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Residential Care and Disability Support Services Act 2018

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

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 Residential Care and Disability Support Services Act 2018.

2 Commencement

(1) This Act comes into force on 26 November 2018.

(2) However, specified provisions, namely sections 53, 70, and 74 to 76 (notices and regulations), come into force on the day after the date on which this Act receives the Royal assent.

(3) A power that is conferred by those specified provisions, and that is exercised on or after the day after the date on which this Act receives the Royal assent and before 26 November 2018, may be exercised only with effect on or after 26 November 2018.

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

(a) all other enactments relevant to the power's exercise, and that have not yet commenced, must be treated as if they had commenced; and

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

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

Part 1
General provisions

3 Purpose of this Act

The purpose of this Act is to—

(a) specify the circumstances in which certain older persons are required to pay for their own long-term residential care; and

(b) specify the circumstances in which a funder must contribute towards the cost of those persons' long-term residential care; and

(c) provide for those persons to apply for a means assessment to determine if, and how much, a funder must contribute towards the cost of their long-term residential care; and

(d) provide that those persons are not required to pay more than the maximum contribution (which amount is specified by written notice published on an Internet site and notified in the *Gazette*) for their long-term residential care, if that care is provided by a provider who has a contract with a funder to provide long-term residential care to older persons; and

(e) provide for the assessment of the amount a person is required to pay towards the cost of home-based disability support services supplied to that person; and

(f) ensure that financial support (that is, a funder's contribution to the cost of long-term residential care, or towards the cost of home-based disability support services) provided under this Act is provided to persons taking into account that, where appropriate, they should use the resources available to them before seeking financial support under this Act.

Compare: 1964 No 136 s 136AA

4 Overview of this Act

This Act—

(a) sets out the rules relating to liability for the cost of certain long-term residential care:

(b) sets out the rules relating to liability for the cost of home-based disability support services.

Compare: 1964 No 136 s 136AB

5 Interpretation

In this Act and in Schedules 1 to 3, unless the context otherwise requires,—

accommodation costs has the same meaning as in section 65AAA of the Social Security Act 2018

applicable asset threshold means the applicable asset threshold (which is the value of assets that is applied to determine whether a resident assessed as requiring care must use the resident's assets to pay the maximum contribution towards the cost of LTR contracted care provided to the resident) set out in Part 1 of Schedule 2

assets has, for the purpose of an assets assessment conducted under section 34, the meaning given in clause 4 of Schedule 2

benefit has the same meaning as in Schedule 2 of the Social Security Act 2018

child has the same meaning as in Schedule 2 of the Social Security Act 2018

contracted care provider has the meaning given in section 11

contracted care services has the meaning given in section 11

cost of LTR contracted care means, in relation to the person (**P**) to whom the care is provided, the amount that—

(a) is the cost of the contracted care services provided by a contracted care provider to meet P's assessed long-term residential care needs; and

(b) is specified in the service agreement or section 88 notice that applies to the contracted care provider as the price payable for those services, whether or not the services provided to P are wholly or partly funded under that agreement or notice

date of means assessment has the meaning given in section 52

de facto partner and **de facto relationship** have the meanings given to them by sections 29 and 29A of the Interpretation Act 1999

dependent child has the same meaning as in Schedule 2 of the Social Security Act 2018

exempt assets has, for the purpose of an assets assessment conducted under section 34, in relation to the person being means assessed, the meaning given in clause 4 of Schedule 2

funder means an entity responsible under the Healthy Futures (Pae Ora) Act 2022 for paying, in accordance with this Act, some or all of the cost of contracted care services provided to a qualifying person or a special case person

Health New Zealand has the meaning in section 4 of the Healthy Futures (Pae Ora) Act 2022

hospital means a hospital care institution as defined in section 58(4) of the Health and Disability Services (Safety) Act 2001

income has, for the purpose of a person's income assessment under section 37, the meaning given in clause 5 of Schedule 2

long-term residential care or **LTR care** has the meaning given in section 11

maximum contribution has the meaning given in section 15(2)

Minister means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act

MSD—

(a) means the responsible department; but

(b) for a duty, function, or power that MSD must or may perform or exercise, means—

(i) the chief executive of the responsible department; or

(ii) a public service employee, or other person, acting under a delegation (direct or indirect) from that chief executive

partner, in the phrase "spouse or partner" and in related contexts, means a civil union partner or de facto partner

personal allowance has the meaning given in section 24(2)

qualifying person has the meaning given in section 11

resident assessed as requiring care means a qualifying person who—

(a) has been positively needs assessed (as defined in section 14); and

(b) is receiving contracted care services (irrespective of whether a funder has any liability to pay for any of the cost of the qualifying person's care)

responsible department, for the provisions of this Act, means—

(a) the department of State that, with the Prime Minister's authority, is for the time being responsible for the administration of this Act; or

(b) a departmental agency that, under the Public Service Act 2020, is part of that department of State, and has duties, functions, or powers relating to that administration

rest home means premises used to provide rest home care—

(a) within the meaning of section 6 of the Health and Disability Services (Safety) Act 2001; and

(b) that is therefore health care services required by that Act to be provided in accordance with section 9 of that Act

section 94 notice means a notice—

(a) given under section 94 of the Healthy Futures (Pae Ora) Act 2022; and

(b) in respect of the provision of LTR care

service agreement means a service agreement—

(a) entered into between a funder and provider; and

(b) in respect of the provision of long-term residential care to a qualifying person or special case person

single means not married or in a civil union or a de facto relationship

special case person has the meaning given in section 11

spouse, of a person, means the person's husband or wife.

Compare: 1964 No 136 s 136

Section 5 **accommodation costs**: amended, on 2 March 2026, by section 17 of the Social Assistance Legislation (Accommodation Supplement and Income-related Rent) Amendment Act 2025 (2025 No 27).

Section 5 **DHB**: repealed, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 5 **funder**: amended, on 10 July 2026, by section 41(1) of the Healthy Futures (Pae Ora) Amendment Act 2026 (2026 No 40).

Section 5 **Health New Zealand**: inserted, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 5 **Health New Zealand**: amended, on 10 July 2026, by section 41(1) of the Healthy Futures (Pae Ora) Amendment Act 2026 (2026 No 40).

Section 5 **MSD** paragraph (b)(ii): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 5 **responsible department** paragraph (b): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 5 **section 88 notice**: repealed, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 5 **section 94 notice**: inserted, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 5 **section 94 notice** paragraph (a): amended, on 10 July 2026, by section 41(1) of the Healthy Futures (Pae Ora) Amendment Act 2026 (2026 No 40).

Section 5 **service agreement** paragraph (a): replaced, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

6 Interpretation: references to, and using as guide, old law

(1) A reference in an enactment or a document to all or any of the provisions of sections 69FA and 132D, Part 4, and Schedules 27 and 30 of the Social Security Act 1964 (the **former enactments**) is to be interpreted as a reference to, or to the corresponding provisions of, this Act and Schedules 2 and 3, to the extent necessary to reflect sensibly the intent of the enactment or document.

(2) Subsection (1) is subject to the consequential amendments in Schedule 10 of the Social Security Act 2018.

(3) The provisions of this Act and Schedules 2 and 3—

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

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

(4) Subsection (3) is subject to subsections (5) and (6) and section 7.

