

Reprint
as at 26 November 2018



**Social Security (Fraud Measures and Debt Recovery)
Amendment Act 2014**

Public Act 2014 No 21
Date of assent 22 April 2014
Commencement see section 2

Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014: repealed, on 26 November 2018, pursuant to section 455(1) of the Social Security Act 2018 (2018 No 32).

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Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
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This Act is administered by the Ministry of Social Development.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014.

2 Commencement

This Act comes into force on 31 August 2015 or an earlier date appointed by the Governor-General by Order in Council.

Section 2: this Act brought into force, on 7 July 2014, by the Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014 Commencement Order 2014 (LI 2014/169).

3 Principal Act

This Act amends the Social Security Act 1964 (the **principal Act**).

Part 1 Substantive amendments

Review of decisions

4 Section 10A amended (Review of decisions)

- (1) In the heading to section 10A, after “**decisions**”, insert “**of chief executive made under delegation by other decision makers**”.
- (2) Replace section 10A(1) with:

- (1) This section applies to a person and a decision both of which are specified in any 1 of the rows of the following table, but only if the decision is made by a decision maker in the exercise of any power, function, or discretion conferred on the decision maker by delegation:

Row	Person	Decision
1	An applicant or beneficiary affected by the decision (with “beneficiary” and “affected” having, in this row, the same meanings as in section 12J(1) read in the light of section 12J(4) and (5))	A decision of the chief executive made under any enactment referred to in any of the paragraphs of section 12J(1) (but not being a decision referred to in section 12J(2) or (3))
2	An applicant or beneficiary or other person	A decision of the chief executive made— (a) in relation to the applicant or beneficiary or other person; and (b) using a power under section 19D(1)(a) of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 (referred to in section 12J(7))
3	A beneficiary’s spouse or partner	A decision of the chief executive made— (a) in relation to the beneficiary’s spouse or partner; and (b) under section 86(3) (referred to in section 12J(8), and including the component decisions specified in section 12J(9))
4	The personal representative of a deceased beneficiary	A decision of the chief executive made— (a) in relation to the estate of the deceased beneficiary; and (b) under section 86(4) (referred to in section 12J(10))

Row	Person	Decision
5	The personal representative of a beneficiary's deceased spouse or partner	A decision of the chief executive made— (a) in relation to the estate of the beneficiary's deceased spouse or partner; and (b) under section 86(5) (referred to in section 12J(11), and including the decision specified in section 12J(12))
6	A beneficiary's spouse or partner	A decision of the chief executive made— (a) in relation to the beneficiary's spouse or partner; and (b) under section 86AA (referred to in section 12J(13), and including the decision specified in section 12J(14))

- (3) Repeal section 10A(1C).

Rights of appeal

5 Section 12J replaced (Rights of appeal)

Replace section 12J with:

12J Rights of appeal

Decisions or determinations under specified social assistance enactments

- (1) Any applicant or beneficiary affected may appeal to the Appeal Authority against any decision or determination of the chief executive under—
- (a) any of the provisions of Parts 1A to 1P, Part 2, Part 4, or Part 5; or
 - (b) a welfare programme approved by the Minister under section 124(1)(d); or
 - (c) Part 6 of the War Pensions Act 1954; or
 - (d) Part 1 of the New Zealand Superannuation and Retirement Income Act 2001; or
 - (e) the Family Benefits (Home Ownership) Act 1964; or
 - (f) any regulations in force under section 132A or 155 of this Act.
- (2) No appeal lies under subsection (1)(a) against a decision under section 88I(2) or (7) against which an appeal lies under section 10B(1)(h) or (i) to the medical board.
- (3) No appeal lies under subsection (1)(a) against a decision under section 116C(2)(a) against which an appeal lies under section 10B(1)(k) to the medical board.
- (4) Subsection (1) applies to a person in respect of whom a decision or determination is made under Part 4 or under regulations made under section 155 as if the person were a beneficiary.

- (5) For the purposes of subsection (1), an applicant or beneficiary is not affected by a decision or determination that relates only to all or any of the temporary deferral, rate, or method or methods, of debt recovery from another person.
- (6) A decision referred to in subsection (1), and that is a decision by the chief executive that section 83AA applies to a beneficiary in respect of a benefit apportioned under section 83(1) or (2), includes, without limitation, any component decisions that 1 or both of the following apply to some or all of the proportion of the benefit paid to the beneficiary's spouse or partner:
- (a) it is an amount in excess of the amount to which the spouse or partner is by law entitled or to which the spouse or partner has no entitlement; and
 - (b) it is an amount obtained by fraud by the spouse or partner.

