

Social Security Amendment Act (No. 2) 1985

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Contents

	Page
Title	2
1 Short Title and commencement	2
2 Delegation of powers of Commission	2
3 Deduction notices for earnings related compensation	3
4 Maintenance order or agreement suspended while benefit paid, etc.	3
5 Variation or discharge of deduction notice	4
6 Advance payment of family benefit	4
7 Application of maintenance provisions to child supplement	4
8 Interpretation	4
9 Payment of lump sum subject to income and means test	4
10 Payment of unmarried person's funeral expenses	5
11 Payment of lump sum on death of child, subject to income and means test	5
12 Removing time limit on applications for lump sum payments after death	5
13 Rates of benefits may be increased by Order in Council	5
14 Grant or renewal of benefit after death of applicant	6
15 Disability allowance	6
16 Rate of benefits if overseas pension payable	7
17 Beneficiaries in hospital	7
18 Persons liable for income tax on earnings while employed overseas deemed to be resident in New Zealand	8
19 Payment of benefits	8
20 Recovery of payments of welfare programme assistance grants in excess of entitlement	8

21	Renewal of family care grants	9
22	Increasing fees for general medical services for children	9
23	Increasing fees for urgent general medical services for children on weekends and public holidays and at night	9
24	Income exemption for invalids' benefits	9
25	Increasing rates of handicapped child's allowance and disability allowance on and after 6 November 1985	10
26	New Twentieth Schedule substituted	10
27	New Twenty-second Schedule added	10
28	Amending Department of Social Welfare Act 1971	10
29	Amending State Services Act 1962	10

FIRST SCHEDULE 11

NEW NINETEENTH SCHEDULE TO PRINCIPAL ACT
(Effective on and after 6 November 1985)

SECOND SCHEDULE 11

NEW TWENTIETH SCHEDULE TO PRINCIPAL ACT

THIRD SCHEDULE 13

NEW TWENTY SECOND SCHEDULE TO PRINCIPAL ACT
(Effective on and after 6 November 1985)

An Act to amend the Social Security Act 1964

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Social Security Amendment Act (No. 2) 1985, and shall be read together with and deemed part of the Social Security Act 1964 (hereinafter referred to as the principal Act).
- (2) Sections 8 to 12 of this Act shall come into force on the date on which this Act receives the Governor-General's assent, and shall apply in respect of persons dying on or after that date.
- (3) The provisions of the principal Act shall continue to apply in respect of persons dying before the date on which this Act receives the Governor-General's assent as if sections 8 to 12 of this Act had not been enacted.

2 Delegation of powers of Commission

- (1) Section 10 of the principal Act is hereby amended by repealing subsection (6), and substituting the following subsection:

“(6) Any—

“(a) Applicant or beneficiary; or

“(b) Liable parent (as defined in section 271(1) of this Act)—
affected by any decision made by any person in the exercise of any powers conferred on the person by delegation under this section against which the applicant or beneficiary or liable parent has a right of appeal under section 12J of this Act may, within 3 months after receiving notification of the decision, apply for a review of the decision to the Commission.”

- (2) Section 3(1) of the Social Security Amendment Act 1973 is hereby consequentially repealed.

3 Deduction notices for earnings related compensation

- (1) Section 27i(1) of the principal Act (as inserted by section 7 of the Social Security Amendment Act 1980) is hereby amended by repealing the definition of the term “employer” (as inserted by section 4(1) of the Social Security Amendment Act 1983), and substituting the following definition:

“‘Employer’, in relation to a liable parent, includes—

“(a) A person by whom a retiring allowance or pension or other payment of a like nature is payable to the liable parent:

“(b) The Accident Compensation Corporation in respect of earnings related compensation payable to the liable parent:”.

- (2) The said section 27i(1) is hereby amended by repealing the definition of the term “salary or wages”, and substituting the following definition:

“‘Salary’ or ‘wages’, for the purposes of sections 27y to 27zf of this Act, includes—

“(a) A retiring allowance or pension or other payment of a like nature:

“(b) Earnings related compensation under the Accident Compensation Act 1972 or the Accident Compensation Act 1982.”

