseas pension has been granted

parent, in relation to a child, and for the purposes only of **subpart 5 of Part 2** (supported child's payment), means natural parent, adoptive parent, or step-parent

parents, in relation to a young person, and for the purposes only of **section 48(1)(a), (b), and (d) and subpart 6 of Part 2** (youth payment) and **clause 2 of Part 5 of Schedule 4** (rates of youth payment and young parent payment),—

(a) means—

(i) the parents or guardians or other person who had the care of the young person most recently before the young person turned 16 years; and

(ii) any other parent, or guardian or former guardian, willing to have financial responsibility for the young person; but

(b) does not include—

(i) the chief executive of the department responsible for administering the Children, Young Persons, and Their Families Act 1989 in his or her official capacity; or

(ii) any body or organisation approved under section 396 of that Act

part-time work means employment that is not full-time employment, but is employment—

(a) that is—

(i) under a contract of service, whether on time or piece rates; or

(ii) as a self-employed person in any business, profession, trade, manufacture, or undertaking; and

(b) that—

(i) averages not less than 15 hours each week over a 3-month period of employment or over the period of employment if that period is shorter than 3 months,—

(A) in relation to a person granted jobseeker support on the ground of health condition, injury, or disability; or

(B) for the purposes of **sections 126(1)(b), 127, 141, and 169**; or

(ii) averages not less than 20 hours each week over a 3-month period of employment or over the period of employment if that period is shorter than 3 months, in any other case

part-time work-tested beneficiary means—

(a) a person with a youngest dependent child aged 3 years or older, but under 14 years, who is—

(i) a work-tested spouse or partner; or

(ii) a work-tested sole parent support beneficiary; or

(b) a person who is granted jobseeker support on the ground of health condition, injury, or disability and who, under **section 126(1)(b)**, must comply with the work test; or

(c) a person who is granted an exceptional circumstances benefit, and who has been required under **section 59(5)(b)** to comply with the work test on the ground that the person has the capacity for part-time work

participation allowance means a participation allowance under regulations made under **section 408**

partner, in the phrase "spouse or partner" and in related contexts, means a civil union partner or de facto partner

party is defined in **section 361** for the purposes of **subpart 7 of Part 6**

pass—

(a) is defined in **section 138** for the purposes of **sections 133 to 138**; and

(b) in **sections 132(1)(e) and 247(3)**, has the same meaning as in **section 138**

pay day means the day or date from time to time determined by MSD under **section 317(4)** as the date on which an instalment of a benefit falls due for payment

periodical means regular or intermittent

physiotherapist is defined in **clause 1(6) of Schedule 9** for the purposes of **clause 1(3)(d) of Schedule 9**

pre-benefit activity means a pre-benefit activity required under **section 169** and regulations made under **section 411**

preferred supply contract is defined in **section 347(6)** for the purposes of **sections 347 and 349**

premises is defined in **section 62(3)** for the purposes of **sections 62 and 64**

prescribed means prescribed by or under an enactment (for example, prescribed by applicable regulations made under this Act)

prescribed circumstances is defined in **section 313(4)** for the purposes of **section 313(1)**

prescribed health practitioner, for a provision, means a health practitioner—

(a) prescribed for the purposes of the provision by regulations made under **section 397(1)(aa)**; and

(b) acting within that person's scope of practice

principal caregiver, in relation to a dependent child, means a person who—

(a) is the person who, in MSD's opinion, has the primary responsibility for the day-to-day care of the child, other than on a temporary basis; and

(b) is not a body of persons (whether incorporated or unincorporated), and is not a person who is the proprietor of, or employed in,—

(i) a residence established under the Children, Young Persons, and Their Families Act 1989; or

(ii) any other institution in which the child is being cared for

property is defined in **clause 16(3) of Schedule 3** for the purposes of **clauses 16 and 17 of Schedule 3**

psychologist is defined in **clause 1(7) of Schedule 9** for the purposes of **clause 1(3)(e) of Schedule 9**

~~**qualifying overseas pension** is defined in **section 172** for the purposes of **sections 172 to 175**~~

quarantinable disease is defined in **section 85** for the purposes of that section

rate is defined in **section 165** for the purposes of **sections 162 to 164** (obligations in relation to overseas pensions)

reasonable cause is defined in **clause 9(2) of Schedule 6** for the purposes of **clause 9(1)(b) of Schedule 6**

reciprocity agreement is defined in **section 361** for the purposes of **subpart 7 of Part 6**

~~**recognised community activity** means voluntary work (as that term is defined by this schedule)~~

recognised voluntary work means work—

(a) that is undertaken by a person for no remuneration (other than any reimbursement of direct expenses) for a non-profit community organisation or other person, and that is of benefit to the community; and

(b) that is not an activity in the community, or work undertaken as part of a work experience or work exploration activity

record is defined in **clause 4(4) of Schedule 6** for the purposes of **clause 4(3) of Schedule 6**

registered community housing provider is defined in **section 62** for the purposes of that section

registered school is defined in regulations made under **section 409** for the purposes of **sections 117 to 120** (*see also* **section 123**)

regular, in relation to work, does not include—

(a) casual employment; or

(b) employment if the agreed hours of work (as defined in **section 67C** of the Employment Relations Act 2000) average less than 10 hours each week calculated over a 3-month period of employment or, if that period is shorter than 3 months, over the period of the employment; or

(c) employment that is work under an availability provision that is under **section 67E(3)** of the Employment Relations Act 2000 unenforceable against an employee because the employee's employment agreement does not provide for

the payment of compensation to the employee for making himself or herself available to perform work under the availability provision

rehabilitation professional, in **clause 1(2)(b) of Schedule 9**, has the meaning given to it by **clause 1(3) of Schedule 9**

requested institution is defined in **section 361** for the purposes of **subpart 7 of Part 6**

requesting institution is defined in **section 361** for the purposes of **subpart 7 of Part 6**

resident, in relation to a person, does not include the person's being unlawfully resident in New Zealand

residential care services means services that are supplied to a person with a disability and that are—

(a) disability services in a residential disability care institution or rest home within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001; or

(b) supervision and support services; or

(c) hotel-type services (including the provision of sleeping facilities, meals, laundry, cleaning services and supplies, household furniture and furnishings, lighting, heating, hot water, and other household utilities); or

(d) services that support daily living (including financial management and gardening); or

(e) personal care services (including toileting, bathing, hair washing, teeth cleaning, nail care, feeding, and mobility); or

(f) services within that home intended to provide satisfying activity to the person (including the provision of educational, social, recreational, and other activities); or

(g) clinical support services, including personal health services (within the meaning of the New Zealand Public Health and Disability Act 2000), consultations with a medical practitioner, pharmaceuticals, incontinence aids, and other treatment costs

residential requirement is defined in **section 16** for the purposes of **Part 2**

responsible department, for the provisions of this Act, means—

(a) the department of State (for example, a service of the department of State) that, with the Prime Minister's authority, is for the time being responsible for the administration of those provisions; or

(b) a departmental agency that, under the State Sector Act 1988, is part of that department of State, and has duties, functions, or powers relating to that administration

rest home means premises used to provide rest home care—

(a) within the meaning of section 6 of the Health and Disability Services (Safety) Act 2001; and

(b) that is therefore health care services required by that Act to be provided in accordance with section 9 of that Act

risk of long-term welfare dependency, in relation to a person, and for the purposes of **sections ~~s~~ 4(e)~~, 150, and 153, and clause 16 of Schedule 6~~**, means the risk that the person—

(a) will, for an indefinite period, not be able to obtain full-time employment; and

(b) will be likely to remain wholly or largely dependent for the person's financial support on all or part of a main benefit under this Act

saved, in relation to any arrangement, contract, decision, enactment, increase, instrument, period, reduction, or status (in each case, however described), is defined in **clause 1 of Schedule 1** for the purposes of that schedule

scheme is defined in **section 212** for the purposes of **sections 208 to 212**

screening drug test is defined in **section 138** for the purposes of **sections 133 to 138**

second failure—

(a) is defined in **section 218** for the purposes of **subpart 2 of Part 5**; and

(b) is defined in **section 251** for the purposes of **subpart 3 of Part 5**

section 235 notice has the same meaning as in **section 235** (MSD must give notice of sanction)

service costs—

(a) is defined in regulations made under **section 402** for the purposes of **subpart 9 of Part 2 and Part 6 of Schedule 4** (accommodation supplement); and

(b) is defined in **section 147** (obligations of young person granted youth support payment) for the purposes of that section

sheltered employment includes employment in a sheltered workshop within the meaning of the Disabled Persons Employment Promotion Act 1960

single means not in a relationship (as that expression is defined in this schedule)

social housing is defined in **section 62** for the purposes of that section

social security debt is defined in **section 361** for the purposes of **subpart 7 of Part 6**

social security laws is defined in **section 361** for the purposes of **subpart 7 of Part 6**

social security purposes is defined in **section 361** for the purposes of **subpart 7 of Part 6**

sole parent means a person who is the principal caregiver in respect of a dependent child and who—

(a) is—

(i) married or in a civil union, but living apart from the person's spouse or partner; or

(ii) not married or in a civil union; and

(b) is not in a de facto relationship

source deduction payment is defined in **section 328** for the purposes of **sections 328 to 331**

specified beneficiary is defined in **section 154** for the purposes of **sections 149 to 152, 251, and 324(3)(a)**

specified benefit—

(a) is defined in **section 182(3)** for the purposes of **section 182**; and

(b) is defined in **section 310** for the purposes of **sections 310 to 315**

specified lump sum payment is defined in **section 65(5)** for the purposes of **section 65**

specified offence is defined in **section 272(5)** for the purposes of **section 272(4)(b)**

specified provision,—

(a) in relation to a source deduction payment, is defined in **section 328** for the purposes of **sections 329, 330, and 331**; and

(b) in relation to a reference to income for a period, is defined in **clause 11 of Schedule 3** for the purposes of **clauses 12 to 14 of Schedule 3**

specified termination payments means any of the following payments that a person receives in relation to the termination of the person's employment:

(a) a payment in lieu of notice terminating the person's employment:

(b) holiday pay:

(c) a payment in lieu of accumulated leave:

(d) a payment contingent on the completion of a fixed-term engagement:

(e) a retirement payment

spouse of a person (for example, an applicant or a beneficiary), means the person's husband or wife

stand down or **stand-down period** means a stand down, or a stand-down period, under **section 296**

standard costs is defined in **sections 84 and 407(2)(b)** for the purposes of **subpart 14 of Part 2 and section 407**

start date is defined in **section 247(4)** for the purposes of **section 247**

strike has the same meaning as in section 81 of the Employment Relations Act 2000

student allowance means an allowance established by regulations made under section 303 (apart from, or with, either or both of sections 306 and 307) of the Education Act 1989

subsidy rate is defined in **section 431(6)** for the purposes of **section 431**

suitable employment, in relation to a person,—

(a) means employment that MSD is satisfied is suitable for the person to undertake for a number of hours a week determined by MSD having regard to the employment required to satisfy the work test for that person; but

(b) is affected by section 18(1) (which relates to refusing to work, or to continue to work, as a sex worker) of the Prostitution Reform Act 2003

tax credit is defined in **section 84** for the purposes of **subpart 14 of Part 2 and section 407** (and *see also* **clause 8(l) of Schedule 3**, and the definition in this schedule of WFF tax credit)

tax file number is defined in **section 98(5)** for the purposes of **section 98**

teen parent unit is defined in **section 148(3)** for the purposes of **section 148**

temporary additional support is defined in **clause 20(4) of Schedule 3** for the purposes of **clause 20 of Schedule 3**

temporary employment means full employment for a period of less than 26 weeks

tenant is defined in **section 62(3)** for the purposes of **sections 62 and 64**

third failure—

(a) is defined in **section 218** for the purposes of **subpart 2 of Part 5**; and

(b) is defined in **section 251** for the purposes of **subpart 3 of Part 5**

trust account is defined in **clause 4(7) of Schedule 6** for the purposes of **clause 4 of Schedule 6**

union has the same meaning as in section 5 of the Employment Relations Act 2000

unresolved warrant notice is defined in **section 195** for the purposes of **sections 193 and 196**

veteran's pension means a veteran's pension payable under Part 6 of the Veterans' Support Act 2014

violence is defined in **section 177(2)** for the purposes of **section 177(1)(c)**

~~**voluntary work** means work—~~

~~(a) that is undertaken by a person for no remuneration (other than any reimbursement of direct expenses) for a non-profit community organisation or other person, and that is of benefit to the community; and~~

~~(b) that is not an activity in the community, or work undertaken as part of a work experience or work exploration activity~~

weekly loss of earnings compensation is defined in **section 182(3)** for the purposes of **section 182**

WFF tax credit has, in **sections 320(3)(b) and 324(3)(c)**, the same meaning as in section YA 1 of the Income Tax Act 2007

work-based learning is defined in **section 147(4)** for the purposes of **sections 147, 149 to 152, 184, and clause 8 of Part 5 of Schedule 4**

working day—

(a) means a day of the week other than—

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

(ii) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

(iii) a day in the period commencing on 25 December in any year and ending with 15 January in the following year; and

(iv) the day observed as the anniversary day of the appropriate province; but

(b) is defined in **section 224(4)** for the purposes of **section 224(3)**

work test or **work-test obligations**, in relation to a person, means the person's obligations under **sections 130 to 133**

work-test couple rate,—

(a) for jobseeker support, means a rate in **Part 1 of Schedule 4** that is payable to a person who is in a relationship, other than a rate payable if the person's spouse or partner is entitled to a benefit in the spouse's or partner's own right:

(b) for a supported living payment, means a rate that is—

(i) a rate in **Part 3 of Schedule 4** payable to a person who is in a relationship, other than a rate payable if the person's spouse or partner is entitled to a benefit in the spouse's or partner's own right; or

(ii) the rate payable under **section 37(3)** to the spouse or partner of a person receiving long-term residential care in a hospital or rest home:

(c) for an exceptional circumstances benefit, means a rate that is—

(i) a rate of benefit payable to a person that includes a payment for the person's spouse or partner; or

(ii) a rate of benefit payable under section 17(2)(c) of the New Zealand Superannuation and Retirement Income Act 2001

work-tested beneficiary means a person who—

(a) is granted jobseeker support (other than jobseeker support on the ground of health condition, injury, or disability); or

(b) is granted jobseeker support on the ground of health condition, injury, or disability, and who, under **section 127(4)**, must comply with the work test; or

(c) is granted an exceptional circumstances benefit, and who, under **section 59(5)(b)**, must comply with the work test; or

(d) is a work-tested spouse or partner; or

(e) is a work-tested sole parent support beneficiary

work-tested benefit—

(a) means—

(i) jobseeker support (except for a work-tested sole parent support beneficiary, or a beneficiary receiving jobseeker support on the ground of health condition, injury, or disability who, under **section 128**, is not required to comply with the work test); or

(ii) an exceptional circumstances benefit (except for a beneficiary who, under **section 59(5)(b)**, is not required to comply with the work test); and

(b) for a work-tested spouse or partner, includes an exceptional circumstances benefit and a supported living payment; and

(c) for a work-tested sole parent support beneficiary, means sole parent support under **section 29**

work-tested sole parent support beneficiary means a person—

(a) who has been granted sole parent support under **section 29**; and

(b) whose youngest dependent child is aged 3 years or older

work-tested spouse or partner means a person—

(a) who—

(i) has no dependent child under 3 years, or has no dependent child at all (and, for the purposes of this definition, a dependent child of a person granted a benefit at a work-test couple rate is also a dependent child of that person's spouse or partner); and

(ii) is not subject to obligations under **sections 151 to 154**; and

(iii) has not been granted an exemption from the work test; and

(b) who—

(i) is the spouse or partner of a person granted jobseeker support or a supported living payment (being, in each case, a benefit granted at a work-test couple rate); or

(ii) both—

(A) is the spouse or partner of a person granted an exceptional circumstances benefit at a work-test couple rate; and

(B) has under **section 126(2)** been required by MSD to comply with the work test; or

(iii) is—

(A) the spouse or partner of a person who is receiving long-term residential care in a hospital or rest home; and

(B) aged under 65 years; and

(C) receiving a supported living payment under **section 37(3)** or an exceptional circumstances benefit under section 17(2)(c) of the New Zealand Superannuation and Retirement Income Act 2001

young parent obligation is defined in **section 251** for the purposes of **subpart 3 of Part 5**

young parent payment—

(a) means a young parent payment payable under **subpart 7 of Part 2**; but

(b) in **subpart 3 of Part 5**, in relation to a young person who is a spouse or partner of a specified beneficiary and is subject to obligations under **section 151**, has the extended meaning provided in **section 251**

young person,—

(a) in **sections 3(d) and 344**, means a person of either of the following kinds:

(i) a person who is aged at least 15 years but is under the age of 18 years:

(ii) a person aged 18 years or over who continues to receive services of the kind referred to in **section 344(1)(a)**:

(b) in all other cases, means a person of any of the following kinds:

(i) a person who is aged at least 16 years but is under the age of 20 years:

(ii) a person aged 20 years or over in respect of whom a young parent payment continues under **section 57**:

(iii) a person aged 20 years or over to whom obligations in **section ~~454 and~~ 152** continue to apply under **section 152(6)~~ or 153(3)~~**; but

(c) is defined in **paragraph (a)** of the definition of beneficiary in **section 194** (a definition for the purposes of **section 193**)

young person obligation is defined in **section 251** for the purposes of **subpart 3 of Part 5**

youth payment—

(a) means a youth payment payable under **subpart 6 of Part 2**; but

(b) in **subpart 3 of Part 5**, in relation to a young person who is a spouse or partner of a specified beneficiary and is subject to obligations under **section 151**, has the extended meaning provided in **section 251**

youth support payment means a young parent payment or youth payment.

Schedule 3
Income and liabilities

ss 6, 61(a), 75(2)(d), 82(4), 87(3)

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Part 1
Guide to, and ranking of, provisions

1 What this schedule does

This **schedule** contains provisions on the following matters:

(a) the ranking of income provisions in and outside this schedule:

(b) what, for the purposes of this Act, is income:

(c) how income is calculated:

(d) what may happen if an applicant for a benefit deprives the applicant of income, property, or both:

(e) how insurance payments to or for a person affect liabilities for the purposes of various benefits.

2 Ranking of provisions in and outside this schedule

(1) **Clause 3** is overridden by **clauses 4 to 10**.

(2) **Clauses 4 to 10** are overridden by any contrary provisions in this Act (for example, by regulations made under **section 403(2)(d)**, and by **clause 16(3)**).

(3) Regulations made (under **section 401**) for the purposes of **clause 9** override any contrary provisions in this Act.

Compare: 1964 No 136 ss 3(1), definition of income, 68, 74(1)(d), (2)

Part 2
Income

3 General definition of income

Income, of a person, means the money value (before income tax) of a thing that—

(a) is money received, or an interest acquired, by the person; and

(b) is not an interest in capital received or acquired by the person.

Compare: 1964 No 136 s 3(1), definition of income, paragraph (a)

4 Income includes periodical payments, etc, for income-related purposes

(1) A person's income includes any periodical payments made to the person, and the value of any credits or services provided periodically to the person,—

(a) from any source for income-related purposes; and

(b) used by the person for income-related purposes.

(2) **Subclause (1)** applies—

(a) whether or not the payments, credits, or services are capital; and

(b) to the payments, credits, or services as calculated before the deduction (if applicable) of income tax.

(3) The contrary provisions that (under **clause 2(2)**) override this clause include **clause 10** (which requires MSD to have regard to specified matters in considering, in respect of a person, whether a payment, credit, or service is for an income-related purpose).

Compare: 1964 No 136 s 3(1), definition of income, paragraph (b), and definition of income-related purpose

5 Income includes specified insurance payments

(1) A person's income includes the following payments made to the person:

(a) any periodical income-related insurance payments:

(b) any lump sum income-related insurance payment—

(i) made in respect of the occurrence of a contingency; and

(ii) made within a period of 10 weeks from that occurrence; and

(iii) to the extent only that it replaces income lost by the person because of that occurrence.

(2) **Subclause (1)** also applies to a payment referred to in **subclause (1)(a) or (b)** that the person would have been entitled to receive—

(a) under an accident insurance contract as defined in section 13 of the Accident Insurance Act 1998; and

(b) but for the existence of a risk sharing agreement referred to in section 185 of the Accident Insurance Act 1998 (as it read immediately before its repeal by section 7 of the Accident Insurance Amendment Act 2000).

(3) **Subclause (1)** applies—

(a) whether or not the payments are capital; and

(b) to the payments as calculated before the deduction (if applicable) of income tax.

(4) The contrary provisions that (under **clause 2(2)**) override this clause include—

(a) **section 182** (loss of earnings compensation under Accident Compensation Act 2001); and

(b) **clause 10** (which requires MSD to have regard to specified matters in considering, in respect of a person, whether a payment, credit, or service is an income-related insurance payment).

Compare: 1964 No 136 s 3(1), definition of income, paragraph (c)

6 Income includes specified other payments related to work ending

A person's income includes the following payments made to the person:

(a) any payment relating to a situation involving a seasonal layoff:

(b) any payment contingent on the completion of either a fixed-term engagement or an engagement to complete work specified in a contract:

(c) any payment in lieu of notice terminating employment:

(d) any payment (including holiday pay) that, if it had not been made in relation to termination of employment, would, in MSD's opinion, have been paid so as to constitute monetary remuneration of the employee:

(e) any parental leave payments paid under Part 7A of the Parental Leave and Employment Protection Act 1987:

(f) any payment in relation to termination of employment made by a company pursuant to its constitution to any of its directors.

Compare: 1964 No 136 s 3(1), definition of income, paragraph (d)

7 Income includes value of goods, etc, supplied on regular basis

(1) A person's income includes the value of any goods, services, transport, or accommodation supplied on a regular basis to the person by any other person.

(2) **Subclause (1)** applies to the value of the goods, services, transport, or accommodation as calculated before the deduction (if applicable) of income tax.

Compare: 1964 No 136 s 3(1), definition of income, paragraph (e)

8 Income excludes specified benefits, etc

A person's income excludes the following payments:

(a) any benefit, grant, allowance, or concession received by the person under this Act, Part 6 of the Veterans' Support Act 2014, or Part 1 of the New Zealand Superannuation and Retirement Income Act 2001:

(b) any pension or allowance (other than weekly income compensation or weekly compensation) under the Veterans' Support Act 2014 received by any person because of the person's own disablement:

(c) any surviving spouse or partner pension received by the person under section 66 of the Veterans' Support Act 2014:

(d) any, or any part of any, pension or other periodical allowance received by any person from the Government of any Commonwealth country (other than New Zealand) that MSD determines is analogous to a pension or allowance specified in **paragraph (b) or (c)**:

(e) the value of any assistance of a kind approved by MSD provided to the person as a person with a health condition, injury, or disability to obtain or remain in employment:

(f) any money received by the person by way of funeral benefit from any friendly society:

(g) a participation allowance received by the person:

(h) any money paid in respect of any military decoration and received by the person as a recipient of that decoration:

(i) any money received by the person by way of an independence allowance under section 54 of the Accident Rehabilitation and Compensation Insurance Act 1992 or Part 13 or Part 4 of Schedule 1 of the Accident Insurance Act 1998, or any impairment lump sum received under Schedule 1 of the Accident Compensation Act 2001:

(j) any money received by the person under the Children, Young Persons, and Their Families Act 1989 in respect of the care of a child or young person (as those terms are defined in that Act):

(k) any income-related rent (within the meaning of the Housing Restructuring and Tenancy Matters Act 1992):

(l) any tax credit or amount received by the person under—

(i) subparts MA to MF and MZ of the Income Tax Act 2007; or

(ii) subpart KD of the Income Tax Act 2004; or

(iii) subpart KD of the Income Tax Act 1994; or

(iv) Part 11A of the Income Tax Act 1976.

Compare: 1964 No 136 s 3(1), definition of income, paragraph (f)(i) to (vi), (ix), (xiii), (xvi), (xviii)

9 Income excludes amounts, etc, declared not to be income

A person's income excludes any amount, item, payment, or income from specified source, declared by regulations made under **section 401** not to be income.