(5) If the meaning of an enactment in this Act or Schedule 2 or 3 that comes into force on 26 November 2018 (the **new law**) is unclear or gives rise to absurdity, the wording of a law that is repealed by section 77(1) and that corresponds to the new law (the **old law**) must be used to ascertain the meaning of the new law.

(6) Subsections (3) to (5) do not apply, if a new law is affected by an amendment made after the beginning of 26 November 2018, to that new law after the amendment commences.

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

7 Transitional, savings, and related provisions

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

8 Act binds the Crown

This Act binds the Crown.

Part 2
LTR contracted care

9 This Act determines who pays for LTR contracted care

(1) This Act determines who pays for the cost of LTR contracted care.

(2) Nothing in this Act affects the liability of a person to pay, under an agreement between that person and a provider, for any services provided to that person that are not contracted care services.

10 What is LTR contracted care

LTR contracted care is care that meets all of the following criteria:

(a) it is long-term residential care:

(b) it is the care of a qualifying person or a special case person:

(c) it comprises contracted care services:

(d) it is provided by a contracted care provider.

11 Key terms used in definition of LTR contracted care

The following key terms are used in the definition of LTR contracted care (and are also used elsewhere in this Act):

contracted care provider means a provider of contracted care services that—

(a) has a service agreement with a funder; or

(b) accepts payment under a section 88 notice

contracted care services means the services provided by a contracted care provider to a qualifying person or a special case person that are necessary to meet that person's assessed long-term residential care needs

long-term residential care or **LTR care** means age-related long-term residential care in a hospital or rest home

qualifying person means a person described in section 12

special case person means one of the following:

(a) a 50+ single person (*see* section 21):

(b) an exempt person (*see* section 23):

(c) an elderly victim of crime (*see* section 25).

Part 3
Qualifying persons

Meaning of qualifying person

12 Who is qualifying person

A **qualifying person** is a person who—

(a) is aged 65 years or over; and

(b) is funding eligible; and

(c) has been positively needs assessed; and

(d) receives contracted care services; and

(e) is entitled, under section 32, to apply for a means assessment.

Compare: 1964 No 136 s 136

13 Funding eligible

A person is funding eligible if the person belongs to a class of eligible people specified in regulations made under section 102 of the Healthy Futures (Pae Ora) Act 2022 or is eligible under a ministerial direction continued under clause 30 of Schedule 1 of that Act.

Section 13: replaced, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 13: amended, on 10 July 2026, by section 41(1) of the Healthy Futures (Pae Ora) Amendment Act 2026 (2026 No 40).

14 Positively needs assessed

A person has been **positively needs assessed** if the person has been assessed under section 28 as requiring LTR care indefinitely.

Compare: 1964 No 136 s 136

Liability of qualifying person for cost of LTR contracted care: 4 basic rules

15 Rule 1: no qualifying person to pay more than maximum contribution

(1) No qualifying person is liable to pay more than the maximum contribution towards the cost of the contracted care services provided to that person.

(2) The **maximum contribution** is the maximum amount that an individual may be required to pay towards the cost of LTR contracted care provided to the individual and that is set for each region under section 53.

(3) Subsection (1) applies irrespective of the person's assets or income.

16 Rule 2: qualifying person whose assets are above asset threshold must contribute maximum contribution

A qualifying person whose assets as determined by a means assessment under section 34 are above the applicable asset threshold must contribute the maximum contribution for as long as that person's assets are above the applicable asset threshold.

Compare: 1964 No 136 s 139(1), (2)

17 Rule 3: qualifying person whose assets are equal to or below asset threshold must pay contribution based on income

A qualifying person whose assets as determined by a means assessment under section 34 are equal to or below the applicable asset threshold must pay a contribution, based on income determined by a means assessment under section 37, towards the cost of that person's LTR contracted care.

Compare: 1964 No 136 s 139(1)–(3)

18 Rule 4: funder must pay difference between qualifying person's contribution and cost of LTR contracted care

In relation to each qualifying person, the appropriate funder must pay the difference between—

(a) the qualifying person's contribution (under section 16 or 17, whichever is applicable); and

(b) the cost of the qualifying person's LTR contracted care.

Compare: 1964 No 136 s 140(2)

19 Liability of person who has not been means assessed

(1) This section applies to a person (**P**) who is a qualifying person except that—

(a) P has not been means assessed; or

(b) if P has been means assessed, the result of the means assessment is not yet known.

(2) P must pay the maximum contribution until P is means assessed.

Compare: 1964 No 136 s 140(1)(b), (2)

Part 4
Special case persons

20 Who is special case person

(1) There are 3 categories of special case person:

(a) a 50+ single person:

(b) an exempt person:

(c) an elderly victim of crime.

(2) The definitions of funding eligible and positively needs assessed in sections 13 and 14 respectively apply also to special case persons.

Compare: 1964 No 136 s 136

50+ single person

21 Who is 50+ single person

A **50+ single person** is a person who—

(a) is aged 50 to 64 years; and

(b) is single; and

(c) has no dependent children; and

(d) is funding eligible; and

(e) has been positively needs assessed; and

(f) receives contracted care services.

Compare: 1964 No 136 s 136

22 50+ single person liable to make income contribution only

(1) A 50+ single person (**A**) is liable to make only an **income contribution** (that is, a contribution based on income as determined by a means assessment under section 37) towards the cost of A's LTR contracted care, that is, A must be treated as if A had been—

(a) means tested as to assets; and

(b) determined to have assets equal to or below the applicable asset threshold.

(2) In relation to each 50+ single person, the appropriate funder must pay the difference between that person's contribution and the cost of that person's LTR contracted care.

Compare: 1964 No 136 s 143

Exempt persons

23 Who is exempt person

An **exempt person** is a person who—

(a) is funding eligible; and

(b) has been positively needs assessed; and

(c) receives contracted care services; and

(d) belongs to a class of exempt persons, as those classes are defined in regulations made under section 74.

24 Exempt person liable to contribute benefit only

(1) An exempt person is liable to contribute to the cost of that person's LTR contracted care the amount of any benefit that P receives, less the personal allowance, and a funder must pay the balance of the cost.

(2) **Personal allowance**, in this Act and Schedule 2, means an amount of benefit, specified in regulations made under section 74, that a person is not required to contribute to the cost of LTR contracted care provided to the person.

Compare: 1964 No 136 ss 136, 142(1), (1A)

Elderly victims of crime

25 Who is elderly victim of crime

An elderly victim of crime is a person who—

(a) is funding eligible; and

(b) has been positively needs assessed; and

(c) receives contracted care services; and

(d) has been assessed, in accordance with regulations made under section 74, as being an elderly victim of crime for the purposes of this Act.

Compare: 1964 No 136 s 136

26 Elderly victim of crime not liable to contribute to cost of LTR contracted care

A person who is an elderly victim of crime is not liable to contribute any amount to the cost of that person's LTR contracted care and a funder must pay the whole of that cost.

Compare: 1964 No 136 s 142(2)

Part 5
Needs assessment

27 Who initiates needs assessment

(1) A person may at any time apply for a needs assessment if the person is—

(a) aged 65 years or over; and

(b) funding eligible.

(2) A person who is a special case person may at any time apply for a needs assessment.

(3) Health New Zealand may at any time on its own initiative conduct a needs assessment of a person who could apply under subsection (1) or (2).

Compare: 1964 No 136 s 137(1), (2)

Section 27(3): amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

28 Content of needs assessment

A needs assessment must determine whether the person assessed requires LTR care indefinitely.

