

**Reprint
as at 26 November 2018**



Employment Services and Income Support (Integrated Administration) Act 1998

Public Act 1998 No 96
Date of assent 31 August 1998
Commencement see section 1(2)

Employment Services and Income Support (Integrated Administration) Act 1998: repealed, on 26 November 2018, by section 458 of the Social Security Act 2018 (2018 No 32).

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Social Development.

Schedule Enactments amended

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An Act—

- (a) to provide for the integration of employment services and income support services; and
- (b) to facilitate the transfer of the administration of the Social Security Act 1964 and of functions under certain other enactments; and
- (c) to amend related enactments and to provide for related matters

1 Short Title and commencement

- (1) This Act may be cited as the Employment Services and Income Support (Integrated Administration) Act 1998.
- (2) This Act comes into force on 1 October 1998.

2 Interpretation

In this Act, unless the context otherwise requires,—

chief executive means, subject to any enactment, the chief executive of the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Social Security Act 1964

responsible department means the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Social Security Act 1964

responsible Minister, in relation to any provisions of the Social Security Act 1964, means, subject to any enactment, the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of those provisions.

3 Application of employment contracts

- (1) This section and section 4 apply to any employee of the Department of Social Welfare or Department of Labour who transfers (in circumstances to which section 61A of the State Sector Act 1988 applies) to the responsible department (which employee is, in this section and in section 4, a **transferred employee**).
- (2) Unless a transferred employee's employment contract otherwise provides and subject to subsection (3), the transferred employee's employment contract continues to apply to that employee, on and from the date the employee transfers to the responsible department, on the same terms and conditions (including the period of the contract)—
 - (a) as if it were a contract that had been made in respect of the responsible department; and

- (b) as if it were binding on both that employee and on the chief executive of the responsible department, and on any other party to that contract.
- (3) If there is a change to an employee's duties or location arising out of his or her transfer to the responsible department, the conditions of employment of that employee may be varied by agreement to reflect that change but the conditions of employment (as so varied) must be no less favourable than those that the employee was entitled to receive under the employment contract applying to the employee at the date of the transfer.
- (4) Subsections (2) and (3) continue to apply to the conditions of employment of each transferred employee to whom this section applies until such time as any of the conditions of employment that apply under the employment contract applying to that employee at the date of the transfer are subsequently varied (otherwise than for the purpose referred to in subsection (3)).
- (5) The conditions of employment of each such transferred employee are, on and from the date of any subsequent variation referred to in subsection (4), to be determined in accordance with the employment contract applying to that employee in the responsible department.
- (6) Nothing in subsection (2) or subsection (3) continues to apply to any transferred employee who receives any subsequent appointment, whether within the responsible department or any other department.

4 Employment to be continuous

For the purposes of any provisions of a transferred employee's employment contract relating to continuity of service, that employee's transfer from the Department of Social Welfare or Department of Labour to the responsible department is insufficient by itself to break his or her employment.

5 Transfer not sufficient to entitle employee to redundancy or severance payment

No employee of the Department of Social Welfare or the Department of Labour who is transferred to the responsible department (in circumstances to which section 61A of the State Sector Act 1988 applies) is entitled to receive any compensation for redundancy or any severance payment because—

- (a) the position held by that employee in the Department of Social Welfare or the Department of Labour has ceased to exist; or
- (b) he or she has ceased by virtue of that transfer to be an employee of the Department of Social Welfare or the Department of Labour.

6 Transfers of contracts and leases not to give rise to claims

- (1) No person has any claim against the Crown for breach of any contract merely because the administration of the contract or the benefit of the contract is transferred (in whole or in part) to the responsible department, whether or not the person has agreed to the transfer.

- (2) Subsection (1) applies whether or not the transfer involves the responsible department and its employees gaining access to any information, data, programme, intellectual property right, know-how, chattel, equipment, transmission device, or facility of the claimant or any other person.
- (3) No person has any claim against the Crown for breach of any lease of any premises which are to be occupied or administered (in whole or in part) by the responsible department merely because of that occupation or administration of the premises by the responsible department, whether or not the person has agreed to the occupation or administration of the premises.