Compare: 1964 No 136 ss 3(1), definition of income, paragraph (f)(vii), (xiii), (x), (xi), (xii), (xiv), (xv), (xvii), 3(3), 66, 66A, 66B, 68, Schedule 10

10 Considerations for whether income-related insurance payment or income-related purpose

In considering, in respect of a person, whether a payment, credit, or service is an income-related insurance payment or (as the case may be) is for an income-related purpose, MSD must have regard to the following matters:

(a) the nature of the contingency in respect of which the payment, credit, or service was made, provided, or used:

(b) the nature of the payment, credit, or service:

(c) the manner in which, and the occasions on which, the payment, credit, or service is made, provided, or used:

(d) the manner in which the right to or eligibility for the payment, credit, or service is expressed in any contract of insurance or in any other document:

(e) whether the payment, credit, or service is required to be made or provided to any other person and, if so, the relationship between the persons:

(f) whether the person has assigned the person's right to receive the payment, credit, or service:

(g) any other matters that MSD considers, in the circumstances of the particular case, to be relevant.

Compare: 1964 No 136 s 3(1), definition of income, paragraphs (b) and (f)(xiv)(C), definition of income-related insurance payment, s 3(4)

Part 3
Calculation of income

11 Interpretation

In **clauses 12 to 14**,—

appropriate number of weeks means a number that—

(a) must not exceed 52; and

(b) is specified, for the benefit concerned, in regulations made under **section 397(1)(n)**

specified provision means a provision that is all or a portion of all or any of the following:

(a) this Act (for example, a schedule of this Act):

(b) the New Zealand Superannuation and Retirement Income Act 2001:

(c) Part 6 of the Veterans' Support Act 2014.

Compare: 1964 No 136 s 64(1), (2), (2A)

12 How annual income calculated

(1) A person's annual income, for the rate of benefit, or as referred to in a specified provision, is (unless the context otherwise requires) the person's estimated income for the 52 weeks commencing on the date on which the benefit (if granted, or regranted) will commence.

(2) The estimated annual income for the 52 weeks specified in **subclause (1)** is an amount equal to the income received by the person for the 52 weeks ending on the day preceding the date on which the benefit, if granted or regranted, will commence as MSD determines.

Compare: 1964 No 136 s 64(1), (2)

13 How weekly income calculated

(1) A person's weekly income, for the rate of benefit, or as referred to in a specified provision, is (unless the context otherwise requires) the person's weekly income calculated by dividing the person's total income over the appropriate number of weeks by that number of weeks.

(2) MSD may, in calculating a person's weekly income under **subclause (1)**, determine the period or periods to which any income relates, having regard to—

(a) the extent to which it was earned in that period or those periods; or

(b) the extent to which any other entitlement to it arose in, or in respect of, that period or those periods; or

(c) the period or periods for which it was otherwise received, acquired, paid, provided, or supplied.

(3) MSD's determination under **subclause (2)** is not limited to, or by, the exact time or times of the relevant earning, entitlement, receipt, acquisition, payment, provision, or supply, referred to in **subclause (2)(a) to (c)**.

Compare: 1964 No 136 s 64(2A), (2B)

14 Adjustments for likely reductions or increases

The estimated income for the period for which the calculation under **clause 12(1) or 13(1)** is made is the income as calculated under **clause 12(1) or 13(1)**, but adjusted for all (if any) of the following deductions and additions:

(a) MSD may deduct any items by which MSD is satisfied that income as so calculated is likely to be reduced:

(b) MSD may add any items by which MSD is satisfied that income as so calculated is likely to be increased.

Compare: 1964 No 136 s 64(3)

15 Rules on how MSD determines income of people engaged in business or trade

(1) The Governor-General may, by Order in Council, make rules—

(a) prescribing how MSD is to assess and determine for the purposes of this Act the income of all or any of the following:

(i) self-employed people:

(ii) people carrying on business in a partnership:

(iii) people trading as a small business:

(iv) directors of a company:

(v) people carrying on business or trade through a company of which they are—

(A) a director and a shareholder; or

(B) an employee and a shareholder; or

(C) a director, a shareholder, and an employee:

(vi) people otherwise engaged in business or trade; and

(b) prescribing the circumstances in which those rules apply.

(2) Rules made under **subclause (1)** may prescribe for the purposes of this Act all or any of the following:

(a) the kinds of deduction from income allowed under the Income Tax Act 2007 that are to be disregarded in determining income, and—

(i) the circumstances in which the deductions are to be disregarded; and

(ii) whether the deductions are to be disregarded wholly or in part only:

(b) how income is to be calculated if business accounts are presented in cash or accrual form:

(c) livestock valuation methods, and their treatment, in calculating income:

(d) the extent (if any) to which, and circumstances in which, all or any of the following are to be treated as a person's income:

(i) the person's drawings from a business or trade:

(ii) goods or services supplied to the person by a business or trade:

(iii) distributions to the person from a business or trade:

(iv) income from a business or trade by the person:

(e) how it is to be determined whether a person has used assets of a business or trade for no consideration or inadequate consideration:

(f) how a person's income is to be determined if the person has used assets of a business or trade for no consideration or inadequate consideration:

(g) the extent (if any) to which depreciation or other provision for replacement of capital assets is to be—

(i) allowed as a deduction from income; or

(ii) disregarded in calculating income:

(h) the extent (if any) to which, and circumstances in which, either or both of the following are to be treated as income:

(i) distributions from a company:

(ii) retained profits of a company:

(i) the treatment of look through companies (within the meaning of the Income Tax Act 2007).

(3) **Subclause (2)(d)** applies to businesses and trades however they are carried on.

(4) **Subclause (3)** does not limit **subclause (1)**.

(5) Rules made under **subclause (1)**, if those rules reduce the income of people, have effect in respect of any income specified in the rules on and after a date that is—

(a) specified in the rules; and

(b) earlier than, the same as, or later than, the date on which the rules are made.

Compare: 1964 No 136 s 132H

Part 4
Deprivation of income or property

16 Effect of deprivation of income or property

(1) This clause applies if MSD is satisfied that—

(a) deprivation of 1 or both of the following kinds has occurred:

(i) an applicant for a benefit has, directly or indirectly, deprived the applicant of income, property, or both:

(ii) the spouse or partner of an applicant for a benefit has, directly or indirectly, deprived the spouse or partner of income, property, or both; and

(b) the deprivation results in the applicant's qualifying for that benefit, any other benefit, or an increased rate of benefit.

(2) MSD may refuse to grant a benefit, cancel or reduce a benefit already granted, or grant a benefit at a reduced rate.

(3) In this clause and **clause 17**,—

income excludes, for 12 months after the date of the person's receipt of the amount, an amount that—

(a) MSD considers is, or might have been, derived by a person from—

(i) an impairment lump sum under Schedule 1 of the Accident Compensation Act 2001; or

(ii) a lump sum payment of an independence allowance under Part 13 or Part 4 of Schedule 1 of the Accident Insurance Act 1998; and

(b) is paid to, and received by, the person, after (when section 74(2) of the Social Security Act 1964 commenced at) the close of 31 March 2002

property excludes, for 12 months after the date of the person's receipt of the sum or payment, a sum or payment that—

(a) was paid to, and received by, a person as—

(i) an impairment lump sum under Schedule 1 of the Accident Compensation Act 2001; or

(ii) a lump sum payment of an independence allowance under Part 13 or Part 4 of Schedule 1 of the Accident Insurance Act 1998; and

(b) is paid to, and received by, the person, after (when section 74(2) of the Social Security Act 1964 commenced at) the close of 31 March 2002

(4) This clause—

(a) overrides any provisions to the contrary in this Act (under **clause 2(3)**), Part 6 of the Veterans' Support Act 2014, or the New Zealand Superannuation and Retirement Income Act 2001; but

(b) is subject to any rules prescribed by rules under **clause 17**.

Compare: 1964 No 136 s 74(1)(d), (2)

17 Rules on how MSD determines deprivation of income or property

The Governor-General may, by Order in Council, for the purposes of **clause 16** make rules—

(a) relating to the deprivation of income, property, or both; and

(b) prescribing the circumstances in which the rules apply.

Compare: 1964 No 136 s 132I

Part 5
Effect on liabilities of insurance payments

18 How accommodation costs affected by debt insurance payment in relation to mortgage security

(1) This clause applies to a person if a debt insurance payment in relation to a mortgage security is made to the person, or to some other person—

(a) on the person's behalf; or

(b) for the person's benefit.

(2) For the purposes of the definition in regulations made under **section 402(1)(a)** of accommodation costs, the payments required to be made by that person under that mortgage security are taken to be reduced by the amount of the debt insurance payment.

Compare: 1964 No 136 s 68A(1)

19 How expenses for disability allowance may be affected by health or disability insurance payment

(1) This clause applies to a person if a health or disability insurance payment is made to the person, or to some other person—

(a) on the person's behalf; or

(b) for the person's benefit; or

(c) on behalf of a member of the person's family; or

(d) for the benefit of a member of the person's family.

(2) For the purposes of **subpart 12 of Part 2** (disability allowance), any additional expenses of the person arising from the person's disability, or expenses arising from the hospitalisation of the person's spouse or partner, as the case may be, are taken to be reduced to the extent, if any, MSD considers appropriate.

(3) MSD must, in determining the extent of any reduction, have regard to the nature of the payment and those additional expenses or expenses.

Compare: 1964 No 136 s 68A(3)

20 How commitments for temporary additional support may be affected by debt, or health or disability, insurance payment

(1) This clause applies to a person if a debt insurance payment, or a health or disability insurance payment, is made to the person, or to some other person—

(a) on the person's behalf; or

(b) for the person's benefit; or

(c) on behalf of a member of the person's family; or

(d) for the benefit of a member of the person's family.

(2) For the purposes only of temporary additional support, the person's commitments are taken to be reduced to the extent, if any, MSD considers appropriate.

(3) MSD must, in determining the extent of any reduction, have regard to the nature of the payment and of those commitments.

(4) In this clause, **temporary additional support** means either or both of the following:

(a) temporary additional support under **subpart 14 of Part 2**:

(b) a special benefit continued under section 23 of the Social Security (Working for Families) Amendment Act 2004 (as that section is saved by **clause 18 of Schedule 1** of this Act).

Compare: 1964 No 136 s 68A(2)

21 How costs, etc, for approved programme of special assistance may be affected by debt, or health or disability, insurance payment

(1) This clause applies to a person if a debt insurance payment, or a health or disability insurance payment, is made to the person, or to some other person—

(a) on the person's behalf; or

(b) for the person's benefit; or

(c) on behalf of a member of the person's family; or

(d) for the benefit of a member of the person's family.

(2) For the purposes of any approved special assistance programme under **section 87**, the costs, expenses, and commitments of the person are taken to be

reduced to the extent, if any, MSD considers appropriate having regard to the nature of the payment and those costs, expenses, and commitments.

Compare: 1964 No 136 s 68A(4)

Schedule 4
Rates of benefits

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Part 5
Rates and component of youth payment and young parent payment, and criteria for incentive payments

Subpart 1—Rates of youth payment and young parent payment

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Part 6
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Part 9
Rates of generally abolished former DPB for solo parents under section 27B of Social Security Act 1964 as saved by clause 52 of Schedule 1 of this Act for reciprocity agreement applicants or recipients

Part 10
Rates of benefits payable to long-term hospital patients

Part 1
Jobseeker support

1	(a)	To a single beneficiary under the age of 20 years who is— (i) living with a parent (as that term is defined in **clause 8**); and (ii) whose benefit commenced on or after 1 July 1998	$140.08 a week, subject to Income Test 3
	(b)	To any other single beneficiary under the age of 25 years without dependent children (*see* **clause 7**)	$175.10 a week, subject to Income Test 3
	(c)	To any other single beneficiary without dependent children and who was on 15 July 2013 transferred to jobseeker support— by clause 2(9) and (11), or by clause 10(6) and (8), of Schedule 32 of the Social Security Act 1964 ~~(i) by clause 2(9) and (11) of Schedule 32 of the Social Security Act 1964; or~~ ~~(ii) by clause 10(6) and (8) of Schedule 32 of the Social Security Act 1964~~	$218.86 a week, subject to Income Test 1
	(ca)	To any other single beneficiary with 1 or more dependent children aged under 14 years in respect of whom a supported child's payment is paid but with no other dependent children under that age, and who was on 15 July 2013 transferred to jobseeker support by clause 2(9) and (11), or by clause 10(6) and (8), of Schedule 32 of the Social Security Act 1964 (whether or not the person was transferred later to sole parent support)	$218.86 a week, subject to Income Test 1
	(d)	To any other single beneficiary without dependent children	$210.13 a week, subject to Income Test 3
	(e)	To any single beneficiary whose youngest dependent child is aged at least 14 years (including, without limitation, any such beneficiary who is a beneficiary of a kind specified in **clause 4(a), (b), or (c)**, and *see also* MSD's discretion (to disregard specified income used to meet the cost of childcare) under **clause 5**)	$325.98 a week, subject to Income Test 1
	(f)	To any other single beneficiary with 1 or more dependent children	$325.98 a week, subject to Income Test 1
	(g)	To a beneficiary who is in a relationship whose spouse or partner is granted, in the spouse's or partner's own right, a main benefit under this Act or New Zealand superannuation	$175.10 a week, increased by— (i) $25 a week if the beneficiary and his or her spouse or partner have 1 or more dependent children and the beneficiary's spouse or partner has not been granted a main benefit under this Act, the total rate to be subject to Income Test 4; or

		(ii) $12.50 a week if the beneficiary and his or her spouse or partner have 1 or more dependent children and the beneficiary's spouse or partner has been granted a main benefit under this Act, the total rate to be subject to Income Test 4
	(h) To a beneficiary who is in a relationship whose spouse or partner is not granted a main benefit under this Act, New Zealand superannuation, or a veteran's pension, in the spouse's or partner's own right	$175.10 a week, increased by $25 a week if the beneficiary and his or her spouse or partner have 1 or more dependent children, the total rate to be subject to Income Test 3
	(i) To a beneficiary who is in a relationship whose spouse or partner is granted, in the spouse's or partner's own right, a veteran's pension	$175.10 a week, increased by $175.10 a week in respect of his or her spouse or partner and a further $25 a week if the beneficiary and his or her spouse or partner have 1 or more dependent children, the total rate to be subject to Income Test 3
2	Maximum increase in respect of a housekeeper	$175.10 a week
3	Special rate of benefit (and a rate to be received by the person during the period of non-entitlement of the person's spouse or partner) for a person who has a spouse or partner who is ineligible for a benefit for a period because of— (a) the application of **sections 208 to 212** (which relate to voluntary unemployment or loss of employment through misconduct, etc); or (b) the application of **sections 217 to 221** (which relate to sanctions that may be imposed for failures to comply with work-test or other obligations and work preparation interviews and exercises); or (c) a strike, either by the spouse or partner, or by fellow members of the same union at the same place of employment.	$175.10 a week, increased by $12.50 a week if the beneficiary has 1 or more dependent children, the total rate being subject to Income Test 4
4	A single beneficiary whose youngest dependent child is aged at least 14 years, referred to in **clause 1(e)**, includes, without limitation, any such beneficiary who is— (a) a beneficiary who (as a person with a dependent child aged under 14 years) was on 15 July 2013 transferred by clause 2(6) and (8) of Schedule 32 of the Social Security Act 1964 to sole parent support that after 14 July 2013 and under section 20H(1) and (2) of that Act expired, and was replaced with jobseeker support that commenced, on the date that the beneficiary's youngest dependent child turned 14 years old; or (b) a beneficiary who (as a person without a dependent child aged under 14 years) was on 15 July 2013 transferred to jobseeker support	

by clause 2(9) and (11) of Schedule 32 of the Social Security Act 1964; or

(c) a beneficiary whose entitlement to jobseeker support arose from applying for it, and being granted it, after 14 July 2013.

5 For the purposes of **clause 1(e)** and of **clause 1(f)**, MSD may disregard up to $20 a week of the beneficiary's personal earnings used to meet the cost of childcare for any of the beneficiary's dependent children.

6 A person to whom **section 30(1)(e)** (which relates to having lost the regular support of a spouse or partner who is subject to a sentence of imprisonment, etc) applies is treated as a single beneficiary for the purposes of **clauses 1(e) and (f) and 4**.

7 In this Part, **dependent child** (as defined in **Schedule 2**) excludes a child in respect of whom a supported child's payment is being paid.

8 In this Part, **living with a parent**, in relation to a person and a parent (which, in this definition, means a parent, a guardian, or a person acting as a parent),—

(a) means living in the same home as a parent of the person; but

(b) does not include a situation in which a person lives in the same home as a parent of the person if—

(i) the parent is financially dependent on the person; or

(ii) the person, at the person's own expense, provides accommodation for the parent in the home; or

(iii) the person provides a substantial degree of care to the parent; or

(iv) the home is a hostel, boardinghouse, or similar lodging, and the person and the parent pay for accommodation in it

Part 2
Sole parent support

1 To a beneficiary with 1 or more dependent children: $325.98 a week, subject to Income Test 1.

2 To a beneficiary (not being a beneficiary described in **clause 1**) who is the principal caregiver for 1 or more children in respect of whom a supported child's payment is paid:

(a) if the beneficiary is aged under 25 years, $175.10 a week, subject to ~~i~~Income Test 3:

(ab) if the beneficiary is a single beneficiary without dependent children who was on 15 July 2013 transferred to jobseeker support by clause 2(9)

and (11), or by clause 10(6) and (8), of Schedule 32 of the Social Security Act 1964, $218.86 a week, subject to Income Test 1:

(b) in any other case, $210.13 a week, subject to ~~i~~Income Test 3.

3 For the purposes of **clause 1**, MSD may disregard up to $20 a week of the beneficiary's personal earnings used to meet the cost of childcare for any of the beneficiary's dependent children.

4 For the purposes of **clause 1**, MSD may treat all or any part of the income (including, without limitation, any pension or allowance under the Veterans' Support Act 2014) of the spouse or partner of an applicant to whom **section 30(1)(b) or (e)** applies as if it were income derived by that applicant if MSD—

(a) has had regard to its nature and the means by which it was derived; and

(b) considers that treatment of it to be reasonable in the circumstances.

5 In this **Part**, **dependent child** (as defined in **Schedule 2**) excludes a child in respect of whom a supported child's payment is being paid.

Part 3
Supported living payment

1	(a)	To a single beneficiary under the age of 18 years without dependent children	$212.54 a week, subject to Income Test 1
	(b)	To any other single beneficiary without dependent children	$262.64 a week, subject to Income Test 1
	(c)	To a single beneficiary with 1 or more dependent children	$370.02 a week, subject to Income Test 1
	(d)	To a beneficiary who is in a relationship, whose spouse or partner is granted, in the spouse's or partner's own right, a main benefit under this Act or New Zealand superannuation	$218.86 a week, increased by— (i) $25 a week if the beneficiary and his or her spouse or partner have 1 or more dependent children and the beneficiary's spouse or partner has not been granted a main benefit under this Act, the total rate to be subject to Income Test 2; or (ii) $12.50 a week if the beneficiary and his or her spouse or partner have 1 or more dependent children and the beneficiary's spouse or partner has been granted a main benefit under this Act, the total rate to be subject to Income Test 2
	(e)	To a beneficiary receiving a supported living payment under **section 33** on the ground of re-	$218.86 a week, increased by $218.86 a week in respect of his or

	stricted work capacity or total blindness who is in a relationship, whose spouse or partner is not granted, in the spouse's or partner's own right, a main benefit under this Act or New Zealand superannuation or a veteran's pension	her spouse or partner and a further $25 a week if the beneficiary and his or her spouse or partner have 1 or more dependent children, the total rate to be subject to Income Test 1
(f)	To a beneficiary who is in a relationship, whose spouse or partner is granted, in the spouse's or partner's own right, a veteran's pension	$218.86 a week, increased by $25 a week if the beneficiary and his or her spouse or partner have 1 or more dependent children, the total rate to be subject to Income Test 1
(g)	To a beneficiary receiving a supported living payment under **section 39** on the ground of caring for another person, if the beneficiary is in a relationship, and the beneficiary's spouse or partner is not granted, in the spouse's or partner's own right, a main benefit under this Act or New Zealand superannuation or a veteran's pension	$218.86 a week, increased by $25 a week if the beneficiary and his or her spouse or partner have 1 or more dependent children, the total rate to be subject to Income Test 1

However, in computing the income of any beneficiary receiving a supported living payment under **section 33** for the purpose of this schedule, MSD must—

(a) disregard that part of the beneficiary's income (not exceeding $20 a week) earned by the beneficiary's own efforts; and

(b) disregard all of the income of a totally blind beneficiary earned by the beneficiary's own efforts.

2	Maximum amount from all sources where subsidy (that is to say, an additional allowance under **clause 3**) is paid on earnings of blind beneficiary, in every case	$348.86 a week, increased by $43.78 a week if the beneficiary is a single person

3 A person (**P**) who receives a supported living payment in respect of P's total blindness and who is employed, is entitled to an additional allowance (subsidy) equal to 25% of P's average earnings for the year.

4 However, if payment of that additional allowance would result in the total amount P receives from all sources for P's own use in any year, including the value of any benefits in kind, exceeding the appropriate amount specified in **clause 2**, the additional allowance—

(a) must not be paid; or

(b) must be paid at a reduced rate to avoid that result.

5 A beneficiary who is in a relationship is entitled to be paid at half the appropriate rate in **clause 1(d), (e), (f), or (g)** and at half the abatement rate applying to that rate if the beneficiary—

(a) has a psychiatric, intellectual, physical, or mental disability; and

(b) is receiving long-term residential care in a hospital or rest home because of that disability; and

(c) has not been means assessed under **subpart 6 of Part 9 of the Social Security Legislation Rewrite Act 2016**.

6 A supported living payment payable to the spouse or partner of a person to whom **clause 5** applies is payable at the appropriate rate specified in **clause 1(b) or (c)** if that spouse or partner is not receiving long-term residential care in a hospital or rest home.

7 Despite **paragraphs (d), (e), and (f) of clause 1**, the rate of a supported living payment on the ground of caring for another person under any of those paragraphs must not be less than the rates that would be payable if the beneficiary and the spouse or partner of the beneficiary were both entitled to receive the benefit on those grounds; but the rate of benefit payable by virtue of this clause must not exceed $218.86 a week.

8 In this Part, **dependent child** (as defined in **Schedule 2**) excludes a child in respect of whom a supported child's payment is being paid.

Part 4
Supported child's payment

1	(a)	In respect of a child aged 14 years or over	$204.46 a week
	(b)	In respect of a child aged over 10 years and under 14 years	$187.01 a week
	(c)	In respect of a child aged over 5 years and under 10 years	$169.48 a week
	(d)	In respect of a child aged under 5 years	$146.04 a week
2		The amount specified in **clause 1** must be diminished by $1 for every complete $1 of the annual income of the child (other than personal earnings of the child) in excess of 50% of the appropriate amount specified under that clause.	
3		On and after 1 July 2018, in addition to the applicable rate in **clause 1**, a clothing allowance in respect of the child in the same amount or at the same rate as any clothing allowance specified under section 363 of the Children, Young Persons, and Their Families Act 1989 for the rates of payment to persons or organisations in whose charge a child or young person is placed under section 362 of that Act.	

Part 5
Rates and component of youth payment and young parent payment, and criteria for incentive payments

Subpart 1—Rates of youth payment and young parent payment

1	For a single young person without dependent children	$175.10 a week subject to **clause 11**
2	For a single young person who— • is aged 16 to 17 years; and • is living with or being financially supported by a parent or guardian; and • has a dependent child or children	$165.08 a week subject to **clause 11**
3	For any other single young person with a dependent child or children	$325.98 a week subject to **clause 11**
4	For a young person who is in a relationship and is without dependent children	$175.10 a week subject to **clause 12**
5	For a young person who is in a relationship and has a dependent child or children	$175.10 a week, increased by— (a) $25 a week if the young person's spouse or partner is not receiving a main benefit under this Act, the total rate to be subject to **clause 12**; or (b) $12.50 a week if the young person's spouse or partner is receiving a main benefit under this Act, the total rate to be subject to **clause 12**
6	In this Part, **dependent child** (as defined in **Schedule 2**) excludes a child in respect of whom a supported child's payment is being paid.	