Compare: 1964 No 136 s 137(3)

29 Procedure for needs assessment

(1) If Health New Zealand receives an application under section 27(1), it must arrange for the needs assessment to be conducted as soon as practicable.

(2) The date of a person's needs assessment is the date shown as such on the assessment.

(3) For the purposes of a needs assessment (and, in particular, consent to a needs assessment), the Code of Health and Disability Services Consumers' Rights (made under section 74 of the Health and Disability Commissioner Act 1994) applies as if—

(a) the needs assessment were a service; and

(b) the person assessed were a consumer of that service; and

(c) Health New Zealand or its delegate were a provider of that service.

Compare: 1964 No 136 s 137(4)–(7)

Section 29(1): amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 29(3)(c): amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

30 Notification of result of needs assessment

(1) Health New Zealand must provide a copy of the result of a needs assessment as soon as practicable to—

(a) the person assessed; and

(b) the provider (if any) who is currently providing LTR care to that person.

(2) Health New Zealand must at the same time inform the person assessed (**P**) of the following:

(a) the amount of the maximum contribution; and

(b) the respective liabilities under this Act of the person assessed and the funder to contribute to the cost of LTR contracted care; and

(c) how to apply for a means assessment.

Compare: 1964 No 136 s 138(2)

Section 30(1): amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 30(2): amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Part 6
Means assessment

31 Types of means assessment

This Act provides for 2 stages of a means assessment, as follows:

(a) an assets assessment:

(b) if required, an income assessment.

Compare: 1964 No 136 ss 146(1), 147(1)

32 Who may apply for means assessment

(1) A person who has been positively needs assessed may apply to MSD for a means assessment.

(2) An application for a means assessment must be made on a form provided for the purpose by MSD and the applicant must supply any supporting evidence or information that is reasonably required by MSD to complete the assessment.

Compare: 1964 No 136 s 138(1)(c), 144(1), (2)

33 MSD must arrange for means assessment

MSD must arrange for a means assessment to be conducted as soon as practicable after receiving an application.

Compare: 1964 No 136 s 144(3)

First stage: assets assessment

34 Assets assessment

(1) The first stage of a means assessment is an assets assessment.

(2) An assets assessment must be conducted in accordance with Part 2 of Schedule 2.

(3) This section does not apply to a special case person (who, under section 22(1), 24(1), or 26, is not liable to contribute from that person's assets).

Compare: 1964 No 136 s 146(1)

35 Content of assets assessment

An assets assessment must assess the value of the non-exempt assets of a person as at the date of means assessment and must determine whether those assets are above, equal to, or below the applicable asset threshold.

Compare: 1964 No 136 s 146(2)

Second stage: income assessment

36 When income assessment required

An income assessment is required if an assets assessment has determined that a person's assets are equal to or below the applicable asset threshold.

Compare: 1964 No 136 s 147(2)

37 Income assessment

An income assessment must be conducted in accordance with Part 3 of Schedule 2.

Compare: 1964 No 136 s 147(1)

38 Content of income assessment

(1) An income assessment of a person (**P**) must—

(a) assess as at the date of means assessment P's annual income; and

(b) determine a weekly contribution, up to the maximum contribution, that P must pay from income towards the cost of contracted care services provided to P; and

(c) determine if and when in the 90-day period P's assets fell below the applicable asset threshold.

(2) In subsection (1), **90-day period** means the period of 90 days before the date of means assessment.

(3) This section is subject to sections 24(1) and 26.

Compare: 1964 No 136 s 147(3), (4)

Factors affecting means assessment: deprivation of income or property

39 Deprivation of income or property: means assessment as if deprivation had not occurred

(1) This section applies where MSD is satisfied that a person who has applied for a means assessment (**P**), or P's spouse or partner, has directly or indirectly deprived himself or herself of any income or property.

(2) In conducting P's means assessment, MSD may include the income or property as if the deprivation had not occurred.

(3) In this section, **property** does not include an exempt asset.

Compare: 1964 No 136 s 147A(1)

40 Deprivation of income or property: inclusion in review of means assessment

(1) This section applies where MSD is satisfied that a person who has been means assessed (**P**), or P's spouse or partner, has directly or indirectly deprived himself or herself of any income or property.

(2) In conducting a review of P's means assessment, MSD may include the income or property as at the date of the means assessment as if the deprivation had not occurred.

(3) In this section, **property** does not include an exempt asset.

Compare: 1964 No 136 s 147A(2)

Notice of means assessment

41 Means assessment must be recorded in writing

MSD must ensure that every means assessment is recorded in writing, whether the means assessment is a first assessment or a subsequent assessment on review, and whether or not the assessment relates only to assets or to assets and income.

Compare: 1964 No 136 s 148(1)

42 Notice of means assessment

(1) MSD must ensure that a copy of the record of the means assessment is provided to the person to whom it relates.

(2) MSD must ensure that the provider, the funder, and the Ministry of Health are advised of the following in respect of every person (**P**) who is means assessed or whose means assessment is reviewed:

(a) whether P's assets are above the applicable asset threshold; or

(b) if P's assets are equal to or below the applicable asset threshold, the assessment of P's weekly contribution from income.

Compare: 1964 No 136 s 148(1), (2)

Change in circumstances

43 Obligation to notify MSD of change in circumstances

(1) A person (**A**) listed in subsection (2) must advise MSD of any change in the financial or other circumstances of a person who has been means assessed (**B**), or of B's spouse or partner, if A—

(a) knows or ought to know of the change in circumstances; and

(b) knows or ought to know that the change might mean that the means assessment is no longer accurate.

(2) For the purposes of subsection (1), A is any of the following:

(a) B, the person who has been means assessed:

(b) B's spouse or partner:

(c) the provider who provides contracted care services to B:

(d) the holder of an enduring power of attorney (given in accordance with Part 9 of the Protection of Personal and Property Rights Act 1988) who

acts under the enduring power of attorney in relation to the property of B or B's spouse or partner.

(3) Subsection (1) does not apply if—

(a) B has been found to have assets equal to or below the applicable asset threshold and the change relates to the value of B's assets, or to the value of the assets of B's spouse or partner; or

(b) a funder has no liability under this Act in respect of the contracted care services provided to B.

Compare: 1964 No 136 s 149(1)–(2)

Notice of right of review

44 Funder must ensure person assessed advised of right of review

A funder must take all practicable steps to ensure that a person who has undergone a means assessment (**P**)—

(a) is advised of the right to apply for a review of P's means assessment; and

(b) is notified whenever a change is made to the tests used in means assessments (such as an increase to applicable asset thresholds, or a change to the personal allowance (as defined in section 24(2))) that might mean that, if P's means assessment were reviewed, the result would be different from the result of P's latest means assessment.

Compare: 1964 No 136 s 149(3)

Relationship status

45 Relationship status for purpose of means assessment: determination that person is single

(1) For the purpose of a means assessment under this Act, MSD may make a determination to regard as single a person (**P**) who is married or in a civil union, but is—

(a) living apart from P's spouse or partner; and

(b) not in a de facto relationship.

(2) However, MSD cannot under subsection (1) determine that P is single by reason only that P or P's spouse or partner—

(a) has been assessed as requiring LTR care indefinitely; or

(b) has become unable to affirm P's marriage or civil union.