Decisions under mutual assistance provisions in reciprocity agreements

- (7) An applicant or beneficiary or other person may appeal to the Appeal Authority against a decision that was made in relation to that person by the chief executive under the power conferred by section 19D(1)(a) of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990.

Decisions under section 86(3) to recover excess amount from spouse or partner

- (8) A beneficiary's spouse or partner may appeal to the Appeal Authority against a decision that was made by the chief executive under section 86(3) to recover from that spouse or partner (under sections 85A and 86(1)) an amount in excess of the amount to which the beneficiary was by law entitled.
- (9) A decision referred to in subsection (8), and made by the chief executive under section 86(3), includes, without limitation, the following component decisions:
- (a) the decision that, in the chief executive's opinion, the beneficiary's spouse or partner has made a false statement to or otherwise misled any officer engaged in the administration of this Act, in relation to any matter:
 - (b) the decision that, as a result of the beneficiary's spouse or partner making a false statement to or otherwise misleading any officer engaged in the administration of this Act, the benefit or an instalment of benefit was paid in excess of the amount to which the beneficiary was by law entitled.

Decisions under section 86(4) to recover excess amount from deceased beneficiary's estate

- (10) The personal representative of a deceased beneficiary may appeal to the Appeal Authority against a decision that was made by the chief executive under section 86(4) to recover from the beneficiary's estate (under sections 85A and 86(1)) an amount in excess of the amount to which the beneficiary was by law entitled.

Decisions under section 86(5) to recover excess amount from deceased spouse's or partner's estate

- (11) The personal representative of a beneficiary's deceased spouse or partner may appeal to the Appeal Authority against a decision that was made by the chief executive under section 86(5) to recover from that spouse's or partner's estate (under sections 85A and 86(1)) an amount in excess of the amount to which the beneficiary was by law entitled.
- (12) Subsection (11) gives the personal representative of a beneficiary's deceased spouse or partner, without limitation, a right to appeal against the decision that the beneficiary was paid an amount in excess of the amount to which he or she was by law entitled.

Decisions under section 86AA to recover excess amount from spouse or partner

- (13) A beneficiary's spouse or partner may appeal to the Appeal Authority against a decision that was made by the chief executive under section 86AA to recover from that spouse or partner (under sections 85A and 86(1)) an unapportioned amount in excess of the amount to which the beneficiary was by law entitled or to which the beneficiary has no entitlement.
- (14) Subsection (13) gives the beneficiary's spouse or partner, without limitation, a right to appeal against the decision that the beneficiary obtained by fraud an amount in excess of the amount to which the beneficiary was by law entitled or to which the beneficiary has no entitlement.

Debt recovery decisions include related decisions on deferral, rate, and methods

- (15) A reference in this section to a decision to recover an amount from a person or estate includes, without limitation, all related decisions on all or any of the temporary deferral, rate, or method or methods, of debt recovery from the person or estate.

General restriction on appeals under this section

- (16) A decision cannot be appealed against under any other provision of this section unless the decision—
- (a) has been confirmed or varied by a benefits review committee under section 10A; or
 - (b) was made by the chief executive other than pursuant to a delegation.

Authority is not authorised to hear and determine certain appeals on medical or capacity grounds

- (17) The Appeal Authority does not have the authority to hear and determine any appeal on medical grounds, grounds relating to incapacity, or grounds relating to capacity for work, against any decision or determination of the chief executive in respect of—

- (a) a supported living payment on the ground of sickness, injury, disability, or total blindness; or
- (b) a child disability allowance under section 39A; or
- (c) a veteran's pension under section 70 of the War Pensions Act 1954; or
- (d) jobseeker support on the ground of sickness, injury, or disability.

Application of determinations that, and when, person single or married

6 Section 63 amended (Conjugal status for benefit purposes)

In section 63, after “Part 4”, insert “(and with every determination under this section also applying for every debt-recovery or offence provision in or under this Act), but subject to section 151,”.