4 Maintenance order or agreement suspended while benefit paid, etc.

- (1) Section 27j of the principal Act (as inserted by section 7 of the Social Security Amendment Act 1980) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Notwithstanding anything in the Family Proceedings Act 1980 or any other enactment, any maintenance order or maintenance agreement that provides for the maintenance of a beneficiary, or any child in the care of the beneficiary, shall be suspended and unenforceable during the period commencing on the date on which a benefit is granted to the beneficiary and ending with—

“(a) The date on which the benefit is cancelled; or

“(b) In respect of a particular child, the date on which the child ceases to be in the care of the beneficiary—

whichever first occurs, and no liability for, or rights to, maintenance under that order or agreement shall enure during any such period.”

- (2) Section 3(a) of the Social Security Amendment Act (No. 2) 1982 is hereby amended by omitting the words “from subsection (1), and also”.
- (3) Section 3(b) and (c) of the Social Security Amendment Act (No. 2) 1982 are hereby consequentially repealed.

5 Variation or discharge of deduction notice

Section 27zc(1) of the principal Act (as inserted by section 7 of the Social Security Amendment Act 1980) is hereby amended by omitting the words “employer of”, and substituting the words “employer or”.

6 Advance payment of family benefit

Section 36(1) of the principal Act (as substituted by section 5(1) of the Social Security Amendment Act 1974) is hereby amended by inserting, after paragraph (a), the following paragraph:

- “(aa) If more than 1 child is born from the same gestation, all or any of those children, if application for such payment is made within 6 months from the date of birth of the last-born of those children; or”.

7 Application of maintenance provisions to child supplement

Section 61b(3) of the principal Act (as substituted by section 8(1) of the Social Security Amendment Act 1979) is hereby amended by omitting the words “granted under section 27b of this Act”, and substituting the words “as defined in subsection (1) of that section”.

8 Interpretation

Section 61d(1) of the principal Act (as substituted by section 9(1) of the Social Security Amendment Act 1982) is hereby amended by repealing the definition of the term “child”, and substituting the following definition:

“‘Child’ means a child who, immediately before the death of a deceased person, was being cared for on a continuous basis by that person, and in respect of whom there was payable on the date of death—

- “(a) A family benefit under section 32 of this Act; or
- “(b) An orphan’s benefit under section 28 of this Act; or
- “(c) A child’s war pension under the War Pensions Act 1954:”.

9 Payment of lump sum subject to income and means test

Section 61dc(1) of the principal Act (as inserted by section 9(1) of the Social Security Amendment Act 1982) is hereby amended—

- (a) By inserting, after the words “net value”, the words “of the spouse’s and children’s share”:
- (b) By omitting the expression “\$6,000”, and substituting the expression “\$10,000”:

- (c) By omitting from paragraphs (a), (b)(i), and (d) the expression “\$1,000”, and substituting in each case the expression “\$1,200”:
- (d) By omitting from paragraphs (b)(ii) and (c) the expression “\$500”, and substituting in each case the expression “\$600”.

10 Payment of unmarried person’s funeral expenses

Section 61dd of the principal Act (as inserted by section 9(1) of the Social Security Amendment Act 1982) is hereby amended—

- (a) By omitting the expression “\$500”, and substituting the expression “\$600”:
- (b) By inserting, after the words “deceased’s estate”, the words “after the deduction of administration expenses but”.

11 Payment of lump sum on death of child, subject to income and means test

The principal Act is hereby amended by repealing section 61de (as inserted by section 9(1) of the Social Security Amendment Act 1982), and substituting the following section:

“61de

On the death of a child in respect of whom there was payable, immediately before the date of death,—

- “(a) A family benefit under section 32 of this Act; or
- “(b) An orphan’s benefit under section 28 of this Act; or
- “(c) A child’s war pension under the War Pensions Act 1954—
the Commission may in its discretion pay the sum of \$600 to the person or persons whom the Commission in each case determines was caring for the child on the date of death, if—
- “(d) Section 81 of the Accident Compensation Act 1982 does not apply in respect of the child; and
- “(e) The annual income of that person or those persons is such that it would not prevent the payment of an invalid’s benefit to either of them if they were otherwise qualified to receive it; and
- “(f) The assets of that person or those persons do not exceed \$10,000.”

