



## **Social Security (New Work Tests, Incentives, and Obligations) Amendment Act 2010**

Public Act 2010 No 105  
Date of assent 23 August 2010  
Commencement see section 2

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Social Security (New Work Tests, Incentives, and Obligations) Amendment Act 2010.
- 2 Commencement**
  - (1) Sections 4(1), 14, 17, 30, and 31 come into force on the day after the date on which this Act receives the Royal assent.
  - (2) Sections 4(14) to (17) and 8, and Schedule 2 come into force on 2 May 2011.
  - (3) This rest of this Act comes into force on 27 September 2010.

### 3 Principal Act amended

This Act amends the Social Security Act 1964.

### 4 Interpretation

- (1) The definition of **dependent child** in section 3(1) is repealed and the following definition substituted:

“**dependent child**, in relation to any person,—

“(a) means a child—

“(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:

“(b) does not include a child in respect of whom payments are being made under section 363 of the Children, Young Persons, and Their Families Act 1989:

“(c) despite paragraph (b), includes 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:

“(d) for the purposes only of Schedules 3, 6, 9, 16, 17, and 18 of this Act, does not include a child in respect of whom an orphan’s benefit or an unsupported child’s benefit is being paid”.

- (2) Section 3(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**employment plan** has the meaning specified in section 600

“**health practitioner** 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

- “**work-tested domestic purposes beneficiary** means a person—
- “(a) who has been granted a domestic purposes benefit under section 27B; and
  - “(b) whose youngest dependent child is aged 6 years or older, but under 18 years, or is aged 18 years and is a child in respect of whom that benefit is paid, or continues to be paid, under section 63A”.
- (3) The definition of **Income Test 1** in section 3(1) is amended by—
- (a) omitting “\$80” and substituting “\$100”;
  - (b) omitting “\$180” in each place where it appears and substituting in each case “\$200”.
- (4) The definition of **Income Test 2** in section 3(1) is amended—
- (a) by omitting “\$80” and substituting “\$100”;
  - (b) by omitting “\$180” in each place where it appears and substituting in each case “\$200”.
- (5) The definition of **Income Test 3** in section 3(1) is repealed and the following definition substituted:
- “**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 his or her spouse or partner which 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”.
- (6) The definition of **Income Test 5** in section 3(1) is repealed.
- (7) Paragraph (a) of the definition of **part-time work-tested beneficiary** in section 3(1) is amended by inserting “or a work-tested domestic purposes beneficiary” after “work-tested spouse or partner”.
- (8) The definition of **personal development and employment plan** in section 3(1) is repealed.
- (9) The definition of **work-tested beneficiary** in section 3(1) is amended by adding the following paragraph:
- “(f) a work-tested domestic purposes beneficiary”.

- (10) The definition of **work-tested benefit** in section 3(1) is amended by repealing paragraph (e) and substituting the following paragraphs:
- “(e) in relation to a work-tested spouse or partner—
    - “(i) a sickness benefit; or
    - “(ii) an emergency benefit; or
    - “(iii) an invalid’s benefit; or
  - “(f) in relation to a work-tested domestic purposes beneficiary, a domestic purposes benefit under section 27B”.
- (11) Paragraph (b) of the definition of **work-tested spouse or partner** in section 3(1) is amended by omitting “either”.
- (12) Paragraph (c) of the definition of **work-tested spouse or partner** in section 3(1) is amended by omitting “or an emergency benefit”.
- (13) The definition of **work-tested spouse or partner** in section 3(1) is amended by inserting the following paragraph after paragraph (c):
- “(ca) the spouse or partner of a person granted an emergency benefit at a work-tested married rate if the chief executive has, under section 61A(1A), required that spouse or partner to comply with the work test; or”.
- (14) Section 3(1) is amended by inserting the following definition in its appropriate alphabetical order:
- “**work-tested sickness beneficiary** means a person granted a sickness benefit who is required under section 54DA(1) to comply with the work test”.
- (15) Section 3(1) is amended by repealing the definition of **part-time work-tested beneficiary** and substituting the following definition:
- “**part-time work-tested beneficiary** means—
- “(a) a person with a youngest dependent child aged 6 or older, but under 18 years, and who is—
    - “(i) a work-tested spouse or partner; or
    - “(ii) a work-tested domestic purposes beneficiary; or
  - “(b) a person who is a work-tested sickness beneficiary”.
- (16) The definition of **work-tested beneficiary** in section 3(1) is amended by adding “; or” and also by adding the following paragraph:

“(g) a work-tested sickness beneficiary”.

- (17) The definition of **work-tested benefit** in section 3(1) is amended by adding “; or” and also by adding the following paragraph:

“(g) in relation to a work-tested sickness beneficiary, a sickness benefit”.

## 5 Domestic purposes benefits for solo parents

Section 27B is amended by repealing subsection (2A) and substituting the following subsection:

“(2A) A person who receives a benefit under this section must—

“(a) comply with—

“(i) a requirement under section 60Q; and

“(ii) any other obligation arising under any of sections 60Q to 60S; or

“(b) comply with the work test if that person is a work-tested domestic purposes beneficiary.”

## 6 Sickness benefit: medical examinations

Section 54B(1) is amended by adding “; or” and also by adding the following paragraph:

“(d) a health practitioner of a kind specified in regulations made under section 132 (in respect of a condition within the ambit of his or her scope of practice).”

## 7 Rates of sickness benefit

- (1) Section 54D(1) is amended by omitting “, unless subsection (2) applies”.