Debts due to the Crown

7 New section 83AA inserted (Apportionment of benefit between spouses or partners: one is liable for proportion other obtained by fraud if that one knew, or ought to have known, about other's fraud)

After section 83, insert:

83AA Apportionment of benefit between spouses or partners: one is liable for proportion other obtained by fraud if that one knew, or ought to have known, about other's fraud

- (1) This section applies to the following situation:
 - (a) a benefit is apportioned under section 83(1) or (2) between spouses or partners so that—
 - (i) one proportion of the benefit (**proportion A**) is paid to one spouse or partner (**A**); and
 - (ii) another proportion of the benefit (**proportion B**) is paid to the other spouse or partner (**B**); and
 - (iii) the person entitled to the benefit, for the purposes of section 83(1) and (2), is either A or B; and
 - (b) some or all of proportion A is—
 - (i) an amount in excess of the amount to which A is by law entitled or to which A has no entitlement; and
 - (ii) an amount obtained by fraud by A; and
 - (iii) a debt referred to in section 85A due to the Crown, and subject to recovery under section 86(1), from A; and
 - (c) some or all of proportion B either is, or is not,—
 - (i) an amount in excess of the amount to which B is by law entitled or to which B has no entitlement; and

- (ii) an amount obtained by fraud by B; and
 - (iii) a debt referred to in section 85A due to the Crown, and subject to recovery under section 86(1), from B; and
 - (d) B either knew, or ought to have known (even if B did not know), of the fraud by A.
- (2) In the situation to which this section applies, B is jointly and severally liable for A's debt referred to in subsection (1)(b), and that amount is a debt referred to in section 85A due to the Crown, and subject to recovery under section 86(1), from B.
- (3) This section does not limit or affect any civil or criminal liability under any other law—
- (a) of A for, or in respect of, the debt referred to in subsection (1)(b); or
 - (b) of B for, or in respect of, the debt referred to in subsection (1)(c).
- (4) An amount is obtained by fraud by a person (whether A or B) for the purposes of this section if the person—
- (a) obtained that amount by fraud (and, for the purposes of this paragraph, **fraud** means that the person—
 - (i) made any statement knowing it to be false in any material particular; or
 - (ii) knowingly said or did anything or omitted to do or say anything for the purpose of misleading any officer concerned in the administration of this Act); or
 - (b) is convicted of a specified offence (as defined in section 127A(5)) in respect of obtaining that amount.
- (5) Subsection (4) does not limit—
- (a) the generality of the references in subsection (1) to fraud; or
 - (b) the operation of section 49 (conviction as evidence in criminal proceedings) of the Evidence Act 2006.

8 Section 85A amended (Payments that are debts due to the Crown)

In the heading to section 85A, after “**Crown**”, insert “: **general**”.

9 New section 85B inserted (Payments that are debts due to the Crown: examples)

After section 85A, insert:

85B Payments that are debts due to the Crown: examples

- (1) Debts referred to in section 85A(a) (penalty) and (e) (debt due to the Crown) include a penalty under section 86(2) (recovery of penalty from beneficiary who obtains by fraud amount in excess of entitlement).

- (2) Debts referred to in section 85A(b) (conditional or provisional benefit that person is liable to repay) include the following:
 - (a) an amount directed to be repayable under section 60H(6)(b) (voluntary unemployment or loss of employment through misconduct, etc):
 - (b) an amount the person granted a benefit is liable to repay under section 61CC(2)(a) (granting of emergency benefits during epidemic in New Zealand), and to which section 85A(b) applies in accordance with section 61CC(2)(b):
 - (c) an amount recoverable under section 80BB(5) (delayed redundancy and retirement payments):
 - (d) an amount recoverable under section 80BC(3) (seasonal workers made redundant after benefit commences):
 - (e) an amount the person participating in approved activities is liable to repay under section 123B (effect of participation in certain activities on non-entitlement period).
- (3) Debts referred to in section 85A(b) (conditional or provisional benefit that person is liable to repay) and (e) (debt due to the Crown) include the following:
 - (a) an amount recoverable under section 68A(5) (special provisions applying to insurance payments):
 - (b) an amount recoverable under section 71(1)(b) (special provisions where compensation or damages recoverable by applicant).
- (4) Debts referred to in section 85A(e) (debt due to the Crown) include the following:
 - (a) an excess amount recoverable under section 86(3) (recovery from spouse or partner who makes false statement to or otherwise misleads department of excess amount beneficiary obtained):
 - (b) an excess amount recoverable under section 86(4) (recovery from estate of deceased beneficiary of excess amount beneficiary obtained):
 - (c) an excess amount recoverable under section 86(5) (recovery from estate of beneficiary's deceased spouse or partner of excess amount beneficiary obtained):
 - (d) an excess amount recoverable under section 86AA(5) (recovery from spouse or partner of unapportioned excess amount beneficiary obtained by fraud).
- (5) Debts referred to in section 85A(f) (overpayments under this Act) include the following:
 - (a) an amount recoverable under section 86 or 86AA read (in the case of either section) together with section 124(2) and (2A):
 - (b) amounts recoverable under section 86E(2) (deductions held in trust):