12 Removing time limit on applications for lump sum payments after death

Section 61dg of the principal Act (as inserted by section 9(1) of the Social Security Amendment Act 1982) is hereby repealed.

13 Rates of benefits may be increased by Order in Council

- (1) Section 61h of the principal Act (as inserted by section 10 of the Social Security Amendment Act 1983) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Governor-General may from time to time, by Order in Council, amend the Third to Ninth, Twelfth, Fourteenth, Sixteenth, Seventeenth, Nineteenth, and Twenty-second Schedules to this Act by increasing the rate of any benefit or allowance set out in those Schedules.”

(2) Section 61h(2) of the principal Act (as so inserted) is hereby amended by inserting, after the word “benefits”, the words “or allowances”.

14 Grant or renewal of benefit after death of applicant

Section 62 of the principal Act is hereby amended by omitting the expression “section 85”, and substituting the expression “sections 61d and 61da to 61df”.

15 Disability allowance

(1) Section 69c of the principal Act (as inserted by section 12(1) of the Social Security Amendment Act 1975) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to subsections (2) to (4) of this section, the Commission may, in its discretion, grant a disability allowance at a rate not exceeding the amount specified in the Nineteenth Schedule to this Act, to or on account of—

“(a) Any person who is in receipt of a sickness, invalid’s widow’s, domestic purposes, or unemployment benefit, or a related emergency benefit payable under section 61 of this Act; or

“(b) Any person who is in receipt of a war pension or allowance granted under the War Pensions Act 1954 which, in the opinion of the Commission, is analogous to any one of the benefits referred to in paragraph (a) of this subsection; or

“(c) Any person whose income, including the income of the person’s spouse, is such that it would not prevent the payment of any one of the benefits referred to in paragraph (a) of this subsection; or

“(d) The dependent spouse or dependent child of any person referred to in paragraphs (a) to (c) of this subsection.”

(2) Section 69c(5) of the principal Act (as added by section 11(2) of the Social Security Amendment Act 1982) is hereby amended by omitting the words “of \$10 a week”, and substituting the words “at the rate specified in the Nineteenth Schedule to this Act”.

(3) The following enactments are hereby consequentially repealed:

(a) Section 19 of the Social Security Amendment Act 1976:

(b) Section 4 of the Social Security Amendment Act (No. 2) 1980:

(c) Section 10 of the Social Security Amendment Act 1981:

(d) Section 11(1) of the Social Security Amendment Act 1982.

(4) This section shall be deemed to have come into force on the 6th day of November 1985.

16 Rate of benefits if overseas pension payable

- (1) Section 70(1) of the principal Act (as substituted by section 13(1) of the Social Security Amendment Act 1975) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) Any person qualified to receive a benefit under this Part of this Act is entitled to receive or receives, in respect of that person or of that person’s spouse or of that person’s dependants, or if that person’s spouse or any of that person’s dependants is entitled to receive or receives, a benefit, pension, or periodical allowance granted elsewhere than in New Zealand; and”.

- (2) The said section 70(1) (as so substituted) is hereby amended by repealing the proviso, and substituting the following proviso:

“Provided that if the Commission determines that the overseas benefit, pension, or periodical allowance, or any part of it, is in the nature of, and is paid for similar purposes as,—

“(a) Compensation for injury or death for which payment could be made under the Accident Compensation Act 1972 or the Accident Compensation Act 1982 if the injury or death had occurred in New Zealand after the commencement of either of those Acts; or

“(b) A war pension or allowance granted under the War Pensions Act 1954 of a type which would not affect any recipient’s entitlement to a benefit in accordance with section 72 of this Act; or

“(c) A disability allowance granted under this Part of this Act—

such overseas benefit, pension, or periodical allowance, or part of it, as the case may be, shall be treated as if it were in fact such compensation, war pension or allowance, or disability allowance.”