- (2) Section 54D(2) is repealed.

## 8 New section 54DA inserted

- (1) The following section is inserted after section 54D:

**“54DA Sickness beneficiary may be required to comply with work test**

- “(1) The chief executive may, by notice in writing, require a person who is granted a sickness benefit under section 54 to comply with the work test from a date specified in the notice if the chief executive, having regard to the certificate and any report

obtained under section 54B, is satisfied that the person has, while receiving that benefit, the capacity to seek, undertake, and be available for part-time work.

- “(2) The date specified in a notice under subsection (1),—
- “(a) in the case of a new grant of the benefit, may be the date on which the benefit is first paid; but
  - “(b) in any case, must not be a date before the date on which the chief executive reasonably considers the person will receive the notice.
- “(3) The chief executive may at any time, whether on the application of the person or otherwise, review a requirement under subsection (1) and may confirm or revoke it.”
- (2) The principal Act is consequentially amended in the manner set out in Schedule 2 of this Act.

#### **9 Independent youth benefits: obligations**

- (1) Section 60GAB(2)(a) is amended by omitting “the person has previously agreed in writing to undertake”.
- (2) Section 60GAB(2)(b) is amended by inserting “when required by the chief executive,” before “to be”.

#### **10 Interpretation**

- (1) The definition of **personal development and employment plan** or **plan** in section 60O is repealed.
- (2) Section 60O is amended by inserting the following definition in its appropriate alphabetical order:
- “**employment plan** means a plan that—
- “(a) has goals to assist the beneficiary to move towards employment:
  - “(b) sets out a plan of action designed to meet the goals referred to in paragraph (a), including the activities that will be undertaken by the beneficiary to facilitate the achievement of those goals:
  - “(c) includes a statement of the information the department will provide to assist the beneficiary to do 1 or more of the following:
    - “(i) achieve the goals referred to in paragraph (a):
    - “(ii) improve his or her employment capabilities:

“(iii) obtain employment:

“(d) includes, if agreed to by the chief executive, a statement of the assistance that the department will provide to assist the beneficiary to do 1 or more of the things described in paragraph (c)(i) to (iii)”.

#### **11 Purpose of sections 60Q to 60Z**

Section 60P(a) is amended by inserting “(other than work-tested domestic purposes beneficiaries)” after “domestic purposes beneficiaries”.

#### **12 Personal development and employment plans**

Section 60Q(6)(a) is amended by repealing subparagraph (ii) and substituting the following subparagraph:

“(ii) a benefit under section 27B (the domestic purposes benefit for solo parents) if the recipient has a dependent child under the age of 6 years; or”.

#### **13 Obligations of spouse or partner of person granted emergency benefit**

Section 61A is amended by inserting the following subsection after subsection (1):

“(1A) The chief executive may, by notice in writing, require the spouse or partner of a person granted an emergency benefit at a work-test married rate to comply with the work test if the chief executive 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 6 or older but under 18 years; or

“(b) full-time employment, in any other case.”

#### **14 Interpretation**

(1) The definition of **accommodation costs** in section 61E(1) is amended by repealing paragraph (a) and substituting the following paragraph:

- “(a) in relation to premises rented by the person, the amount payable by the person for rent of the premises, excluding any service costs included in that rent and any arrears:”.
- (2) Paragraph (b) of the definition of **accommodation costs** in section 61E(1) is amended by inserting “any service costs and” after “excluding”.
- (3) Section 61E(1) is amended by inserting the following definition in its appropriate alphabetical order:  
**“service costs**, in relation to any premises,—  
 “(a) means the cost as reasonably determined by the chief executive of any services (for example, electricity supply, gas supply, telephone network connection, or broadband Internet connection) provided to or in connection with the premises for consumption or use by the occupants of the premises; but  
 “(b) does not include the cost of water supplied to the premises”.

## 15 New section 61HA inserted

The following section is inserted after section 61H:

### “61HA Annual CPI adjustment of rates of certain benefits

- “(1) In this section, **CPI** means the consumers price index-all groups published by Statistics New Zealand.
- “(2) The rates of benefits set out in Schedules 3, 4, 6, 9, 16, 17, and 26, and in clause 1 of Schedule 22 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 the CPI for the quarter ended with 31 December 1 year before the immediately preceding 31 December and the CPI for the quarter ended with the immediately preceding 31 December.
- “(3) The adjustments (by any percentage movement upwards in the CPI) required under subsection (2) as at 1 April 2011, 1 April 2012, and 1 April 2013 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 num-

- bers 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.
- “(4) An adjustment under subsection (2) must not reduce the weekly amounts of benefits payable under those schedules.
- “(5) Every Order in Council made under subsection (2) comes into force or is considered to come into force on 1 April of the calendar year in which it is made, and applies to benefits payable on and after that date.
- “(6) Section 61H(3) to (6) apply to every Order in Council made under subsection (2) as if that order were made under that section.”