7 Continuation of existing proceedings

- (1) If, before the commencement of this Act, the Minister of Social Welfare has, in his or her capacity as the Minister responsible for the administration of the Social Security Act 1964, initiated or become a party to any proceedings, the proceedings may be continued, completed, and enforced by or against the responsible Minister.
- (2) If, before the commencement of this Act,—
 - (a) the Director-General of Social Welfare has, in relation to the administration of the Social Security Act 1964, the Social Welfare (Transitional Provisions) Act 1990, or the War Pensions Act 1954, initiated or become a party to any proceedings; or
 - (b) the Secretary for War Pensions in the Department of Social Welfare has initiated or become a party to any proceedings; or
 - (c) the unit of the Department of Social Welfare called Income Support (and formerly called the New Zealand Income Support Service) has initiated or become a party to any proceedings,—the proceedings may be continued, completed, and enforced by or against the chief executive of the responsible department or (as the case may be) the officer of the responsible department who is the Secretary for War Pensions.
- (3) If, before the commencement of this Act,—
 - (a) the chief executive of the Department of Labour has, in his or her capacity as a person exercising or performing any function, duty, or power under the Social Security Act 1964, initiated or become a party to any proceedings; or
 - (b) the unit of the Department of Labour called the New Zealand Employment Service, the Community Employment Group, or the Local Employment Coordination Unit has initiated or become a party to any proceedings,—the proceedings may be continued, completed, and enforced by or against the chief executive of the responsible department.

- (4) If, before the commencement of this Act, any person has applied under section 10A of the Social Security Act 1964 for a review of any decision made under that Act or the Social Welfare (Transitional Provisions) Act 1990,—
- (a) the review may be continued and completed as if the chief executive of the responsible department were a party to the review, and the chief executive is bound by the decision made on the review; and
 - (b) if a Benefits Review Committee had not been constituted for the review before the commencement of this Act, the Committee is to consist of—
 - (i) 1 person referred to in section 10A(3)(a) of the Social Security Act 1964; and
 - (ii) 2 officers of the responsible department who are appointed by the chief executive.
- (5) If, before the commencement of this Act, any person has—
- (a) exercised a right of appeal under section 12J or section 53A of the Social Security Act 1964; or
 - (b) exercised a right of appeal under section 12Q or section 12R of that Act; or
 - (c) exercised a right of appeal under section 16A of the War Pensions Act 1954; or
 - (d) exercised a right of appeal under regulation 10 of the Health Entitlement Cards Regulations 1993,—
- the appeal may be continued and completed as if the chief executive of the responsible department were a party to the appeal instead of the Director-General of Social Welfare, and (subject to section 12Q or section 12R of the Social Security Act 1964) the chief executive is bound by the decision made on the appeal.
- (6) If, before the commencement of this Act, any person has exercised a right of review under section 15D of the War Pensions Act 1954, the review may be continued and completed by the National Review Officer in the responsible department, and the Secretary for War Pensions in the responsible department is bound by the decision made on the review.
- (7) If, before the commencement of this Act, any person has exercised a right of appeal under section 16 or section 85A of the War Pensions Act 1954, the appeal may be continued and completed as if the Secretary for War Pensions in the responsible department were a party to the appeal, and the Secretary is bound by the decision made on the appeal.
- (8) If, before the commencement of this Act, any person was entitled, or claimed to be entitled, to issue any proceedings, apply for or exercise any right of review, or to exercise any right of appeal, referred to in any of subsections (1) to (7),—

- (a) that person may, after the commencement of this Act, commence the proceedings, review, or appeal as if (as the case requires) the responsible Minister, or the chief executive of the responsible department, or the officer of the responsible department who is the Secretary for War Pensions, were the appropriate person in respect of whom the proceedings, review, or appeal relates:
- (b) the provisions of subsections (1) to (7) apply to any such proceedings, review, or appeal commenced under paragraph (a) as if they had been commenced prior to the commencement of this Act:
- (c) no such proceedings, review, or appeal may be commenced in respect of any person other than the responsible Minister, chief executive, or officer specified in paragraph (a).