(3) A determination under subsection (1) may include a date, determined by MSD, on which the spouses or partners must be taken for the purposes of the determination to have commenced to live apart.

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

Compare: 1964 No 136 ss 63, 151

46 Relationship status for purpose of means assessment: determination that person is in de facto relationship

(1) For the purpose of a means assessment under this Act, MSD may make a determination to regard as a party to a de facto relationship any 2 people who, not being legally married or in a civil union, have entered into a de facto relationship.

(2) A determination under subsection (1), for the purposes of the assessment, may include either or both of the following dates:

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

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

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

Compare: 1964 No 136 ss 63, 151

Review of means assessment

47 Review by MSD

MSD must review a means assessment of a person (**P**) if—

(a) P applies for a review on a form provided for the purpose by MSD; or

(b) MSD has reason to believe that there was a mistake in P's earlier assessment, whether as a result of wrong information being supplied or otherwise; or

(c) the circumstances of P's spouse or partner (**S**) have changed because—

(i) S has become a qualifying person or a special case person; or

(ii) S has died; or

(iii) MSD has determined under section 45 that S's relationship status has changed for the purposes of this Act.

Compare: 1964 No 36 s 150(1)

48 Review if assets subsequently fall below applicable asset threshold

(1) This section applies if a person (**P**) has been means assessed and been found to have assets above the applicable asset threshold.

(2) MSD may review P's means assessment at any time if MSD considers that P's assets have fallen, or are about to fall, to a level below or equal to the applicable asset threshold.

Compare: 1964 No 136 s 150(2)

49 Review if assets below applicable asset threshold

(1) This section applies if a person (**P**) has been means assessed and been found to have assets equal to or below the applicable asset threshold.

(2) MSD—

(a) may annually review P's means assessment; and

(b) may at any time review P's means assessment if MSD considers that P's annual income has changed or is about to change.

Compare: 1964 No 136 s 150(2A)

50 Review under section 48 or 49 not obligatory

Nothing in section 48 or 49 obliges MSD to conduct a review of a means assessment following a change in the tests used in means assessments (such as an increase to applicable asset thresholds or a change to the personal allowance (as defined in section 24(2))) unless the person to whom the means assessment relates applies for a review under section 47.

Compare: 1964 No 136 s 150(3)

51 Scope and date of review under section 47, 48, or 49

(1) A review must review the person's means assessment as to assets and, if necessary, the person's means assessment as to income unless subsection (2) applies.

(2) A review must review the person's means assessment as to income only (and not the person's means assessment as to assets) if the review is conducted under—

(a) section 47(a) and the person has been means assessed and determined to have assets equal to or below the applicable asset threshold; or

(b) section 49.

(3) A review is conducted as at the date of means assessment.

(4) Section 38(1)(c) applies if a review determines that, as at the date of means assessment, the assets of the person were equal to or below the applicable asset threshold.

Compare: 1964 No 136 s 150(4)–(5)

Date of means assessment

52 Date of means assessment

In this Act and Schedule 2, **date of means assessment** means,—

(a) in the case of a first means assessment conducted under this Act, the date on which the application for the means assessment is received:

(b) in the case of a review of a means assessment for which the person has applied under section 47(a), the date on which the application for the review is received:

(c) in the case of a review under section 47(b), the date of means assessment that applied to the earlier, apparently mistaken, means assessment:

(d) in the case of a review under section 47(c), the date, determined by MSD, on which the person's circumstances changed:

(e) in the case of a review under section 48, the date on which MSD initiated the review:

(f) in the case of a review under section 49—

(i) conducted by MSD in the event of a general adjustment of rates of benefits or allowances, the date of that general adjustment; or

(ii) conducted as a result of advice received by MSD under section 43(1), the date on which that advice was received; or

(iii) conducted by MSD in any other case, the date on which MSD initiated the review.

Compare: 1964 No 136 s 145

Part 7
Funding and funder's liability

Maximum contribution

53 Determination of maximum contribution

(1) The Director-General of Health must, by written notice, determine the maximum contribution that applies in each region.

(2) By way of explanation, the maximum contribution that applies in a region is the amount agreed at a national level between funder representatives and provider representatives as being the amount that funders in that region are to pay to providers in that region for providing rest-home-level care services.

(3) However, if the amount identified under subsection (2) for a region is less than $636, the maximum contribution for that region must be set at $636.

(4) A notice given under this section—

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

(i) published on an Internet site administered by or on behalf of the Ministry of Health; and

(ii) notified in the *Gazette*; and

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

(i) on an Internet site administered by or on behalf of the Ministry of Health; and

(ii) current as at a stated date; and

(iii) incorporating amendments up to that date; and

(c) is not a legislative instrument, but is a disallowable instrument, for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives under section 41 of that Act.

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

Compare: 1964 No 136 s 152

Funder's liability

54 Funder's liability for cost of LTR contracted care of exempt person

In respect of the cost of an exempt person's LTR contracted care, the funder must pay the amount determined under the following formula:

$$p = c - (b - a)$$

where—

p is the amount the funder must pay

c is the cost of the LTR contracted care provided to the exempt person

b is the amount of any benefit received by the exempt person

a is the personal allowance (as defined in section 24(2)).

Compare: 1964 No 136 s 142(1)

55 Funder's liability for cost of LTR contracted care of elderly victim of crime

In respect of the cost of an elderly victim of crime's LTR contracted care, the funder must pay the full cost.

Compare: 1964 No 136 s 142(2)

When funder's liability arises

56 When funder's liability arises for cost of LTR contracted care of qualifying person

(1) If the assets of a qualifying person (**P**) have been means assessed and determined to be above the asset threshold, the funder's liability for the difference between P's maximum contribution (under section 16) and the cost of P's LTR contracted care begins—

(a) on the relevant date of needs assessment, if P is already receiving contracted care services; or

(b) on the date from which P receives contracted care services, in any other case.

(2) If the assets of a qualifying person (**P**) have been means assessed and determined to be equal to or below the asset threshold, the funder's liability for the cost of P's LTR contracted care (less any income contribution that P must pay under section 17) begins on the day during the 90-day period when P's assets were first equal to or below the asset threshold.

(3) In this section, **90-day period** means the period of 90 days before the relevant date of means assessment.

Compare: 1964 No 136 ss 140(3), 141(3)

57 When funder's liability arises for cost of LTR contracted care of exempt person or elderly victim of crime

A funder's liability for the cost of the LTR contracted care of an exempt person or elderly victim of crime arises—

(a) on the date on which the person is confirmed under regulations made under section 74 as being an exempt person or elderly victim of crime, as the case requires; or

(b) in the case of a person to whom section 10 of the Social Security (Long-term Residential Care) Amendment Act 2004 applies, on the date on which this section comes into force.

Compare: 1964 No 136 s 142(3)

58 When funder's liability arises for cost of LTR contracted care of 50+ single person

A funder's liability for the cost of the LTR contracted care of a 50+ single person arises on the later of the following dates:

(a) the relevant date of needs assessment, if the person is already receiving contracted care services:

(b) the date from which the person receives contracted care services.

Compare: 1964 No 136 s 140(3)

Part 8
Home-based disability support services

59 Application of this Part

(1) This Part applies to a person who—

(a) has been assessed by or on behalf of Health New Zealand as requiring home-based disability support services; and

(b) is not a child; and

(c) is not entitled to be the holder of—

(i) a community services card issued under the Health Entitlement Cards Regulations 1993; or

(ii) a corresponding card issued under corresponding regulations made or deemed to have been under either or both of section 102(1) of the Healthy Futures (Pae Ora) Act 2022 and section 437 of the Social Security Act 2018.