## 16 Payment of benefits

Section 82 is amended by inserting the following subsections after subsection (6):

- “(6A) Despite subsection (3), if the immediate needs of the beneficiary relate to the supply of any goods or services to the beneficiary or a member of the beneficiary’s family, the chief executive may pay the whole or any part of an advance payment of a benefit under subsection (6) to the supplier of the goods or services.
- “(6B) The chief executive may, in circumstances prescribed by regulations made under section 132K, require a beneficiary who applies for an advance payment of a benefit under subsection (6), or the beneficiary’s spouse or partner, or both, to undertake to the satisfaction of the chief executive a budgeting activity of a kind specified in regulations made under section 132K.
- “(6C) Subsection (6D) applies in respect of an applicant for an advance payment of a benefit under subsection (6) if the chief executive is satisfied that—
- “(a) the applicant or the applicant’s spouse or partner has failed to take reasonable steps to reduce his or her costs

or increase his or her income or better manage his or her finances; or

“(b) the applicant or the applicant’s spouse or partner has failed to take all necessary steps to obtain any assistance towards his or her costs from any other source from which he or she may be entitled to assistance; or

“(c) the applicant or the applicant’s spouse or partner has failed to comply with any requirement of the chief executive to undertake a budgeting activity under subsection (6B).

“(6D) If this subsection applies, the chief executive may refuse to make an advance payment of a benefit under subsection (6), or any subsequent advance payment of a benefit, to or in respect of the applicant.”

#### **17 New section 86K inserted**

The following section is inserted after section 86J:

##### **“86K Validation of benefit payments and other payments in respect of certain children in care**

“(1) This section applies to any payment before the commencement of this section of a benefit or other assistance under this Act to a person in respect of a child who is a dependent child within the meaning of paragraph (c) of the definition of that term in section 3(1) (as that definition was substituted by section 4(1) of the Social Security (New Work Tests, Incentives, and Obligations) Amendment Act 2010).

“(2) The payment must be taken to be, and to always have been, as valid and authorised as if that definition were in force, and applied in respect of the payment, when it was made.”

#### **18 New sections 99AA and 99AB inserted**

The following sections are inserted after section 99:

##### **“99AA Unemployment benefit: expiry**

“(1) If it has not ceased earlier, an unemployment beneficiary’s entitlement to the unemployment benefit ceases on the expiry date for that benefit (as defined in subsection (5)), and the benefit expires on that date (but an unemployment benefit may

- be re-granted under section 99AB if the beneficiary reapplies for the benefit in accordance with that section).
- “(2) The chief executive must, not less than 20 working days before the expiry date for an unemployment benefit, give notice to the beneficiary stating—
- “(a) that entitlement to the benefit will cease unless the beneficiary reapplies for the benefit and it is re-granted; and
  - “(b) the date on which entitlement to the benefit will cease; and
  - “(c) what the beneficiary must do to reapply for the benefit and the time within which he or she must do so.
- “(3) Subsection (2) does not apply if, at the time the chief executive is required to give notice under that subsection, the unemployment 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 section 76 or 77); or
  - “(c) is suspended under any provision of this Act other than section 117.
- “(4) However, if at any time before the expiry date for the benefit any of the circumstances described in subsection (3) no longer exist, then the chief executive must, as soon as practicable, take reasonable steps to advise the beneficiary of the matters set out in paragraphs (a) to (c) of subsection (2).
- “(5) In this section and in section 99AB,—
- “**expiry date**, in relation to an unemployment benefit, means the day that is the 12-month anniversary of the date on which the benefit commenced or last commenced, as the case may be
  - “**unemployment beneficiary** means—
- “(a) a person who has been granted an unemployment benefit under section 89; or
  - “(b) a person who has been re-granted an unemployment benefit under section 99AB.

“**99AB Unemployment benefit: requirements for re-grant**

- “(1) No unemployment benefit may be re-granted under this section to a person to whom section 99AA applies unless—

- “(a) the department has received—
    - “(i) a reapplication form (provided by the chief executive for the purpose) completed by or on behalf of the beneficiary and his or her spouse or partner (if any) to the chief executive’s satisfaction; and
    - “(ii) any supporting evidence reasonably required by the chief executive; and
  - “(b) the beneficiary and the beneficiary’s work-tested spouse or partner (if any) have participated, to the satisfaction of the chief executive, in a comprehensive work assessment of a kind specified by the chief executive.
- “(2) Subsection (1)(b) is subject to subsection (8).
- “(3) If, in relation to a person, the requirements of subsection (1) are completed on or before the expiry date for the person’s unemployment benefit,—
- “(a) the chief executive must re-grant the person’s unemployment benefit if the chief executive is satisfied that the person meets or continues to meet the eligibility criteria for the benefit set out in section 89:
  - “(b) if re-granted, the benefit commences on that expiry date.
- “(4) If, in relation to a person, the requirements of subsection (1) are completed after, but within 20 working days after, the expiry date for the person’s unemployment benefit, and the chief executive is satisfied that there were exceptional circumstances why those requirements could not have been completed on or before that date,—
- “(a) the chief executive must re-grant the person’s unemployment benefit if the chief executive is satisfied that—
    - “(i) the person meets the eligibility criteria for the benefit set out in section 89; and
    - “(ii) after that expiry date, and unless exceptional circumstances prevented the person from doing so, the person continued to—
      - “(A) seek, and be available for, full-time employment; and
      - “(B) be willing and able to undertake it; and
      - “(C) take reasonable steps to find it:
  - “(b) if re-granted, the benefit commences on that expiry date.