- (c) an amount recoverable under section 86I(3) (penalty for late deductions):
- (d) an amount that regulations made under section 132AC(1)(i) provide is a debt due to the Crown under section 85A(f).
- (6) This section does not limit the generality of section 85A.

Recovery of amounts in excess of entitlements and related penalties

10 Section 86 amended (Recovery of payments made in excess of authorised rates)

- (1) Replace section 86(1) and (1A) with:

Chief executive's duty to recover debt in section 85A

- (1) The chief executive is under a duty imposed by this subsection to take all reasonably practicable steps to recover a debt referred to in section 85A.
- (1A) Subsection (1) is subject to the following:
 - (a) subsections (9A) and (9B) (debts caused wholly or partly by errors to which debtors did not intentionally contribute):
 - (b) any regulations (providing for remittance or suspension of debt) made under section 132G:
 - (c) the debt falling within any 1 or more classes, descriptions, or kinds of debts specified in a written determination made by the chief executive for the purposes of this paragraph as debts that it is uneconomic to recover:
 - (d) the debt falling within any 1 or more classes, descriptions, or kinds of debts specified in a written authorisation given jointly by the Minister and by the Minister of Finance for public finance purposes generally as debts that are to be written off.

- (2) After section 86(1B), insert:

- (1BA) In performing the duty imposed by subsection (1), the chief executive—

- (a) must determine from time to time the rate of recovery and method or methods of recovery to be used and, in doing so, must have regard to all relevant considerations, including, without limitation, any identified in directions under subsection (1BC); and
- (b) may from time to time, if satisfied of the existence in the particular case of circumstances of a kind identified by directions under subsection (1BC), defer temporarily recovery of the debt.

- (1BB) The method or methods of recovery that the chief executive may determine is or are to be used are as follows:

- (a) bring proceedings in the name of the chief executive:

- (b) deduct all or part of that debt from any amount payable to that person by the department as a benefit or a student allowance:
 - (c) for a debt referred to in section 85A(d) (recoverable special assistance money under an approved welfare programme), deduct all or part of that debt from any payment of a grant of special assistance under a welfare programme approved under section 124(1)(d).
- (1BC) The Minister must give to the chief executive, and ensure that there are in force (as from time to time amended or replaced) at all times on and after the commencement of the Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014, directions for the purposes of subsection (1BA)(a) and (b), which, without limitation, may—
- (a) identify for subsection (1BA)(a) considerations that differ, or that contemplate different rates of recovery, or methods of recovery, or both, for determinations in respect of different kinds of debts referred to in section 85A:
 - (b) identify for subsection (1BA)(b) different kinds of circumstances for different kinds of debts referred to in section 85A.
- (1BD) Directions under subsection (1BC)—
- (a) must as soon as practicable after they are given be published by the Minister in the *Gazette*, and are not legislative instruments for the purposes of the Legislation Act 2012; but
 - (b) are disallowable instruments for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives under section 41 of that Act.
- (3) Before section 86(2), insert:
- Recovery of penalty from beneficiary who obtains by fraud amount in excess of entitlement*
- (4) Before section 86(3), insert:
- Recovery from spouse or partner who makes false statement to or otherwise misleads department of excess amount beneficiary obtained*
- (5) In section 86(3), replace “, in relation to his or her income or other personal circumstances,” with “, in relation to any matter,”.
- (6) After section 86(3), insert:
- (3A) Subsection (3) enables recovery from the spouse or partner on the basis that he or she is jointly and severally liable, and therefore does not limit or affect—
- (a) recovery under section 85A(e) or (f) and subsection (1) of this section from the beneficiary of the excess amount recoverable under subsection (3) from the beneficiary’s spouse or partner; or
 - (b) any other civil or criminal liability of the beneficiary, under any other laws, in respect of that excess amount.