Subpart 2—Component

7	Maximum amount of in-hand allowance	$50 a week

Subpart 3—Rates of incentive payments

8	Education, training, or work-based learning incentive	$10 a week
9	Budgeting incentive	$10 a week
10	Parenting education incentive	$10 a week

Subpart 4—Abatement rates and income limits

11 The applicable rate of youth payment or young parent payment in **clause 1, 2, or 3** must be reduced by $1 for every $1 of the young person's weekly income that exceeds $211.96, but no amount of youth payment or young parent payment or incentive payment is payable if the young person's weekly income exceeds $261.96.

12 The applicable rate of youth payment or young parent payment in **clause 4 or 5** must be reduced by 50 cents for every $1 of the combined weekly income of the young person and the young person's spouse or partner that exceeds $211.96, but no amount of youth payment or young parent payment or incentive payment is payable if that combined income exceeds $311.96.

13 For the purposes of **clause 11 or 12** and a rate of young parent payment, MSD may disregard up to $20 a week of the personal earnings of the young person used to meet the costs of childcare for any of the person's dependent children (*see* **clause 6**).

Part 6
Accommodation supplement

1	To a person who has 1 or more dependent children and who is in a relationship, or a sole parent with 2 or more dependent children, whose accommodation costs are rent or payments for board and lodgings	70% of the amount by which an applicant's weekly accommodation costs exceeds 25% of the base rate, but not more than— (a) $225 a week, if the applicant resides in Area 1: (b) $165 a week, if the applicant resides in Area 2: (c) $120 a week, if the applicant resides in Area 3: (d) $75 a week, if the applicant resides in Area 4
2	To a person who has no dependent children and who is in a relationship, or a sole parent with 1 dependent child, whose accommodation costs are rent or payments for board and lodgings	70% of the amount by which an applicant's weekly accommodation costs exceeds 25% of the base rate, but not more than— (a) $160 a week, if the applicant resides in Area 1: (b) $125 a week, if the applicant resides in Area 2: (c) $75 a week, if the applicant resides in Area 3: (d) $55 a week, if the applicant resides in Area 4
3	To any other person whose accommodation costs are rent or payments for board and lodgings	70% of the amount by which an applicant's weekly accommodation costs exceeds 25% of the base rate, but not more than— (a) $145 a week, if the applicant resides in Area 1: (b) $100 a week, if the applicant resides in Area 2: (c) $65 a week, if the applicant resides in Area 3: (d) $45 a week, if the applicant resides in Area 4

4	To a person who has 1 or more dependent children and who is in a relationship, 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 chief executive is satisfied are reasonably required to be made in respect of the person's home	70% of the amount by which an applicant's weekly accommodation costs exceeds 30% of the base rate, but not more than— (a) $225 a week, if the applicant resides in Area 1: (b) $165 a week, if the applicant resides in Area 2: (c) $120 a week, if the applicant resides in Area 3: (d) $75 a week, if the applicant resides in Area 4
5	To a person who has no dependent children and who is in a relationship, 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 chief executive is satisfied are reasonably required to be made in respect of the person's home	70% of the amount by which an applicant's weekly accommodation costs exceeds 30% of the base rate, but not more than— (a) $160 a week, if the applicant resides in Area 1: (b) $125 a week, if the applicant resides in Area 2: (c) $75 a week, if the applicant resides in Area 3: (d) $55 a week, if the applicant resides in Area 4
6	To any other person whose accommodation costs are the sum of payments required under any mortgage security, and other payments that the chief executive is satisfied are reasonably required to be made in respect of the person's home	70% of the amount by which an applicant's weekly accommodation costs exceeds 30% of the base rate, but not more than— (a) $145 a week, if the applicant resides in Area 1: (b) $100 a week, if the applicant resides in Area 2: (c) $65 a week, if the applicant resides in Area 3: (d) $45 a week, if the applicant resides in Area 4

7 In this Part, **dependent child** (as defined in **Schedule 2**) excludes a child in respect of whom a supported child's payment is being paid.

Part 7
Child disability allowance and disability allowance

1	Rate of child disability allowance	$46.49 a week
2	Maximum rate of disability allowance under **section 75**	$61.69 a week
3	Rate of special disability allowance under **section 79**	$38.48 a week

Part 8
Rates of generally abolished former widows' benefits under section 21 of Social Security Act 1964 as saved by clause 52 of

Schedule 1 of this Act for reciprocity agreement applicants or recipients

1	To a beneficiary with 1 or more dependent children	$325.98 a week, subject to Income Test 1
2	To a beneficiary without any dependent children	$218.86 a week, subject to Income Test 1

3 For the purposes of **clause 1**, MSD may disregard up to $20 a week of the beneficiary's personal earnings used to meet the cost of childcare for any of the beneficiary's dependent children.

4 In this Part, **dependent child** (as defined in **Schedule 2**) excludes a child in respect of whom a supported child's payment is being paid.

Part 9

Rates of generally abolished former DPB for solo parents under section 27B of Social Security Act 1964 as saved by clause 52 of Schedule 1 of this Act for reciprocity agreement applicants or recipients

1	To a beneficiary with 1 or more dependent children	$325.98 a week, subject to Income Test 1
2	To a beneficiary without any dependent children	$218.86 a week, subject to Income Test 1

3 For the purposes of **clause 1**, MSD may disregard up to $20 a week of the beneficiary's personal earnings used to meet the cost of childcare for any of the beneficiary's dependent children.

4 In this Part, **dependent child** (as defined in **Schedule 2**) excludes a child in respect of whom a supported child's payment is being paid.

Part 10

Rates of benefits payable to long-term hospital patients

1	To a person without dependent children who is in a relationship, or a single person, who is receiving a main benefit under this Act	$43.45 a week

Schedule 5
Asset and income limits

ss 63(e), 75(2)(c)(ii), 87(2)(b), 431(2)(a) and (n)

Part 1
Asset limits

1	For a single person without dependent children	$1,050.92
2	For a person who is in a relationship with or without dependent children	$1,751.13
3	For a sole parent with 1 dependent child	$1,379.90
4	For any other sole parent	$1,482.30

Part 2
Income limits

		Per week
5	For a single person aged 16 or 17 years without dependent children	$480.03
6	For any other single person without dependent children	$551.70
7	For a person who is in a relationship with or without dependent children	$801.31
8	For a sole parent with 1 dependent child	$669.46
9	For any other sole parent	$705.31

Part 3
Disability allowance income limits

		Per week
10	For a single person aged 16 or 17 years without dependent children	$518.76
11	For any other single person without dependent children	$616.71
12	For a person who is in a relationship with or without dependent children	$914.71
13	For a sole parent with 1 dependent child	$723.49
14	For any other sole parent	$762.26

Schedule 6
Information gathering, disclosure, and matching

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MSD obtaining information by questions

1 Duty to answer questions asked by MSD

(1) A person (even if not an applicant for a benefit) must answer all questions the person is asked (in any way) by MSD about all or any of the following:

(a) an applicant for a benefit:

(b) a person who is or has been receiving a benefit:

(c) a statement contained in an application for a benefit:

(d) the means, earning capacity, or economic circumstances of a person, when all or any of that information is reasonably required by MSD for the purposes of section 46 (reports as to children) or 91 (reports as to maintenance) of the Family Proceedings Act 1980:

(e) the means, earning capacity, or economic circumstances, of a person who is or may be liable to maintain either or both of the following:

(i) an applicant for a benefit, or a beneficiary:

(ii) a dependant of an applicant for a benefit, or of a beneficiary.

(2) This clause does not require the person to provide any information that would be privileged in a court of law.

(3) If a person refuses to disclose information on the ground that it is privileged under **subclause (2)**,—

(a) MSD, that person, or any other person to whom the information relates, may apply to a District Court Judge for an order determining whether the claim of privilege is valid; and

(b) the Judge may, for the purposes of determining an application of that kind, require the information to be produced to the court.

(4) **Section 271** (offences: false statements, misleading, or attempting to mislead, to receive or continue to receive benefits) applies to answers to, and to omissions to answer, the questions.

Compare: 1964 No 136 s 12(2)

MSD obtaining information by notice

2 Power to obtain information

(1) MSD may for all or any of the purposes specified in **clause 3**, by written notice given to a person (**P**), require P, without charge, and within a period (of 5 or more working days after the notice is given), and in the manner, stated in the notice,—

(a) to give MSD information (even if the information is not contained in a document) that MSD requires; or

(b) to give MSD, and allow MSD to make copies of or take extracts from, a document (for example, a record) in or under P's custody or control; or

(c) to give MSD copies of or extracts from a document in the custody or under the control of P.

(2) **MSD**, in **subclause (1)**, includes an MSD employee who is identified in the notice.

(3) P may, but need not, be a person who is an officer or employee—

(a) in the service of the Crown in a government department or public body (other than as an officer of a court); and

(b) acting in the person's official capacity.

(4) This clause is subject to **clause 4** (privilege), and to the code of conduct under **clause 8**.

Compare: 1964 No 136 s 11(1)

3 Purposes

Information may be obtained under **clause 2** for all or any of the following purposes:

(a) determining whether a person who has made a claim for, is receiving, or has received, a benefit or payment under any of the following enactments or programmes is or was entitled to receive that benefit or that payment:

(i) this Act (for example, under a reciprocity agreement approved by an order made under **section 359**); or

(ii) Part 6 of the Veterans' Support Act 2014:

(iii) Part 1 of the New Zealand Superannuation and Retirement Income Act 2001:

(iv) a welfare programme approved by the Minister under **section 87** of this Act:

(v) **Part 9 of the Social Security Legislation Rewrite Act 2016**:

(b) determining the rate of benefit or payment that is or was applicable to that person:

(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 416** is or was entitled to be issued with that card:

(d) conducting or reviewing a means assessment under **subpart 6 of Part 9 of the Social Security Legislation Rewrite Act 2016** (relating to payment for LTR contracted care as defined in **section 446** of that **Part**), or determining whether a means assessment of that kind is correct:

(e) determining, under **subpart 8 of Part 9 of the Social Security Legislation Rewrite Act 2016**, the amount that a person is required to pay towards the cost of the home-based disability support services supplied to that person, and whether a person who has been so assessed is entitled to that assessment:

(f) ascertaining the financial circumstances or whereabouts of a person who is indebted to the Crown under—

(i) this Act (for example, under a reciprocity agreement approved by an order made under **section 359**); or

(ii) sections 27I to 27ZI (except section 27X) of, and Schedule 20 of, the Social Security Act 1964 (as preserved by section 256(1) of the Child Support Act 1991); or

(iii) section 61CA of the Social Security Act 1964 (Family Proceedings Act 1980 maintenance payable to the Crown) (as that section is saved by **clause 46 of Schedule 1**):

(iv) **Part 9 of the Social Security Legislation Rewrite Act 2016**:

(g) discharging MSD's functions under, or under any regulations in force under, an enactment or a programme in **paragraph (a)(i) to (v)**.

Compare: 1964 No 136 s 11(2)

4 Privilege

(1) **Clause 2** does not require a person to provide information or produce a document that would be privileged in a court of law.

(2) **Subclause (1)** is subject to the exception specified in **subclause (3)**.

(3) **Clause 2** requires a person to provide information, or to produce a document, even though the information or document is legally professionally privileged, if the information or document—

(a) is contained in, or is all or a part of, a record prepared by or kept in connection with a lawyer's trust account; and

(b) consists wholly or partly of, or relates wholly or partly to,—

(i) the receipts, payments, income, expenditure, or financial transactions of a specified person (whether the lawyer, the lawyer's client, or any other person); or

(ii) investment receipts (being receipts arising or accruing from any money lodged at any time with a lawyer for investment) of any person or persons (whether the lawyer, the lawyer's clients, or any other person or persons).

(4) **Record**, in **subclause (3)**, includes a record that is an account, an audio or audiovisual record, a book, an electronic record, or a statement.

(5) If a person refuses to disclose information or a document on the ground that it is privileged under **subclause (1) or (3)**, MSD or that person or another person to whom the information or document relates may apply to a District Court Judge for an order determining whether or not the claim of privilege is valid.

(6) The Judge may, for the purposes of determining the application, require the information or document to be produced to the court.

(7) In this clause and **clause 9**,—

lawyer means either or both of the following:

(a) a person who is or has been a barrister or solicitor of the High Court (whether or not the barrister or solicitor is or has been a lawyer as defined in section 6 of the Lawyers and Conveyancers Act 2006):

(b) a firm or an incorporated law firm (within the meaning of the Lawyers and Conveyancers Act 2006) in which a lawyer to whom **paragraph (a)** applies is or has been, or is or has been held out to be, a partner, director, or shareholder

trust account, in relation to a lawyer, has the same meaning as in section 6 of the Lawyers and Conveyancers Act 2006.

Compare: 1964 No 136 s 11(4)–(6)

5 Offences

(1) A person commits an offence if the person—

(a) refuses or fails, without reasonable excuse, to comply with a notice given under **clause 2** to the extent that the person is capable of complying with it; or

(b) purports to comply with a notice given under **clause 2** by knowingly or recklessly giving (or attempting to give) information (for example, information in the form of a document or record) that is false or misleading in a material particular.

(2) An offence against **subsection (1)(a)** is a strict liability offence, and therefore does not require the prosecution to prove that the defendant intended, or knew or was reckless about, the defendant's refusal or failure.

(3) However, in proceedings for an offence against **subsection (1)(a)**—

(a) the prosecutor need not assert in the charging document that the without-reasonable-excuse exception does not apply; and

(b) the burden of proving that the without-reasonable-excuse exception applies lies on the defendant.

(4) A person who commits an offence against this clause is liable on conviction to a fine not exceeding $2,000.

Compare: 1964 No 136 s 11(3)

6 Power to obtain for matching purposes information from employers

(1) This clause applies to an employer if MSD has reason to suspect that there is, or may have been, employed by the employer, a person or people—

(a) to whom benefits, or payments under this Act, have been paid that should not have been; or

(b) to whom entitlement cards have been issued that should not have been; or

(c) in respect of whom, or in respect of whose spouse or partner, there has been conducted under **subpart 6 or 8 of Part 9 of the Social Security Legislation Rewrite Act 2016** a means assessment that is not correct.

(2) MSD may issue a notice under **clause 2** to that employer requiring that employer to give to MSD, within a period (of 5 or more working days after the notice is given), and in the manner, stated in the notice, the following information (so that it can be used in an information-matching programme):

(a) the names and addresses of all, or of a specified class, of that employer's employees (including any former employees who were employed by that employer within a specified period); and

(b) the tax file numbers (as defined in section YA 1 of the Income Tax Act 2007) of those employees or former employees.

(3) **Subclause (2)** applies whether or not MSD is able to identify any employees or former employees of that employer as being individuals who—

(a) are or have been receiving a benefit, or payment under this Act; or

(b) are or have been issued with entitlement cards under regulations in force under **section 416**; or

(c) have had their financial circumstances, or the financial circumstances of their spouse or partner, assessed under either or both of **subparts 6 and 8 of Part 9 of the Social Security Legislation Rewrite Act 2016**.

(4) In this clause and **clause 7**,—

(a) **information-matching programme** means the comparison of information obtained under **subclause (2)** with other personal information held by MSD for the purpose of producing or verifying information about an identifiable individual; and

(b) expressions otherwise defined in section 97 of the Privacy Act 1993 have the meanings so defined, with all necessary modifications.

(5) This clause does not authorise MSD to issue a notice to an employer more than once in a 12-month period.

Compare: 1964 No 136 s 11A(1)–(3), (8), (10)

7 Matching of information obtained from employer

(1) If MSD obtains information under a notice issued under **clause 2**, and that information, when used in an information-matching programme, produces a discrepancy, MSD must not take adverse action against an individual in relation to that discrepancy—

(a) unless MSD has given that individual written notice—

(i) specifying particulars of the discrepancy and of the adverse action MSD 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.

(2) **Subclause (1)** does not prevent MSD from taking adverse action against an individual if compliance with the requirements of that subclause would prejudice any investigation into the commission, or possible commission, of an offence.

(3) Sections 100 to 102 and 104 to 106 of the Privacy Act 1993, and the information matching rules specified in Schedule 4 of that Act, apply, with all necessary modifications, to any information obtained by MSD under **clause 6** and to any information-matching programme using that information.

(4) Despite rule 4 of those rules as applied by **subclause (3)**,—

(a) MSD must not be required to prepare more than 1 technical standards report in respect of information received from any employer or employers under **clause 6** if the standards in that report are to apply to information so obtained from any employers generally; and

(b) MSD must not be required to make that report available to any employer given notice under **clause 6**, and nor must any employer of that kind be required to hold a copy of that report.

(5) If MSD fails to comply, in relation to an individual, with **subclause (1)** or with any of the sections or rules applied by **subclause (3)**, the failure must, for the purposes of Part 8 of the Privacy Act 1993, be taken to constitute a failure to comply with Part 10 of that Act.

(6) This clause does not limit section 103(1A) of the Privacy Act 1993.

Compare: 1964 No 136 s 11A(4)–(7), (9)

Code of conduct for information or documents requirements

8 General

(1) MSD must, in consultation with the Privacy Commissioner appointed under the Privacy Act 1993, ensure there is in force at all times after the commencement of this clause a code of conduct that is issued by MSD, and that applies in respect of requirements under **clause 2** for a person to give MSD information or documents.

(2) MSD must in making a requirement under **clause 2** comply with every issued code of conduct.

(3) The code of conduct—

(a) must include the matters specified in **clause 9**; and

(b) may include restrictions on obtaining, using a requirement under **clause 2**, the following:

(i) specified classes of information or documents; and

(ii) information or documents from specified classes of persons or from persons in specified relationships; and

(c) must specify procedures that apply to the obtaining of information or documents under **clause 2**.

(4) MSD may from time to time, in consultation with the Privacy Commissioner, amend, revoke, or revoke and replace an issued code of conduct.

Compare: 1964 No 136 s 11B(1)–(3)

9 Matters to be included

(1) The code of conduct issued under **clause 8** must contain the following matters:

(a) provisions that, before a requirement under **clause 2** is issued to a person other than the beneficiary, and except if compliance with the provisions would prejudice the maintenance of the law, do the following:

(i) require any information or document to first be sought from a beneficiary; and

(ii) allow the beneficiary a reasonable time to provide it.

(b) a provision prohibiting a requirement under **clause 2** being made in respect of a beneficiary to a person (other than the beneficiary, an employer or former employer of the beneficiary, a financial institution, or a lawyer) unless there is reasonable cause to make a requirement under that clause:

(c) a provision prohibiting a requirement under **clause 2** being made to an employer in respect of any information or document that relates solely to the marital or relationship status of an employee or former employee of that employer:

(d) provisions otherwise restricting requirements under **clause 2** made to employers to specified information relating to the employment, and address, of the employers' employees or former employees.

(2) In **subclause (1)(b)**, **reasonable cause** includes—

(a) cause to suspect that the beneficiary has committed an offence under this Act, under regulations made under this Act, or under **Part 9 of the Social Security Legislation Rewrite Act 2016**, or has obtained by fraud any payment or credit or advance under this Act:

(b) the fact that the beneficiary or a spouse or partner of that beneficiary has failed within a reasonable time, or refused, to provide any information or

produce any document in accordance with a request or requirement made to that person in accordance with **subclause (1)(a)**.

Compare: 1964 No 136 s 11C

10 Relationship with Privacy Act 1993 code of practice

(1) Nothing in the code of conduct can affect any code of practice issued by the Privacy Commissioner under Part 6 of the Privacy Act 1993 that applies to the information required under **clause 2**, and MSD, in consultation with the Privacy Commissioner, must amend the code of conduct to conform with any code of practice of that kind.

(2) **Subclause (1)** is subject to regulations made under **subclause (3)**.

(3) The Governor-General may, on the advice of the Minister given after consultation with the Privacy Commissioner, by Order in Council, make regulations under **section 397(1)(o)** authorising MSD to obtain all or any of the following using a requirement under **clause 2**, even though the making of that requirement would otherwise be in breach of any code of practice issued by the Privacy Commissioner under Part 6 of the Privacy Act 1993:

(a) any specified class of information or document:

(b) information or documents from any specified class of persons:

(c) information or documents in any specified manner.

Compare: 1964 No 136 s 11B(4), (5)

11 Availability, and application of Legislation Act 2012

(1) As soon as practicable after issuing a code or an amendment to it, MSD must ensure it is published in a form accessible to the public.

(2) A code of conduct (or any amendment or revocation or replacement of it) issued under **clause 8**—

(a) is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012; and

(b) is not required to be presented to the House of Representatives under section 41 of that Act.

Compare: 1964 No 136 s 11B(8)

12 Complaints of breach

(1) This clause applies to a person who—

(a) is required by a requirement under **clause 2** to give any information or document; or

(b) is the subject of the information or document required by the requirement under **clause 2**.

(2) The person may make a complaint to the Privacy Commissioner that the requirement breaches the code of conduct issued under **clause 8**.

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

Compare: 1964 No 136 s 11B(6), (7)

Information disclosure

13 Beneficiary contact details for fines enforcement

(1) The purpose of this clause is to enable the Ministry of Justice to locate a beneficiary who is in default in the payment of a fine (and this clause for that purpose authorises the disclosure of information by MSD, and to the Ministry of Justice).

(2) The chief executive of the Ministry of Justice may for the purpose of this clause request MSD to supply, from information kept by MSD, a beneficiary's last known address and telephone number.

(3) The request must be made in accordance with arrangements made by the chief executive of the Ministry of Justice with MSD.

(4) For each item of information to be supplied, MSD must include the date when the information was most recently updated.

(5) After receiving the request, MSD may supply the information requested—

(a) to a Ministry of Justice officer or employee whom the chief executive of the Ministry of Justice has authorised to receive that information; and

(b) in a form determined by the chief executive of the Ministry of Justice and MSD.

(6) In this clause, unless the context otherwise requires,—

beneficiary means a person who is all or any of the following:

(a) a person who has been granted a benefit:

(b) a person in respect of whom a benefit, or part of a benefit, has been granted:

(c) a person who was formerly receiving a benefit:

(d) a person from whom any liable parent contributions to which section 256(1) of the Child Support Act 1991 applies may be recovered:

(e) a person from whom any maintenance payment to which section 259(1) of the Child Support Act 1991 applies may be recovered

benefit means all or any of the following:

(a) a benefit as defined in **Schedule 2**:

(b) a lump sum (funeral grant) payable under regulations made under **section 406**:

(c) any special assistance granted under a programme approved under **section 87**

fine means—

(a) a fine as defined in section 79 of the Summary Proceedings Act 1957:

(b) a fine to which section 19 of the Crimes Act 1961 applies:

(c) a fine to which section 43 or 45 of the Misuse of Drugs Amendment Act 1978 applies:

(d) any amount payable under section 138A(1) of the Sentencing Act 2002.

Compare: 1964 No 136 s 126A

14 Address details for birth registration purposes

(1) The purpose of this clause is to assist in locating and contacting the mothers of children whose births are unregistered, so that the births may be registered (and this clause for that purpose authorises the disclosure of information by MSD, and to the Registrar-General appointed under section 79(1) of the Births, Deaths, Marriages, and Relationships Registration Act 1995).

(2) The Registrar-General may for the purpose of this clause request MSD to supply, from information held for the purposes of this Act by MSD, the postal address and residential address (if different from the postal address) of a person who the Registrar-General believes on reasonable grounds may be the mother of a child whose birth is unregistered.

(3) But the Registrar-General cannot make the request unless—

(a) there is an agreement under section 99 of the Privacy Act 1993 between MSD and the Registrar-General; and

(b) the request is in accordance with the agreement.

Compare: 1964 No 136 s 126AB

15 Warrant to arrest information for determining effect on benefit

(1) The purpose of this clause is to enable MSD to implement effectively **section 193** (and this clause for that purpose authorises and requires the disclosure of information by the chief executive of the Ministry of Justice and the Ministry of Justice, and to MSD).

(2) The chief executive of the Ministry of Justice must from time to time for the purpose of this clause give MSD information about relevant individuals.

(3) An individual is relevant only if a New Zealand court has (or 1 or more of its Judges or Registrars have), at least 28 days before the information is given, issued, in criminal proceedings against the individual for an offence, a warrant for the individual's arrest, and the warrant has not been executed or withdrawn.

