



ANALYSIS

Title	
1. Short Title and commencement	
2. Existing benefits exempted	
3. Investigation of claims and grant of benefits	
4. Right of appeal	
5. Domestic purposes benefits for solo parents	
6. Special provisions as to maintenance	
7. New heading and sections (relating to payment of costs of certain domestic purposes benefits) inserted in principal Act	
<i>Contribution Towards Cost of Domestic Purposes Benefits For Solo Parents</i>	
27i. Interpretation	27q. Procedure to be followed where objection received
27j. Maintenance order or agreement suspended while benefit is paid	27r. Hearing of objection by Court
27k. Liable parent to contribute towards cost of benefit and child supplement	27s. Findings of Court
27l. Commission to give liable parent notice of grant of benefit	27t. Appeal from decisions of Courts
27m. Liable parent to notify Commission of gross earnings, etc.	27u. Proceedings not open to public
27n. Commission to assess contribution and notify liable parent	27v. Restriction of publication of reports
27o. Notice of objection	27w. Costs
27p. Grounds on which objection may be made	27x. Recovery of unpaid contributions
	27y. Deduction notices
	27z. Effect of deduction notices
	27za. Liability of employer
	27zb. Protected earnings
	27zc. Variation or discharge of deduction notice
	27zd. Transaction fee
	27ze. Wrongful treatment of employee
	27zf. Extent to which deduction notices bind the Crown
	27zg. Relief in cases of serious hardship
	27zh. Review of contributions
	27zi. Service of notices, etc., by Commission
	8. Special provisions in respect of child supplements
	9. Special provisions in respect of inadequate maintenance
	10. New Twentieth Schedule added to principal Act Schedule

1980, No. 157

An Act to amend the Social Security Act 1964

[21 January 1981]

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

1. Short Title and commencement—(1) This Act may be cited as the Social Security Amendment Act 1980, and shall be read together with and deemed part of the Social Security Act 1964 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

2. Existing benefits exempted—Nothing in this Act shall apply in respect of any benefit that was being paid to any person pursuant to section 27B of the principal Act immediately before the commencement of this Act; and in respect of every such benefit the Commission shall continue to apply the relevant provisions of the principal Act as if this Act had not been passed.

3. Investigation of claims and grant of benefits—Section 12 (2) of the principal Act is hereby amended by inserting, after the words “or any person who is or has been in receipt of a benefit” (as inserted by section 3 (2) (b) of the Social Security Amendment Act 1979), the words “or any person who is a ‘liable parent’ within the meaning of section 27I of this Act”.

4. Right of appeal—Section 12J of the principal Act (as inserted by section 4 (1) of the Social Security Amendment Act 1973) is hereby amended by repealing paragraph (a) of subsection (1), and substituting the following paragraph:

“(a) Any of the provisions of Part I of this Act, except sections 27I to 27ZF and sections 27ZH and 27ZI.”

5. Domestic purposes benefits for solo parents—(1) Section 27B of the principal Act (as inserted by section 6 (1) of the Social Security Amendment Act 1973) is hereby amended by repealing paragraph (c) of subsection (2) (as added by section 5 (2) of the Social Security Amendment Act (No. 2) 1977), and substituting the following paragraph:

“(c) The father or (as the case may require) the mother of each dependent child in the care of the applicant has been identified in law:

“Provided that, where a beneficiary who is already receiving a benefit under this section has or takes into her or his care another dependent child, the Commission may, in its discretion, continue to pay the benefit to the beneficiary notwithstanding that the other parent of that child has not been identified in law.”

(2) Section 5 (2) of the Social Security Amendment Act (No. 2) 1977 is hereby consequentially repealed.

6. Special provisions as to maintenance—(1) Section 27F of the principal Act (as inserted by section 6 (1) of the Social Security Amendment Act 1973) is hereby amended by omitting from the definition of the term “benefit” in subsection (1) the words “section 27B or”.

(2) The said section 27F is hereby further amended by omitting from subsection (3) (as amended by section 4 (2) of the Social Security Amendment Act 1974) the words “any benefit”, and substituting the words “a benefit”.