- (3) Section 20 of the Social Security Amendment Act 1976 is hereby consequentially repealed.

17 Beneficiaries in hospital

- (1) Section 75 of the principal Act (as substituted by section 12(1) of the Social Security Amendment Act 1982) is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) If a person to whom subsection (2) of this section applies is a patient in a hospital for more than 13 weeks, the rate of benefit payable on and after the commencement of the 14th week of hospitalisation, subject to subsection (4) of this section, shall be the rate specified in the Twenty-second Schedule to this Act.”

- (2) Section 75(4) of the principal Act is hereby amended—

(a) By omitting from paragraph (a) the words “\$10 a week”, and substituting the words “the rate specified in the Twenty-second Schedule to this Act”:

- (b) By omitting from paragraph (b) the words “\$10 a week”, and substituting the words “the rate so specified”.
- (3) This section shall be deemed to have come into force on the 6th day of November 1985.

18 Persons liable for income tax on earnings while employed overseas deemed to be resident in New Zealand

The principal Act is hereby amended by repealing section 79, and substituting the following section:

“79

- “(1) Where any person has been employed outside New Zealand and while so employed was liable for the payment of income tax on earnings from that employment, then, for the purposes of satisfying the residential qualification for any benefit after the return to New Zealand of that person or the spouse or any child of that person,—
 - “(a) That person shall be deemed to have been resident in New Zealand during the period of such employment outside New Zealand:
 - “(b) If the spouse or any child of that person was with the person during that period or any part of it, the spouse or child shall be deemed to have been resident in New Zealand during that period or that part of it, as the case may be:
 - “(c) Any child of that person born out of New Zealand during that period shall be deemed to have been born in New Zealand.
- “(2) Nothing in subsection (1) of this section shall be construed to derogate from the provisions of section 77 of this Act.”

19 Payment of benefits

Section 82(7)(a) of the principal Act (as added by section 14(1) of the Social Security Amendment Act 1982) is hereby amended by inserting, after the words “a trustee savings bank,”, the words “the Public Service Investment Society Limited,”.

20 Recovery of payments of welfare programme assistance grants in excess of entitlement

Section 86 of the principal Act is hereby amended by inserting, after subsection (1b), the following subsection:

- “(1c) If a person has obtained payment of, or has received credit for, any money payable as a grant of special assistance under any welfare programme approved by the Minister of Social Welfare under section 124(1)(d) of this Act to which that person is not entitled, the sum of that money shall constitute a debt due to the Crown and may be recovered at the suit of any member of the Commission, or the Commission may recover that debt by deduction from any benefit or any

payment of a grant of special assistance thereafter payable to or on account of that person.”

21 Renewal of family care grants

Section 86l(1) of the principal Act (as inserted by section 9 of the Social Security Amendment Act 1984) is hereby amended by omitting the words “a period not exceeding 28 weeks”, and substituting the words “such period as the Commission determines”.

22 Increasing fees for general medical services for children

- (1) Section 93(1b) of the principal Act (as inserted by section 24(5) of the Social Security Amendment Act (No. 2) 1977) is hereby amended—
 - (a) By omitting from paragraph (c) the expression “\$4.75”, and substituting the expression “\$10.25”;
 - (b) By omitting from paragraph (d) the expression “\$6”, and substituting the expression “\$12.50”.
- (2) This section shall be deemed to have come into force on the 17th day of September 1985.

23 Increasing fees for urgent general medical services for children on weekends and public holidays and at night

- (1) Section 93a(1)(ca) of the principal Act (as inserted by section 25(1) of the Social Security Amendment Act (No. 2) 1977) is hereby amended—
 - (a) By omitting the words “Two dollars and twenty-five cents”, and substituting the words “Three dollars and seventy-five cents”;
 - (b) By omitting the expression “\$2”, and substituting the expression “\$3.75”.
- (2) This section shall be deemed to have come into force on the 17th day of September 1985.