(4) The information must be given—

(a) unless an enactment or a court's order or direction prevents the giving of the information; and

(b) in accordance with arrangements made by the chief executive of the Ministry of Justice with MSD; and

(c) in a form determined by agreement between the chief executive of the Ministry of Justice and MSD.

(5) The information given must include (without limitation)—

(a) the individual's name (including any alias), date of birth, and last known address; and

(b) the nature of the offence charged.

(6) Information given by the chief executive of the Ministry of Justice to MSD may be given by MSD to an employee who is—

(a) an MSD employee; and

(b) authorised by the chief executive to receive it.

Compare: 1964 No 136 s 126AC

16 Disclosure for services to young people not in education or training

(1) MSD may enter into an agreement under Part 9A of the Privacy Act 1993 with the chief executive of the Ministry of Education relating to the sharing, for the purposes of facilitating the provision of services of a kind described in **section 344(1)(a)** ~~or assessing young people's risk of long-term welfare dependency (as that risk is defined in **Schedule 2**)~~, of information about young people who have ceased to be enrolled at 1 or both of the following:

(a) a registered school (as defined in section 2 of the Education Act 1989); or

(b) a tertiary education organisation (being an organisation as defined in section 159B(1) of that Act).

(2) While the agreement is in force, the chief executive of the Ministry of Education—

~~(a) may provide to MSD any information to which **subclause (1)** applies and that the chief executive of the Ministry of Education considers—~~

~~(i) may facilitate the provision by MSD of services of a kind described in **section 344(1)(a)**; or~~

~~(ii) is required for the assessment of the young people's risk of long-term welfare dependency; and~~

(a) may provide to MSD any information to which **subclause (1)** applies and that the chief executive of the Ministry of Education considers may facilitate the provision by MSD of services of a kind described in **section 344(1)(a)**; and

(b) may use national student numbers for the purpose of gathering the information.

(3) **Subclause (2)** overrides section 344(2) of the Education Act 1989.

Compare: 1964 No 136 s 123F

17 Purpose of clause 18

The purpose of **clause 18** is to authorise local agencies (for example, schools, primary health organisations, and the New Zealand Police) to disclose relevant personal information about a young person to MSD or a contracted service provider if the agency concerned considers it relevant to the performance or exercise of duties, functions, or powers under this Act in respect of the young person.

Compare: 1964 No 136 s 125D(1)

18 Disclosure of information relevant to young people functions

(1) An agency specified by the Governor-General by Order in Council for the purposes of this subclause may, for the purposes of this clause, disclose any information about a young person to MSD, if satisfied on reasonable grounds that—

(a) **subclause (3)** applies to the young person; and

(b) the information will assist MSD in—

(i) performing any function, or exercising any power, related to financial support for young people; or

(ii) achieving any of the purposes of this Act.

(2) An agency specified by the Governor-General by Order in Council for the purposes of this subclause may, for the purposes of this clause, disclose any information about a young person to a contracted service provider, if satisfied on reasonable grounds that—

(a) the provider is the young person's contracted service provider; and

(b) **subclause (3)** applies to the young person; and

(c) the information will assist the provider in providing services under a contract under **section 352**.

(3) This subclause applies to a young person if the young person—

(a) has applied for or is receiving a youth support payment; or

(b) is subject to obligations under **section 151 or 152**; or

(c) has left or finished education, and is not or may not be in employment or training; or

(d) has left or finished training, and is not or may not be in employment.

Compare: 1964 No 136 s 125D(2)–(4)

19 Purpose of clause 20

The purpose of **clause 20** is—

(a) to authorise MSD and any contracted service provider to disclose to each other relevant personal information about persons to whom the provider's contract under **section 352** applies; and

(b) to assist MSD to exercise and perform powers and functions under the provisions specified in **section 352(1)(a)** or, as the case requires, **352(1)(b)** and the provider to provide services under the contract; and

(c) to enable the prescription of—

(i) the circumstances in which the personal information may be disclosed; and

(ii) conditions governing the disclosure of the personal information; and

(iii) conditions governing the way in which the personal information is to be dealt with by the person to whom it is disclosed.

Compare: 1964 No 136 s 125C(1)

20 Disclosure of information about people to whom service provider's contract applies

(1) This clause applies to any personal information about a person or persons to whom a contract under **section 352** applies that is held by the contracted service provider concerned or MSD.

(2) For the purposes of this clause, regulations made under **section 397(1)(p)** may state—

(a) the circumstances in which a contracted service provider and its employees may release or disclose to MSD and MSD employees information to which this clause applies held by the contracted service provider and the conditions with which MSD and MSD employees must comply in dealing with the information; or

(b) the circumstances in which MSD and MSD employees may release or disclose to a contracted service provider and its employees information to which this clause applies held by MSD and the conditions with which the contracted service provider and its employees must comply in dealing with the information.

(3) If satisfied on reasonable grounds that its disclosure is in accordance with regulations of the kind referred to in **subclause (2)**, MSD, an MSD employee, a contracted service provider, or an employee of a contracted service provider may release or disclose information to which this clause applies.

(4) Nothing in this clause requires MSD, MSD employees, a contracted service provider, or employees of a contracted service provider to release or disclose any information.

(5) In this clause,—

employee, in relation to a contracted service provider, includes a volunteer

held includes deemed for the purposes of the Official Information Act 1982 to be held.

Compare: 1964 No 136 s 125C(2), (3), (5)–(7)

21 Complaints of breach of requirements for disclosure

(1) A person may complain to the Privacy Commissioner if personal information relating to the person has been disclosed under an information-sharing agreement under **clause 16(1)**, on the ground that the disclosure was in breach of the agreement.

(2) A person may complain to the Privacy Commissioner if personal information relating to the person has been disclosed under **clause 18 or 20**, on the ground that the disclosure was in breach of—

(a) the requirements of **clause 18**; or

(b) regulations of the kind referred to in **clause 20**.

(3) Part 8 of the Privacy Act 1993—

(a) applies to a complaint under **subclause (1)** as if the information-sharing agreement concerned were a code of practice issued under Part 6 of that Act; and

(b) applies to a complaint under **subclause (2)** as if **clause 18** and the regulations concerned together constituted a code of practice issued under Part 6 of that Act.

Compare: 1964 No 136 s 125I

Schedule 7
Benefits review committees

s 372

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1 Establishment

The Minister must establish at least 1 benefits review committee for every MSD office where decisions or recommendations in relation to the matters to which this Act applies are made or were made.

Compare: 1964 No 136 s 10A(2)

2 Membership

Every benefits review committee must consist of—

(a) a person who is—

(i) appointed by the Minister; and

(ii) to represent on the committee the community's interests; and

(b) 2 MSD employees appointed by the chief executive, and—

(i) from time to time; or

(ii) in respect of the particular review.

Compare: 1964 No 136 s 10A(3)

3 Member to represent community's interests

(1) This clause applies to the member appointed under **clause 2(a)**.

(2) The member holds office on any terms and conditions that—

(a) are not inconsistent with this Act; and

(b) the Minister thinks fit.

(3) The member—

(a) may be paid remuneration at a rate and of a kind determined in accordance with the fees framework; and

(b) is entitled to be reimbursed for actual and reasonable travelling and other expenses in accordance with the framework.

(4) The member is not, just because of membership of the committee, to be treated as employed in the service of the Crown for the purposes of—

(a) the State Sector Act 1988; or

(b) the Government Superannuation Fund Act 1956.

Compare: 1964 No 136 s 10A(4)

4 Secretarial and administrative services

All secretarial and administrative services required for the committee's purposes must be supplied by MSD.

Compare: 1964 No 136 s 10A(5)

5 Quorum, and committee's decision, at meetings

At any meeting of the committee,—

(a) the quorum is the committee's total membership; and

(b) the decision of any 2 members of the committee is the committee's decision.

Compare: 1964 No 136 s 10A(6)

6 MSD employee cannot act as committee member if that employee was involved in decision being reviewed

An MSD employee cannot act as a member of the committee if that employee was involved in the decision being reviewed.

Compare: 1964 No 136 s 10A(7)

Schedule 8
Appeal authority

s 380(1)

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1 Social Security Appeal Authority

(1) This clause establishes the Social Security Appeal Authority.

(2) The authority consists of 3 persons appointed by the Governor-General on the recommendation of the Minister given after consultation with the Minister of Justice.

(3) One of the members must be appointed as the authority's chairperson.

Compare: 1964 No 136 s 12A

2 Term of office of members

(1) Every member (except so far as this Act provides otherwise)—

(a) holds office for a term not exceeding 3 years; and

(b) may be reappointed.

(2) Every member continues in office (despite any contrary provisions of this Act) until that member's successor comes into office, unless that member vacates office earlier under **clause 3**.

Compare: 1964 No 136 s 12B

3 Extraordinary vacancies

(1) A member may at any time be removed from office by the Governor-General for all or any of the following, proved to the Governor-General's satisfaction:

(a) inability to perform the functions of the office:

(b) bankruptcy:

(c) neglect of duty:

(d) misconduct.

(2) A member may at any time resign office by written notice to the Minister.

(3) If a member's office becomes vacant by death, resignation, or removal from office, the vacancy so created must be filled in the way in which the appointment to the vacant office was originally made.

(4) Every person appointed to fill an extraordinary vacancy holds office for the rest of the term for which that person's predecessor would have held office if the vacancy had not occurred.

(5) The authority's powers are not affected by a vacancy in its membership.

Compare: 1964 No 136 s 12C

4 Special appeal authorities

(1) The Governor-General may from time to time (by appointing their members under this clause) establish 1 or more special authorities.

(2) Each special authority consists of 3 persons appointed by the Governor-General on the recommendation of the Minister given after consultation with the Minister of Justice.

(3) Every member (except so far as this Act provides otherwise)—

(a) holds office for a term not exceeding 3 years; and

(b) may be reappointed.

(4) One member must be appointed as the authority's chairperson.

(5) Every member continues in office (despite any contrary provisions of this Act) until that member's successor comes into office, unless that member vacates office earlier under **clause 3** (which applies with all necessary modifications).

Compare: 1964 No 136 s 12D

5 Deputies of members

(1) The Governor-General may, on the recommendation of the Minister given after consultation with the Minister of Justice, appoint some other person qualified for appointment to act in the place of a member (the chairperson or another member) who is (because of illness, absence, or any other cause) unable to perform the functions of the office.

(2) Each person so appointed as deputy is, while the inability continues, taken for all purposes to be the chairperson or other member.

(3) No appointment of a deputy, and no acts done by a deputy acting as chairperson or by the authority, while the deputy is acting as such, can in any proceedings be questioned on the ground that the occasion for the appointment had not arisen or had ceased.

(4) The Governor-General may, on the recommendation of the Minister given after consultation with the Minister of Justice, appoint some other person qualified for appointment to be deputy chairperson, to act as chairperson from time to time as required.

(5) **Subclause (4)** overrides **subclauses (1) to (3)**.

Compare: 1964 No 136 s 12E

6 Remuneration and travelling and other expenses

(1) The authority is, for the purposes of the fees framework, a statutory body in which the Crown has an interest.

(2) Members—

(a) may be paid remuneration at a rate and of a kind determined in accordance with the fees framework; and

(b) are entitled to be reimbursed for actual and reasonable travelling and other expenses in accordance with the framework.

Compare: 1964 No 136 s 12F

7 Secretary to, and secretarial and administrative services for, authority

The chief executive of the Ministry of Justice must—

(a) designate an officer of the Ministry of Justice to be secretary to the authority; and

(b) provide the secretarial and administrative services necessary to enable the authority to discharge its functions.

Compare: 1964 No 136 s 12G

8 Seal

(1) The authority must have a seal.

(2) The authority's seal must be judicially noticed—

(a) by all courts or persons acting judicially; and

(b) for all purposes.

Compare: 1964 No 136 s 12H

9 Sittings: location, quorum, and authority's decision

(1) Each sitting of the authority is to be held in the place it considers convenient having regard to the nature of the matters to be decided.

(2) The presence of the chairperson and 1 other member is necessary to constitute a sitting of the authority.

(3) The decision of a majority of the members present at a sitting of the authority is the decision of the authority.

(4) If those members are equally divided in opinion, the chairperson's decision is the decision of the authority.

Compare: 1964 No 136 s 12N(1)–(3)

10 Sittings: in private or public

(1) Every sitting of the authority is to be held in private.

(2) **Subclause (1)** does not apply to the extent that the authority under this clause orders that all or a part of the sitting is to be held in public.

(3) The authority may in any case order that all or a part of a sitting is to be held in public, if the authority considers that doing so will not adversely affect—

(a) the interests of the parties to the appeal; and

(b) the interests of all other persons concerned.

Compare: 1964 No 136 s 12N(3)

11 Publication of proceedings

(1) No person may publish without the authority's authorisation all or a part of any proceedings before the authority.

(2) The authority's authorisation is not given unless it makes (under this subclause, on an application for the purpose, or on in its own initiative) an order for that purpose.

(3) Every person who contravenes **subclause (1)** commits an offence.

(4) Every person who commits an offence against **subclause (3)** is liable on conviction to a fine not exceeding $100.

Compare: 1964 No 136 s 12N(4), (5)

12 Authority has powers under Commissions of Inquiry Act 1908

(1) The Authority is, within the scope of its jurisdiction, deemed to be a commission of inquiry under the Commissions of Inquiry Act 1908.

(2) The provisions of that Act, except sections 2, 10, 11, and 12, apply accordingly, subject to the provisions of this Act.

Compare: 1964 No 136 s 12M(6)

Schedule 9
Medical board

s 392

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1 Establishment and membership

(1) A medical board consists of 3 members appointed—

(a) by the chief executive; and

(b) for the particular purpose.

(2) A person is ineligible for appointment as a member unless the person is—

(a) a medical practitioner; or

(b) a rehabilitation professional (*see* **subclause (3)**); or

(c) a person who has appropriate expertise in the fields of vocational training or vocational support for persons with health conditions, injury, or disability.

(3) In **subclause (2)(b)**, **rehabilitation professional** means a person who is—

(a) a person professionally engaged in the rehabilitation of persons from sickness or accident or with disabilities; or

(b) a nurse; or

(c) an occupational therapist; or

(d) a physiotherapist; or

(e) a psychologist.

(4) In **subclause (3)(b)**, **nurse** means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing whose scope of practice permits the performance of general nursing functions.

(5) In **subclause (3)(c)**, **occupational therapist** means a health practitioner who is, or is deemed to be, registered with the Occupational Therapy Board continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of occupational therapy.

(6) In **subclause (3)(d)**, **physiotherapist** means a health practitioner who is, or is deemed to be, registered with the Physiotherapy Board continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of physiotherapy.

(7) In **subclause (3)(e)**, **psychologist** means a health practitioner who is, or is deemed to be, registered with the Psychologists Board continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of psychology.

Compare: 1964 No 136 s 10B(4), (5)

2 Members' terms and conditions of office

(1) Each member holds office on terms and conditions that—

(a) are not inconsistent with this Act; and

(b) the chief executive thinks fit.

(2) Each member—

(a) may be paid remuneration at a rate and of a kind determined by the chief executive; and

(b) is entitled to be reimbursed for actual and reasonable travelling and other expenses determined by the chief executive.

(3) No member is, just because of membership of a board, to be treated as employed in the service of the Crown for the purposes of—

(a) the State Sector Act 1988; or

(b) the Government Superannuation Fund Act 1956.

Compare: 1964 No 136 s 10A(4)

3 Secretarial and administrative services

MSD must meet the costs of all secretarial and administrative services required for a board's purposes.

Compare: 1964 No 136 s 10A(5)

4 Quorum, and board's decision, at meetings

At any meeting of a board,—

(a) the quorum is that board's total membership; and

(b) the decision of any 2 members of that board is that board's decision.

Compare: 1964 No 136 s 10A(6)

Schedule 10
Consequential amendments

ss 9(2), 438

Part 1
Amendments to Acts

Accident Compensation Act 2001 (2001 No 49)

In section 123(2)(f), replace "sections 71 and 86A of the Social Security Act 1964" with "regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016**".

In section 252(1)(a), replace "an income-tested benefit under the Social Security Act 1964" with "a specified benefit as defined in **section 182(3) of the Social Security Legislation Rewrite Act 2016**".

In section 252(4), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 253(1)(b), replace "an income-tested benefit under the Social Security Act 1964" with "a specified benefit as defined in **section 182(3) of the Social Security Legislation Rewrite Act 2016**".

In section 253(3), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 280(2), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Replace section 281(1) with:

(1) In this section, unless the context otherwise requires, **benefit** means any of the following:

- (a) a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**:
- (b) a funeral grant lump sum payable under any regulations made under **section 406** of that Act:
- (c) any special assistance payable under a programme approved under **section 86 or 87** of that Act:
- (d) an allowance established by regulations made under section 303 of the Education Act 1989.

In section 281(2), (3), (4), and (5), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In Schedule 1, clause 42(3)(a)(ii) and (b)(ii), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Administration Act 1969 (1969 No 52)

In section 65(2) and (3), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**" in each place.

Adoption Act 1955 (1955 No 93)

After section 30, insert:

31 References to Child Welfare Officer to be read as references to social workers, etc

(1) Every reference in this Act and its amendments, as in force on or after 1 April 1972, to a Child Welfare Officer must be read as a reference to a social worker.

(2) **Subsection (1)** applies—

(a) subject to the amendments made by section 23(1) to (3) of the Department of Social Welfare Act 1971; and

(b) unless the context otherwise requires.

(3) This section does not affect the operation of section 23(4)(a) of the Department of Social Welfare Act 1971 (which required references to the Superintendent of Child Welfare to be read as references to the Director-General of Social Welfare under that Act) at any time or times—

(a) on or after 1 April 1972; and

(b) before its repeal, on 1 April 1990, by section 36(6) of the Social Welfare (Transitional Provisions) Act 1990.

Compare: 1971 No 60 s 23(4)(b)

Bail Act 2000 (2000 No 38)

In the heading to section 30R, replace "**Social Security Act 1964**" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 30R, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Births, Deaths, Marriages, and Relationships Registration Act 1995 (1995 No 16)

In section 78B(1) and (2)(a), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Child Support Act 1991 (1991 No 142)

In section 2(1), definition of **financially independent**, paragraph (c), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 2(1), definition of **financially independent**, paragraph (d), replace "a benefit (as defined in section 3 of the Social Security Act 1964) payable under that Act" with "a main benefit under this Act (as that expression is defined in **Schedule 2** of

Child Support Act 1991 (1991 No 142)—*continued*

the **Social Security Legislation Rewrite Act 2016**) and that is payable under the **Social Security Legislation Rewrite Act 2016**".

In section 2(1), insert in its appropriate alphabetical order:

non-orphan and non-disablement supported child's payment means a supported child's payment under **section 42** of the **Social Security Legislation Rewrite Act 2016** granted on grounds other than that each of the child's natural or adoptive parents is dead, or cannot be found, or suffers a serious long-term disablement that makes that parent unable to care for the child

In section 2(1), replace the definition of **social security benefit** with:

social security benefit means—

(a) sole parent support under **section 29** of the **Social Security Legislation Rewrite Act 2016**:

(b) a supported child's payment under **section 42** of that Act ~~(except one granted on the grounds that each of the child's natural or adoptive parents is dead, or cannot be found, or suffers a serious long-term disablement that makes that parent unable to care for the child)~~(except for a non-orphan and non-disablement supported child's payment, as that term is defined in this subsection):

(c) any of the following benefits under that Act, but only if granted to a sole parent (within the meaning of that Act):

(i) a supported living payment under **section 33** on the ground of restricted work capacity or total blindness:

(ii) jobseeker support (other than jobseeker support under **section 25(3) or (4)** of that Act):

(iii) young parent payment:

(d) an exceptional circumstances benefit under **section 59** of that Act, but only if granted to a sole parent (within the meaning of that Act)

Repeal section 2(1A).

In section 9(5), replace "an unsupported child's benefit" with "a non-orphan and non-disablement supported child's payment".

In section 9(5), replace "the unsupported child's benefit" with "the non-orphan and non-disablement supported child's payment".

In section 9(5B), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 9(5B)(b)(iii), replace "an unsupported child's benefit" with "a non-orphan and non-disablement supported child's payment".

Child Support Act 1991 (1991 No 142)—*continued*

In section 9(6) and (6B), replace "section 70A(1)(a) and (b) of the Social Security Act 1964" with "**section 176(1)(a) and (b)** of the **Social Security Legislation Rewrite Act 2016**".

In section 9(7), replace "section 70A of the Social Security Act 1964" with "**section 176** of the **Social Security Legislation Rewrite Act 2016**".

In section 9(7), replace "section 70A(1)(a) and (b)" with "**section 176(1)(a) and (b)**".

In section 9(8), definition of **sole parent**, replace "section 3 of the Social Security Act 1964" with "**Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

In section 27(4)(b), replace "the unsupported child's benefit" with "the non-orphan and non-disablement supported child's payment".

Replace section 35A(2) with:

(2) The amount of living allowance is as follows:

(a) for a person not identified in **paragraph (b)**, the rate set out in **clause 1 of Part 2 of Schedule 4** of the **Social Security Legislation Rewrite Act 2016** (ignoring the reference to Income Test 1):

(b) for a person granted a supported living payment under **subpart 4 of Part 2** of the **Social Security Legislation Rewrite Act 2016**, the rate set out in **clause 1(c) of Part 3 of Schedule 4** of that Act (ignoring the reference to Income Test 1).

In section 35A(3), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 89B, definition of **social security benefit**, replace "within the meaning of the Social Security Act 1964" with "as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

In section 89C(1)(a)(ii), replace "the rate specified in Schedule 22 of the Social Security Act 1964" with "the rate specified in **Part 11 of Schedule 4** of the **Social Security Legislation Rewrite Act 2016** as payable to long-term hospital patients".

In section 89F(1)(a)(i), replace "the rate specified in Schedule 22 of the Social Security Act 1964" with "the rate specified in **Part 11 of Schedule 4** of the **Social Security Legislation Rewrite Act 2016** as payable to long-term hospital patients".

In section 89F(3), definition of **higher rate benefit**, replace "the rate specified in Schedule 22 of the Social Security Act 1964" with "the rate specified in **Part 11 of Schedule 4** of the **Social Security Legislation Rewrite Act 2016** as payable to long-term hospital patients".

Child Support Act 1991 (1991 No 142)—*continued*

In section 122(2), replace "section 70A(1)(a) and (b) of the Social Security Act 1964" with "**section 176(1)(a) and (b)** of the **Social Security Legislation Rewrite Act 2016**".

In section 131, replace "the Social Security Act 1964 or under the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**,".

In section 142(2), replace "an unsupported child's benefit" with "a non-orphan and non-disablement supported child's payment" in each place.

In section 142(2)(a)(ii)(A), replace "the unsupported child's benefit" with "the non-orphan and non-disablement supported child's payment".

In section 142(2)(b)(ii)(A), replace "other than unsupported child's benefit" with "other than a non-orphan and non-disablement supported child's payment".

In section 143(1A), replace "an unsupported child's benefit" with "a non-orphan and non-disablement supported child's payment" in each place.

In section 143(1A)(b)(iii)(A), replace "the unsupported child's benefit" with "the non-orphan and non-disablement supported child's payment".

In section 143(1A)(c)(iii)(A), replace "other than unsupported child's benefit" with "other than a non-orphan and non-disablement supported child's payment".

In section 179A(1) and (5), replace "an unsupported child's benefit" with "a non-orphan and non-disablement supported child's payment".

In section 180A(2), replace "unsupported child's benefit" with "non-orphan and non-disablement supported child's payment".

In section 240(2)(c), replace "Social Security Act 1964 or" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** or".

In section 240(2)(c)(ii), replace "the provisions of section 70A of the Social Security Act 1964 or" with "**section 176** of the **Social Security Legislation Rewrite Act 2016**".

In section 240(2)(d), replace "Social Security Act 1964 or any" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** or any".

In section 240(2)(d), replace "Social Security Act 1964 or the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 240(6)(a), and (10), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**" in each place.

In section 263(2)(b)(iii), replace "Social Security Act 1964 or Part 6 of the Veterans' Support Act 2014 or the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** or Part 6 of the Veterans' Support Act 2014".