7. New heading and sections (relating to payment of costs of certain domestic purposes benefits) inserted in principal Act—The principal Act is hereby amended by inserting, after section 27H (as inserted by section 6 (1) of the Social Security Amendment Act 1973), the following heading and sections:

“Contribution Towards Cost of Domestic Purposes Benefits For Solo Parents

“**27I. Interpretation—**(1) In sections 27J to 27ZI of this Act, and the Twentieth Schedule to this Act, unless the context otherwise requires,—

“‘Benefit’ means a domestic purposes benefit granted under section 27B of this Act; and includes any child supplement paid to the beneficiary; and ‘beneficiary’ has a corresponding meaning:

“‘Child supplement’ means an additional benefit paid under section 61A of this Act in respect of a dependent child:

“‘Contribution’, in relation to a liable parent, means the contribution, calculated in accordance with section 27N of this Act and the Twentieth Schedule to this Act, that the liable parent is required to pay towards the cost of a benefit:

- “ ‘Court’, in relation to an objection to an assessment, means the District Court nearest to the objector’s place of residence:
- “ ‘Dependent child’, in relation to a beneficiary, means a dependent child who is being cared for by the beneficiary:
- “ ‘Gross earnings’, in relation to a liable parent, means the amount of income received in respect of the last completed income year by the liable parent on which the liable parent has paid or is required to pay income tax or, as the case may require, the amount of income that the liable parent is likely to receive in the current income year on which he will be required to pay income tax, determined in accordance with section 27M of this Act:
- “ ‘Liable parent’, in relation to the dependent child of a beneficiary, means every person (other than the beneficiary) who is liable in law to maintain the dependent child, whether or not that person is also liable in law to maintain the beneficiary:
- “ ‘Notice of the required contribution’ means a notice given under section 27N (2) of this Act:
- “ ‘Salary’ or ‘wages’, for the purposes of sections 27Y to 27ZF of this Act, includes a retiring allowance or pension or other payment of a like nature.
- “(2) Where it is necessary, for the purposes of any of sections 27J to 27ZI of this Act and the Twentieth Schedule to this Act, to prove that a man is the father of a child, that man shall not be held to be the father of that child unless—
- “(a) He is married to the mother of the child, or was married to her at the time of the child’s conception or birth; or
- “(b) He has adopted the child under the Adoption Act 1955 or under an adoption to which section 17 of that Act applies; or
- “(c) A Court has declared him to be the father of the child; or
- “(d) A Court has appointed him to be a guardian of the child, or has declared him to be a guardian of the child, by reason of being a parent of the child; or
- “(e) A Court has, before or at the time of making a maintenance order against him, made a paternity order against him; or

- “(f) His name has at any time been entered pursuant to the Births and Deaths Registration Act 1951 in the Register of Births as the father of the child; or
- “(g) He has been declared to be the father of the child by an order made in a country outside New Zealand (being an order to which this subsection applies pursuant to subsection (3) of this section); or
- “(h) He has, in any proceedings before the Court, or in writing signed by him, acknowledged that he is the father of the child.
- “(3) The Governor-General may from time to time, by Order in Council, declare that subsection (2) of this section applies to orders made by a specified Court or public authority in a specified country outside New Zealand.
- “(4) For the purposes of subsection (3) of this section, the Cook Islands, Niue, and Tokelau shall be deemed to be countries outside New Zealand.

“27J. Maintenance order or agreement suspended while benefit is paid—(1) Notwithstanding anything in the Matrimonial Proceedings Act 1963 or the Domestic Proceedings Act 1968 or any other enactment, any maintenance order or registered maintenance agreement that provides for the maintenance of a beneficiary and any child in the care of the beneficiary, shall be suspended and unenforceable during the period commencing with the date from which a benefit is granted to the beneficiary and ending with the date from which the benefit is cancelled, and no liability for, or rights to, maintenance under that order or agreement shall enure during any such period.

“(2) In every case to which subsection (1) of this section applies, every attachment order, charging order, or other order, every notice, and all proceedings, relating to the enforcement of maintenance under the maintenance order or registered maintenance agreement shall be suspended during the period when a benefit is being paid to the beneficiary.

“(3) Where, by virtue of subsection (2) of this section, any order, notice, or proceedings is or are suspended on the grant of a benefit to the beneficiary, the Commission shall, so far as practicable, notify every person who is affected by the order or notice or is a party to the proceedings.

“(4) Nothing in subsection (1) of this section shall prevent a maintenance order being made while a benefit is being paid.