(7) Before section 86(4), insert:

Recovery from estate of deceased beneficiary of excess amount beneficiary obtained

(8) In section 86(4), replace “owing” with “due”.

(9) Before section 86(5), insert:

Recovery from estate of beneficiary’s deceased spouse or partner of excess amount beneficiary obtained

(10) In section 86(5), replace “owing” with “due”.

(11) Before section 86(6), insert:

Making, notice, and review of assessment of amount under subsection (4) or (5)

(12) Before section 86(9A), insert:

Debts caused wholly or partly by errors to which debtors did not intentionally contribute

(13) After section 86(9B), insert:

Approved welfare programmes: special assistance payments

(9C) This section and section 86AA apply, in accordance with section 124(2A), to a payment to which section 124(2) applies—

- (a) as if it were made by way of benefit under Parts 1A to 1P; and
- (b) as if the person to whom the payment was made were a beneficiary entitled to a benefit of the amount determined under section 124(2A)(b).

Fraud measures: recovery of unapportioned excess amount obtained by fraud

11 New section 86AA inserted (Recovery from spouse or partner of unapportioned excess amount beneficiary obtained by fraud)

After section 86, insert:

86AA Recovery from spouse or partner of unapportioned excess amount beneficiary obtained by fraud

(1) **Beneficiary**, in this section, means a person—

- (a) who has obtained any payment, or received any credit or advance, referred to in section 85A in excess of the amount to which he or she was entitled or to which he or she has no entitlement; and
- (b) who, in the chief executive’s opinion, obtained that payment or credit or advance in excess by fraud.

(2) An amount is obtained by fraud by a person for the purposes of subsection (1) if the person—

- (a) obtained that amount by fraud (and, for the purposes of this paragraph, **fraud** means that the person—
 - (i) made any statement knowing it to be false in any material particular; or
 - (ii) knowingly said or did anything or omitted to do or say anything for the purpose of misleading any officer concerned in the administration of this Act); or
 - (b) is convicted of a specified offence (as defined in section 127A(5)) in respect of obtaining that amount.
- (3) Subsection (1) does not limit—
- (a) the generality of the references in subsection (1) to fraud; or
 - (b) the operation of section 49 (conviction as evidence in criminal proceedings) of the Evidence Act 2006.
- (4) Subsection (5) does not apply to the beneficiary's spouse or partner unless none of the amount in excess has been apportioned to him or her under section 83(1) or (2) and, in the chief executive's opinion, the spouse or partner—
- (a) knowingly benefited directly or indirectly from the beneficiary's fraud; or
 - (b) ought to have known (even if the spouse or partner did not know) that the spouse or partner was benefiting directly or indirectly from the beneficiary's fraud.
- (5) The amount in excess that the beneficiary obtained by the beneficiary's fraud is a debt due to the Crown under section 85A(e) or (f), and subject to recovery under section 86(1), from the spouse or partner.
- (6) Subsection (5) enables recovery from the spouse or partner on the basis that he or she is jointly and severally liable, and therefore does not limit or affect—
- (a) recovery under sections 85A(e) or (f) and 86(1) from the beneficiary of the excess amount recoverable under subsection (5) from the beneficiary's spouse or partner; or
 - (b) any other civil or criminal liability of the beneficiary, under any other laws, in respect of that excess amount.
- (7) Section 86(2) and this section apply, in accordance with section 124(2A), to a payment to which section 124(2) applies—
- (a) as if it were made by way of benefit under Parts 1A to 1P; and
 - (b) as if the person to whom the payment was made were a beneficiary entitled to a benefit of the amount determined under section 124(2A)(b).

Recovery of amounts in excess of entitlements and related penalties

12 Section 124 amended (Money payable out of Crown Bank Account)

In section 124(2A), replace “and 86,” with “, 86, and 86AA”.