(2) For the purposes of this Part and Schedules 1 and 3, **home-based disability support services** means disability services that are supplied to a person, and that are services—

(a) in relation to the person's domestic affairs (other than medical services, personal care services, attendant care services, and relief care services) that support and allow the person to remain in the person's home; and

(b) of a kind that are funded under the Healthy Futures (Pae Ora) Act 2022.

(3) For the purposes of this Part and Schedules 1 and 3,—

child means a single person under the age of 18 years, other than a person who is—

(a) aged 16 or 17 years; and

(b) financially independent

health practitioner—

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

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

medical services means services supplied to a person by a health practitioner relating to the treatment or relief of the person's disability condition or the rehabilitation of the person from that condition.

Compare: 1964 No 136 s 69FA(1), (2)

Section 59(1)(a): amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 59(1)(c)(ii): amended, on 10 July 2026, by section 41(1) of the Healthy Futures (Pae Ora) Amendment Act 2026 (2026 No 40).

Section 59(1)(c)(ii): amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 59(2)(b): amended, on 10 July 2026, by section 41(1) of the Healthy Futures (Pae Ora) Amendment Act 2026 (2026 No 40).

60 MSD may assess person's financial means and required payments

(1) MSD may, from time to time, on application by or on behalf of a person to whom this Part applies, assess in accordance with Schedule 3 the weekly

amount that person is required to pay towards the cost of the home-based disability support services provided to that person.

(2) The person is required to pay that amount in accordance with the assessment.

(3) MSD's information-gathering powers under clauses 1 to 7 of Schedule 6 of the Social Security Act 2018 can (in line with clause 3(e) of that schedule) be used for determining, under this Part,—

(a) the amount that a person is required to pay towards the cost of the home-based disability support services supplied to that person; and

(b) whether a person who has been so assessed is entitled to that assessment.

Compare: 1964 No 136 ss 11(2)(da), 69FA(3)

61 Cash assets and income

(1) For the purposes of this Part and Schedules 1 and 3,—

cash assets—

(a) means—

(i) money saved with a bank or other institution, money invested with a bank or other institution, or money banked with a bank or other institution:

(ii) money invested in securities, bonds, or debentures, or advanced on mortgage:

(iii) money withdrawn from a KiwiSaver scheme registered under subpart 2 of Part 4 of the Financial Markets Conduct Act 2013:

(iv) money invested in shares in a partnership or limited liability company or other incorporated or unincorporated body; but

(b) does not include any contributions to, or any member's interest in, any KiwiSaver scheme that is registered under subpart 2 of Part 4 of the Financial Markets Conduct Act 2013; and

(c) does not include any assets or any amount of cash assets excluded by regulations made under section 74(1)(k) or (l)

income means any thing that—

(a) is income as defined in Schedule 2 of the Social Security Act 2018, or is the gross amount of a payment received in consideration of providing board and lodgings to any person in excess of 2 people, or is a benefit or allowance received under or pursuant to—

(i) the Social Security Act 2018; or

(ii) the New Zealand Superannuation and Retirement Income Act 2001; or

(iii) the Veterans' Support Act 2014 (other than a disablement pension under Part 3 of that Act); and

(b) is not an amount specified in regulations made under section 74(1)(l).

(2) For the purposes of this Part and Schedules 1 and 3,—

(a) the following are taken to be income of $1 per week:

(i) every $100 of cash assets over $5,400 held by a person who is in a relationship:

(ii) every $100 of cash assets over $5,400 held by a single person who has 1 or more dependent children:

(iii) every $100 of cash assets over $2,700 held by any other person; and

(b) the income of a person who is in a relationship includes the income of the person's spouse or partner.

Compare: 1964 No 136 s 69FA(1), (4)

62 Unrealised assets available for personal use

(1) This section applies to assets that—

(a) are available for the personal use of a person to whom this Part applies; and

(b) MSD is satisfied have not been realised by that person, or by that person's spouse or partner.

(2) MSD may for the purposes of this Part treat the assets as cash assets.

Compare: 1964 No 136 s 69FA(5)

63 Deprivation of income or assets

(1) This section applies if—

(a) a person has applied for, or has received, an assessment under this Part; and

(b) MSD is satisfied that the person or the person's spouse or partner has directly or indirectly deprived the person of any income or assets.

(2) MSD may assess, or revise the assessment of, the person's ability to pay for that person's home-based disability support services as if that deprivation had not occurred.

Compare: 1964 No 136 s 69FA(8)

64 Assessment must state date and payments and be given to person

Each assessment made by MSD under this Part—

(a) must state the date of the assessment and the amount that the person has been assessed as being required to pay; and

(b) must be given by MSD to that person.

Compare: 1964 No 136 s 69FA(6)

65 MSD may supply assessment to applicable DHB

MSD may supply the details of an assessment under this Part to Health New Zealand.

Compare: 1964 No 136 s 69FA(6)

Section 65: amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

66 MSD must review, and may revise, assessment

(1) MSD—

(a) must from time to time review an assessment under this Part; and

(b) may revise that assessment if—

(i) MSD is satisfied the assessment is in error; or

(ii) the person to whom the assessment relates or that person's spouse or partner fails to provide any relevant information requested or to answer any relevant question; or

(iii) after reviewing the assessment, MSD is satisfied that, owing to a change in circumstances of that person or that person's spouse or partner, the assessment is no longer an accurate reflection of that person's ability to pay for that person's home-based disability support services.

(2) A revised assessment under subsection (1)(b)(iii) takes effect from a date MSD determines (being a date that is, or is after, the date on which the change of circumstances concerned may reasonably be held to have occurred).

Compare: 1964 No 136 s 69FA(7)

67 Person must advise MSD of change in person's circumstances

A person who has received an assessment under this Part must advise MSD without delay of any change in circumstances that affects that person's ability to pay for that person's home-based disability support services.

Compare: 1964 No 136 s 69FA(9)

Part 9
Miscellaneous

68 Information gathering under Schedule 6 of Social Security Act 2018

(1) MSD may, by notice given under clauses 2 to 7 of Schedule 6 of the Social Security Act 2018, obtain information for all or any of the following purposes:

(a) determining whether a person who has made a claim for, is receiving, or has received, a benefit or payment under this Act is or was entitled to receive that benefit or payment:

(b) conducting or reviewing a means assessment under this Act, or determining whether a means assessment of that kind is correct:

(c) determining, under Part 8 of this Act, the amount that a person is required to pay towards the cost of the home-based disability support services supplied to that person, and whether a person who has been so assessed is entitled to that assessment:

(d) ascertaining the financial circumstances or whereabouts of a person who is indebted to the Crown under this Act:

(e) discharging MSD's functions under, or under any regulations in force under, this Act.

(2) This section is by way of explanation only.

69 Rights of review and appeal in Part 7 of Social Security Act 2018

(1) This section applies to decisions or determinations of MSD made under any of the provisions of—

(a) this Act; or

(b) regulations made under section 74.

(2) Part 7 of the Social Security Act 2018 gives rights of review and appeal in respect of the decisions or determinations (*see*, for example, row 1 of the table in section 391(1), and section 397(1)(d), of that Act).

(3) This section is by way of explanation only.