“(5) Where an application for a maintenance order is made while a benefit is being paid to the applicant, the amount of maintenance to be awarded shall be determined without regard to the fact that the person liable to pay the maintenance is paying or is liable to pay a contribution towards the cost of the benefit under section 27K of this Act.

“27K. **Liable parent to contribute towards cost of benefit and child supplement**—(1) Every liable parent shall contribute towards the cost of the benefit an amount calculated in accordance with the provisions of section 27N of this Act and the Twentieth Schedule to this Act.

“(2) Except as otherwise provided in any order of the Court made under section 27O (2) or section 27S of this Act, the liability under subsection (1) of this section shall commence on the 28th day after the date on which the Commission gives to the liable parent a notice of the required contribution or, in the case of a liable parent whose whereabouts are unknown, after the date on which the Commission calculates the contribution; and shall be made by such periodic payments as the Commission shall direct.

“(3) Where a benefit ceases to be paid to the beneficiary, the liable parent’s liability under this section shall also cease, but without prejudice to the liable parent’s liability in respect of any payment due before the date on which the benefit ceases to be paid.

“(4) If the liable parent dies, the liability imposed on the liable parent by this section shall cease as from the date of death, but without prejudice to the liable parent’s liability in respect of any payment due before that date.

“27L. **Commission to give liable parent notice of grant of benefit**—(1) As soon as practicable after granting a benefit, the Commission shall give to each liable parent of a dependent child of the beneficiary notice of the grant in the prescribed form.

“(2) The notice shall contain the following information:

“(a) The name of the beneficiary:

“(b) The name of each dependent child of the beneficiary in respect of whom the recipient of the notice is the liable parent, and the date of birth of each such child:

“(c) A statement advising the liable parent of the liability imposed on the liable parent by section 27K of this Act.

“(3) In addition, the notice shall contain a requirement that the liable parent shall supply to the Commission the information referred to in section 27M of this Act.

“(4) No notice under this section shall be required if, after taking all reasonable steps, the Commission has been unable to ascertain the whereabouts of the liable parent.

“27M. **Liable parent to notify Commission of gross earnings, etc.**—(1) Within 1 month after receiving a notice under section 27L of this Act, or such longer period as the Commission may allow, the liable parent shall lodge with the office of the Department specified in the notice a statement of the liable parent’s gross earnings for the last completed income year, together with such other information specified in the notice as the Commission may reasonably require for the purposes of calculating the contribution to be paid by the liable parent.

“(2) Notwithstanding subsection (1) of this section, the liable parent may supply to the Commission, instead of a statement of gross earnings, a certificate issued by the Commissioner of Inland Revenue of the liable parent’s assessable income as determined by the Commissioner for the last completed income year under and for the purposes of the Income Tax Act 1976; and, in any such case, the amount shown in that certificate as the liable parent’s assessable income for the last completed income year shall be deemed for the purposes of calculating the contribution to be the liable parent’s gross earnings for that year.

“(3) Notwithstanding subsection (1) or subsection (2) of this section, where the liable parent is a salary or wage worker, the Commission may, on the application of the liable parent within the period referred to in subsection (1) of this section or such longer period as the Commission may allow, determine the gross earnings of the liable parent on the basis of the liable parent’s then current salary or wages.

“(4) The liable parent shall supply to the Commission in support of an application under subsection (3) of this section sufficient particulars to enable the Commission to determine the liable parent’s likely gross earnings for the then current income year.

“(5) Except in a case to which subsection (2) or subsections (3) and (4) of this section applies, if the liable parent cannot or does not comply with subsection (1) of this section, or if the liable parent’s whereabouts are unknown, the Commission shall determine, as best it can on the information available to it, the likely gross earnings of the liable parent for the then current income year; and that determination shall be deemed for the purposes of calculating the contribution to be correct unless the contrary is proved.

“27N. **Commission to assess contribution and notify liable parent**—(1) Having determined the liable parent’s gross earnings, the Commission shall calculate the contribution to be paid by the liable parent in accordance with the provisions of the Twentieth Schedule to this Act.

“(2) When it has calculated the contribution to be paid by the liable parent, the Commission shall give to the liable parent notice of the required contribution in the prescribed form, stating the amount of the contribution and the manner in which that amount has been calculated, and advising the liable parent of the right to object conferred by section 27P of this Act, and of the requirements of section 27O of this Act relating to the exercise of that right.