Fraud measures: offences

13 New section 127A inserted (Offences: spouse or partner benefiting from excess amount knowing, or being reckless about whether, it is obtained by beneficiary’s fraud)

After section 127, insert:

127A Offences: spouse or partner benefiting from excess amount knowing, or being reckless about whether, it is obtained by beneficiary’s fraud

- (1) A person (the **spouse or partner**) commits an offence who—
 - (a) is a spouse or partner of a person (the **beneficiary**) who obtains an excess amount by fraud; and
 - (b) benefits directly or indirectly from the amount or a part of it knowing that, or being reckless about whether, the amount or part is an amount or part—
 - (i) in excess of the amount to which the beneficiary is by law entitled or to which the beneficiary has no entitlement; and
 - (ii) obtained by the beneficiary by fraud.
- (2) Subsection (1)(b) applies to the amount or part even if the spouse or partner—
 - (a) does not benefit from it knowingly; and
 - (b) does not know at all or exactly its value; and
 - (c) does not know, or (as the case requires) is not reckless about, the precise way in which it was obtained by the beneficiary by fraud.
- (3) The beneficiary obtains an excess amount for the purposes of subsection (1) if the beneficiary obtains any payment, or receives any credit or advance, referred to in section 85A in excess of the amount to which the beneficiary is by law entitled or to which the beneficiary has no entitlement.
- (4) The excess amount is obtained by the beneficiary by fraud for the purposes of subsection (1) if—
 - (a) the beneficiary obtained that amount by fraud (as defined in sections 83AA(4)(a) and 86AA(2)(a)); or
 - (b) the beneficiary is convicted of a specified offence in respect of obtaining that amount.
- (5) **Specified offence**, in subsection (4)(b), means an offence against section 127 (offences: false statements, misleading, or attempting to mislead, to receive or

- continue to receive benefits) of this Act, or an offence against all or any of the following provisions of the Crimes Act 1961:
- (a) section 228 (dishonestly taking or using document):
 - (b) sections 240 and 241 (obtaining by deception or causing loss by deception):
 - (c) section 256(1) and (2) (forgery):
 - (d) section 257 (using forged documents):
 - (e) section 258 (altering, concealing, destroying, or reproducing documents with intent to deceive):
 - (f) section 259 (using altered or reproduced document with intent to deceive).
- (6) Subsections (4) and (5) do not limit—
- (a) the generality of the references in subsection (1) to fraud; or
 - (b) the operation of section 49 (conviction as evidence in criminal proceedings) of the Evidence Act 2006.
- (7) A person who commits an offence under subsection (1) is liable on conviction to a penalty that is either or both:
- (a) imprisonment for a term not exceeding 12 months:
 - (b) a fine not exceeding \$5,000.

Part 2

Consequential amendments, and application, savings, and transitional provisions

Consequential amendments

14 Section 3C replaced (Transitional and savings provisions relating to amendments to this Act)

Replace section 3C with:

3C Transitional and savings provisions relating to amendments to this Act

- (1) The transitional and savings provisions set out in Schedule 32, which relate to amendments to this Act that come into force on or after 1 July 2001, have effect for the purposes of this Act.
- (2) The transitional and savings provisions relating to, or to the provisions of, the amendment Acts specified in the first column of the following table are set out in the Parts of Schedule 32 specified in the second column of that table:

Amendment Act or provisions of it	Schedule 32 Part
Social Security Amendment Act 2001	Part 1

Amendment Act or provisions of it	Schedule 32 Part
Social Security (Benefit Categories and Work Focus) Amendment Act 2013	Part 2
Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014	Part 3

15 Section 12K amended (Procedure on appeal)

Replace section 12K(1C)(a) with:

- (a) the person to whom section 12J gives the right to appeal against the decision or determination; and

16 Section 60H amended (Voluntary unemployment or loss of employment through misconduct, etc)

In section 60H(7), replace “may be recovered from the person under section 86(1)” with “is a debt due to the Crown under section 85A(b), and subject to recovery under section 86(1) (chief executive’s duty to recover debt referred to in section 85A), from the person”.

17 Section 68A amended (Special provisions applying to insurance payments)

In section 68A(5), replace “may be recovered as a debt due to the Crown from the applicant or person or the person liable to make the payment” with “is a debt due to the Crown under section 85A(b) and (e), and subject to recovery under section 86(1) (chief executive’s duty to recover debt referred to in section 85A), from the applicant or person or the person liable to make the payment”.