- “(5) If a person intending to reapply for an unemployment benefit contacts the department on or before the expiry date for the person’s unemployment benefit,—
- “(a) the chief executive may set a time (not later than 10 working days after that expiry date) for completing the requirements of subsection (1); and
  - “(b) if those requirements are completed within that time, the chief executive may re-grant the benefit under subsection (4).
- “(6) Subsections (1) to (5) override section 11D(1).
- “(7) An unemployment benefit must not be re-granted under this section to a person, and any reapplication form received from or on behalf of that person must be treated as an application form for the purposes of section 11D(2), if the requirements of subsection (1)—
- “(a) are not completed within 20 working days after the expiry date for the person’s unemployment benefit; or
  - “(b) were completed within that time but after that expiry date, and the chief executive is satisfied that there were no exceptional circumstances why those requirements could not have been completed on or before that expiry date.
- “(8) For the purposes of this section, a failure of a beneficiary’s work-tested spouse or partner to participate in a comprehensive work assessment in accordance with subsection (1)(b)—
- “(a) must not be treated as a failure to complete the requirements of subsection (1); but
  - “(b) must be treated as a failure by that spouse or partner to comply with his or her work test obligations.”

**19 New section 101 inserted**

The following section is inserted before section 102:

**“101 Purpose of sections 102 to 123D**

The purpose of sections 102 to 123D is—

- “(a) to ensure that work-tested beneficiaries maintain an unrelenting focus on entering, or returning to, employment:

- “(b) to reinforce the continuing obligation of work-tested beneficiaries to take reasonable steps to support themselves and their families:
- “(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:
- “(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.”

## **20 New sections 102 and 102A substituted**

Section 102 is repealed and the following sections are substituted:

### **“102 Application of work test**

- “(1) The work test applies to a person while he or she is a work-tested beneficiary, and unless subsection (2) applies, the person is subject to the obligations of the work test set out in section 102A from the date on which the work-tested benefit is first paid.
- “(2) The work test does not apply to a work-tested beneficiary if the chief executive is satisfied that the beneficiary is undertaking employment of the kind required to satisfy the work test for that beneficiary.
- “(3) A work test obligation set out in section 102A applies on—
  - “(a) a day that is a day between Monday and Friday (inclusive); or
  - “(b) a day of the week on which regulations under this Act provide (in relation to the obligation, obligations that include it, or all obligations) that it applies.

### **“102A Work test obligations**

- “(1) The work test obligations are—
  - “(a) to be available for, and take reasonable steps to obtain, suitable employment; and
  - “(b) to accept any offer of suitable employment, including temporary employment or employment that is seasonal or subsidised; and

- “(c) to attend and participate in an interview for any opportunity of suitable employment to which the beneficiary is referred by the chief executive; and
- “(d) when required by the chief executive, to attend and participate in any interview with an officer of the department or other person on behalf of the chief executive; and
- “(e) when required by the chief executive, to undertake planning for employment; and
- “(f) when required by the chief executive, to participate in or, as the case requires, undertake any of the following activities that the chief executive considers suitable for the beneficiary to improve the beneficiary’s work-readiness or prospects for employment:
  - “(i) any work assessment specified by the chief executive;
  - “(ii) any programme or seminar specified by the chief executive to increase particular skills or enhance motivation;
  - “(iii) a work experience or work exploration activity specified by the chief executive;
  - “(iv) employment-related training specified by the chief executive;
  - “(v) any other activity specified by the chief executive (including rehabilitation but not medical treatment); and
- “(g) to report to the department on his or her compliance with his or her work test obligations as often, and in the manner, as the chief executive from time to time reasonably requires; and
- “(h) in the case of a person in respect of whom a job seeker agreement was in force immediately before the commencement of section 23 of the Social Security (New Work Tests, Incentives, and Obligations) Amendment Act 2010, and until directed otherwise by the chief executive,—
  - “(i) to undertake the job-search activities set out in the agreement; and

- “(ii) to undertake and complete any job seeker development activity or recognised community activity described in the agreement (subject to the chief executive’s taking reasonable steps to arrange for the person to undertake the activity); and
- “(iii) to undertake and complete any other activities set out in the agreement.”
- “(2) Subsection (1)(f) applies whether or not a beneficiary is subject to a sanction for failing to comply with the work test.
- “(3) A person cannot be required under subsection (1) to undertake activity in the community (whether or not it is included in a job seeker agreement that continues to apply to him or her under subsection (1)(h)).
- “(4) The failure by a beneficiary to undertake or complete a recognised community activity or activity in the community, as set out in a job seeker agreement that continues to apply to him or her, is not a failure to comply with a work test obligation for the purpose of section 115(1)(a).
- “(5) If the chief executive requires a beneficiary to undertake an activity under subsection (1)(f), the chief executive must take reasonable steps to arrange for the beneficiary to undertake that activity.”

**21 Section 103 repealed**  
Section 103 is repealed.

**22 Exemption from obligations**

- (1) Section 105(1) is amended by omitting “the work test” and substituting “some or all of his or her work test obligations”.
- (2) Section 105(5) is amended by omitting “the work test” and substituting “all of his or her work test obligations”.

**23 Sections 105A, 105B, and 105D and heading above section 105A repealed**

Sections 105A, 105B, and 105D and the heading above section 105A are repealed.

**24 Section 110 and heading above section 110 repealed**

Section 110 and the heading above section 110 are repealed.

**25 Sanctions that may be imposed for failures**

(1) Section 117(1) is amended by repealing paragraph (a) and substituting the following paragraph:

“(a) for a first failure,—

“(i) the person’s benefit must be reduced by 50% until the person recomplies; and

“(ii) if the person has not recomplied within 4 weeks after the date on which the reduction took effect, the person’s benefit must be reduced by a further 50% (so that the total reduction is 100%) until the person recomplies.”

(2) Section 117 is amended by adding the following subsection:

“(4) If a person’s unemployment benefit is reduced or suspended under subsection (1) and the person is re-granted an unemployment benefit under section 99AB, the reduction or suspension continues to apply to the re-granted unemployment benefit on and after its commencement until the person recomplies.”