70 Residential care loan scheme

(1) A qualifying person (**P**) who has been means assessed as to assets under section 34 may apply for a loan under the residential care loan scheme operated by the Ministry of Health if—

(a) P's assets are above the applicable asset threshold; and

(b) P meets the criteria for eligibility for the residential care loan scheme specified in a written notice given by the Director-General of Health.

(2) A notice given under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(3) *[Repealed]*

Compare: 1964 No 136 s 153

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • notify it in the *Gazette* • publish it on a website maintained by, or on behalf of, the Ministry of Health • if it is amended without being replaced, also publish on that website a consolidated version of the notice as at a stated date incorporating the amendments up to that date	LA19 ss 73, 74(1)(a), Sch 1 cl 14

Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 70(2): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 70(3): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

71 Clothing allowance

Regulations may be made under section 74 that provide for payment of a clothing allowance to either or both of the following classes of person:

(a) qualifying persons who have been means assessed and found to have assets equal to or less than the applicable asset threshold:

(b) qualifying persons who have entered into a loan agreement with the Crown under the residential care loan scheme.

Compare: 1964 No 136 s 154

72 Offences: false statements, misleading, or attempting to mislead, to receive or continue to receive advantages

(1) A person (**P**) commits an offence if—

(a) P makes a statement knowing that it is false in a material particular; and

(b) P's statement—

(i) is made for the purpose of receiving or continuing to receive (whether for P or another person) an advantage; or

(ii) results in P or another person receiving or continuing to receive an advantage.

(2) A person (**P**) commits an offence if—

(a) P wilfully does or says anything, or omits to do or say anything, for the purpose of misleading or attempting to mislead a person; and

(b) P's act, statement, or omission—

(i) is done or made for the purpose of receiving or continuing to receive an advantage (whether for P or another person); or

(ii) results in P or another person receiving or continuing to receive an advantage.

(3) In this section, **advantage** means—

(a) any benefit under this Act; or

(b) any payment from a Crown Bank Account in accordance with this Act; or

(c) a more favourable means assessment under Parts 8 and 9 of this Act than P would otherwise have been entitled to; or

(d) a more favourable means assessment under Parts 1 to 7 of this Act than P would otherwise have been entitled to.

(4) A person who commits an offence under this section is liable on conviction to a penalty that is either or both of the following:

(a) imprisonment for a term not exceeding 12 months:

(b) a fine not exceeding $5,000.

(5) This section does not limit sections 290 and 291 of the Social Security Act 2018.

Compare: 1964 No 136 s 127

73 Time for filing charging document

(1) The limitation period in respect of an offence against this Act ends on the date that is 12 months after the date on which the facts alleged in the charging document are brought to the knowledge of any officer concerned in the administration of this Act.

(2) Subsection (1) overrides section 25 of the Criminal Procedure Act 2011.

Compare: 1964 No 136 s 128

74 Regulations

(1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

(a) identifying a class or classes of exempt persons:

(b) prescribing how a person is to be assessed as being, or no longer being, an elderly victim of crime:

(c) providing, in accordance with section 71, for payment of a clothing allowance, and setting the amount of any clothing allowance payable:

(d) prescribing, for the purpose of section 39, rules relating to deprivation of property, income, or both, and the circumstances in which those rules apply:

(e) prescribing the gifting period and the allowable gifts, or the value of any allowable gifts, for the purpose of paragraph (b) of the definition of assets in Part 2 of Schedule 2:

(f) amending the maximum value of pre-paid funerals for the purpose of paragraph (d) of the definition of exempt assets in Part 2 of Schedule 2:

(g) prescribing assets, or an amount of assets, that are exempt assets for the purpose of paragraph (g) of the definition of exempt assets in Part 2 of Schedule 2:

(h) increasing the applicable asset thresholds, and the income-from-assets exemption, in accordance with section 75:

(i) prescribing an amount or a type of income, or an amount of a certain type of income, that is not to be included in a means assessment as to income, as provided for in paragraph (i) of the definition of income in Part 3 of Schedule 2:

(j) prescribing the amount of personal allowance (as defined in section 24(2)):

(k) defining terms to be excluded as cash assets for the purpose of Part 8 (*see* the definition of cash assets in section 61(1)):

(l) specifying that certain amounts of cash assets or income are not to be included within the financial means assessment of a person under Part 8 (*see* the definitions of cash assets and income in section 61):

(m) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

(2) The purpose of exemption regulations made under subsection (1)(a) is to specify a class or classes of persons who, because of their circumstances (for example, a requirement to undergo compulsory treatment), should be liable to contribute to the cost of their LTR care only the amount of any benefit that they receive, less the personal allowance (*see* sections 23 and 24 and subsection (1)(j)).

(3) Exemption regulations made under subsection (1)(a) may be made only on the recommendation of the Minister.

(4) The Minister must, before making a recommendation that particular exemption regulations be made under subsection (1)(a),—

(a) have regard to the purpose of this Act (as set out in section 3), to the purpose of section 24 (exempt person liable to contribute benefit only), and to the purpose of the regulations; and

(b) be satisfied that each exemption provided for in them is not broader than is reasonably necessary to address the matters that gave rise to the regulations.

(5) Regulations published under the Legislation Act 2019 under subsection (1)(i), (l), or (m) have effect in respect of any amounts or types of cash assets, income, or amounts of certain types of income, or defined terms to be excluded as cash assets, specified in the regulations on and after a date that is—

(a) specified in the regulations; and

(b) earlier than, the same as, or later than, the date on which the regulations are made.

(6) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1964 No 136 ss 132D, 155(1)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 74(5): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 74(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

75 Annual adjustments for increase in Consumers Price Index

(1) The applicable asset thresholds set out in Part 1 of Schedule 2 must be increased on 1 July 2019, and on every following 1 July, by an amount that reflects the upwards movement (if any) in the index number of the Consumers Price Index (all groups) for the year ending on the previous 31 March.

(2) The income-from-assets exemption (as defined in Part 3 of Schedule 2) must be increased on 1 July 2019, and on every following 1 July, by an amount that reflects the upwards movement (if any) in the index number of the Consumers Price Index (all groups) for the year ending on the previous 31 March.

(3) The adjustments (by any percentage movement in the index number of the Consumers Price Index (All Groups)) required under subsection (2) as at 1 July in any year from 2019 to 2021 (inclusive) for the income-from-assets exemption must, despite subsection (2), be calculated,—

(a) if, and insofar as, they relate to movements during quarters that end before 29 April 2010, using index numbers for those quarters of the Consumers Price Index (all groups); 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 (less cigarettes and tobacco subgroup) published by Statistics New Zealand or, if that index ceases to be published, any measure certified by the Government Statistician as being equivalent to that index.

(4) If the adjusted amount of an applicable asset threshold or, as the case requires, of the income-from-assets exemption is not a whole number of dollars,—

(a) it must be rounded up to the nearest whole number of dollars; but

(b) the adjustment made in the following year must be based on the applicable asset threshold or the income-from-assets exemption as it was before it was rounded up.

(5) This section does not limit section 452 of the Social Security Act 2018 (about orders making discretionary increases to specified amounts in Schedule 2 of this Act).

(6) In this section, **Consumers Price Index (all groups)** means the Consumers Price Index (all groups) published by Statistics New Zealand or, if that index ceases to be published, any measure certified by the Government Statistician as being equivalent to that index.