18 Section 71 amended (Special provisions where compensation or damages recoverable by applicant)

In section 71(1)(b), replace “may be recovered as a debt due to the Crown” with “is a debt due to the Crown under section 85A(b) and (e), and subject to recovery under section 86(1) (chief executive’s duty to recover debt referred to in section 85A),”.

19 Section 80BB amended (Delayed redundancy and retirement payments)

- (1) In section 80BB(4), replace “The chief executive may recover from the person, under section 86(1),” with “This subsection applies to”.
- (2) After section 80BB(4), insert:
- (5) A payment to which subsection (4) applies is a debt due to the Crown under section 85A(b), and subject to recovery under section 86(1) (chief executive’s duty to recover debt referred to in section 85A), from the person.

20 Section 80BC amended (Seasonal workers made redundant after benefit commences)

- (1) In section 80BC(2), replace “The chief executive may, under section 86(1), recover from a person referred to in subsection (1)” with “This subsection applies to”.
- (2) After section 80BC(2), insert:
- (3) A payment to which subsection (2) applies is a debt due to the Crown under section 85A(b), and subject to recovery under section 86(1) (chief executive’s duty to recover debt referred to in section 85A), from the person.

21 Section 82 amended (Payment of benefits)

In section 82(6), replace “may be recovered under section 86(1)” with “is a debt due to the Crown under section 85A(c), and subject to recovery under section 86(1) (chief executive’s duty to recover debt referred to in section 85A), from the beneficiary”.

22 Section 83A amended (Tax on benefits)

In section 83A(5), replace “as a debt due to the Crown within the meaning of section 85A” with “under sections 85A and 86”.

23 Section 86A amended (Deduction notices for debt)

- (1) In section 86A(1), replace “Where any amount of money may be recovered from any person as a debt due to the Crown under this Act” with “If an amount of money that is a debt due to the Crown referred to in section 85A and that is subject to recovery under section 86(1) (chief executive’s duty to recover debt referred to in section 85A)”.
- (2) In section 86A(2), replace “all reasonable steps” with “some other reasonably practicable steps”.

24 Section 86C amended (Discharge of debt)

In section 86C, replace “section 86” with “section 86(1)”.

25 Section 86E amended (Deductions held in trust)

- (1) In section 86E(b), delete “; and, without prejudice to any other remedies against the debtor or any other person, any amounts deducted shall be held in trust for the Crown and shall be recoverable under section 86 as if it were money payable under a benefit to which the person who made the deduction was not entitled”.
- (2) After section 86E(b), insert as subsections (2) and (3):
- (2) Any amounts deducted must be held in trust for the Crown, and are debts due to the Crown under section 85A(f), and subject to recovery under section 86(1) (chief executive’s duty to recover debt referred to in section 85A), from the

person who makes the deductions, as if the amounts were money payable under a benefit to which the person who made the deduction was not entitled.

- (3) Any holding and recovery in accordance with subsection (2) is without prejudice to any other remedies against the debtor or any other person.

26 Section 86I amended (Penalty for late deductions)

In section 86I(3), replace “may be recovered under section 86” with “is a debt due to the Crown under section 85A(f), and subject to recovery under section 86(1) (chief executive’s duty to recover debt referred to in section 85A), from the person”.

27 Section 123B amended (Effect of participation in certain activities on non-entitlement period)

In section 123B(7), replace “may be recovered by the chief executive under section 86(1)” with “is a debt due to the Crown under section 85A(b), and subject to recovery under section 86(1) (chief executive’s duty to recover debt referred to in section 85A), from the person”.

28 Section 124 amended (Money payable out of Crown Bank Account)

In section 124(2A), replace “and 86” with “, 86, and 86AA”.

29 Section 127 amended (Offences)

In the heading to section 127, after “**Offences**”, insert “: **false statements, misleading, or attempting to mislead, to receive or continue to receive benefits**”.

30 Section 132G amended (Regulations providing for remittance or suspension of debt)

In section 132G(1)(a), replace “section 86(1) to (1B) and (3) to (5)” with “sections 86(1) to (1B) and (3) to (5) and 86AA”.