**26 Calculation of failure rate**

(1) Section 119(1)(a) is amended by omitting “but” and substituting “and”.

(2) Section 119(1) is amended by inserting the following paragraph after paragraph (a):

“(ab) if the benefit being paid in respect of the beneficiary is a work-tested benefit (**benefit A**), may count applicable failures incurred while another work-tested benefit was earlier paid in respect of the beneficiary (**benefit B**) if benefit A and benefit B have been paid continuously in respect of the beneficiary; but”.

(3) Section 119 is amended by inserting the following subsection after subsection (3):

“(3A) For the purpose of subsection (1)(a), the chief executive must treat an unemployment benefit that expires under section 99AA, and an unemployment benefit re-granted to the beneficiary under section 99AB, as the same benefit.”

- (4) Section 119(5) is amended by omitting “subsection (2)” and substituting “subsection (3)”.

**27 Modified effect in some cases of sanctions on rate of benefit for people married or in civil union or de facto relationship**

- (1) Section 120(1) is amended by omitting “suspension” and substituting “reduction, suspension,”.
- (2) Section 120 is amended by inserting the following subsection after subsection (1):

“(1A) If the reduction, suspension, or cancellation under section 117 of a benefit payable at a work-test married rate results from failures of both spouses or partners to comply with work test obligations, and they have no dependent children,—

“(a) the reduction, suspension, or cancellation in respect of each spouse or partner applies only to 50% of the applicable rate of the benefit before abatement on account of income payable in respect of that spouse or partner; and

“(b) any amount of the benefit payable to the spouses or partners after that reduction, suspension, or cancellation is applied is subject to the appropriate income test but at half the abatement rate under that test.”

- (3) Section 120(2) is amended by—
- (a) omitting “under section” and substituting “under section 60H or”;
- (b) inserting “section 60H(3) applying to both work-tested spouses or partners or” after “from”.

**28 Meaning of compliance**

Section 122 is amended by repealing paragraph (a) and substituting the following paragraph:

“(a) in the case of a work-tested beneficiary, an activity that is the same as, or substantially similar to, the activity that the person failed to comply with under the applicable work test obligation; or”.

**29 Regulations**

Section 123D(a) is amended by omitting “the work test” and substituting “some or all of their work test obligations”.

**30 Regulations relating to childcare assistance**

Section 132AC(2) to (4) are repealed.

**31 New section 132K inserted**

The following section is inserted after section 132J:

**“132K Regulations relating to advance payments of benefit**

“(1) The Governor-General may, by Order in Council, make regulations for the purpose of section 82(6) (which relates to advance payments of a benefit), including, without limitation, provisions that—

“(a) specify the manner and form in which an application for advance payments of a benefit may be made under that section, which may differ depending on the number of times the beneficiary has applied for advance payments of a benefit under that section, or for special assistance under section 124(1)(d), or for both:

“(b) define the kinds of budgeting activities that the chief executive may require a person to undertake under section 82(6B) and the terms and conditions of those activities:

“(c) prescribe the circumstances in which the power referred to in section 82(6B) may be exercised.

“(2) Nothing in subsection (1) limits section 132.”

**32 Regulations relating to this Part**

Section 155 is amended by inserting the following subsection after subsection (2):

“(2A) The adjustments (by any percentage movement in the All Groups index number of the New Zealand Consumers Price Index) required under subsection (2) as at 1 July 2011, 1 July 2012, and 1 July 2013 must, despite that subsection, be calculated,—

“(a) if, and insofar as, they relate to movements during quarters that end before 29 April 2010, using, for those quarters, the All Groups index numbers of the New

Zealand Consumers Price Index published by Statistics New Zealand; and

- “(b) if, and insofar as, they relate to movements during quarters that end after 28 April 2010, using, for those quarters, the All Groups excluding cigarettes and other tobacco products index numbers of the New Zealand Consumers Price Index published by Statistics New Zealand.”

**33 Schedule 8 repealed**

Schedule 8 is repealed.

**34 Schedule 31 amended**

Clause 12 of Schedule 31 is amended by omitting “\$807.04” and substituting “\$821.04”.

**35 Consequential amendments**

- (1) The principal Act is amended in the manner indicated in Parts 1 to 8 of Schedule 1 of this Act.
- (2) The regulations specified in Part 9 of Schedule 1 of this Act are amended in the manner indicated in that Part.

*Transitional provisions*

**36 Transitional provision relating to personal development and employment plans**

Any personal development and employment plan made and in force immediately before the commencement of this Act is to be treated as an employment plan made under section 60Q of the principal Act (as amended by this Act).

**37 Transitional provisions relating to job seeker agreements and job seeker development activities**

- (1) Despite the commencement of this Act, any job seeker agreement in force before the commencement of this Act continues in force for the purpose of section 102A(1)(h) of the principal Act until the chief executive directs otherwise under that paragraph.

- (2) Despite the commencement of this Act, any job seeker development activity defined, and any conditions of any job seeker development activity specified, under section 110 (before its repeal by this Act) continue in force for the purpose of section 102A(1)(h) of the principal Act.