Compare: 1964 No 136 s 155(2)–(3)

Section 75 heading: amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section 75(1): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section 75(2): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section 75(3)(a): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section 75(3)(b): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section 75(6): inserted, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

76 Annual published notice of amount of income-from-assets exemption

(1) The Director-General of Health must, as soon as practicable after 1 July in each year, give written notice of the current amount of the income-from-assets exemption.

(2) A notice under this section must, as soon as practicable after it is given, be published on an Internet site administered by or on behalf of the Ministry of Health and be notified in the *Gazette*.

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

Compare: 1964 No 136 s 155(4)

Section 76(2): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 76(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

77 Repeals and revocations

(1) Sections 69FA and 132D, Part 4, and Schedules 27 and 30 of the Social Security Act 1964 are repealed.

(2) All regulations made by Order in Council, or other Orders in Council made under those provisions of that Act, and in force on the commencement of this section, are revoked by this subsection.

(3) Subsection (2) does not revoke orders saved by Schedule 1.

Schedule 1
Transitional, savings, and related provisions for residential care and disability support services

s 7

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1 Determinations under section 63 of 1964 Act for long-term residential care, etc

(1) This clause applies to determinations—

(a) made under section 63 of the Social Security Act 1964; and

(b) made, or so far as they were made, for the purposes of section 69FA or 132D, Part 4, or Schedule 27 or 30 of that Act (*see* clause 3 of Schedule 1 of the Social Security Act 2018); and

(c) in force on the repeal of section 63 of the Social Security Act 1964.

(2) The determinations specified in subclause (1) continue in force with all necessary modifications, and may be amended, revoked, or replaced, as if made under section 45(1) or 46(1).

(3) However, the determinations specified in subclause (1) that are made under section 63(b) of the Social Security Act 1964 continue under subclause (2) as if they were determinations made under section 46(1).

2 Needs assessments and means assessments under Part 4 of 1964 Act

(1) An application made under section 137(2) of the Social Security Act 1964 for a needs assessment and not withdrawn must, if the assessment has not begun on that section's repeal, be treated as if it were an application under section 27.

(2) An application made under section 144(1) of the Social Security Act 1964 for a means assessment and not withdrawn must, if the assessment has not begun on that section's repeal, be treated as if it were an application under section 32.

(3) Needs assessments and means assessments begun under Part 4 of the Social Security Act 1964, and not withdrawn or completed on the repeal of that Part, must be completed by MSD under the corresponding provisions of this Act.

(4) Notices (of means assessments) provided under section 148 of the Social Security Act 1964, if those notices are in force on the repeal of that section, continue in force as if provided under sections 41 and 42.

3 Reviews of means assessments under section 150 of 1964 Act

Reviews by the chief executive begun under section 150 of the Social Security Act 1964, and not withdrawn or completed on the repeal of that section, must be completed by MSD under the corresponding provisions of sections 47 to 51.

4 *Gazette* notices under section 152 of 1964 Act

Gazette notices given under section 152 of the Social Security Act 1964, if those notices are in force on the repeal of that section, continue in force as if they were written notices given and published under section 53.

5 *Gazette* notices under section 153 of 1964 Act

Gazette notices given under section 153 of the Social Security Act 1964, if those notices are in force on the repeal of that section, continue in force as if they were written notices given and published under section 70.

6 *Gazette* notices under section 155(4) of 1964 Act

Gazette notices given under section 155(4) of the Social Security Act 1964, if those notices are in force on the repeal of that section, continue in force as if they were written notices given and published under section 76.

7 Elections under Schedule 27 of 1964 Act

A resident's (**R's**) election under clause 2 of Schedule 27 of the Social Security Act 1964 (as in force before its repeal) to have Column A of the table in clause 1 of that schedule (as in force before its repeal) apply to R is, after that repeal, treated as if it were an election (under clause 2 of Schedule 2) to have Threshold A in clause 1 of Schedule 2 apply to R.

8 Assessments under section 69FA of 1964 Act of financial means, and required payments, for home-based disability support services

(1) An application made under section 69FA of the Social Security Act 1964 and not withdrawn must, if the assessment under Schedule 30 of that Act has not begun on the repeal of that section and that schedule, be treated as if it were an application under section 60.

(2) Assessments under section 69FA and Schedule 30 of the Social Security Act 1964, and not withdrawn or completed on the repeal of that section and that schedule, must be completed by MSD under Part 8 of this Act.

9 Reviews under section 69FA(7) of 1964 Act

Reviews by the chief executive begun under section 69FA(7) of the Social Security Act 1964, and not withdrawn or completed on the repeal of that section, must be completed by MSD under section 66.

10 Regulations made under section 132D or 155(1) of 1964 Act

Regulations made under section 132D or 155(1) of the Social Security Act 1964, and in force on the repeal of that section, continue in force, and may be amended, revoked, or replaced, as if made under section 74.

Schedule 2
Means assessment for long-term residential care

ss 34, 37, 74(1)(e)–(i), 75

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Part 1
Applicable asset thresholds

1 Applicable asset thresholds

(1) This clause specifies the applicable asset thresholds that apply annually for—

(a) the year 1 July 2018 to 30 June 2019; and

(b) all later years beginning on 1 July.

(2) Threshold A is $300,811 and applies to every qualifying person or special case person (**P**)—

(a) who has no spouse or partner; or

(b) whose spouse or partner is also a qualifying person or special case person; or

(c) whose spouse or partner is not a qualifying person or special case person but who has elected, under clause 2, to have Threshold A apply to P rather than Threshold B.

(3) Threshold B is $164,731 and applies to every qualifying person or special case person (**P**)—

(a) whose spouse or partner is not a qualifying person or special case person; and

(b) who has not elected, under clause 2, to have Threshold A apply to P.

Schedule 2 clause 1(2): amended, on 1 July 2026, by regulation 4(1) of the Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds and Income-from-assets Exemption) Regulations 2026 (SL 2026/135).

Schedule 2 clause 1(3): amended, on 1 July 2026, by regulation 4(2) of the Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds and Income-from-assets Exemption) Regulations 2026 (SL 2026/135).

Schedule 2 clause 1(3)(b): editorial change made by the PCO, on 24 April 2026, under sections 86(1) and 87(l)(i) of the Legislation Act 2019 (2019 No 58).

2 Certain residents may elect which threshold to apply

A qualifying person or special case person (**P**) whose spouse or partner is not a qualifying person or special case person may elect to have Threshold A in clause 1 apply to P instead of having Threshold B in clause 1 apply.

3 Explanation of election

The effect of making an election under clause 2 is that the person's applicable asset threshold will increase, but the value of any interest in the residential dwelling and the car of the person's spouse or partner will be included in the calculation of the person's assets (*see* paragraphs (a) and (b) of the definition of exempt assets in Part 2).