24 Income exemption for invalids’ benefits

Clause 1 of the Sixth Schedule to the principal Act (as substituted by section 12(1) of the Social Security Amendment Act 1983) is hereby amended by repealing the second proviso, and substituting the following proviso:

“Provided also that, in computing the income of any beneficiary for the purposes of this clause, the Commission shall—

- “(a) Disregard that part of the beneficiary’s income (but not exceeding \$20 a week) earned by the beneficiary’s own efforts:
- “(b) Disregard all of the income of a totally blind beneficiary earned by the beneficiary’s own efforts:”.

25 Increasing rates of handicapped child's allowance and disability allowance on and after 6 November 1985

- (1) The principal Act is hereby amended by repealing the Nineteenth Schedule (as substituted by section 4(1) of the Social Security Amendment Act (No. 2) 1984), and substituting the Nineteenth Schedule set out in the First Schedule to this Act.
- (2) Section 4 of, and the Second Schedule to, the Social Security Amendment Act (No. 2) 1984 are hereby consequentially repealed.
- (3) This section and the First Schedule to this Act shall be deemed to have come into force on the 6th day of November 1985.

26 New Twentieth Schedule substituted

- (1) The principal Act is hereby amended by repealing the Twentieth Schedule (as substituted by section 22(1) of the Social Security Amendment Act 1982), and substituting the Twentieth Schedule set out in the Second Schedule to this Act.
- (2) The following enactments are hereby consequentially repealed:
 - (a) Section 22 of, and the Fifth Schedule to, the Social Security Amendment Act 1982:
 - (b) Section 6 of the Social Security Amendment Act (No. 2) 1982.

27 New Twenty-second Schedule added

- (1) The principal Act is hereby amended by adding the Twenty-second Schedule set out in the Third Schedule to this Act.
- (2) This section and the Third Schedule to this Act shall be deemed to have come into force on the 6th day of November 1985.

28 Amending Department of Social Welfare Act 1971

The Department of Social Welfare Act 1971 is hereby amended by inserting, after section 6, the following section:

“6a Deputy Directors-General of Social Welfare

There shall from time to time be appointed under the State Services Act 1962 one or more Deputy Directors-General of Social Welfare as may be necessary for the effective and efficient carrying out of the functions of the Department.”

29 Amending State Services Act 1962

The Third Schedule to the State Services Act 1962 (as substituted by section 10(1) of the State Services Amendment Act 1978) is hereby amended by repealing the item relating to the Department of Social Welfare, and substituting the following item:

“Social Welfare
Director-General.

Deputy Director-General.
Assistant Director-General.”

SCHEDULES

FIRST SCHEDULE

NEW NINETEENTH SCHEDULE TO PRINCIPAL ACT *(Effective on and after 6 November 1985)*

Section 25(1)

“NINETEENTH SCHEDULE

Rates of Handicapped Child’s Allowance and Disability Allowance

Sections 39B, 69C

1. Rate of handicapped child’s allowance \$19 a week.
2. Maximum rate of disability allowance under \$26 a week.
section 69c(1)
3. Rate of special disability allowance under section \$15 a week.”
69c(5)

SECOND SCHEDULE

NEW TWENTIETH SCHEDULE TO PRINCIPAL ACT

Section 26(1)

“TWENTIETH SCHEDULE

Rates of Contributions By Liable Parents To Cost of Domestic Purposes Benefit

Section 27n(1)

1. In this Schedule, unless the context otherwise requires,—
‘Outgoings’, in relation to a dwellinghouse owned by the liable parent, means the aggregate weekly sum that, at the time of calculating the contribution, the liable parent is obliged to pay in respect of the dwellinghouse by way of—
 - (a) Mortgage payments (whether in respect of principal or interest); and
 - (b) Rates; and
 - (c) Insurance premiums:

‘Rent’, in relation to a dwelling occupied by the liable parent or, as the case may require, the beneficiary, means the amount per week payable at the time of calculating the contribution for the tenancy of the dwelling:

‘Weekly income’, in relation to a liable parent, means the liable parent’s gross earnings in an income year divided by the number of weeks over which the liable parent derived that income during that year.