“27O. **Notice of objection**—(1) If the liable parent wishes to object to the contribution, the liable parent shall give written notice of objection to the Commission at the office of the Department nearest to the liable parent’s place of residence, and shall state the ground or grounds of objection (being a ground or the grounds specified in section 27P of this Act).

“(2) Where the liable parent has lodged a notice of objection under subsection (1) of this section but the objection has not been finally determined, the liable parent may apply to the Court for an order that the liability imposed on the liable parent by section 27K of this Act be suspended, in whole or in part, pending the final determination of the objection, and the Court may make such order (if any) as it thinks just.

“(3) An application under subsection (2) of this section may be made and dealt with *ex parte*, if the Court is satisfied that the delay that would result if service on the Commission were required would cause hardship to the liable parent.

“27P. Grounds on which objection may be made—An objection to a contribution may be made on any or all of the following grounds, but on no other ground:

- “(a) That the objector is not liable in law to maintain a dependent child of the beneficiary named in the notice of the required contribution:
- “(b) That, in respect of any such child, the contribution should be reviewed because—
 - “(i) Some other person (not being the beneficiary) is also liable in law to contribute to the maintenance of that child; or
 - “(ii) That child is not the child of the liable parent by birth or adoption; or
 - “(iii) The liable parent has already provided for the maintenance of that child, whether by way of settlement of property, lump sum maintenance, or otherwise; or
 - “(iv) Of any other matter that could be taken into account on an application under the Matrimonial Proceedings Act 1963 or the Domestic Proceedings Act 1968 for the payment of maintenance by the liable parent in respect of that child:
- “(c) That the amount taken by the Commission, for the purposes of calculating the contribution, to be the liable parent’s gross earnings is incorrect:
 - “Provided that no objection may be made under this paragraph where the amount taken by the Commission to be the liable parent’s gross earnings during the relevant period is the amount stated to be the amount of the liable parent’s assessable income in respect of that period in a certificate issued by the Commissioner of Inland Revenue and supplied to the Commission by the liable parent under section 27M (2) of this Act:
- “(d) That the contribution has been calculated under the wrong paragraph of clause 2 of the Twentieth Schedule to this Act:
- “(e) That the amount of the contribution, although calculated under the right paragraph of that clause, has not been correctly calculated in accordance with the provisions of that paragraph:
- “(f) That the provisions of clause 3 or clause 4 or clause 5 of the Twentieth Schedule to this Act should have

been applied in the calculation of the contribution but have not been so applied, or have been so applied incorrectly.

“27Q. Procedure to be followed where objection received— Within 14 days after receiving a notice of objection, the Commission shall—

- “(a) Reconsider the case; and
- “(b) Advise the objector of its decision; and
- “(c) If it decides not to allow the objection in full, file the notice of objection in the Court, together with a copy of the notice of the required contribution to which it relates.

“27R. Hearing of objection by Court—(1) Subject to the succeeding provisions of this section, every objection filed in the Court under section 27Q of this Act shall be heard and determined in accordance with rules of Court.

“(2) The Registrar of the Court shall set the objection down for hearing as soon as practicable after the notice of objection has been filed in the Court, and shall give notice of the date and time of the hearing to the liable parent and to the Director or District Agent of the office of the Department by whom the notice of objection was filed in the Court.

“(3) The liable parent, and the Commission acting through any officer of the Department, shall be entitled to appear and be heard, whether personally or by counsel, at the hearing of the objection, and to call and cross-examine witnesses.

“(4) Where the notice of objection does not specify all of the grounds set out in section 27P of this Act, the liable parent shall not be entitled to plead, or to adduce evidence in support of, any ground of objection not so specified, without the leave of the Court.

“(5) In all proceedings to which this section applies,—

“(a) It shall be for the Commission to adduce sufficient evidence to establish, in the absence of proof to the contrary, that the objector is liable in law to maintain each dependent child named in the notice of the required contribution:

“(b) Subject to paragraph (a) of this subsection, it shall be for the objector to satisfy the Court that the objection should be upheld.

“(6) Notwithstanding any rule of law to the contrary, the beneficiary shall be a compellable witness for the Commission against the liable parent, and for the liable parent against the Commission; and it shall be deemed to be a condition of the continued grant of the benefit that the beneficiary shall attend the hearing and give in evidence all information that may be required of the beneficiary during the hearing.