**38 Transitional provisions relating to sanctions under former section 117(1)(a)**

- (1) In this section, **former section 117(1)(a)** means section 117(1)(a) of the principal Act as it read before its repeal and substitution by this Act.
- (2) This section applies to a beneficiary who,—
- (a) on the commencement of this Act, is subject to a sanction of suspension of his or her benefit imposed under the former section 117(1)(a); or
  - (b) before the commencement of this Act, has been given written notice under section 113(2) of the principal Act of the chief executive's decision to impose a sanction of suspension of benefit under the former section 117(1)(a) that specifies that the sanction is to take effect on a date that is on or after the commencement of this Act.
- (3) For the purposes of completing or imposing the sanction referred to in subsection (2), the former section 117(1)(a) continues to apply to a beneficiary to whom this section applies as if this Act had not been enacted.

**39 Transitional provision relating to exemptions from the work test**

Every exemption from the work test granted under section 105(1) of the principal Act before the commencement of this Act and in force on that commencement must, until the exemption is varied or revoked under subsection (6) of that section, be treated as an exemption from all work test obligations.

*Amendments to Social Security (Childcare  
Assistance) Regulations 2004*

- 40 Social Security (Childcare Assistance) Regulations 2004 amended**  
Sections 41 to 43 amend the Social Security (Childcare Assistance) Regulations 2004.
- 41 Rate of childcare subsidy**  
Regulation 18 is amended by revoking subclause (1) and substituting the following subclause:  
“(1) A childcare subsidy is payable,—  
“(a) until the close of 27 September 2013, at the appropriate rate stated in Schedule 2 to a person who was receiving childcare assistance on or at any time within the period of 12 months before the commencement of this subclause; or  
“(b) if paragraph (a) does not apply to the person, at the appropriate rate stated in Schedule 1.”
- 42 New regulation 24 substituted**  
Regulation 24 is revoked and the following regulation substituted:  
“**24 Rate of OSCAR subsidy**  
An OSCAR subsidy is payable,—  
“(a) until the close of 27 September 2013, at the appropriate rate stated in Schedule 2 to a person who was receiving childcare assistance on or at any time within the period of 12 months before the commencement of this subclause; or  
“(b) if paragraph (a) does not apply to the person, at the appropriate rate stated in Schedule 1.”
- 43 New Schedules 1 and 2 substituted**  
The Schedule is revoked and the Schedules 1 and 2 set out in Schedule 3 of this Act are substituted.

*Amendment to Social Security (Application of  
Work Test Obligations) Regulations 2007*

**44 Social Security (Application of Work Test Obligations)  
Regulations 2007 amended**

Section 45 amends the Social Security (Application of Work Test Obligations) Regulations 2007.

**45 Application of work test obligations**

Regulation 4 is amended by inserting the following subclause after subclause (2):

“(2A) The work test obligation set out in section 102A(1)(f) of the Act applies Monday to Sunday (inclusive).”

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**Schedule 1**

s 35

**Consequential amendments**

Part 1

Amendment to Social Security Act 1964  
consequential on amendments to definition  
of Income Test 1 in section 3(1)

**Schedule 6**

Clause 2: omit “\$312.20” and substitute “\$332.20”.

Part 2

Amendment to Social Security Act 1964  
consequential on repeal of definition of  
Income Test 5 in section 3(1)

**Section 61H(1)(b)**

Omit “Income Test 4, and Income Test 5” and substitute “and Income  
Test 4”.

Part 3

Amendment to Social Security Act 1964  
consequential on amendments to section  
60GAB

**Section 60F(5)**

Insert “educational course or” after “in an”.

Part 4

Amendments to Social Security Act 1964  
consequential on amendments to section  
60O (definition of employment plan)

**Heading to section 60Q**

Omit “**Personal development and employment**” and substitute  
“**Employment**”.

**Section 60Q(1)(ab)**

Omit “personal development and”.

Part 4—*continued***Section 60Q(1)(b)**

Omit “a personal development and” and substitute “an”.

**Section 60Q(1)(c) and (ca)**

Omit “personal development and”.

**Section 60Q(1)(d)**

Omit “plan” in each place where it appears and substitute in each case “employment plan”.

**Section 60Q(3)(a)**

Omit “a personal development and” and substitute “an”.

Omit “the plan” and substitute “the employment plan”.

**Section 60Q(3)(b)**

Omit “personal development and”.

Omit “a plan” and substitute “an employment plan”.

**Section 60Q(3)(c)**

Omit “a personal development and” and substitute “an”.

Omit “a plan” and substitute “an employment plan”.

**Section 60Q(3A) and (3B)**

Omit “personal development and” in each place where it appears.

**Section 60Q(4)**

Omit “A personal development and” and substitute “An”.

**Heading to section 60R**

Omit “personal development and”.

**Section 60R(1)**

Omit “A personal development and” and substitute “An”.

Part 4—*continued*

**Section 60R(2) and (3)**

Omit “a personal development and” and substitute in each case “an”.

**Section 60R(3) and (4)**

Omit “the plan” in each place where it appears and substitute in each case “the employment plan”.

**Section 60R(4)**

Omit “personal development and”.

**Heading to section 60S**

Omit “personal development and”.

**Section 60S(1)**

Omit “a personal development and” and substitute “an”.

**Section 60S(2) and (4)**

Omit “personal development and”.

**Section 60S(4)**

Omit “other plan” and substitute “other employment plan”.

**Section 60S(5)**

Omit “a personal development and” and substitute “an”.

Omit “the plan” in each place where it appears and substitute in each case “the employment plan”.

Omit “that plan” in each place where it appears and substitute in each case “that employment plan”.

**Section 60S(5A)**

Omit “plan” and substitute “employment plan”.

**Heading to section 60T**

Omit “personal development and”.