2. Subject to section 27k(1) of this Act, the weekly contribution required of a liable parent shall be the least of the following amounts:
- (a) In respect of each of the beneficiary’s dependent children whom the liable parent is liable in law to maintain, the sum of \$25, plus a further sum of \$25 where one or more of those children is or are under the age of 5 years; or
 - (b) The weekly amount of benefit payable to the beneficiary; or
 - (c) The amount of the liable parent’s weekly income after deduction of the following:
 - (i) Income tax pursuant to the tax code “A” (as specified in section 344 of the Income Tax Act 1976); and
 - (ii) Either—
 - (aa) In the case of a liable parent who is paying outgoings or rent in respect of a dwelling occupied by the liable parent, the amount of the outgoings or rent or \$110 (whichever is the lesser), plus \$100; or
 - (bb) In the case of a liable parent who is paying board, the weekly amount of the board or \$110 (whichever is the lesser), plus \$55; and
 - (iii) Either—
 - (aa) Where public transport is reasonably available to the liable parent between the liable parent’s home and place of employment, an amount equal to the liable parent’s actual weekly cost of travel between home and place of employment, or the amount that that travel would cost the liable parent if the liable parent used public transport, or \$40 a week, whichever is the least; or
 - (bb) Where public transport is not reasonably available to the liable parent between the liable parent’s home and place of employment, an amount equal to the liable parent’s actual weekly cost of travel between home and place of employment, or the amount calculated on the current vehicle mileage allowance prescribed for members of the Public Service, or \$40 a week, whichever is the least; and

- (iv) For each child (other than a dependent child of the beneficiary) who is dependent on the liable parent,—
 - (aa) The sum of \$25 less the amount (if any) payable by any other person by way of maintenance for that child; or
 - (bb) The actual amount paid by the liable parent towards the maintenance of that child,—
whichever is the lesser; and
 - (v) For each adult who is dependent on the liable parent,—
 - (aa) The sum of \$100 less the amount (if any) payable by any other person towards the upkeep of that adult; or
 - (bb) The actual amount paid by the liable parent towards the upkeep of that adult,—
whichever is the lesser; and
 - (vi) Either—
 - (aa) Where the liable parent is paying rent in respect of a dwelling occupied by the beneficiary, the weekly amount of that rent; or
 - (bb) Where the liable parent is paying outgoings in respect of a dwelling occupied by the beneficiary, the outgoings or an amount calculated by dividing 8 percent of the capital value of the dwelling (as that value is disclosed in the current rolls of the Valuer-General) by 52, whichever is the lesser; or
 - (d) An amount equal to one-third of the liable parent's weekly income after income tax is deducted pursuant to the tax code "A" (as specified in section 344 of the Income Tax Act 1976).
3. Notwithstanding any of the foregoing provisions of this Schedule, where 2 liable parents are liable to contribute in respect of the same dependent child, the amount of each person's contribution attributable to the child shall be reduced by one half.
 4. Notwithstanding any of the foregoing provisions of this Schedule, where 2 or more persons are liable to contribute towards the cost of the same benefit, the total amount payable by those persons shall not exceed the amount of the benefit; and, where necessary, the respective amounts payable by those persons shall abate proportionately.
 5. After being calculated in accordance with this Schedule, the amount so calculated shall be rounded down to the complete dollar."

THIRD SCHEDULE
NEW TWENTY SECOND SCHEDULE TO PRINCIPAL ACT

(Effective on and after 6 November 1985)

Section 27(1)

**“TWENTY-SECOND SCHEDULE
Rates of Benefits Payable to Long-Term Hospital Patients**

Section 75(3), (4)

1. To a married person with no dependent children, \$15 a week.
or an unmarried person, who is in receipt of
a benefit (other than national superannuation, a
family benefit, or an orphan’s benefit) under Part
I of this Act
2. To a married person with no dependent children, An amount which, after income tax is deducted
or an unmarried person, who is in receipt of pursuant to tax code “G” (as specified in section
national superannuation under Part I of this Act 344 of the Income Tax Act 1976) is equal to \$15 a
week.”

This Act is administered in the Department of Social Welfare.