31 Section 151 amended (Conjugal status for purpose of means assessment)

Replace section 151(1) and (2) with:

The chief executive cannot under section 63 determine that, for the purposes of this Part, a person is single by reason only that the person or his or her spouse or partner—

- (a) is a resident assessed as requiring care; or
- (b) has become unable to affirm his or her marriage or civil union.

32 Schedule 32 amended

- (1) In Schedule 32, replace the heading “Social Security Amendment Act 2001” with:

Part 1**Social Security Amendment Act 2001**

- (2) In Schedule 32, replace the heading “Social Security (Benefit Categories and Work Focus) Amendment Act 2013” with:

Part 2**Social Security (Benefit Categories and Work Focus) Amendment Act 2013**

- (3) In Schedule 32, after clause 17, insert:

Part 3**Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014****18 Certain review and appeal amendments apply to decisions made before commencement**

- (1) The following provisions apply to decisions made before the commencement of the Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014:
- (a) rows 1 and 2 of the table in section 10A(1) (as inserted by section 4(2) of the Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014);
 - (b) section 12J(1) to (7) and (15) to (17) (as inserted by section 5 of that Act).
- (2) Subclause (1) does not limit or affect the application of sections 10A(1) and 12J of the principal Act (as so inserted) to decisions made after that commencement.

19 Amendments generally apply in respect of excess amounts obtained or received before or after commencement

- (1) Every enactment that is amended or inserted by the Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014, and that is not specified in subclause (3), applies to, or in respect of, an amount that a person has obtained or received—
- (a) in excess of the amount to which the person is by law entitled or to which the person has no entitlement; and
 - (b) before or after the commencement of that Act.
- (2) Every enactment specified in subclause (3) applies only to, or in respect of, an amount that a person has obtained or received—

- (a) in excess of the amount to which the person is by law entitled or to which the person has no entitlement; and
 - (b) after that commencement.
- (3) The following enactments apply only to, or in respect of, an amount of the kind specified in subclause (2):
- (a) section 83AA as inserted by section 7 of that Act:
 - (b) section 86(3) and (3A) as amended or inserted by section 10(5) and (6) of that Act:
 - (c) section 86AA as inserted by section 11 of that Act:
 - (d) section 127A as inserted by section 13 of that Act.

20 Amendment, review, or replacement of existing debt-recovery decisions or determinations

- (1) This clause applies to a decision or determination that is in force immediately before the commencement of the Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014 and that relates to either or both of the rate and method of recovery of an amount that a person has obtained or received—
- (a) in excess of the amount to which the person is by law entitled or to which the person has no entitlement; and
 - (b) before that commencement.
- (2) The decision or determination is not required by section 86(1BA) (as inserted by section 10(2) of the Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014) to be amended, reviewed, or replaced until the chief executive determines as soon as is reasonably practicable after that commencement to amend, review, or replace it under that section (as so inserted).

33 Social Security (Childcare Assistance) Regulations 2004 amended

- (1) This section amends the Social Security (Childcare Assistance) Regulations 2004.
- (2) Replace regulation 28(1) with:
- (1) A payment of childcare assistance that is an overpayment (within the meaning of section 85A(f) of the principal Act) is—
- (a) a debt due to the Crown under section 85A(f) of the principal Act from the applicant; and
 - (b) subject to recovery under section 86(1) (chief executive's duty to recover debt referred to in section 85A) of the principal Act from the applicant.

34 Social Security (Debt Recovery Suspension) Regulations 2007 amended

- (1) This section amends the Social Security (Debt Recovery Suspension) Regulations 2007.

- (2) In regulation 3, replace the definition of **benefit debt** with:

benefit debt means a debt due to the Crown under section 85A, and subject to recovery under section 86(1) (chief executive's duty to recover debt referred to in section 85A), of the Act

35 Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 amended

- (1) This section amends the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990.
- (2) In section 2(1), definition of **social security debt**, paragraph (a), replace “may be recovered from any person under section 86 of the Social Security Act 1964” with “is subject to recovery from any person under section 86(1) (chief executive's duty to recover debt referred to in section 85A) of the Social Security Act 1964”.

Reprints notes

1 *General*

This is a reprint of the Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014 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 455(1)

Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014 Commencement Order 2014 (LI 2014/169)