Part 4—*continued***Section 60T**

Omit “a personal development and” and substitute “an”.

**Section 60T(a) and (b)**

Omit “a plan” and substitute in each case “an employment plan”.

**Section 60T(c) to (e)**

Omit “plan” and substitute in each case “employment plan”.

**Heading to section 60U**

Omit “personal development and”.

**Section 60U(1)(b) and (2)(a)**

Omit “personal development and”.

**Section 60U(3) and (4)**

Omit “a personal development and” and substitute in each case “an”.

**Section 60U(3)(a) and (b)**

Omit “plan” in each place where it appears and substitute in each case “employment plan”.

**Section 60V(3)(c)**

Omit “personal development and”.

Insert “employment” after “new”.

**Section 60W**

Omit “personal development and” in each place where it appears.

**Section 60W(3)**

Omit “beneficiary’s plan” and substitute “beneficiary’s employment plan”.

Part 4—*continued*

**Heading to section 60Y**

Omit “personal development and”.

**Section 60Y(4)(b)**

Omit “personal development and”.

**Section 77(4)(b)(i)**

Omit “personal development and”.

**Section 123C(1)(b)**

Omit “a personal development and” and substitute “an”.

Part 5

Amendment to Social Security Act 1964  
consequential on insertion of new section  
61HA

**Schedule 22: clause 2**

Omit “\$35.55 a week” and substitute “the amount specified in clause 1”.

Part 6

Amendments to Social Security Act 1964  
consequential on substitution of section 102  
and repeal of sections 105A, 105B, 105D,  
and 110

**Section 3(1)**

Definition of **employment required to satisfy the work test**: repeal and substitute:

“**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”.

Definition of **work test**: omit “102(2)” and substitute “102A(1)”.

Part 6—*continued***Section 12J(4)**

Repeal.

**Section 88A**

Definition of **job seeker agreement**: repeal.

Definition of **job seeker development activity**: repeal.

**Section 104A(2)(c)**

Omit “included in a job seeker agreement signed by the beneficiary”.

**Section 105C**

Omit “, before he or she signs a job seeker agreement,”.

Paragraphs (b) and (d): repeal.

Paragraph (e): omit “the job seeker agreement” and substitute “his or her work test obligations”.

**Section 111**

Subsection (1): insert “(before its repeal and substitution by section 20 of the Social Security (New Work Tests, Incentives, and Obligations) Amendment Act 2010)” after “section 102(2)(f)”.

Add:

“(5) This section applies only in respect of a beneficiary to whom section 102A(1)(h) for the time being applies.”

**Section 112**

Repeal.

**Section 115(2)**

Repeal.

**Section 115(3)**

Omit “in the beneficiary’s job seeker agreement”.

Paragraph (a): omit “in the person’s job seeker agreement” and substitute “by the department”.

Part 6—*continued***Section 115(3)**—*continued*

Paragraph (b): omit “in the agreement” and substitute “by the department”.

**Section 115(4)**

Insert “activity required under section 102A(1)(f) or” after “completing any”.

Omit “in his or her job seeker agreement”.

**Section 123B(1)(b)(i)**

Omit “job seeker development activities” and substitute “activities of the kind referred to in section 102A(1)(f)”.

**Section 123C(1)(a)**

Omit “job seeker agreement” and substitute “work test obligations”.

Omit “job seeker activity” and substitute “job search activity”.

## Part 7

Amendments to Social Security Act 1964  
consequential on substitution of section  
117(1)(a) (sanctions) and amendments to  
section 120

**Section 60H(5)**

Insert “120, 121,” after “sections”.

**Section 113(2)**

Insert “reduce or” after “must not”.

Paragraph (c): omit “suspending” and substitute “reducing, suspending”.

Paragraphs (d) and (e): omit “suspension” in each place where it appears and substitute in each case “reduction, suspension”.

Paragraph (f): insert “reduce or” after “the decision to”.

Part 7—*continued***Section 113(3)**

Omit “suspension” and substitute “reduction, suspension,”.

## Part 8

Amendments to Social Security Act 1964  
consequential on repeal of Schedule 8**Section 3(1)**

Paragraph (a) of the definition of **work-test married rate**: omit “8 or”.

**Section 135(5)**

Omit “Schedule 8” and substitute “Schedule 9”.

## Part 9

## Consequential amendments to regulations

**Social Security (Application of Work Test Obligations)****Regulations 2007 (SR 2007/230)**

Regulation 4(1): omit “102(2)(b), (c), and (g)(ii)” and substitute “102A(1)(b), (c), and (h)(ii)”.

Regulation 4(3) and (4): omit “102(2)(g)(ii)” and substitute in each case “102A(1)(h)(ii)”.

Regulation 4(3)(a): insert “(before its repeal by section 20 of the Social Security (New Work Tests, Incentives, and Obligations) Amendment Act 2010)” after “Act”.

**Social Security (Childcare Assistance) Regulations 2004 (SR 2004/268)**

Definition of **job seeker agreement** in regulation 3(1): omit “of the kind described in section 105A of the principal Act” and substitute “continued in force by section 37 of the Social Security (New Work Tests, Incentives, and Obligations) Amendment Act 2010”.

Regulation 15(c): omit “or section 123B of the principal Act”.

Part 9—*continued*

**Social Security (Childcare Assistance) Regulations 2004 (SR  
2004/268)—*continued***

Regulation 15: insert after paragraph (c):

“(ca) any activity specified in section 102A(1)(f) of the principal Act that the caregiver is required to undertake under that section or is undertaking under section 123B of the principal Act.”