Civil Defence Emergency Management Act 2002 (2002 No 33)

In section 108(8), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Corrections Act 2004 (2004 No 50)

Replace section 180(1)(a) and (b) with:

(a) **section 201(1)** of the **Social Security Legislation Rewrite Act 2016** (under which a benefit is, in general, not payable in respect of any period during which a beneficiary is imprisoned or detained in, or is an escaper from, a prison, pursuant to a sentence of imprisonment):

(b) regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016** (which provide for the recovery, including by way of deductions, of debts due to the Crown):

In section 180(2)(a), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 180C(2), definition of **benefit**, replace "section 3(1) of the Social Security Act 1964" with "**Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

Crown Proceedings Act 1950 (1950 No 54)

In section 35(2)(e), replace "in accordance with Part 2 of the Social Security Act 1964" with "under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Customs and Excise Act 1996 (1996 No 27)

Replace section 280(1) with:

(1) In this section, unless the context otherwise requires, **benefit** means any of the following:

(a) a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**:

(b) a funeral grant lump sum payable under any regulations made under **section 406** of that Act:

(c) any special assistance payable under a programme approved under **section 86 or 87** of that Act:

(d) an allowance established by regulations made under section 303 of the Education Act 1989.

In section 280(2) and (3), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 280A, definition of **department**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Customs and Excise Act 1996 (1996 No 27)—*continued*

In section 280A, definition of **social security agreement**, replace "an agreement or convention, or alteration to an agreement or convention, in respect of which an Order in Council has been made under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "an agreement (for example, one entitled a Convention), or an alteration to an agreement, in respect of which an Order in Council has been made under **section 359** (orders adopting reciprocity agreements) of the **Social Security Legislation Rewrite Act 2016**".

In section 280B(1), replace "a mutual assistance provision of the kind referred to in section 19A(2)(b) of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "a mutual assistance provision under the **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** for the governments of New Zealand and the other country to supply each other with information for social security purposes".

In section 280B(4), replace "section 19C(1)(d) of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "regulations made under **section 429** of the **Social Security Legislation Rewrite Act 2016**".

Disabled Persons Community Welfare Act 1975 (1975 No 122)

In section 2, definition of **Director-General**, paragraph (b), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 2, definition of **partner**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 2, definition of **residential care services**, replace "section 3(1) of the Social Security Act 1964" with "**Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

In section 2, definition of **spouse**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 3(1)(b), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 25A(1)(c), replace "section 136 of the Social Security Act 1964" with "**section 441** of the **Social Security Legislation Rewrite Act 2016**".

In section 26(4), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

District Courts Act 1947 (1947 No 16)

In section 84F, definition of **employer**, paragraph (c), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

District Courts Act 1947 (1947 No 16)—*continued*

In section 84F, definition of **salary or wages**, paragraph (c), replace "within the meaning of the Social Security Act 1964" with "as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

In section 84I(4), replace "section 84 of the Social Security Act 1964" with "**sections 274 and 396** (benefits to be inalienable) of the **Social Security Legislation Rewrite Act 2016**".

In section 84I(5)(a), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Replace section 84I(5)(b) with:

(b) a deduction under regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016**:

In section 84L(4), replace "a benefit within the meaning of the Social Security Act 1964" with "a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

Education Act 1989 (1989 No 80)

In section 226A(1), definition of **benefit**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 226A(1), definition of **department**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 226A(9), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 235F(1), definition of **benefit**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 235F(1), definition of **department**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 235F(9), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 236A(1)(d)(iv), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In the heading to section 307A, replace "**Social Security Act 1964**" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 307A(1), replace the definition of **benefit** with:

benefit means any of the following:

(a) a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**:

(b) a funeral grant lump sum payable under any regulations made under **section 406** of that Act:

Education Act 1989 (1989 No 80)—*continued*

(c) any special assistance payable under a programme approved under **section 86 or 87** of that Act

In section 307A(1), definition of **department**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 307B(2)(a)(ii), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 307B(2)(aa)(ii), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 307B(2)(ab), replace "section 85A of Social Security Act 1964" with "regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016**".

In section 307B(2)(c), replace "section 86A of Social Security Act 1964" with "regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016**".

In section 307B(3), replace "sections 86A and 86B to 86J of Social Security Act 1964" with "regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016**".

Electoral Act 1993 (1993 No 87)

In section 263B(3)(a) and (4)(a), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Electronic Transactions Act 2002 (2002 No 35)

In the Schedule, Part 4, replace item (15) with:

(15) the social security appeal authority, benefits review committees, and medical board established by or under the **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**:

Family Benefits (Home Ownership) Act 1964 (1964 No 32)

In section 2(1), definition of **department**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Repeal section 9(a).

In section 16(b), replace "an orphan's benefit or an unsupported child's benefit is granted under the Social Security Act 1964" with "a supported child's payment is granted under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 16, replace "that orphan's benefit or an unsupported child's benefit" with "that supported child's payment".

In section 22, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Family Proceedings Act 1980 (1980 No 94)

In section 2, replace the definition of domestic benefit with:

domestic benefit means a benefit that is—

(a) sole parent support granted under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**; or

(b) jobseeker support granted under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**; or

(c) an exceptional circumstances benefit granted under that Act, and that corresponds to a benefit in **paragraph (a) or (b)**

In section 91(1), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Replace section 101B with:

101B Power to issue deduction notices under Parts 1 to 8 of Social Security Legislation Rewrite Act 2016

(1) This section applies to a payment—

(a) under a maintenance order; and

(b) that is in arrear and unpaid.

(2) The chief executive of the department for the time being responsible for the administration of **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** may issue a deduction notice under regulations made under **section 423** of that Act to a person as if the payment in arrear and unpaid were a debt due to the Crown under that Act.

(3) However, the deduction notice cannot be issued to the employer of, acting in the capacity of the employer of, the person against whom the order was made.

(4) This section does not limit section 101 or section 110 (as saved by section 259(1) of the Child Support Act 1991).

Goods and Services Tax Act 1985 (1985 No 141)

In section 5(6E)(b)(i), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Health Act 1956 (1956 No 65)

In section 22C(2)(d), replace "Social Security Act 1964, for the purposes of administering section 75 of the Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**, for the purposes of administering **sections 190 and 191** (factors affecting benefit: hospitalisation) of that Act".

Housing Restructuring and Tenancy Matters Act 1992 (1992 No 76)

In section 2(1), definition of **additional resident**, paragraph (b), replace "within the meaning of section 3(1) of the Social Security Act 1964" with "as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

In section 2(1), definition of **income-related purpose**, replace "section 3(1) of the Social Security Act 1964" with "**Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

In section 66, replace the definition of **benefit** with:

> **benefit** means any of the following:
>
> (a) a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**:
>
> (b) a funeral grant lump sum payable under any regulations made under **section 406** of that Act:
>
> (c) any special assistance payable under a programme approved under **section 86 or 87** of that Act:
>
> (d) an allowance established by regulations made under section 303 of the Education Act 1989

In section 66, definition of **department**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 99, definition of **Ministry**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 107(3)(a), replace "the rate (before abatement) stated in paragraphs (a) to (f) of clause 1 of Schedule 9 of the Social Security Act 1964" with "the rate (before ~~abatement~~reduction on account of income) of jobseeker support stated in **clause 1(a) to (f) of Part 1 of Schedule 4** of the **Social Security Legislation Rewrite Act 2016**".

In section 114(2)(c), replace "a benefit within the meaning of section 3(1) of the Social Security Act 1964" with "a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

In section 126(a) and (b), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 128(a), replace "section 85A of the Social Security Act 1964" with "regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016**".

Replace section 136(1)(a)(ii) with:

> (ii) providing that such appeals are to be made to the social security appeal authority established by or under **section 380 and Schedule 8** of the **Social Security Legislation Rewrite Act 2016** as if they were appeals against decisions or determinations under that Act, and providing that **sections 374 to 389**,

Housing Restructuring and Tenancy Matters Act 1992 (1992 No 76)—*continued*

regulations made under **section 430**, and **Schedule 8** of that Act apply, with or without modification, to the hearing and disposal of appeals; or

In section 157(a), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In Schedule 2, clause 2(a), replace "dependent children (within the meaning of section 3(1) of the Social Security Act 1964)" with "dependent children (as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**)".

In Schedule 2, before clause 9(a)(i), insert:

(ia) a specified benefit (as defined in **section 182(3) of the Social Security Legislation Rewrite Act 2016**) other than a supported child's payment; or

In Schedule 2, clause 10(a)(i), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In Schedule 2, clause 10(a)(iii), replace "subparagraphs (ii) to (xv) of paragraph (f) of the definition of income in section 3(1) of the Social Security Act 1964" with "**clauses 8(b) to (j) and 9 of Schedule 3**, and regulations made under **section 401**, of the **Social Security Legislation Rewrite Act 2016**".

In Schedule 2, clause 11(1)(a) and (b), replace "cash assets (within the meaning of section 61E of the Social Security Act 1964)" with "cash assets (as defined in regulations made under **section 402(1)(c)** of the **Social Security Legislation Rewrite Act 2016**)".

In Schedule 3, clause 1, definition of **accommodation supplement**, replace "section 61EA of the Social Security Act 1964" with "**sections 61, 62, and 63** of the **Social Security Legislation Rewrite Act 2016**".

In Schedule 3, clause 1, definition of **special transfer allowance**, after "the special transfer allowance programme approved under section 124(1)(d) of the Social Security Act 1964", insert "(as that programme is saved by **section 11 and clause 20 of Schedule 1** of the **Social Security Legislation Rewrite Act 2016**)".

In Schedule 4, Part 1, clause 11(2), replace "may exercise its powers under section 85A of the Social Security Act 1964" with "may exercise or perform its duties, functions, or powers under regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016**".

Human Rights Act 1993 (1993 No 82)

In section 21(1)(k)(ii), replace "a benefit under the Social Security Act 1964" with "a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

Immigration Act 2009 (2009 No 51)

In section 298(1), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 298(7), replace the definition of **benefit** with:

> **benefit** means any of the following:
>
> (a) a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**:
>
> (b) a funeral grant lump sum payable under any regulations made under **section 406** of that Act:
>
> (c) any special assistance payable under a programme approved under **section 86 or 87** of that Act

In section 299(1), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 299(6), replace the definition of **benefit** with:

> **benefit** means any of the following:
>
> (a) a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**:
>
> (b) a funeral grant lump sum payable under any regulations made under **section 406** of that Act:
>
> (c) any special assistance payable under a programme approved under **section 86 or 87** of that Act

Income Tax Act 2007 (2007 No 97)

Replace section CW 28(2) with:

> (2) In this section, **overseas pension** means—
>
> (a) an overseas pension, to the extent of sums subtracted under **section 174** of the **Social Security Legislation Rewrite Act 2016**, by the department currently responsible for administering that Act, from—
>
> (i) a monetary benefit paid under that Act (other than **section 359**, which relates to reciprocity agreements with other countries); or
>
> (ii) a monetary benefit, other than New Zealand superannuation or a veteran's pension, paid under **section 359** of that Act:
>
> (b) an overseas pension to the extent to which it is subject to an arrangement under **section 175** of the **Social Security Legislation Rewrite Act 2016**.

In section CW 33(1)(a), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Replace section CW 33(1)(c) with:

Income Tax Act 2007 (2007 No 97)—*continued*

(c) a participation allowance under regulations made under **section 408** of the **Social Security Legislation Rewrite Act 2016**:

In section HC 35(4)(b)(v), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section MA 8, definition of **chief executive**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section MB 13(2)(l), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Replace section MB 13(2)(o) with:

(o) an amount that is declared not to be income for the purposes of **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** by regulations made under **section 401** of that Act:

In section MD 6(2), replace "a child for whom a benefit is paid under section 28 or 29 of the Social Security Act 1964" with "a child for whom a supported child's payment is paid under **section 42** of the **Social Security Legislation Rewrite Act 2016**".

In section MF 7(4), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section YA 1, definition of **chief executive of the administering department**, paragraph (a), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section YA 1, definition of **dependent child**, replace paragraph (b)(ii) with:

(ii) a supported child's payment is being paid under **section 42** of the **Social Security Legislation Rewrite Act 2016**:

In section YA 1, definition of **financially independent**, replace paragraphs (c) and (d) with:

(c) receiving payments under a Government-assisted scheme that the chief executive of the administering department considers analogous to a benefit payable under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** (as the term benefit is defined in **Schedule 2** of that Act); or

(d) receiving a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**

In section YA 1, replace the definition of **income-tested benefit** with:

income-tested benefit means any of the following benefits paid or payable under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**:

(a) jobseeker support:

Income Tax Act 2007 (2007 No 97)—*continued*

(b) sole parent support:

(c) supported living payment:

(d) youth payment (and any related incentive payment):

(e) young parent payment:

(f) exceptional circumstances benefit

In section YA 1, definition of **New Zealand superannuation**, paragraph (c)(ii), replace "sections 61DB, 61DC, 61DD, 61DE, 61EA, 61G, and 69C of the Social Security Act 1964" with "**sections 61** (accommodation supplement), **75** (disability allowance), **80** (funeral grants, *see also* regulations made under **406**), and **82** (temporary additional support) of the **Social Security Legislation Rewrite Act 2016**".

In section YA 1, definition of **portable New Zealand superannuation**, paragraph (c), replace "section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "**section 359** (orders adopting reciprocity agreements) of the **Social Security Legislation Rewrite Act 2016**".

In section YA 1, definition of **portable veteran's pension**, paragraph (c), replace "section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "**section 359** (orders adopting reciprocity agreements) of the **Social Security Legislation Rewrite Act 2016**".

Inquiries Act 2013 (2013 No 60)

In Schedule 1, replace the item relating to the Social Security Act 1964, section 12M, with:

Social Security Legislation Rewrite Act 2016	**Schedule 8, clause 12**

Legal Services Act 2011 (2011 No 4)

In section 41A, replace the definition of **benefit** with:

benefit means a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016** other than—

(a) a supported child's payment payable under **section 42** of that Act:

(b) a child disability allowance payable under **section 68** of that Act:

(c) a disability allowance payable under **section 75** of that Act

In Schedule 1, clause 2(1), replace paragraphs (b) to (d) with:

(b) has the meaning given to it in **clauses 3 to 7 of Schedule 3** of the **Social Security Legislation Rewrite Act 2016**; and

(c) includes a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016** other than—

(i) a supported child's payment payable under **section 42** of that Act; or

Legal Services Act 2011 (2011 No 4)—*continued*

(ii) an exceptional circumstances benefit under **section 59** of that Act; or

(iii) a child disability allowance payable under **section 68** of that Act; or

(iv) a disability allowance payable under **section 75** of that Act; or

(v) temporary additional support under **section 82** of that Act; and

(d) excludes any special assistance payable under a programme approved under **section 86 or 87** of that Act; but

Legislation Act 2012 (2012 No 119)

Replace section 47B(2)(c) to (e) with:

(c) **section 402(1)(d) of the Social Security Legislation Rewrite Act 2016**:

(d) **section 431(1) (apart from, or with, clause 52(6) of Schedule 1) of the Social Security Legislation Rewrite Act 2016**:

In Schedule 2, replace the items about section 61H(1) (apart from, or with, clause 3(6) of Schedule 32), section 61HA(2) (apart from, or with, clause 3(6) of Schedule 32), and section 61I(1), of the Social Security Act 1964 with:

Social Security Legislation Rewrite Act 2016	**402(1)(d)**
Social Security Legislation Rewrite Act 2016	**431(1) (apart from, or with, cl 52(6) of Schedule 1)**

Maori Trust Boards Act 1955 (1955 No 37)

In section 41A(1), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Medicines Act 1981 (1981 No 118)

Repeal section 32A(6).

Minimum Wage Act 1983 (1983 No 115)

In section 4A(5)(a) and (b), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 4A(6), definition of **specified social security benefit**, after "Social Security Act 1964", insert "or **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 4A(6), definition of **specified social security benefit**, paragraph (b), after "emergency benefit", insert "or exceptional circumstances benefit".

New Zealand Superannuation and Retirement Income Act 2001 (2001 No 84)

In section 4(2), replace "the Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** or **Part 9 of the Social Security Legislation Rewrite Act 2016**".

In section 5(1), definition of **New Zealand superannuation**, paragraph (b), replace "section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 (adoption of reciprocity agreement with other countries)" with "**section 359** (orders adopting reciprocity agreements) of the **Social Security Legislation Rewrite Act 2016**".

Replace section 15(5) with:

(5) Every Order in Council made under subsection (2) has the force of law as if it was enacted by this Act.

Replace section 17(1) with:

(1) This section applies to any person who is not in long-term residential care and whose spouse or partner is in long-term residential care in a hospital or rest home, whether or not the spouse or partner is a resident assessed as requiring care (as defined in **section 441 of Part 9 of the Social Security Legislation Rewrite Act 2016**).

In section 17(2)(c), replace "emergency benefit under section 61 of the Social Security Act 1964" with "an exceptional circumstances benefit under **section 59 of the Social Security Legislation Rewrite Act 2016**".

In section 17(3), replace "Part 4 of that Act" with "**Part 9 of the Social Security Legislation Rewrite Act 2016**".

Replace section 19(5) with:

(5) Subsection (4) does not apply to a resident assessed as requiring care (as defined in **section 441 of Part 9 of the Social Security Legislation Rewrite Act 2016**) who is a patient in a hospital and in respect of whom a funder (as defined in that section) is paying some or all of the cost of contracted care services (as defined in **section 447** of that **Part**) under **section 492 or 493** of that **Part**.

Replace section 19(10) with:

(10) This section applies despite anything to the contrary in the **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** or in the **Part 9 of the Social Security Legislation Rewrite Act 2016**.

Replace section 20(1)(b)(ii) with:

(ii) a resident assessed as requiring care (as defined in **section 441 of Part 9 of the Social Security Legislation Rewrite Act 2016**), and in respect of whom a funder (as defined in that section) is paying some or all of the cost of contracted care ser-

New Zealand Superannuation and Retirement Income Act 2001 (2001 No 84)—*continued*

vices (as defined in **section 447** of that **Part**) under **section 492 or 493** of that **Part**.

In section 21, replace "any agreement or convention adopted under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "any reciprocity agreement adopted under **section 359** of the **Social Security Legislation Rewrite Act 2016**".

In section 26(1)(a), replace "a reciprocal agreement or convention, in force under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "a reciprocity agreement in force under **section 359** of the **Social Security Legislation Rewrite Act 2016**".

In section 30(1)(b), replace "a reciprocal agreement in force under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "a reciprocity agreement in force under **section 359** of the **Social Security Legislation Rewrite Act 2016**".

Replace section 30(5) with:

(5) Every Order in Council made under subsection (2)(a) has the force of law as if it was enacted by this Act.

In section 31(5), replace "section 11D of the Social Security Act 1964" with "**section 278** (and regulations made under **section 417**) of the **Social Security Legislation Rewrite Act 2016**".

In the heading to section 35, replace "**Social Security Act 1964**" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Replace section 35(2) with:

(2) **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** (except **sections 188, 190 to 192, 201 to 203, 291, and 293 to 295**) applies to New Zealand superannuation being paid in a specified Pacific country under section 31.

Parole Act 2002 (2002 No 10)

In the heading to section 38, replace "**Social Security Act 1964**" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 38, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Privacy Act 1993 (1993 No 28)

In section 97, definition of **monetary payment**, paragraph (a), replace "within the meaning of section 3(1) of the Social Security Act 1964" with "as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

Privacy Act 1993 (1993 No 28)—*continued*

In section 97, definition of **specified agency**, paragraphs (f) and (j), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 103(1A), replace "emergency benefit" with "exceptional circumstances benefit".

In section 103(1A), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In Schedule 3,—

(a) replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**"; and

(b) replace "Sections 126A, 126AB, and 126AC" with "**Clauses 13 to 15 of Schedule 6**".

Prostitution Reform Act 2003 (2003 No 28)

In section 18(1), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Public Safety (Public Protection Orders) Act 2014 (2014 No 68)

Replace section 39 with:

39 Right to benefits

(1) A resident is not disentitled from obtaining a benefit (as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**).

(2) For the purpose of calculating the benefit, the resident is taken to be a patient in a hospital (within the meaning of, as the case requires, **sections 190 and 191 and Schedule 2** of that Act, or section 19(1) of the New Zealand Superannuation and Retirement Income Act 2001) for more than 13 weeks.

Rates Rebate Act 1973 (1973 No 5)

In section 2(1), definition of **dependant**, paragraph (b), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 2(1), definition of **income**, paragraph (d)(vii), replace "emergency benefit" with "exceptional circumstances benefit".

In section 2(1), definition of **income**, paragraph (d)(iii) and (vii), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Residential Tenancies Act 1986 (1986 No 120)

In the heading to section 22E, replace "Social Welfare" with "**MSD**".

In section 22E(1), replace the definition of **Social Welfare** with:

Residential Tenancies Act 1986 (1986 No 120)—*continued*

MSD means the department of State that, with the Prime Minister's authority, is for the time being responsible for the administration of **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**

In section 22E(2), (3), and (4), replace "Social Welfare" with "MSD" in each place.

In section 29(4)(c), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Sentencing Act 2002 (2002 No 9)

In the heading to section 69M, replace "**Social Security Act 1964**" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 69M, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In the heading to section 80ZE, replace "**Social Security Act 1964**" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 80ZE, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Student Loan Scheme Act 2011 (2011 No 62)

In section 4(1), definition of **chief executive**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 4(1), definition of **lender**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 40(4), definition of **equivalent gross amount**, paragraph (b), replace "section 83A of the Social Security Act 1964" with "**sections 328, 329, 330, and 331** of the **Social Security Legislation Rewrite Act 2016**".

In section 207(5), definition of **specified department**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Summary Proceedings Act 1957 (1957 No 87)

In section 2(1), replace the definition of **benefit** with:

benefit—

(a) means a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**; but

(b) does not include—

(i) a supported child's payment under **section 42** of the **Social Security Legislation Rewrite Act 2016**; or

(ii) a child disability allowance payable under **section 68** of the **Social Security Legislation Rewrite Act 2016**; or

Summary Proceedings Act 1957 (1957 No 87)—*continued*

(iii) a disability allowance payable under **section 75** of the **Social Security Legislation Rewrite Act 2016**; or

(iv) a special benefit continued under section 23 of the Social Security (Working for Families) Amendment Act 2004 (as that section is saved by **clause 18 of Schedule 1** of the **Social Security Legislation Rewrite Act 2016**); or

(v) temporary additional support under **section 82** of the **Social Security Legislation Rewrite Act 2016**

In section 87AA(1) and (2)(b)(i), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 87AA(2)(c), replace "section 86 of the Social Security Act 1964" with "regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016**".

In section 87B(5)(a)(i), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 87B(5)(b), replace "section 86 of the Social Security Act 1964" with "regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016**".

In section 105(5)(a), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 105(5)(b), replace "section 86 of the Social Security Act 1964" with "regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016**".

Tax Administration Act 1994 (1994 No 166)

In section 3(1), replace the definition of **benefit** with:

benefit, in sections 82, 82A, 84, and 85, means any of the following:

(a) a benefit as defined in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**:

(b) a funeral grant lump sum payable under any regulations made under **section 406** of that Act:

(c) any special assistance payable under a programme approved under **section 86 or 87** of that Act

In section 3(1), definition of **responsible department**, paragraphs (a)(i) and (b), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Replace section 80KK(3)(a)(i) with:

(i) an income-tested benefit, an orphan's benefit, an unsupported child's benefit, or a supported child's payment paid or payable

Tax Administration Act 1994 (1994 No 166)—*continued*

under the Social Security Act 1964 or **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**; or

In section 82(9), definition of **benefit**, after "Social Security Act 1964", insert "or **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 82A(1), (2), (3), (6), (7), and (9), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 83(1), (2), (3), and (5), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 83(7), definition of **authorised officer**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 83(7), definition of **entitlement card**, replace "section 132A of the Social Security Act 1964" with "**section 416** of the **Social Security Legislation Rewrite Act 2016**".

In section 84(1), (2), (3), and (4), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 84(6), definition of **authorised officer**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 85(4), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 85(6), definition of **debtor**, paragraph (b), replace "section 86 or section 125 of that Act" with "regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016**".