Part 2
Means assessment as to assets

4 Definitions

For the purpose of an assets assessment conducted under section 34,—

assets, in relation to the person being means assessed, means the assets of the person and the person's spouse or partner (if any) that are capable of being realised by the person or the person's spouse or partner, and includes—

(a) the value of any right, under a contract or arrangement with any person, to be paid or repaid money on termination of a licence to occupy part of any property, building, or premises, adjusted to take into account any conditions or restrictions on that right:

(b) the value of assets that have been gifted by the person, the person's spouse or partner, or both during the prescribed gifting period immediately before the date of means assessment, but does not include any allowable gifts, or the value of any allowable gifts, prescribed by regulations made under section 74

exempt assets, in relation to the person being means assessed, means—

(a) any interest in a residential dwelling that is the principal residence of the person's spouse or partner or a dependent child of the person; but this exemption does not apply to a person who has made an election under clause 2:

(b) any interest in 1 car or similar vehicle that is for the personal use of the person's spouse or partner, but this exemption does not apply to a person who has made an election under clause 2:

(c) the value of any *ex gratia* payment by the Government of New Zealand or the Government of any other country to the person because the person or the person's spouse or partner was a prisoner of war or civilian internee of Japan during the Second World War:

(d) the value of any pre-paid funeral of the person or of the person's spouse or partner, up to a value of $10,000 (or any other amount that may be prescribed by regulations made under section 74) for each:

(e) a lump sum paid to the person under Schedule 1 of the Accident Compensation Act 2001, or a lump sum payment of an independence allowance under Part 13 of the Accident Insurance Act 1998 or Part 4 of Schedule 1 of that Act, but this exemption applies only in the first 12 months after the payment is made:

(f) any contributions to, or any member's interest in, any KiwiSaver scheme that is registered under subpart 2 of Part 4 of the Financial Markets Conduct Act 2013, except the following:

  (i) money withdrawn from a scheme of that kind:

  (ii) money that the member is entitled to withdraw from the scheme under clause 4(3) of the KiwiSaver scheme rules under the KiwiSaver Act 2006:

  (iii) money that the member has applied to withdraw and that would be a permitted withdrawal under those rules:

(g) any assets, or amount of assets, of the person or the person's spouse or partner declared by regulations made under section 74 to be exempt assets.

Part 3
Means assessment relating to income

5 Definitions

For the purpose of a person's income assessment under section 37,—

income means the following, and in every case is the income after deduction of income tax:

(a) the income of the person or the person's spouse or partner that is within the meaning of the term income as defined in Schedules 2 and 3 of the Social Security Act 2018:

(b) any benefit received by the person:

(c) 50% of any amount received by the person or by the person's spouse or partner by way of a pension that—

(i) is from any superannuation scheme, whether or not that scheme is constituted in New Zealand; and

(ii) is not New Zealand superannuation; and

(iii) is not an overseas pension (as defined in section 187 of the Social Security Act 2018):

(d) 50% of any amount received by the person or by the person's spouse or partner under an annuity paid in respect of a policy of life insurance (whether or not issued in New Zealand):

but does not include the following:

(e) the income of the person's spouse or partner that is earned by the personal effort of the spouse or partner:

(f) any clothing allowance payable to the person under regulations made under section 74:

(g) the income-from-assets exemption of the person:

(h) any amount paid by a funder in respect of the cost of contracted care services provided to the person or the person's spouse or partner:

(i) any amount or type of income, or amount of a certain type of income, specified in regulations made under section 74

income-from-assets exemption means the amount of income derived from assets each year not exceeding the following (or any other amount or amounts as may be prescribed by regulations made under section 74):

(a) $1,306, if the person is single; or

(b) $2,612, if the person's spouse or partner is a resident assessed as requiring care; or

(c) $3,918, if the person's spouse or partner is not a resident assessed as requiring care.

Schedule 2 clause 5 **income-from-assets exemption** paragraph (a): amended, on 1 July 2026, by regulation 4(3)(a) of the Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds and Income-from-assets Exemption) Regulations 2026 (SL 2026/135).

Schedule 2 clause 5 **income-from-assets exemption** paragraph (b): amended, on 1 July 2026, by regulation 4(3)(b) of the Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds and Income-from-assets Exemption) Regulations 2026 (SL 2026/135).

Schedule 2 clause 5 **income-from-assets exemption** paragraph (c): amended, on 1 July 2026, by regulation 4(3)(c) of the Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds and Income-from-assets Exemption) Regulations 2026 (SL 2026/135).

6 Annual income

For the purposes of a means assessment as to income, a person's annual income is the person's estimated income (as defined in clause 5) for the period of 52 weeks commencing on the date of means assessment.

7 Weekly income

A person's weekly income is the person's annual income divided by 52.

8 Weekly contribution

The weekly contribution payable by a person whose income is assessed is the person's weekly income less the personal allowance (as defined in section 24(2)).

Schedule 3
Means assessment for home-based disability support services

ss 60, 61

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1 Specified outgoings defined

In this schedule, **specified outgoings**, in relation to a person, means the annual total of—

(a) the maximum rate for the time being of a supported living payment that would be payable to the person if the person was qualified to receive a benefit of that kind:

(b) an amount of $10 per week (for the purpose of paying costs incidental to the provision of home help):

(c) the following employment-related expenses of the person and the person's spouse or partner, calculated on an annual basis:

(i) fees or subscriptions payable on an annual or regular basis to any union:

(ii) contributions to any superannuation scheme:

(iii) contributions to any employee welfare fund:

(iv) any other essential costs of that employment (not including travel to and from work) to the extent that they are not reimbursed by the employer:

(d) the person's accommodation costs (as defined in section 65AAA of the Social Security Act 2018 for the purposes of subpart 10 of Part 2 and Part 7 of Schedule 4 of that Act (accommodation supplement)):

(e) the person's telephone rental (being the standard line charge and base user charge including hire of a basic telephone applicable to a person living in the place where the person lives), calculated on an annual basis:

(f) the cost of the person's ongoing and regular medical and pharmaceutical expenses, calculated on an annual basis:

(g) the cost of the person's regular essential expenses (being expenses other than the cost of food, clothing, travel, running a motor vehicle, life insurance, house and contents insurance, hire purchase, entertainment, and personal savings), calculated on an annual basis.

Schedule 3 clause 1(d): amended, on 2 March 2026, by section 18 of the Social Assistance Legislation (Accommodation Supplement and Income-related Rent) Amendment Act 2025 (2025 No 27).

2 Calculation

MSD must calculate the amount of the person's annual income and specified outgoings, and must deduct the amount of the specified outgoings from the annual income.

3 If result is $0 or less than $0

If the result of the calculation specified in clause 2 is $0 or less than $0, MSD must assess the amount the person is required to contribute towards the cost of the home-based disability support services supplied to that person as $0.

4 If result is greater than $0 but less than total cost of services supplied

If the result of the calculation specified in clause 2 is greater than $0 but less than the total cost of the home-based disability support services supplied to the person, MSD must assess that result as the amount the person is required to contribute towards the cost of those services.

5 If result is equal to or greater than total cost of services supplied

If the result of the calculation specified in clause 2 is equal to or greater than the total cost of the home-based disability support services supplied to the person, MSD must assess the amount the person is required to contribute towards the cost of those services as the total cost of those services.

6 Conversion to weekly amount

MSD must convert an assessment made under clauses 3 to 5 to a weekly amount.

Notes

1 General

This is a consolidation of the Residential Care and Disability Support Services Act 2018 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Healthy Futures (Pae Ora) Amendment Act 2026 (2026 No 40): section 41(1)

Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds and Income-from-assets Exemption) Regulations 2026 (SL 2026/135)

Social Assistance Legislation (Accommodation Supplement and Income-related Rent) Amendment Act 2025 (2025 No 27): sections 17, 18

Data and Statistics Act 2022 (2022 No 39): section 107(1)

Pae Ora (Healthy Futures) Act 2022 (2022 No 30)

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

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