Regulation 21(b): omit “or section 123B of the principal Act”.

Regulation 21: insert after paragraph (b):

“(ba) any activity specified in section 102A(1)(f) of the principal Act that the caregiver is required to undertake under that section or is undertaking under section 123B of the principal Act.”

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**Schedule 2**

s 8(2)

**Consequential amendments to Social  
Security Act 1964 relating to work-testing  
of sickness beneficiaries**

**Section 53A(1)**

Insert the following paragraphs after paragraph (ba):

“(bab) under section 54DA(1), the chief executive requires a sickness beneficiary to comply with the work test; or

“(bac) under section 54DA(3), the chief executive confirms a requirement under section 54DA(1) (that a sickness beneficiary complies with the work test); or”.

**Section 54(7)**

Insert “(other than a person required to comply with the work test under section 54DA(1))” after “this section”.

**Section 60H(2)**

Insert the following paragraph after paragraph (a):

“(ab) a person who is an applicant for a sickness benefit if the chief executive would be able to require him or her to comply with the work test under section 54DA(1) from the date on which the benefit is first paid; or”.

**Section 60P(ab)**

Insert “(other than work-tested sickness beneficiaries)” after “sickness beneficiaries”.

**Section 60Q(6)(a)(v)**

Insert “, unless the person is a work-tested sickness beneficiary” after “benefit”.

**Section 102(1) (as substituted by section 20 of the Social Security (New Work Tests, Incentives, and Obligations) Amendment Act 2010)**

Repeal and substitute:

- “(1) The work test applies to a person while he or she is a work-tested beneficiary, and unless subsection (2) applies, the person is subject to the obligations of the work test set out in section 102A from,—
- “(a) in the case of a work-tested sickness beneficiary, the date specified in the chief executive’s notice under section 54DA(1); or
  - “(b) in any other case, the date on which the work-tested benefit is first paid.”
-

**Schedule 3**

s 43

**New Schedules 1 and 2 of Social Security  
(Childcare Assistance) Regulations 2004****Schedule 1**

rr 18, 24

**Rates of childcare and OSCAR subsidies**

- 1 For a principal caregiver with 1 dependent child where household income before the deduction of income tax is—
- |     |  |                 |
|-----|--|-----------------|
| (a) | less than \$1,200 a week                     | \$3.70 per hour |
| (b) | \$1,200 or more but less than \$1,300 a week | \$2.57 per hour |
| (c) | \$1,300 or more but less than \$1,400 a week | \$1.43 per hour |
| (d) | \$1,400 or more a week                       | Nil             |
- 2 For a principal caregiver with 2 dependent children where household income before the deduction of income tax is—
- |     |  |                 |
|-----|--|-----------------|
| (a) | less than \$1,380 a week                     | \$3.70 per hour |
| (b) | \$1,380 or more but less than \$1,490 a week | \$2.57 per hour |
| (c) | \$1,490 or more but less than \$1,600 a week | \$1.43 per hour |
| (d) | \$1,600 or more a week                       | Nil             |
- 3 For a principal caregiver with 3 or more dependent children where household income before the deduction of income tax is—
- |     |  |                 |
|-----|--|-----------------|
| (a) | less than \$1,540 a week                     | \$3.70 per hour |
| (b) | \$1,540 or more but less than \$1,670 a week | \$2.57 per hour |
| (c) | \$1,670 or more but less than \$1,800 a week | \$1.43 per hour |
| (d) | \$1,800 or more a week                       | Nil             |
-

**Schedule 2**

rr 18, 24

**Rates of childcare and OSCAR subsidies  
applicable until close of 27 September  
2013 for persons receiving childcare  
assistance on 27 September 2010 or  
who received childcare assistance at any  
time within the 12-month period before  
27 September 2010**

- |   |   |                 |
|---|---|-----------------|
| 1 | For a principal caregiver with 1 dependent child where household income before the deduction of income tax is—            |                 |
|   | (a) less than \$1,274 a week  | \$3.70 per hour |
|   | (b) \$1,274 or more but less than \$1,380 a week  | \$2.57 per hour |
|   | (c) \$1,380 or more but less than \$1,486 a week  | \$1.43 per hour |
|   | (d) \$1,486 or more a week  | Nil             |
| 2 | For a principal caregiver with 2 dependent children where household income before the deduction of income tax is—         |                 |
|   | (a) less than \$1,465 a week  | \$3.70 per hour |
|   | (b) \$1,465 or more but less than \$1,581 a week  | \$2.57 per hour |
|   | (c) \$1,581 or more but less than \$1,698 a week  | \$1.43 per hour |
|   | (d) \$1,698 or more a week  | Nil             |
| 3 | For a principal caregiver with 3 or more dependent children where household income before the deduction of income tax is— |                 |
|   | (a) less than \$1,634 a week  | \$3.70 per hour |
|   | (b) \$1,634 or more but less than \$1,772 a week  | \$2.57 per hour |
|   | (c) \$1,772 or more but less than \$1,910 a week  | \$1.43 per hour |
|   | (d) \$1,910 or more a week  | Nil             |
-

### **Legislative history**

17 August 2010	Divided from Social Assistance (New Work Tests, Incentives, and Obligations) Amendment Bill (Bill 125–2) by committee of the whole House as Bill 125–3D
18 August 2010	Third reading
23 August 2010	Royal assent

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This Act is administered by the Ministry of Social Development.

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