8 Savings relating to brands, logos, marks, etc

All names, brands, stamps, logos, emblems, marks, forms, and other representations or documents that were, immediately before the date of commencement of this Act, in use by the Department of Social Welfare for the purposes of the unit called Income Support (formerly called the New Zealand Income Support Service) or by the Department of Labour for the purposes of the unit called the New Zealand Employment Service, the Community Employment Group, or the Local Employment Coordination Unit—

- (a) continue to have effect in relation to anything done before that date; and
- (b) may continue to be used, and are to have effect, for the purposes of the functions, duties, and powers of the responsible Minister, the responsible department, or chief executive of the responsible department under the Social Security Act 1964.

9 Saving of certain appointments

Nothing in this Act affects the appointment of any person as—

- (a) a community representative on a Benefits Review Committee under section 10A(3)(a) of the Social Security Act 1964; or
- (b) a member of a medical appeal board under section 53A of the Social Security Act 1964; or
- (c) the medical member of the War Pensions Advisory Board under section 5A of the War Pensions Act 1954 or a deputy member under section 5E of that Act; or
- (d) a member of the War Pensions Appeal Board under section 8 of the War Pensions Act 1954 or a deputy member under section 10 of that Act; or
- (e) a nominee of the New Zealand Returned Services' Association on any War Pensions Claims Panel under section 15 of the War Pensions Act 1954.

10 References to functions being transferred to responsible department

- (1) Unless the context otherwise requires, in any regulation, rule, order, agreement, deed, instrument, application, notice, direction, contract, lease, or other document whatsoever in force at the commencement of this Act,—
 - (a) every reference to the Director-General (or the chief executive of the Department of Social Welfare), when used in relation to the unit of the Department of Social Welfare called Income Support (formerly called the New Zealand Income Support Service), is a reference to the chief executive of the responsible department:
 - (b) every reference to the Secretary of Labour (or the chief executive of the Department of Labour), when used in relation to his or her functions, duties, or powers under the Social Security Act 1964 or to the unit of the Department of Labour called the New Zealand Employment Service, the Community Employment Group, or the Local Employment Coordination Unit is a reference to the chief executive of the responsible department:
 - (c) every reference to the unit of the Department of Social Welfare called Income Support (formerly called the New Zealand Income Support Service), where the unit is referred to in its own right and the reference does not apply to other units of that department, is a reference to the responsible department:
 - (d) every reference to the Department of Social Welfare, when used in relation to the Social Security Act 1964, the Social Welfare (Transitional Provisions) Act 1990, or the War Pensions Act 1954, is a reference to the responsible department:
 - (e) every reference to the unit of the Department of Labour called the New Zealand Employment Service, the Community Employment Group, or the Local Employment Coordination Unit, where the unit is referred to in its own right and the reference does not apply to units of that department other than a unit mentioned in this paragraph, is a reference to the responsible department.
- (2) In sections 27I to 27ZI of the Social Security Act 1964 (as saved by sections 256 and 258 of the Child Support Act 1991), references to the Director-General are to be read as references to the chief executive of the responsible department.
- (3) In sections 6, 93, 105, 112, 114, and 115 of the Family Proceedings Act 1980 (as saved by section 259 of the Child Support Act 1991), references to the Department of Social Welfare are to be read as references to the responsible department.
- (4) In section 101A of the Family Proceedings Act 1980 (as saved by section 259 of the Child Support Act 1991), references to the Director-General of Social Welfare are to be read as references to the chief executive of the responsible department.

- (5) Despite subsection (1), every reference in a reciprocal social security agreement in respect of which an Order in Council made under section 19 of the Social Welfare (Transitional Provisions) Act 1990 is in force to the Director-General of Social Welfare or to the Director-General, is to be read as a reference to the chief executive of the department for the time being responsible for the administration of the Department of Social Welfare Act 1971.