“27s. **Findings of Court**—(1) If, after hearing an objection on the ground set out in section 27P (a) of this Act, the Court is not satisfied that the objector is liable in law to maintain the child to whom the objection relates, the Court, by order, shall direct the Commission to review the contribution on the basis that the objector is not liable in law to maintain that child.

“(2) If, after hearing an objection on any of the grounds set out in section 27P (b) of this Act, the Court is satisfied that the contribution should be reviewed, the Court shall determine the degree (if any), expressed as a percentage, to which the objector is liable in law to maintain the child to whom the objection relates, and shall, by order, direct the Commission to review the contribution on the basis that the objector is liable in law to maintain that child only to the degree specified in the order or, as the case may require, that the objector is not liable in law to maintain that child.

“(3) If, after hearing an objection on the ground set out in section 27P (c) of this Act, the Court is satisfied that the amount taken by the Commission, for the purposes of calculating the contribution, to be the liable parent’s gross earnings is incorrect, it shall determine the correct amount, and shall, by order, direct the Commission to review the contribution on the basis that the liable parent’s gross earnings for the relevant period was the amount specified in the order.

“(4) If, after hearing an objection on the ground set out in section 27P (d) of this Act, the Court is satisfied that the contribution has been calculated under the wrong paragraph of clause 2 of the Twentieth Schedule to this Act, it shall determine which paragraph of that clause the contribution should have been calculated under, and shall, by order, direct the Commission to review the contribution on the basis that it is to be calculated under the paragraph specified in the order.

“(5) If, after hearing an objection on the ground set out in section 27P (e) of this Act, the Court is satisfied that the contribution has not been correctly calculated in accordance with the right paragraph of clause 2 of the Twentieth Schedule to this Act, it shall determine the manner in which the contribution is to be calculated in accordance with that paragraph, and shall, by order, direct the Commission to review the contribution on the basis that it is to be calculated in accordance with the relevant paragraph in the manner specified in the order.

“(6) If, after hearing an objection on the ground set out in section 27P (f) of this Act, the Court is satisfied that the provisions of clause 3 or clause 4 or clause 5 of the Twentieth Schedule to this Act should have been applied in the calculation of the contribution but were not so applied, or were applied incorrectly, it shall, by order, direct the Commission to review the contribution on the basis that the clause of that Schedule specified in the order is to be applied, or (as the case may require) is to be applied in the manner specified in the order, in the calculation of the contribution.

“(7) The Commission shall, within 7 days after the Court has made an order under this section,—

- “(a) Review the contribution in accordance with the terms of the order; and
- “(b) Cancel, vary, or confirm the contribution as may be necessary; and
- “(c) Advise the objector in writing of the result of the review.

“27T. **Appeal from decisions of Courts**—(1) If the liable parent is dissatisfied with the decision of the Court under section 27s of this Act, the liable parent may, within 28 days after the making of the decision, or within such further time as the Court may allow in accordance with section 73 (1) of the District Courts Act 1947, appeal to the High Court in accordance with Part V of that Act (except section 71), and that Part shall apply accordingly with any necessary modifications.

“(2) The Court appealed from may, on the *ex parte* application of the liable parent, order that security under section 73 (2) of the District Courts Act 1947 shall not be required to be given under that section.

“(3) The Commission may, within 28 days after the making of a decision by the Court under section 27s of this

Act, or within such further time as the Court may allow in accordance with section 73 (1) of the District Courts Act 1947, appeal to the High Court on a question of law.

“(4) A party to any appeal under subsection (1) or subsection (3) of this section may, with the leave of the Court of Appeal, appeal to the Court of Appeal against any determination of the High Court on a question of law arising in an appeal under that subsection.

“(5) On an appeal to the Court of Appeal under this section, the Court of Appeal shall have the same power to adjudicate on the proceedings as the High Court had.

“(6) The decision of the Court of Appeal on an appeal to that Court under this section, and on an application to it under this section for leave to appeal, shall be final.

“(7) Subject to subsections (4) to (6) of this section, the decision of the High Court on an appeal to that Court under this section shall be final.