In section 85B(1), (2), and (5), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 85B(4)(a), replace "section 19C(1)(d) of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "regulations made under **section 429** of the **Social Security Legislation Rewrite Act 2016**".

In section 85B(7), definition of **authorised officer**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 85B(7), replace the definition of **social security agreement** with:

> **social security agreement** means an agreement (for example, one entitled a Convention), or an alteration to an agreement,—
>
> (a) in respect of which an Order in Council has been made under **section 359** (orders adopting reciprocity agreements) of the **Social Security Legislation Rewrite Act 2016**; and

Tax Administration Act 1994 (1994 No 166)—*continued*

(b) that contains a mutual assistance provision for the governments of New Zealand and the other country to supply each other with information for social security purposes.

In section 85C(b), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 85G(1), (2), and (4)(a), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 85G(6), definition of **authorised officer**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 87(4)(b), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Veterans' Support Act 2014 (2014 No 56)

In section 59(1)(d), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Replace section 61(2) with:

(2) **Average wage**, in subsection (1), means the before tax average ordinary time weekly wage (all sectors, male and female combined) as at 1 April each year, as specified in—

(a) the latest Quarterly Employment Survey published by Statistics New Zealand; or

(b) if the survey referred to in **paragraph (a)** ceases to be published, a survey certified by the Government Statistician as an equivalent survey to the survey referred to in that paragraph.

In section 154(2)(a)(v), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 158(1), definitions of **full-time employment** and **income**, and section 158(2)(b), replace "section 3(1) of the Social Security Act 1964" with "**Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

In section 159(4)(a)(i), replace "section 3(1) of the Social Security Act 1964" with "**Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

In section 160(1), replace "of the Social Security Act 1964" with "of **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 160(1)(b), replace "the Social Security Act 1964 or the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Veterans' Support Act 2014 (2014 No 56)—*continued*

In section 173(1)(a), replace "section 136 of the Social Security Act 1964" with "**section 441** of the **Part 9 of the Social Security Legislation Rewrite Act 2016**".

In section 173(4), replace "Part 4 of the Social Security Act 1964" with "**Part 9** of the **Social Security Legislation Rewrite Act 2016**".

Replace section 175(1) with:

(1) A person affected by a decision of VANZ under this Part may (subject to subsection (2)) appeal the decision—

(a) to the social security appeal authority, in accordance with **section 376(1)(e)** of the **Social Security Legislation Rewrite Act 2016**; or

(b) if the decision was made on medical grounds, to a board appointed under **Schedule 9** of that Act.

In section 176, replace "any agreement or convention adopted under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "any reciprocity agreement adopted under **section 359** of the **Social Security Legislation Rewrite Act 2016**".

In section 181(a), replace "a reciprocal agreement or convention, in force under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "a reciprocity agreement in force under **section 359** of the **Social Security Legislation Rewrite Act 2016**".

Replace section 185(1)(c) and (d) with:

(c) any period of absence from New Zealand while the person was treated under **section 16(5)** of, and regulations made under **section 400** of, the **Social Security Legislation Rewrite Act 2016**, as being resident and present in New Zealand; or

(d) any period of absence from New Zealand while, as the spouse or partner of a person treated under **section 16(5)** of, and regulations made under **section 400** of, the **Social Security Legislation Rewrite Act 2016**, as being resident and present in New Zealand, the person was also (by virtue of those provisions of, or of those regulations made under, the **Social Security Legislation Rewrite Act 2016**) treated as being resident and present in New Zealand.

In section 188(3), replace "section 80AA of the Social Security Act 1964" with "**section 297** of the **Social Security Legislation Rewrite Act 2016**".

In section 189(1), replace "assistance under the Social Security Act 1964 or under any welfare programme approved under section 124(1)(d) of that Act" with "assistance under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** or under a programme approved under **section 86 or 87** of that Act".

Veterans' Support Act 2014 (2014 No 56)—*continued*

Replace section 189(2) and (3) with:

(2) When a person who receives a veteran's pension overseas under section 182 dies, the pension terminates (despite **sections 304 to 309** of the **Social Security Legislation Rewrite Act 2016**) on a date—

(a) to be determined by VANZ; and

(b) that must be not more than 4 weeks after the person's date of death.

(3) **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** applies to veterans' pensions being paid overseas under section 182, but—

(a) **sections 97, 158 to 180, 188, and 190 to 203** of that Act do not apply to those pensions; and

(b) the rest of that Act applies to those pensions except as provided in this section.

In section 190(1)(b), replace "a reciprocal agreement, in force under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990" with "a reciprocity agreement in force under **section 359** of the **Social Security Legislation Rewrite Act 2016**".

Repeal section 190(5).

In section 191(5), replace "section 11D of the Social Security Act 1964" with "**section 278** (and regulations made under **section 417**) of the **Social Security Legislation Rewrite Act 2016**".

In section 192(3), replace "section 70 of the Social Security Act 1964" with "**sections 172 to 175** of the **Social Security Legislation Rewrite Act 2016**".

In section 194, replace "assistance under the Social Security Act 1964 or under any welfare programme approved under section 124(1)(d) of that Act" with "assistance under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** or under a programme approved under **section 86 or 87** of that Act".

In the heading to section 195, replace "**Social Security Act 1964**" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In section 195(2), replace "Social Security Act 1964 (other than sections 74(1)(a), 75, 75A, 76, 77, and 80)" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** (other than **sections 188, 190 to 192, 201 to 203, 291, and 293 to 295**)".

In section 196, replace "Despite sections 74(1)(a) and 77 of the Social Security Act 1964 and sections 181 to 189 of this Act, if," with "If,".

In section 196, insert as subsection (2):

(2) This section applies despite—

(a) sections 181 to 189; and

Veterans' Support Act 2014 (2014 No 56)—*continued*

(b) **sections 188 and 203** of the **Social Security Legislation Rewrite Act 2016**.

In section 207(2)(e), replace "sections 71 and 86A of the Social Security Act 1964" with "regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016**".

In Schedule 2, Part 2, replace clause 25(2) with:

(2) **Average wage**, in subclause (1), means the before tax average ordinary time weekly wage (all sectors, male and female combined) as at 1 July each year, as specified in—

(a) the latest Quarterly Employment Survey published by Statistics New Zealand; or

(b) if the survey referred to in **paragraph (a)** ceases to be published, a survey certified by the Government Statistician as an equivalent survey to the survey referred to in that paragraph.

In Schedule 2, Part 2, replace clause 37(6) with:

(6) **Average wage**, in this clause, means the before tax average ordinary time weekly wage (all sectors, male and female combined) as at 1 July each year, as specified in—

(a) the latest Quarterly Employment Survey published by Statistics New Zealand; or

(b) if the survey referred to in **paragraph (a)** ceases to be published, a survey certified by the Government Statistician as an equivalent survey to the survey referred to in that paragraph.

Part 2
Amendments to Legislative Instruments

Court of Appeal Fees Regulations 2001 (SR 2001/309)

In regulation 5(3)(b)(i), replace "a benefit of a kind specified in any of paragraphs (a) to (e), (h), and (j) of the definition of income-tested benefit in section 3(1) of the Social Security Act 1964" with "a specified benefit (as defined in **section 182(3) of the Social Security Legislation Rewrite Act 2016**) that is jobseeker support, sole parent support, a supported living payment, or an exceptional circumstances benefit".

Customs and Excise Regulations 1996 (SR 1996/232)

In regulation 81A(2)(b)(i), replace "a benefit of a kind specified in any of paragraphs (a) to (e), (h), and (j) of the definition of income-tested benefit in section 3(1) of the Social Security Act 1964" with "a specified benefit (as defined in **section 182(3) of the Social Security Legislation Rewrite Act 2016**) that is jobseeker support,

Customs and Excise Regulations 1996 (SR 1996/232)—*continued*

sole parent support, a supported living payment, or an exceptional circumstances benefit".

District Courts Fees Regulations 2009 (SR 2009/318)

In regulation 5(3)(b)(i), replace "a benefit of a kind specified in any of paragraphs (a) to (e) and (j) of the definition of income-tested benefit in section 3(1) of the Social Security Act 1964" with "a specified benefit (as defined in **section 182(3) of the Social Security Legislation Rewrite Act 2016**) that is jobseeker support, sole parent support, a supported living payment, or an exceptional circumstances benefit".

Family Courts Fees Regulations 2009 (SR 2009/88)

In regulation 7(3)(b)(i), replace "a benefit of a kind specified in any of paragraphs (a) to (e), and (j) of the definition of income-tested benefit in section 3(1) of the Social Security Act 1964" with "a specified benefit (as defined in **section 182(3) of the Social Security Legislation Rewrite Act 2016**) that is jobseeker support, sole parent support, a supported living payment, or an exceptional circumstances benefit".

Family Proceedings Rules 1981 (SR 1981/261)

In rule 80(1), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Health Entitlement Cards Regulations 1993 (SR 1993/169)

In regulation 2(1), definitions of **beneficiary**, **child**, **dependent child**, and **income**, replace "section 3(1) of the Social Security Act 1964" with "**Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

In regulation 2(1), definition of **department**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In regulation 2(1), replace the definition of **residential care disability services** with:

> **residential care disability services** has the meaning given to residential care services in **Schedule 2** of the **Social Security Legislation Rewrite Act 2016**

Replace regulation 8(1)(a) with:

> (a) a beneficiary who has applied for and is entitled to receive any of the following benefits under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** (whether or not payment of the benefit has commenced under **subpart 4 of Part 6** of that Act):
>
> (i) sole parent support:
>
> (ii) supported living payment:
>
> (iii) a community wage:

Health Entitlement Cards Regulations 1993 (SR 1993/169)—*continued*

(iv) an exceptional circumstances benefit granted instead of sole parent support or a domestic purposes benefit or a community wage:

(v) a veteran's pension:

(vi) a youth payment:

(vii) a young parent payment:

Replace regulation 8(1)(b) with:

(b) a child in respect of whom a supported child's payment or a child disability allowance is payable under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**:

In regulation 8(1)(g), replace "Social Security Act 1964" with "**Part 9** of the **Social Security Legislation Rewrite Act 2016**".

Replace regulation 9(1) with:

(1) If it is necessary to ascertain the income or net income or family credit income of a person for the purposes of assessing eligibility for a community services card, **Schedule 3** of the **Social Security Legislation Rewrite Act 2016** applies with all necessary modifications.

(1A) **Subclause (1)** is subject to subclause (2).

Replace regulation 10(3) with:

(3) The person who applied for a review under subclause (2) may, within 3 months after notification of the results of that review, appeal against the Director-General's decision to the social security appeal authority established by or under **Schedule 8** of the **Social Security Legislation Rewrite Act 2016**; and **subpart 4 of Part 7 and Schedule 8** of that Act, with all necessary modifications, apply to the appeal.

(4) Appeals under subclause (3) that are not completed on the repeal of the Social Security Act 1964 continue under subclause (3) as inserted on that repeal.

High Court Fees Regulations 2013 (SR 2013/226)

In regulation 19(b)(i), replace "an income-tested benefit (which has the meaning given in section 3(1) of the Social Security Act 1964, except that it excludes the benefits specified in paragraphs (f) to (i) of that definition)" with "a specified benefit (as defined in **section 182(3) of the Social Security Legislation Rewrite Act 2016**) that is jobseeker support, sole parent support, a supported living payment, or an exceptional circumstances benefit".

Income Tax (Social Assistance Suspensory Loans) Order 1995 (SR 1995/79)

In the Schedule, clause 2, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Land Transport (Driver Licensing) Rule 1999 (SR 1999/100)

In rule 2(1), definition of **dependant**, paragraph (b), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Social Housing Appeals Regulations 2014 (LI 2014/118)

In regulation 4, definition of **benefits review committee** or **review committee**, replace "section 10A of the Social Security Act 1964" with "**Schedule 7** of the **Social Security Legislation Rewrite Act 2016**".

In regulation 4, definition of **Social Security Appeal Authority** or **Appeal Authority**, replace "section 12A of the Social Security Act 1964" with "**Schedule 8** of the **Social Security Legislation Rewrite Act 2016**".

In regulation 6, replace "section 10A(2) to (7) of the Social Security Act 1964" with "**Schedule 7** of the **Social Security Legislation Rewrite Act 2016**".

Replace regulation 9 with:

9 Hearing and disposal of appeal

(1) **Sections 379, 380(3) and (4), 382, 383, and 384 to 389, and Schedule 8**, and regulations made under **section 430**, of the **Social Security Legislation Rewrite Act 2016** apply to the hearing and disposal of the appeal (including matters relating to procedure) with the following, and all other necessary, modifications:

(a) a reference in any of those provisions to the chief executive is a reference to the agency:

(b) a reference in any of those provisions to a decision is a reference to a decision, determination, or assessment of the agency.

(2) Appeals under regulation 8 that are not completed on the repeal of the Social Security Act 1964 continue under this regulation as inserted on that repeal.

Social Security (Childcare Assistance) Regulations 2004 (SR 2004/268)

In regulation 3(1), definition of **total income**, paragraph (b), replace "an orphan's benefit, or an unsupported child's benefit" with "or a supported child's payment".

Replace regulation 28(1) with:

(1) A payment of childcare assistance that is an overpayment (within the meaning of **subclause 1A**) is—

(a) a debt due to the Crown under regulations made under **section 423** from the applicant; and

(b) subject to recovery under those regulations from the applicant.

(1A) A payment of childcare assistance is an overpayment if the payment is to or for the credit of a person, and the payment is one—

(a) that is in excess of the amount to which the person is entitled; or

Social Security (Childcare Assistance) Regulations 2004 (SR 2004/268)—*continued*

(b) to which the person has no entitlement.

Social Security (Debt Recovery Suspension) Regulations 2007 (SR 2007/86)

In regulation 3, replace the definition of **benefit debt** with:

benefit debt means a debt due to the Crown under, and subject to recovery under, regulations made under **section 423** of the **Social Security Legislation Rewrite Act 2016**

Social Security (Temporary Additional Support) Regulations 2005 (SR 2005/334)

In regulation 4, replace the definition of **dependent child** with:

dependent child, in relation to a person, does not include a child in respect of whom a supported child's payment is being paid, but otherwise has the meaning given to it by **Schedule 2** of the Social Security Act **2016**

In regulation 7(1), replace "an orphan's benefit or an unsupported child's benefit" with "a supported child's payment".

In regulation 11(2), definition of **excess disability costs total**, paragraph (c), replace "an orphan's benefit or an unsupported child's benefit" with "a supported child's payment".

In Schedule 1, clause 3(a), replace "an orphan's benefit, an unsupported child's benefit," with "a supported child's payment".

In Schedule 2, clause 3(l), replace "an orphan's benefit or an unsupported child's benefit," with "a supported child's payment".

Social Welfare (Reciprocity with Australia) Order 2002 (SR 2002/119)

After clause 4(2), insert:

(3) A reference (however expressed) in either of the following to the former assistance under the Social Security Act 1964 in relation to New Zealand must on and after **3 July 2017** be read as a reference to the assistance under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** that corresponds to the former assistance (*see* **clause 4(3) of Schedule 1 of that Act**):

(a) a provision of the agreement, or of the notes, referred to in clause 3:

(b) a provision of a document related to the operation on or after **3 July 2017** of this order.

Social Welfare (Reciprocity with Canada) Order 1996 (SR 1996/178)

After clause 3(4), insert:

(5) A reference (however expressed) in either of the following to the former assistance under the Social Security Act 1964 in relation to New Zealand must on and after **3 July 2017** be read as a reference to the assistance under **Parts 1**

Social Welfare (Reciprocity with Canada) Order 1996 (SR 1996/178)—*continued*

to 8 of the Social Security Legislation Rewrite Act 2016 that corresponds to the former assistance (*see* **clause 4(3) of Schedule 1 of that Act**):

(a) a provision of the agreement set out in Schedule 1:

(b) a provision of a document related to the operation on or after **3 July 2017** of this order.

Social Welfare (Reciprocity with Denmark) Order 1997 (SR 1997/135)

After clause 3(4), insert:

(5) A reference (however expressed) in either of the following to the former assistance under the Social Security Act 1964 in relation to New Zealand must on and after **3 July 2017** be read as a reference to the assistance under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** that corresponds to the former assistance (*see* **clause 4(3) of Schedule 1 of that Act**):

(a) a provision of the agreement set out in the Schedule:

(b) a provision of a document related to the operation on or after **3 July 2017** of this order.

Social Welfare (Reciprocity with Ireland) Order 1993 (SR 1993/251)

After clause 2(4), insert:

(4) A reference (however expressed) in either of the following to the former assistance under the Social Security Act 1964 in relation to New Zealand must on and after **3 July 2017** be read as a reference to the assistance under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** that corresponds to the former assistance (*see* **clause 4(3) of Schedule 1 of that Act**):

(a) a provision of the agreement set out in the Schedule:

(b) a provision of a document related to the operation on or after **3 July 2017** of this order.

(5) Despite **subclause (4)**, a reference (however expressed) in either of the following to an orphan's benefit under the Social Security Act 1964 in relation to New Zealand must on and after **3 July 2017** be read as a reference to a supported child's payment granted under **section 42(3)(a) of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**:

(a) a provision of the agreement in the Schedule:

(b) a provision of a document related to the operation on or after **3 July 2017** of this order.

Social Welfare (Reciprocity with Jersey and Guernsey) Order 1995 (SR 1995/44)

After clause 2(5), insert:

(6) A reference (however expressed) in either of the following to the former assistance under the Social Security Act 1964 in relation to New Zealand must on

Social Welfare (Reciprocity with Jersey and Guernsey) Order 1995 (SR 1995/44) *—continued*

and after **3 July 2017** be read as a reference to the assistance under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** that corresponds to the former assistance (*see* **clause 4(3) of Schedule 1 of that Act**):

(a) a provision of the agreement set out in the Schedule:

(b) a provision of a document related to the operation on or after **3 July 2017** of this order.

Social Welfare (Reciprocity with Malta) Order 2013 (SR 2013/373)

Replace clause 4(1)(b) and (c) with:

(b) **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**:

After clause 4(2), insert:

(3) A reference (however expressed) in either of the following to the former assistance under the Social Security Act 1964 in relation to New Zealand must on and after **3 July 2017** be read as a reference to the assistance under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** that corresponds to the former assistance (*see* **clause 4(3) of Schedule 1 of that Act**):

(a) a provision of the agreement referred to in clause 3:

(b) a provision of a document related to the operation on or after **3 July 2017** of this order.

Social Welfare (Reciprocity with the Hellenic Republic) Order 1993 (SR 1993/347)

After clause 2(4), insert:

(5) A reference (however expressed) in either of the following to the former assistance under the Social Security Act 1964 in relation to New Zealand must on and after **3 July 2017** be read as a reference to the assistance under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** that corresponds to the former assistance (*see* **clause 4(3) of Schedule 1 of that Act**):

(a) a provision of the agreement set out in the Schedule:

(b) a provision of a document related to the operation on or after **3 July 2017** of this order.

(6) Despite **subclause (5)**, a reference (however expressed) in either of the following to an orphan's benefit under the Social Security Act 1964 in relation to New Zealand must on and after **3 July 2017** be read as a reference to a supported child's payment granted under **section 42(3)(a) of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**:

(a) a provision of the agreement set out in the Schedule:

Social Welfare (Reciprocity with the Hellenic Republic) Order 1993 (SR 1993/347)—*continued*

(b) a provision of a document related to the operation on or after **3 July 2017** of this order.

Social Welfare (Reciprocity with the Netherlands) Order 2003 (SR 2003/216)

After clause 3(6), insert:

(7) A reference (however expressed) in either of the following to the former assistance under the Social Security Act 1964 in relation to New Zealand must on and after **3 July 2017** be read as a reference to the assistance under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** that corresponds to the former assistance (*see* **clause 4(3) of Schedule 1 of that Act**):

(a) a provision of a document set out in any of Schedules 1 to 4:

(b) a provision of a document related to the operation on or after **3 July 2017** of this order.

Social Welfare (Reciprocity with the United Kingdom) Order 1990 (SR 1990/85)

After clause 2(6), insert:

(7) A reference (however expressed) in either of the following to the former assistance under the Social Security Act 1964 in relation to New Zealand must on and after **3 July 2017** be read as a reference to the assistance under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** that corresponds to the former assistance (*see* **clause 4(3) of Schedule 1 of that Act**):

(a) a provision of the Convention set out in the Schedule:

(b) a provision of a document related to the operation on or after **3 July 2017** of this order.

(8) Despite **subclause (7)**, a reference (however expressed) in either of the following to an orphan's benefit under the Social Security Act 1964 in relation to New Zealand must on and after **3 July 2017** be read as a reference to a supported child's payment granted under **section 42(3)(a) of Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**:

(a) a provision of the Convention set out in the Schedule:

(b) a provision of a document related to the operation on or after **3 July 2017** of this order.

Student Allowances Regulations 1998 (SR 1998/277)

In regulation 2(1), definition of **chief executive**, replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In regulation 2(1), definition of **dependent student**, replace paragraphs (d) and (e) with:

(d) in respect of whom a supported child's payment is not paid; and

Student Allowances Regulations 1998 (SR 1998/277)—*continued*

In regulation 2(1), definition of **living with a parent**, replace "section 3(1) of the Social Security Act 1964" with "**Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

In regulation 2(1), definition of **personal income**, paragraph (a), after "Social Security Act 1964", insert "or **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In regulation 2(1), definition of **personal income**, after paragraph (a)(iii), insert:

(iiia) a supported child's payment; or

In regulation 2(1), definition of **spouse's or partner's income,** paragraph (a), after "Social Security Act 1964", insert "or **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In regulation 2(1), definition of **spouse's or partner's income**, after paragraph (a)(iii), insert:

(iiia) a supported child's payment; or

In regulation 2(1), definition of **supported child**, paragraph (c)(ii) and (iv), after "Social Security Act 1964", insert "or **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In regulation 2(1), definition of **supported child**, paragraph (d), after "Social Security Act 1964", insert "and no supported child's payment is payable under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Replace regulation 13(1) with:

(1) No student is eligible for an allowance continued by regulation 3(a) to (c) while that student or that student's spouse or partner is receiving any of the following benefits under **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**:

(a) jobseeker support:

(b) sole parent support:

(c) a supported living payment:

(d) a youth payment:

(e) a young parent payment:

(f) an exceptional circumstances benefit.

Supreme Court Fees Regulations 2003 (SR 2003/359)

In regulation 5(3)(b)(i), replace "a benefit of a kind specified in any of paragraphs (a) to (e), (h), and (j) of the definition of income-tested benefit in section 3(1) of the Social Security Act 1964" with "a specified benefit (as defined in **section 182(3) of the Social Security Legislation Rewrite Act 2016**) that is jobseeker support, sole parent support, a supported living payment, or an exceptional circumstances benefit".

Taxation (Abated Interim Payments of subparts MA to MF and MZ Credit) Regulations 2002 (SR 2002/52)

In regulation 3(1), replace "of the Social Security Act 1964" with "of **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In regulation 3(1)(a) and (b), after "under the Social Security Act 1964", insert "or **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

Taxation Review Authorities Regulations 1998 (SR 1998/460)

In regulation 10A(3)(b)(i), replace "a benefit of a kind specified in any of paragraphs (a) to (e), or (j) of the definition of income-tested benefit in section 3(1) of the Social Security Act 1964" with "a specified benefit (as defined in **section 182(3) of the Social Security Legislation Rewrite Act 2016**) that is jobseeker support, sole parent support, a supported living payment, or an exceptional circumstances benefit".

Veterans' Support Regulations 2014 (LI 2014/369)

In regulation 23(1)(c), replace "Social Security Act 1964" with "**Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016**".

In regulation 23(3), definition of **income**, replace "section 3(1) of the Social Security Act 1964" with "**Schedule 2** of the **Social Security Legislation Rewrite Act 2016**".

In regulation 23(3), definition of **social security enactment**, replace "Schedule 27 of the Social Security Act 1964" with "**Schedule 14** of the **Part 9 of the Social Security Legislation Rewrite Act 2016**".