Section 10(5): added, on 1 October 1999, by section 13 of the Department of Child, Youth and Family Services Act 1999 (1999 No 82).

11 Amendments to other Acts

The Acts specified in the Schedule are amended in the manner indicated in that schedule.

12 Consequential repeals

The following enactments are consequentially repealed:

- (a)–(c) *Amendment(s) incorporated in the Act(s)*:
- (d) the Immigration Amendment Act (No 2) 1991:
- (e) the Education Amendment Act (No 3) 1991:
- (f)–(k) *Amendment(s) incorporated in the Act(s)*.

Schedule Enactments amended

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Accident Rehabilitation and Compensation Insurance Act 1992 (1992 No 13)

Amendment(s) incorporated in the Act(s).

Administration Act 1969 (1969 No 52) (RS Vol 19, p 1)

Amendment(s) incorporated in the Act(s).

Child Support Act 1991 (1991 No 142)

Amendment(s) incorporated in the Act(s).

Customs and Excise Act 1996 (1996 No 27)

Amendment(s) incorporated in the Act(s).

District Courts Act 1947 (1947 No 16) (RS Vol 28, p 57)

Amendment(s) incorporated in the Act(s).

Education Act 1989 (1989 No 80) (RS Vol 34, p 17)

Amendment(s) incorporated in the Act(s).

Family Benefits (Home Ownership) Act 1964 (1964 No 32) (RS Vol 16, p 139)

Amendment(s) incorporated in the Act(s).

Family Proceedings Act 1980 (1980 No 94) (RS Vol 28, p 545)

Amendment(s) incorporated in the Act(s).

Finance Act 1987 (1987 No 200) (RS Vol 37, p 190)

Amendment(s) incorporated in the Act(s).

Health Act 1956 (1956 No 65) (RS Vol 31, p 467)

Amendment(s) incorporated in the Act(s).

Immigration Act 1987 (1987 No 74) (RS Vol 33, p 163)

Amendment(s) incorporated in the Act(s).

Income Tax Act 1994 (1994 No 164)

Amendment(s) incorporated in the Act(s).

Legal Services Act 1991 (1991 No 71)

Amendment(s) incorporated in the Act(s).

Ombudsmen Act 1975 (1975 No 9) (RS Vol 35, p 469)

Amendment(s) incorporated in the Act(s).

Penal Institutions Act 1954 (1954 No 51) (RS Vol 18, p 557)

Amendment(s) incorporated in the Act(s).

Privacy Act 1993 (1993 No 28)

Amendment(s) incorporated in the Act(s).

Rates Rebates Act 1973 (1973 No 5) (RS Vol 24, p 719)

Amendment(s) incorporated in the Act(s).

Social Security Act 1964 (1964 No 136) (RS Vol 32, p 625)

Amendment(s) incorporated in the Act(s).

Social Security Amendment Act 1998 (1998 No 19)

Amendment(s) incorporated in the Act(s).

**Social Welfare (Transitional Provisions) Act 1990 (1990 No 26) (RS Vol 32,
p 883)**

Amendment(s) incorporated in the Act(s).

Student Loan Scheme Act 1992 (1992 No 141)

Amendment(s) incorporated in the Act(s).

Summary Proceedings Act 1957 (1957 No 87) (RS Vol 9, p 583)

Amendment(s) incorporated in the Act(s).

Tax Administration Act 1994 (1994 No 166)

Amendment(s) incorporated in the Act(s).

War Pensions Act 1954 (1954 No 54) (RS Vol 15, p 725)

Amendment(s) incorporated in the Act(s).

Reprints notes

1 *General*

This is a reprint of the Employment Services and Income Support (Integrated Administration) Act 1998 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Social Security Act 2018 (2018 No 32): section 458

Department of Child, Youth and Family Services Act 1999 (1999 No 82): section 13