In regulation 36(1), replace "the definition of assets in clause 4 of Schedule 27 of the Social Security Act 1964 (if the veteran were a person being means assessed under section 146 of that Act)" with "the definition of assets in **clause 4 of Schedule 14** of the **Part 9 of the Social Security Legislation Rewrite Act 2016** (if the veteran were a person being means assessed under **section 470** of that **Part**)".

In regulation 36(3)(a), replace "clause 4 of Schedule 27 of the Social Security Act 1964" with "**clause 4 of Schedule 14** of the **Part 9 of the Social Security Legislation Rewrite Act 2016**".

In regulation 38, replace "clause 4 of Schedule 27 of the Social Security Act 1964" with "**clause 4 of Schedule 14** of the **Part 9 of the Social Security Legislation Rewrite Act 2016**".

Schedule 11
Identified changes in legislation

s 9(6)(a)

Notes: Each identified change is a significant difference in substance or wording between the old law and the new law.

Identified changes unrelated to regulations are set out separately from those related to regulations.

Some old law is replaced only with new law regulation-making powers, but most of those powers authorise regulations to the same effect.

Those powers also authorise regulations to a different effect (for example, to implement policy changes).

Identified changes exclude transitional, savings, and related provisions.

Old law	**New law—identified change unrelated to regulations**
1964 Act	*2016 Act*
1B	**Section 4(e)** states a new guiding principle to support an investment approach for people at risk of long-term welfare dependency.
3, definitions of part-time work tested beneficiary, work-tested beneficiary, and work-tested benefit	Definitions in **Schedule 2** (dictionary) extend to and include a person granted an exceptional circumstances benefit if the person is required under **section 59(5)(b)** to comply with the work test as MSD is satisfied the person has the capacity to seek, undertake, and be available for part-time work or full-time employment.
10A(1A)	**Sections 370 and 372** provide for applications for benefits review committee reviews to be made to MSD, and referred to the appropriate benefits review committee as determined by MSD.
10A(3)(a)	**Clause 2(a) of Schedule 7** contains, for the benefits review committee member who the Minister appoints to represent on the committee the community's interests, no ~~express~~ requirement of place of residence, or close connection.
10B(1)(b)	Decisions on medical grounds made in respect of supported living payment on the ground of caring for another person are appealable to the medical board rather than the social security appeal authority (*see* **row 11** of the table in **section 390**).
~~12(1AA)~~	~~The **section 283** (immediate provisional grant, and later backdating of other benefit) benefits of different kinds distinction covers expressly (rather than impliedly only) the same benefit on different eligibility grounds.~~
~~12(2)~~	~~The duty to answer questions asked by MSD now expressly (rather than implicitly only) does not require the person asked the questions to provide any information that would be privileged in a court of law (*see* **clause 1(2) and (3) of Schedule 6**).~~
12J(17)	Decisions on medical grounds, grounds relating to incapacity, or grounds relating to capacity for work, made in respect of supported living payment on the ground of caring for another person, are appealable to the medical board rather than the social security appeal authority (*see* **section 375(1)(b)**).
20B	**Section 31(b)** provides for single caregivers of children receiving supported child's payment to be eligible to receive sole parent support at the rate (which takes account of the supported child's payment) specified in **clause 2 of Part 2 of Schedule 4**.
20C	**Section 30** ensures, in a situation of split custody care, that both parents are (not only 1 of the parents is) entitled to sole parent support.
28	**Sections 42 to 44** provide for supported child's payment, not orphan's benefit (*see also* **clause 4(3) of Schedule 1**). **Sections 42 and 43** also make a step-

Old law	New law—identified change unrelated to regulations
	parent ineligible for a supported child's payment (*see also* **clause 12A of Schedule 1** and the **Schedule 2** definition, for the purposes only of **subpart 5 of Part 2**, of parent, and compare section 29(a) of the Social Security Act 1964).
29	**Sections 42 to 44** provide for supported child's payment, not unsupported child's benefit (*see also* **clause 4(3) of Schedule 1**).
31	**Section 44(1)** states expressly the purpose of the supported child's payment.
~~40J~~	~~**Clauses 2 to 4 of Part 3 of Schedule 4** (rates of supported living payment) continue an earnings-based additional subsidy for totally blind employees.~~
61	**Section 59** provides for exceptional circumstances benefit, not emergency benefit (*see also* **clause 4(3) of Schedule 1**). **Section 59(4)** ensures an exceptional circumstances benefit must not exceed the rate of the equivalent benefit, that is, the main benefit under this Act that MSD would grant to a person entitled to the benefit in circumstances similar to those of the applicant for the exceptional circumstances benefit. **Section 59(5)** also does not enable MSD to require an applicant for the exceptional circumstances benefit to undergo medical or psychological examination or medical or other treatment.
69 and Schedule 12	This Act repeals, and does not re-enact, the discretionary power given by these provisions to increase by an amount not more than $1 per week the rate of a benefit payable to a parent of a deceased member of specified armed forces or of a specified mercantile marine.
69C(4)	**Section 77(c)** ensures a disability allowance can be refused, cancelled, or granted at a reduced rate, only if the applicant is receiving altered stated types of ~~overseas~~ pension, or ~~overseas~~ periodical allowance, that are granted elsewhere than New Zealand and are analogous to a disability allowance.
69C(8)	**Section 75(4)** defines health practitioner so that this term excludes a former health practitioner (within the meaning of section 5(1) of the Health Practitioners Competence Assurance Act 2003).
~~70B~~	~~**Section 179** changes terminology slightly by referring to "shared care" (rather than "shared custody").~~
75B(9), (10)	**Section 200(3)(a)** ensures a person whose benefit is suspended under **section 197** is ~~not subject to a 50% reduction~~ eligible for a 50% protection (the suspension applies to only half the applicable rate of main benefit before any reduction on account of income) under **section 228** if the person is not receiving a main benefit under this Act.
80BA(4)(b)(iv)	**Section 296(2)(d)** (calculation of stand down) applies to jobseeker support granted not only to a sole parent, but also to a person to whom **section 30(1)(e)** (which relates to having lost the regular support of a spouse or partner who is subject to a sentence of imprisonment, etc) applies (*see also* **clause 9 of Schedule 1**).
88B(1)	**Section 22(b)** (jobseeker support: when person is available for work) is extended to include a reference to the deferral of work test obligations in certain circumstances. (*See also* **section 2(6)(b)** and **clause 67 of Schedule 1**, which re-enact an amendment equivalent to the latent amendment in section 14(1) of the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016.)
88D(a)	**Section 26(a)** (jobseeker support: ineligibility) is extended to include a reference to the deferral of work test obligations in certain circumstances. (*See also* **section 2(6)(b)** and **clause 68 of Schedule 1**, which re-enact an amendment equivalent to the latent amendment in section 15 of the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016.)

Old law	New law—identified change unrelated to regulations
~~88E~~	~~**Section 27** provides for jobseeker support on the ground of health condition (not the former term sickness), injury, or disability (*see also* **clause 4(3) of Schedule 1**).~~
120, 121	**Sections 230(2) and 231(2)** vary ordinary sanctions rules by giving 50% protection (the reduction, suspension, cancellation, or non-entitlement period applies to only half the applicable rate of main benefit before any abatement on account of income) to people with dependent children, or sole parents, subject to a 13-week non-entitlement period under **sections 208 and 210**.
125F(1) and (2)(a)	**Clause 16(1) and (2)(a) of Schedule 6** (which relates to information disclosure for services to young people not in education or training) is extended to add an additional purpose to the list of purposes for which the chief executive of the Ministry of Education may provide specified information to MSD: assessing young people's risk of long-term welfare dependency. (*See also* **section 2(6)(b)** and **clauses 69(1) and 70 of Schedule 1**, which re-enact amendments equivalent to the latent amendments in section 18(2) and (3) of the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016.)
~~125G~~	~~**Section 356** expressly applies only to a contracted service provider contracted under **section 352(1)(a)** to provide services in relation to young people (*see* **sections 99 and 356(a)** and **clause 45 of Schedule 1**).~~
~~157, 170(1)(a), (b), (d)–(g)~~	~~**Sections 147(1)(i) and 149(1)(c)** require a young person who has been granted a youth support payment or a young parent payment to provide any information that MSD requires to establish money management under **section 320**, including information about any accommodation provider, service provider, or debtor of the young person.~~
~~162, 168~~	~~**Sections 50(4)(d) and 57(4)(d)** ensure a person receiving a youth support payment (youth payment or young parent payment) is not eligible to be granted a supported living payment on ground of caring for another person until 6 months after the commencement of the payment (even if the person turns 20 years old during the 6-month period).~~
171A	**Section 150** is about a young person aged 18 or 19 years who is receiving jobseeker support in the young person's own right and who is at significant risk of long-term welfare dependency. **Section 153** is about a young person aged 18 or 19 years who is receiving jobseeker support as the spouse or partner of a person granted that benefit, or who is a work-tested spouse or partner of a specified beneficiary, and who is at significant risk of long-term welfare dependency. **Sections 150 and 153** commence on a date or dates appointed under **section 2(6)(a)**. They re-enact the latent section 171A to be inserted by section 32 of the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016. (*See also* **sections 141 and 410** and **clause 69(2) and (3) of Schedule 1**, and sections 5(3), 16, 33, 43(2), and 45 to 47 of the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016.)
Schedule 9, clauses 1(ba) and (c), 5A	A person to whom **section 30(1)(e)** (which relates to having lost the regular support of a spouse or partner who is subject to a sentence of imprisonment, etc) applies is treated as a single beneficiary for the purposes of **clauses 1(e) and (f) and 6** of **Part 1** (jobseeker support) of **Schedule 4** (rates of benefits) (*see also* **clause 9 of Schedule 1**).

Old law	New law—identified change related to regulations
1964 Act	*2016 Act*
3(1), 61CB, 61CC(2), 82(3), (5), (6A), (6AA),	**Section 421** provides for regulations about payments (for example, regulations specifying when instalments of a benefit of a class of beneficiaries can or must be redirected, without a need to establish good cause on a case-by-case basis, and so not be paid to, or on account of, the beneficiary personally). Review or

Old law	New law—identified change related to regulations
(6AB), (6AC), (6F), (6G), 83; SR 2007/229 r 5	appeal rights under **sections 370(1)(a) and 376(1)(a)** apply to decisions or determinations made under regulations made under **section 421**.
3(1), 83AA, 85A, 85B, 86, 86AA, 86A–86I, 124(2), (2A), 125G(3)	**Sections 423 and 424** provide for regulations about debts and deductions.
3(1), definition of income, paragraph (f)(xvii), 66A, 132AA	**Section 401** provides for regulations about income exemptions (*see also* **clause 9 of Schedule 3**).
10A(1A), (1B), (8), (9), 10B(2), 12I(2), 12K(11); 12L, 12M, 12O, 12OA, 12Q(3), (4), (6), (7), (8), (9), (10), 12R	**Section 430** provides for regulations about how to apply, and the procedure, for a review or an appeal.
11D; SR 2007/229 r 4	**Section 417** provides for regulations about the making of, help with, and the receipt and lapse of, an application for a benefit.
11E, 11G, 11H, 132J	**Section 411** provides for regulations about factors affecting benefits: pre-benefit activities.
61D, 61DA, 61DB, 61DC, 61DD, 61DE	**Section 406** provides for regulations about funeral grants (*see also* **section 80**).
61I(1), (3), Schedule 18, Part 1, clause 1, definitions of Area 1, Area 2, and Area 3	**Section 402(1)(d)** and **Schedule 2** provide for regulations that define fully, for accommodation supplement purposes, Area 1, Area 2, Area 3, and Area 4. (*See also* **clause 53 of Schedule 1**.)
61IA	Section 47B(2) (annual confirmable instruments) and Schedule 2 (confirmable instruments) of the Legislation Act 2012 do not include mandatory annual CPI adjustment of rates orders made under **section 432** (*see also* **section 433(1)**) because the making of these orders is required by law. Section 47B(2) (annual confirmable instruments) and Schedule 2 (confirmable instruments) of the Legislation Act 2012 also exclude mandatory annual CPI adjustment regulations made under **sections 510(1)(h) and 511** of **Part 9 of the Social Security Legislation Rewrite Act 2016**.
60RAB(1), (3), (4)	**Section 409** provides for regulations relating to specific obligations: obligations in relation to dependent children: definitions and attendance.
66, 66A	**Section 401** provides for regulations about income exemptions (*see also* **clause 9 of Schedule 3**).
68A(5), (7)	**Section 412** provides for regulations about factors affecting benefits: insurance recovery.
68A(6), (7), (8)	**Section 418** provides for regulations about certain benefits granted, or granted at a rate, not taking into account certain insurance payments (*see also* **section 290**).
69C(6), (7)	**Section 404** provides for regulations about special categories of eligibility for disability allowance (*see also* **section 75(3)**).
74AA, 78(1), 79	**Section 400** provides for regulations about meeting, satisfying, or complying with the residential requirement.

Old law	New law—identified change related to regulations
77	**Section 415** provides for regulations about factors affecting benefits: absence from New Zealand.
80(5), (8), (10), (13), (14)	**Section 419** provides for regulations about exemptions from, and the calculation of, a stand down.
86J	**Section 428** provides for regulations about ways MSD or a person can meet a requirement in this Act to give a notice or other document.
88F(7), 88H, 88I(1)–(3), (5)–(7), 102B(2), 102C(1), (3)–(6), 102E, 105(3)–(7), 123D	**Section 410** provides for regulations about specific obligations: work test obligations, and deferrals of, or exemptions from, specified obligations.
125A	**Section 352(1)(a)(ii) and (b)** require prescription by regulations of only the specified services in relation to young people, and not also the specified services in relation to people other than young people. **Section 352(1)(b)** contemplates the latter services may, but need not, be prescribed by regulations made under **section 397(1)(l)**.
131 (and related regulations made under 132)	**Parts 6 and 8** do not re-enact provisions on declarations (and enabling the making of related regulations). *See also* the consequential repeal (by **section 438 and Schedule 10**) of section 9(a) of the Family Benefits (Home Ownership) Act 1964.
1990 Act	*2016 Act*
2(1), 19A(1)–(5), 19B, 19C, 19D(3)(c), (d), (4)–(7)	**Section 429** provides for regulations about reciprocity agreements with mutual assistance provisions, and adverse action if a discrepancy is shown by information from another country.

Schedule 12
Comparative tables of old and rewritten provisions

s 10

Note—Provisions shown as omitted have been omitted because they are spent or redundant.

Part A
Social Security Act 1964: corresponding provisions in this Act or Part 9 of Social Security Legislation Rewrite Act 2016

Provision in Social Security Act 1964	Corresponding provision in this Act or Part 9 of Social Security Legislation Rewrite Act 2016
Title	9
1(1)	1
1(2)	2
Part 1 (purpose, principles, general definitions, examples, and transitional and savings provisions relating to amendments to this Act)	
1A	3
1B	4
3	6, 401, Schedule 2, Schedule 3
3B	14
3C	11, Schedule 1
Part 1A (administration: Ministerial directions, reviews, and appeals)	
5	7
10A	370–373, Schedule 7
10B	6, 390–394, Schedule 1, cl 50, Schedule 2, Schedule 9
11	6, Schedule 1, cl 11, Schedule 2, Schedule 6, cls 2–5
11A	Schedule 6, cls 6, 7
11B	Schedule 6, cls 8, 10–12
11C	Schedule 6, cl 9
11D	278, 417
11E	169, 411

Provision in Social Security Act 1964	Corresponding provision in this Act or Part 9 of Social Security Legislation Rewrite Act 2016
11F	170
11G	6, 169, 411, Schedule 2
11H	6, 169, 411, Schedule 2
12	273, 279, 282, 283, Schedule 6, cl 1
12A	380, Schedule 8, cl 1
12B	380, Schedule 8, cl 2
12C	380, Schedule 8, cl 3
12D	380, Schedule 8, cl 4
12E	380, Schedule 8, cl 5
12F	380, Schedule 8, cl 6
12G	380, Schedule 8, cl 7
12H	380, Schedule 8, cl 8
12I	380, 386, 430
12J	374–378
12K	371, 373, 379, 380, 382, 386, 430
12L	386, 430
12M	380, 382, 386, 430, Schedule 8, cl 12
12N	380, Schedule 8, cls 9–11
12O	386, 430
12OA	386, 430
12P	383
12Q	384–387, 430
12R	388
12S	389
Part 1B (sole parent support)	
20A	30
20B	31
20C	Omitted
20D	29
20E	107, 114, 126
20F	Omitted
20G	17, Schedule 4
20H	32

Provision in Social Security Act 1964	Corresponding provision in this Act or Part 9 of Social Security Legislation Rewrite Act 2016
Part 1C (orphans' benefits, and unsupported child's benefit)	
28	42, 43
29	42, 43
29A	17, Schedule 4
31	44
Part 1D (child disability allowance)	
39A	68, 69
39B	17, Schedule 4
39C	70, 71
39D	73
39E	72
Part 1E (supported living payment)	
40A	Omitted
40B	33–35
40C	36
40D	39
40E	40, 41
40F	109, 114
40G	107, 115
40H	109, 114
40HA	114, 116
40I	17, 37, Schedule 4
40J	Schedule 4, Part 3, cls 2–4
40K	38
Part 1F (administration: further conditions of benefits, and obligations on beneficiaries)	
60GAD	204
60GAE	205, 206
60GAF	207
60GAG	92, 155, 156

Provision in Social Security Act 1964	Corresponding provision in this Act or Part 9 of Social Security Legislation Rewrite Act 2016
60H	6, 208–212, Schedule 2
60P	106
60Q	107–111
60R	92
60RA	114–121
60RAB	6, 118, 123, 154, 409, Schedule 2
60RB	92
60RC	226, 238, 250
Part 1G (emergency benefits)	
61	17, 59, Schedule 4
61AA	114
61A	107, 116, 126
Part 1H (administration: maintenance proceedings, and maintenance payable to the Crown)	
61C	368
61CA	Schedule 1, clause 46
Part 1I (epidemics)	
61CB	17, 316, 422, Schedule 4
61CC	60, 316, ~~422~~421
61CD	280
61CE	85
61CF	86
Part 1J (funeral grants)	
61D	80, 406
61DA	80, 406
61DB	80, 406
61DC	80, 406
61DD	80, 406
61DE	406

Provision in Social Security Act 1964	Corresponding provision in this Act or **Part 9 of Social Security Legislation Rewrite Act 2016**
Part 1K (accommodation supplement)	
61DH	Omitted
61E	6, 62, 402
61EA	61, 62, 63
61EB	64
61EC	17, 61, 65, Schedule 4
Part 1L (temporary additional support)	
61G	17, 81–84, Schedule 4
Part 1M (childcare assistance)	
61GA	17, 66, 67, Schedule 4
Part 1N (administration: rates of benefits, and other provisions on monetary benefits)	
61H	431, 433
61HA	432, 433
61I	402, 433
61IA	433
62	284
63	8
63A	89
64	Schedule 3, cls 11–14
66	401, Schedule 3, cl 9
66A	401, Schedule 3, cl 9
66B	401, Schedule 3, cl 9
68	401, Schedule 3, cl 2
68A	6, 171, 290, 412, 418, Schedule 2, Schedule 3, cls 18–21
69	Omitted (*see* **Schedule 11**)
Part 1O (disability provisions)	
69C	17, 74–79, 347–350, 404, Schedule 4

Provision in Social Security Act 1964	Corresponding provision in this Act or **Part 9 of Social Security Legislation Rewrite Act 2016**
69FA	**Part 9 of Social Security Legislation Rewrite Act 2016**, 495–503, Schedules 13 and 15
Part 1P (administration: overseas pensions, other conditions of benefits, reviews, and payments, debts, and deductions)	
69G	158–161
69H	162–165
69I	94
70	172–~~175~~175A, 413
70A	176–178
70B	179, 180
71	181
71A	182, Schedule 1, cl 28A
72	18, 183–185
73	187
74	186, 188, Schedule 3, cls 2, 16
74AA	16, 400
74A	19, 189
75	190, 191
75A	192
75B	193–200
76	201, 202
77	100, 203, 415
77A	93
78	400
79	400
80	291, 293, 294, 295
80AA	297, 298
80A	99
80B	6, Schedule 2
80BA	6, 296, Schedule 2
80BB	419
80BC	419

Provision in Social Security Act 1964	Corresponding provision in this Act or Part 9 of Social Security Legislation Rewrite Act 2016
80BD	304–309
80BE	310–314
80BF	315, 420
80C	213
80D	292
81	285–290
82	96, 316, 317, 318, 319, 325, 326, 327, 347, 350, 421
82A	98
83	316, 421
83AA	338, 339
83A	328–331
84	274, 396
84A	367
85A	332, 423
85B	332, 423
86	332, 333–337, 341, 342, 423
86AA	339, 340
86A	332, 423, 424
86B	332, 423, 424
86C	332, 423, 424
86D	332, 423, 424
86E	332, 423, 424
86F	332, 423, 424
86G	332, 423, 424
86H	332, 423, 424
86I	332, 423, 424
86J	343, 428, 424
86K	Omitted
Part 2 (jobseeker support, and administration: assessing work ability, work-testing, and sanctions)	
88A	6, Schedule 2
88B	20–24

Provision in Social Security Act 1964	Corresponding provision in this Act or Part 9 of Social Security Legislation Rewrite Act 2016
88C	25
88D	26
88E	27, 28
88F	127
88G	107, 115, 126
88H	141
88I	141
88J	128, 142
88K	142
88L	Omitted
88M	17, Schedule 4
100B	102–104
100C	104
100D	92
101	125
102	128, 129
102A	130, 132, 133
102B	133–135
102C	135, 137
102D	240–243
102E	136
104A	Omitted
105	143–146, 410
105C	92
111	Omitted
113	235, 236, 239
114	237
116B	105, 112, 122, 139, 140, 146, 216
116C	232–234
117	219–222, 227, 236
119	223–225
120	228–230
121	231
122	244–246

Provision in Social Security Act 1964	Corresponding provision in this Act or Part 9 of Social Security Legislation Rewrite Act 2016
122A	247–249
123	299–301
123A	302
123B	303
123C	166
123D	143
Part 3 (administration: young persons services, welfare programmes and other money payable, preferred suppliers, contracts with administration service providers, artificial limbs, information disclosure, application of Human Rights Act 1993, and offences and general penalty)	
123E	344
123F	Schedule 6, cl 16
123G	Omitted
123H	Omitted
124	86, 87, 88, 285, 332, 347–349, 423
125AA	345, 346, 351
125A	352
125B	353
125C	Schedule 6, cls 19, 20
125D	Schedule 6, cls 17, 18
125E	354
125F	355
125G	297, 298, 332, 356, 423
125H	Omitted
125I	Schedule 6, cl 21
126	Omitted
126A	6, Schedule 2, Schedule 6, cl 13
126AB	Schedule 6, cl 14
126AC	Schedule 6, cl 15
126B	Omitted
127	271

Provision in Social Security Act 1964	Corresponding provision in this Act or Part 9 of Social Security Legislation Rewrite Act 2016
127A	272
128	276
129	275
131	Omitted
Part 3A (administration: regulations and rules, annual reports, and repeals and savings)	
132	397
132AA	401
132AB	407
132A	416
132AC	403
132AD	405
132C	398, 413
132D	**Part 9**, 510
132F	408
132G	427
132H	Schedule 3, cl 15
132I	Schedule 3, cl 17
132J	411
132K	425, 426
132L	414
132M	420
133	Omitted
135	9, 434, 435, Schedule 1
Part 4 (long-term residential care in hospital or rest home)	
136AA	**Part 9**, 439
136AB	**Part 9**, 440
136	**Part 9**, 441, 460
137	**Part 9**, 463–466
138	**Part 9**, 466, 468
139	**Part 9**, 451–453

Provision in Social Security Act 1964	Corresponding provision in this Act or Part 9 of Social Security Legislation Rewrite Act 2016
140	**Part 9**, 454, 455, 492, 494
141	**Part 9**, 492
142	**Part 9**, 460, 462, 490, 493
143	**Part 9**, 458
144	**Part 9**, 468, 469
145	**Part 9**, 488
146	**Part 9**, 470, 471
147	**Part 9**, 472–474
147A	**Part 9**, 475, 476
148	**Part 9**, 477, 478
149	**Part 9**, 479
150	**Part 9**, 483–487
151	**Part 9**, 481
152	**Part 9**, 489
153	**Part 9**, 506
154	**Part 9**, 507
155	**Part 9**, 510–512
Part 5 (financial support for young people)	
156	Omitted
157	6, 147, Schedule 2
158	45, 46
159	45, 47, 48
160	45
161	49
162	50
163	17, 51, Schedule 4
164	52, 53
165	52, 55
166	52
167	56
168	57
169	17, 58, Schedule 4
170	91, 96, 147, 148, 149, 154

Provision in Social Security Act 1964	Corresponding provision in this Act or Part 9 of Social Security Legislation Rewrite Act 2016
171	151, 152
171A	150, 153
172	92
173	253, 254
174	261, 262, 263
174A	251, ~~258, 259~~259A, 259B
174AB	251, 258, 259
175	255, 256, 257, 264, 265, 266
176	251, 267, 268, 269
177	263
178	270
179	317, 318, 319, 320, ~~321,~~322, 323, 324A
180	324
181	357
Schedule 3 (former widows' benefits)	Schedule 4, Part 8 (former widows' benefits)
Schedule 3A (sole parent support)	Schedule 4, Part 2 (sole parent support)
Schedule 4 (orphans' benefits and unsupported childs' benefits)	Schedule 4, Part 4 (supported child's payment)
Schedule 6 (supported living payment)	Schedule 4, Part 3 (supported living payment)
Schedule 9 (jobseeker support)	Schedule 4, Part 1 (jobseeker support)
Schedule 10 (exemption of income from friendly or like society)	Schedule 3, Part 2 (income)
Schedule 12 (increased rate for parent of deceased member of armed forces)	Omitted (*see* **Schedule 11**)
Schedule 13 (enactments repealed)	Omitted
Schedule 16 (former DPB for solo parents)	Schedule 4, Part 9 (former DPB for solo parents)
Schedule 18 (accommodation supplement)	Schedule 4, Part 6 (accommodation supplement)
Schedule 19 (child disability allowance and disability allowance)	Schedule 4, Part 7 (child disability allowance and disability allowance)
Schedule 22 (long-term hospital patients)	Schedule 4, Part 10 (long-term hospital patients)

Provision in Social Security Act 1964	Corresponding provision in this Act or Part 9 of Social Security Legislation Rewrite Act 2016
Schedule 26 (youth payment, young parent payment, incentive payments)	Schedule 4, Part 5 (youth payment, young parent payment, incentive payments)
Schedule 27 (means assessment for long-term residential care)	Part 10, Schedule 14 (means assessment for long-term residential care)
Schedule 28 (period of benefit stand down)	419
Schedule 30 (means assessment for home-based disability support services)	Part 10, Schedule 15 (means assessment for home-based disability support services)
Schedule 31 (asset and income limits)	Schedule 5 (asset and income limits)
Schedule 32 (transitional, savings, and related provisions)	9, Schedule 1 (transitional, savings, and related provisions)

Part B

Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990: corresponding provisions in this Act or Part 10 of Social Security Legislation Rewrite Act 2016

Provision in Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990	Corresponding provision in this Act
2	361, 362, Schedule 2
19	359, 360
19A	361, 362
19B	362
19C	362, 429
19D	363–365, 429

Provision in Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990	Corresponding provision in Part 10 of Social Security Legislation Rewrite Act 2016
42	515
43	518, 520
44	519
46	520, 521

48	525
49, Schedule 3, cl 7	522
49, Schedule 3, cl 16	523
49, Schedule 3, cl 22	524
51	Omitted

Part C
This Act: corresponding provisions in former enactments

Provision in this Act	Provision in former enactments (1964 Act, unless otherwise specified), or statement that provision is new
1	1(1)
2	1(2)
Part 1 (general provisions)	
3	1A
4	1B
5	New
6, Schedule 2	3(1), (5), 10B(5), 11(8), 11G(1), 11H(1), 20A, 39A(1), 60H(1), 60RAB(1) and (4), 61D(1), 61E, 68A(8), 80B, 88A, 126A(1), 157
7	5
8	63
9	New
10	New
11	3C, Schedule 32
12	New (but see s 27ZF, repealed, on 1 July 1992, by 1991 No 143 s 7(1))
13	New
14	3B
Part 2 (assistance)	
15	New
16	74AA, 78(1), 79
17	3C, 20G, 29A, 39B, 40I, 61(2), 61CB, 61EC, 61G(3), 61GA(2), 69C, 88M, 163, 169
18	72(a)

Provision in this Act	Provision in former enactments (1964 Act, unless otherwise specified), or statement that provision is new
19	74A(1)
20	88B(1)–(4)
21	88B(1), (6), (7)
22	88B(1)
23	88B(2)
24	88B(4), (5)
25	88C
26	88D
27	88E(1)–(3)
28	88E(4), (5)
29	20D
30	20A
31	20B
32	20H
33	40B(1)–(1B)
34	40B(1)–(3)
35	40B(5)
36	40C
37	40I(3)–(5)
38	40K
39	40D
40	40E(1)
41	40E(2), (3)
42	28, 29
43	28, 29
44	31
45	158, 159(1), 160
46	158(2)(c)
47	158(2)(e), (3)
48	159(2)
49	161
50	162
51	163(2), (3)
52	164, 165(2), 166

Provision in this Act	Provision in former enactments (1964 Act, unless otherwise specified), or statement that provision is new
53	164(2)(c)
54	164(2)(e), (3)
55	165(2), (3)
56	167
57	168
58	169(2), (3)
59	61
60	61CC(1), (3)
61	61EA, 61EC(3)
62	61E(1), 61EA(2)
63	61EA(3), (4)
64	61EB
65	61EC(4), (4A), (5)
66	61GA(1)
67	61GA(2)
68	39A(3)
69	39A(1), (2)
70	39C(1)
71	39C(2)
72	39E
73	39D
74	69C(8)
75	69C(1), (2), (2A), (8)
76	69C(2B)
77	69C(4)
78	69C(3)
79	69C(5)
80	61D, 61DA, 61DB, 61DC, 61DD
81	61G(1)
82	61G(2), (3), (4)
83	61G(5), (6)
84	61G(7)
85	61CE
86	61CF, 124(1C)

Provision in this Act	Provision in former enactments (1964 Act, unless otherwise specified), or statement that provision is new
87	124(1)(d), (1A), (1B)
88	124(1B)
89	63A
Part 3 (obligations)	
90	New
91	170(5)
92	60GAG(2), 60R, 60RB, 100D, 105C, 172
93	77A
94	69I
95	New
96	82(7), 170(3), (4)
97	82(7)
98	82A
99	80A
100	77(6), (9)
101	New
102	100B(1)
103	100B(2)
104	100B(3), (4), 100C(1), (2)
105	116B(1)(d)
106	60P
107	20E(a), 40G(1), (2)(a), 60Q(1), (1A), 61A(1), 88G(a)
108	60Q(1A)
109	40F(a), 40H(a), 60Q(1)(bb), (1)(bc), (1B)
110	60Q(2)
111	60Q(3)
112	116B(1)(c)
113	New
114	20E(b), 40F(b), 40H(b), 40HA(a), 60RA(1), 61AA, 88F(8)
115	40G(1), (2)(b), 60RA(1)(b), (2), 88G(b)
116	40HA, 60RA(1)(b), (2), 61A(3)
117	60RA(3)(a)

Provision in this Act	Provision in former enactments (1964 Act, unless otherwise specified), or statement that provision is new
118	60RA(3)(b), 60RAB(2)
119	60RA(3)(c)
120	60RA(3)(d), (e)
121	60RA(3)(f), (g)
122	116B(1)(b)
123	60RAB(1), (3), (4)
124	New
125	101
126	20E(c), 88F(1), (4), 88G(c), 61A(1), (1A), (2)(b)
127	88F(2)–(6)
128	88J, 102(2)
129	102(1), (3)
130	102A(1)(a)–(c)
131	3(1)
132	102A(1)(d)–(g), (2)–(5)
133	102A(1A), 102B(1), (3)
134	102B(2)
135	102B(4), (5), 102C(2)
136	102E
137	102C(3)–(5)
138	88A
139	116B(1)(e)–(h)
140	116B(1)(f)–(h)
141	88F(7), 88H, 88I(1)–(3), (5)–(7)
142	88J, 88K
143	123D
144	105(1), (2), (4), (5), (5A)
145	105(3), (6), (7)
146	105(5), 116B(1)(i)
147	157, 170(1)(a), (b), (d)–(g)
148	170(4)
149	170(1)(c), (2)
150	171A
151	170(1)(a), (b), (d)–(g), 171(1), (4)

Provision in this Act	Provision in former enactments (1964 Act, unless otherwise specified), or statement that provision is new
152	170(1)(a)–(f) and (g)(i), 170(2), 171(2), (5)
153	171A
154	60RAB(1), (4), 157
155	60GAG(1)
156	60GAG(3)
157	New
158	69G(1)
159	69G(2)
160	69G(3)
161	69G(4), (5)
162	69H(1), (2)
163	69H(3)
164	69H(4), (5)
165	69H(6)
166	123C
167	New
Part 4 (factors affecting benefits)	
168	New
169	11E, 11G, 11H
170	11F
171	68A
172	70(1), (1A), (1B)
173	70(1)(a)
174	70(1)
175	70(3)–(4)
175A	70(1)
176	70A(1), (2), (4)
177	70A(3), (9)
178	70A(5), (6), (8)
179	70B(1), (3), (4)
180	70B(2)
181	71
182	71A(1)–(3)

Provision in this Act	Provision in former enactments (1964 Act, unless otherwise specified), or statement that provision is new
183	72(b)
184	72(b)
185	72(c)
186	74(1)(e)
187	73
188	74(1)(a) (*see also* 2001 No 84 s 35(2) and 2014 No 56 s 195(2))
189	74A(1A), (1B)
190	75(2)–(4), (6)
191	75(5), (7)
192	75A
193	75B(1), (6)
194	75B(2)
195	75B(3)
196	75B(3), (4)
197	75B(7)
198	75B(2)
199	75B(8)
200	75B(9), (10)
201	76(1), (5), (6)
202	76(2)–(4)
203	77 (*see also* 2001 No 84 s 35(2) and 2014 No 56 s 195(2))
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205	60GAE(1), (1A), (2), (3A)
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208	60H(3)
209	60H(2)
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280	61CD
281	New
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283	12(1AA)
284	62
285	81(1)(a) and (b), 124(2), (2A)
286	81(1)
287	81(2)
288	81(4)
289	81(3)
290	68A(6), (7), (8)
291	80(1) (*see also* 2001 No 84 s 35(2) and 2014 No 56 s 195(2))
292	80D
293	80(2), (3)
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295	80(5), (8), (10), (13), (14)
296	80BA(1), (2), (3), (4), (5)
297	80AA(1), (4), (5), (6), 125G(1)
298	80AA(2), (3), 125G(1)
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358	132, SR 2007/229 r 8
359	Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 (the **1990 Act**), 19(1), (2)
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361	1990 Act, 2(1), 19A(1), 19D(7)
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365	1990 Act, 19D(3)(c), (d), (4), (4A), (4B), (4C), (5), (6), (7)
366	132, SR 2007/229 r 9
367	84A
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431	61H(1), (1A), (2), (7), Schedule 32, cl 3(6)
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7	3(1), definition of income, paragraph (e)
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1 Determinations under section 63 of 1964 Act for long-term residential care, etc

(1) This clause applies to determinations—

(a) made under section 63 of the Social Security Act 1964; and

(b) made, or so far as they were made, for the purposes of section 69FA or 132D, Part 4, or Schedule 27 or 30, of that Act (*see* **clause 3 of Schedule 1 of the Social Security Legislation Rewrite Act 2016**); and

(c) in force on the repeal of section 63 of the Social Security Act 1964.

(2) The determinations specified in **subclause (1)** continue in force with all necessary modifications, and may be amended, revoked, or replaced, as if made under **section 481(1) or 482(1)**.

(3) However, the determinations specified in **subclause (1)** that are made under section 63(b) of the Social Security Act 1964 continue under **subclause (2)** as if they were determinations made under **section 482(1)**.

2 Needs assessments and means assessments under Part 4 of 1964 Act

(1) An application made under section 137(2) of the Social Security Act 1964 for a needs assessment and not withdrawn must, if the assessment has not begun on that section's repeal, be treated as if it were an application under **section 463**.

(2) An application made under section 144(1) of the Social Security Act 1964 for a means assessment and not withdrawn must, if the assessment has not begun on that section's repeal, be treated as if it were an application under **section 468**.

(3) Needs assessments and means assessments begun under Part 4 of the Social Security Act 1964, and not withdrawn or completed on the repeal of that Part, must be completed by MSD under the corresponding provisions of **Part 9 of the Social Security Legislation Rewrite Act 2016**.

(4) Notices (of means assessments) provided under section 148 of the Social Security Act 1964, if those notices are in force on the repeal of that section, continue in force as if provided under **sections 477 and 478**.

3 Reviews of means assessments under section 150 of 1964 Act

Reviews by the chief executive begun under section 150 of the Social Security Act 1964, and not withdrawn or completed on the repeal of that section, must be completed by MSD under the corresponding provisions of **sections 483 to 487**.

4 *Gazette* notices under section 152 of 1964 Act

Gazette notices given under section 152 of the Social Security Act 1964, if those notices are in force on the repeal of that section, continue in force as if they were written notices given and published under **section 489**.

5 *Gazette* notices under section 153 of 1964 Act

Gazette notices given under section 153 of the Social Security Act 1964, if those notices are in force on the repeal of that section, continue in force as if they were written notices given and published under **section 506**.

6 *Gazette* notices under section 155(4) of 1964 Act

Gazette notices given under section 155(4) of the Social Security Act 1964, if those notices are in force on the repeal of that section, continue in force as if they were written notices given and published under **section 512**.

7 Elections under Schedule 27 of 1964 Act

A resident's (**R's**) election under clause 2 of Schedule 27 of the Social Security Act 1964 (as in force before its repeal) to have Column A of the table in clause 1 of that schedule (as in force before its repeal) apply to R is, after that repeal, treated as if it were an election (under **clause 2 of Schedule 14**) to have Threshold A in **clause 1 of Schedule 14** apply to R.

8 Assessments under section 69FA of 1964 Act of financial means, and required payments, for home-based disability support services

(1) An application made under section 69FA of the Social Security Act 1964 and not withdrawn must, if the assessment under Schedule 30 of that Act has not

begun on the repeal of that section and that schedule, be treated as if it were an application under **section 496**.

(2) Assessments under section 69FA and Schedule 30 of the Social Security Act 1964, and not withdrawn or completed on the repeal of that section and that schedule, must be completed by MSD under **subpart 8 of Part 9 of the Social Security Legislation Rewrite Act 2016**.

9 Reviews under section 69FA(7) of 1964 Act

Reviews by the chief executive begun under section 69FA(7) of the Social Security Act 1964, and not withdrawn or completed on the repeal of that section, must be completed by MSD under **section 502**.

10 Regulations made under section 132D or 155(1) of 1964 Act

Regulations made under section 132D or 155(1) of the Social Security Act 1964, and in force on the repeal of that section, continue in force, and may be amended, revoked, or replaced, as if made under **section 510**.

Schedule 14
Means assessment for long-term residential care

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Part 1
Applicable asset thresholds

1 Applicable asset thresholds

(1) This clause specifies the applicable asset thresholds that apply annually for—

(a) the year **1 July 2017** to **30 June 2018**; and

(b) all later years beginning on 1 July.

(2) Threshold A is ~~$218,973~~$219,889 and applies to every qualifying person or special case person (**P**)—

(a) who has no spouse or partner; or

(b) whose spouse or partner is also a qualifying person or special case person; or

(c) whose spouse or partner is not a qualifying person or special case person but who has elected, under **clause 2**, to have Threshold A apply to P rather than Threshold B.

(3) Threshold B is ~~$119,915~~$120,416 and applies to every qualifying person or special case person (**P**)—

(a) whose spouse or partner is not a qualifying person or special case person; and

(b) who has not elected, under **clause 2**, to have Threshold A apply to R.

2 Certain residents may elect which threshold to apply

A qualifying person or special case person (**P**) whose spouse or partner is not a qualifying person or special case person may elect to have Threshold A in **clause 1** apply to P instead of having Threshold B in **clause 1** apply.

3 Explanation of election

The effect of making an election under **clause 2** is that the person's applicable asset threshold will increase, but the value of any interest in the residential dwelling and the car of the person's spouse or partner will be included in the calculation of the person's assets (*see* **paragraphs (a) and (b)** of the definition of exempt assets in **Part 2**).

Part 2
Means assessment as to assets

4 Definitions

For the purpose of an assets assessment conducted under **section 470**,—

assets, in relation to the person being means assessed, means the assets of the person and the person's spouse or partner (if any) that are capable of being realised by the person or the person's spouse or partner, and includes—

(a) the value of any right, under a contract or arrangement with any person, to be paid or repaid money on termination of a licence to occupy part of any property, building, or premises, adjusted to take into account any conditions or restrictions on that right:

(b) the value of assets that have been gifted by the person, the person's spouse or partner, or both during the prescribed gifting period immediately before the date of means assessment, but does not include any allowable gifts, or the value of any allowable gifts, prescribed by regulations made under **section 510**

exempt assets, in relation to the person being means assessed, means—

(a) any interest in a residential dwelling that is the principal residence of the person's spouse or partner or a dependent child of the person; but this exemption does not apply to a person who has made an election under **clause 2**:

(b) any interest in 1 car or similar vehicle that is for the personal use of the person's spouse or partner, but this exemption does not apply to a person who has made an election under **clause 2**:

(c) the value of any *ex gratia* payment by the Government of New Zealand or the Government of any other country to the person because the person or the person's spouse or partner was a prisoner of war or civilian internee of Japan during the Second World War:

(d) the value of any pre-paid funeral of the person or of the person's spouse or partner, up to a value of $10,000 (or any other amount that may be prescribed by regulations made under **section 510**) for each:

(e) a lump sum paid to the person under Schedule 1 of the Accident Compensation Act 2001, or a lump sum payment of an independence allowance under Part 13 of the Accident Insurance Act 1998 or Part 4 of Schedule 1 of that Act, but this exemption applies only in the first 12 months after the payment is made:

(f) any contributions to, or any member's interest in, any KiwiSaver scheme that is registered under subpart 2 of Part 4 of the Financial Markets Conduct Act 2013, except the following:

(i) money withdrawn from a scheme of that kind:

(ii) money that the member is entitled to withdraw from the scheme under clause 4(3) of the KiwiSaver scheme rules under the KiwiSaver Act 2006:

(iii) money that the member has applied to withdraw and that would be a permitted withdrawal under those rules:

(g) any assets, or amount of assets, of the person or the person's spouse or partner declared by regulations made under **section 510** to be exempt assets.

Part 3
Means assessment relating to income

5 Definitions

For the purpose of a person's income assessment under **section 473**,—

income means the following, and in every case is the income after deduction of income tax:

(a) the income of the person or the person's spouse or partner that is within the meaning of the term income as defined in **Schedules 2 and 3 of the Social Security Legislation Rewrite Act 2016**:

(b) any benefit received by the person:

(c) 50% of any amount received by the person or by the person's spouse or partner by way of a pension that—

(i) is from any superannuation scheme, whether or not that scheme is constituted in New Zealand; and

(ii) is not New Zealand superannuation; and

(iii) is not an overseas pension (as defined in **section 172 of the Social Security Legislation Rewrite Act 2016**):

(d) 50% of any amount received by the person or by the person's spouse or partner under an annuity paid in respect of a policy of life insurance (whether or not issued in New Zealand):

but does not include the following:

(e) the income of the person's spouse or partner that is earned by the personal effort of the spouse or partner:

(f) any clothing allowance payable to the person under regulations made under **section 510**:

(g) the income-from-assets exemption of the person:

(h) any amount paid by a funder in respect of the cost of contracted care services provided to the person or the person's spouse or partner:

(i) any amount or type of income, or amount of a certain type of income, specified in regulations made under **section 510**

income-from-assets exemption means the amount of income derived from assets each year not exceeding the following (or any other amount or amounts as may be prescribed by regulations made under **section 510**):

(a) ~~$963~~$964, if the person is single; or

(b) ~~$1,925~~$1,928, if the person's spouse or partner is a resident assessed as requiring care; or

(c) ~~$2,887~~$2,892 if the person's spouse or partner is not a resident assessed as requiring care.

6 Annual income

For the purposes of a means assessment as to income, a person's annual income is the person's estimated income (as defined in **clause 5**) for the period of 52 weeks commencing on the date of means assessment.

7 Weekly income

A person's weekly income is the person's annual income divided by 52.

8 Weekly contribution

The weekly contribution payable by a person whose income is assessed is the person's weekly income less the personal allowance (as defined in **section 460(2)**).

Schedule 15
Means assessment for home-based disability support services

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1 Specified outgoings defined

In this schedule, **specified outgoings**, in relation to a person, means the annual total of—

(a) the maximum rate for the time being of a supported living payment that would be payable to the person if the person was qualified to receive a benefit of that kind:

(b) an amount of $10 per week (for the purpose of paying costs incidental to the provision of home help):

(c) the following employment-related expenses of the person and the person's spouse or partner, calculated on an annual basis:

(i) fees or subscriptions payable on an annual or regular basis to any union:

(ii) contributions to any superannuation scheme:

(iii) contributions to any employee welfare fund:

(iv) any other essential costs of that employment (not including travel to and from work) to the extent that they are not reimbursed by the employer:

(d) the person's accommodation costs (as defined in regulations made under **section 402(1)(a)**, and for the purposes of **subpart 9 of Part 2 and Part 6 of Schedule 4 of the Social Security Legislation Rewrite Act 2016** (accommodation supplement)):

(e) the person's telephone rental (being the standard line charge and base user charge including hire of a basic telephone applicable to a person living in the place where the person lives), calculated on an annual basis:

(f) the cost of the person's ongoing and regular medical and pharmaceutical expenses, calculated on an annual basis:

(g) the cost of the person's regular essential expenses (being expenses other than the cost of food, clothing, travel, running a motor vehicle, life insurance, house and contents insurance, hire purchase, entertainment, and personal savings), calculated on an annual basis.

2 Calculation

MSD must calculate the amount of the person's annual income and specified outgoings, and must deduct the amount of the specified outgoings from the annual income.

3 If result is $0 or less than $0

If the result of the calculation specified in **clause 2** is $0 or less than $0, MSD must assess the amount the person is required to contribute towards the cost of the home-based disability support services supplied to that person as $0.

4 If result is greater than $0 but less than total cost of services supplied

If the result of the calculation specified in **clause 2** is greater than $0 but less than the total cost of the home-based disability support services supplied to the person, MSD must assess that result as the amount the person is required to contribute towards the cost of those services.

5 If result is equal to or greater than total cost of services supplied

If the result of the calculation specified in **clause 2** is equal to or greater than the total cost of the home-based disability support services supplied to the person, MSD must assess the amount the person is required to contribute towards the cost of those services as the total cost of those services.

6 Conversion to weekly amount

MSD must convert an assessment made under **clauses 3 to 5** to a weekly amount.

Schedule 16
Transitional, savings, and related provisions for Artificial Limb Service

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1 Members

(1) This clause applies to members—

(a) appointed under section 46 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990; and

(b) in office on the repeal of that section.

(2) Those members are taken to have been appointed for the same period, and on the same terms and conditions, under **section 521**.

2 Deputies

(1) This clause applies to deputies—

(a) appointed under section 49 and clause 7 of Schedule 3 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990; and

(b) in office on the repeal of that clause.

(2) Those deputies are taken to have been appointed for the same period, and on the same terms and conditions, under **section 522(1)**.

3 Ministerial approvals of superannuation schemes

(1) This clause applies to approvals—

(a) given by the Minister of Finance under section 49 and clause 16 of Schedule 3 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990; and

(b) in force on the repeal of that clause.

(2) Those approvals continue in force with all necessary modifications, and may be amended, revoked, or replaced, as if given under **section 523(1)(b)**.

Legislative history

17 March 2016	Introduction (Bill 122–1)
10 May 2016	First reading and referral to Social Services Committee

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