“(8) Except where the Court making the order appealed from otherwise directs, the operation of an order shall not be suspended by an appeal under this section, and every such order shall have effect in the same manner in all respects as if no appeal under this section were pending.

“27U. **Proceedings not open to public**—(1) No person shall be present during the hearing of any proceedings under section 27R or section 27T of this Act except—

“(a) Officers of the Court:

“(b) Parties to the proceedings and their barristers and solicitors:

“(c) Witnesses:

“(d) Any other person whom the Judge permits to be present.

“(2) Any witness shall leave the courtroom if asked to do so by the Judge.

“(3) Nothing in this section shall limit any other power of the Court to hear proceedings in private or to exclude any person from the courtroom.

“27V. **Restriction of publication of reports**—(1) No person shall publish any report of proceedings under section 27R or section 27T of this Act, except with the leave of the Court that heard the proceedings.

“(2) Every person who contravenes subsection (1) of this section commits an offence against this Act and is liable on summary conviction—

- “(a) In the case of an individual, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding \$500:
- “(b) In the case of a body corporate, to a fine not exceeding \$2,500.
- “(3) Nothing in this section shall limit—
- “(a) The provisions of any other enactment relating to the prohibition or regulation of the publication of reports or particulars relating to judicial proceedings; or
- “(b) The power of any Court to punish any contempt of Court.
- “(4) Nothing in this section shall apply to the publication of any report in any publication that—
- “(a) Is of a bona fide professional or technical nature; and
- “(b) Is intended for circulation among members of the legal profession, officers of the Public Service, advisers in the sphere of marriage counselling, or social welfare workers.

“27w. **Costs**—In any proceedings under section 27R or section 27T of this Act the Court may make such order as to costs as it thinks fit.

“27x. **Recovery of unpaid contributions**—(1) Where any payment in respect of a contribution is due but unpaid, it may be recovered from the liable parent as a debt due to the Crown at the suit of any member of the Commission.

“(2) Without limiting subsection (1) of this section, where any such payment is due but unpaid, the Commission may make such deduction as it thinks just in all the circumstances from any instalment of any benefit to which the liable parent is or may become entitled under this Act.

“27y. **Deduction notices**—(1) Where a liable parent—

“(a) Consents in writing to the issue of a deduction notice; or

“(b) Refuses or fails to make payment of any money payable by way of a contribution, so that payments for a total period of at least 14 days remain in arrear and unpaid,—

the Commission may issue a deduction notice against the employer of the liable parent.

“(2) A deduction notice shall take effect when it is served on the employer in accordance with section 27zi of this Act.

“(3) A copy of every deduction notice issued under this section in respect of a liable parent, and a copy of the revocation of any such notice, shall be given to the liable parent by the Commission.

“(4) A deduction notice shall inform the liable parent and the employer against whom the notice is issued of the rights conferred by section 27zc of this Act.

“(5) A deduction notice shall remain in force until it is—

“(a) Discharged under section 27zc of this Act; or

“(b) Revoked by the Commission.

“(6) Nothing in section 97 of the Shipping and Seamen Act 1952 shall apply to a deduction notice.

“27z. **Effect of deduction notices**—(1) A deduction notice issued under section 27N of this Act against an employer shall direct that an amount, not exceeding the contribution required to be paid per week, shall be a charge on the net amount of any salary or wages that, while the notice remains in force, become due and payable from time to time by the employer to the liable parent.

“(2) Notwithstanding subsection (1) of this section, where the liable parent is in arrears, a deduction notice may, for the purpose of recovering those arrears, specify, as the amount to be deducted under that notice, an amount that is greater, by not more than 5 percent, than the maximum amount that could otherwise be specified under subsection (1) of this section.

“(3) The charge so created shall—

“(a) Accrue from week to week, and on such day of the week as is specified in the deduction notice; and

“(b) Attach to all salary or wages that become due by the employer to the liable parent at any time while the deduction notice is in force, whether or not the contract of employment in respect of which the salary or wages so become due existed at the date of the deduction notice; and

“(c) Prevail over and have priority to any assignment made or charge created by the liable parent (whether before or after the making of the deduction notice against the liable parent), and so that the deduction notice shall have the same effect as if no such assignment or charge had been made or created.

“27ZA. **Liability of employer**—(1) Notwithstanding section 4 of the Wages Protection Act 1964, but subject to section

27zB of this Act, as long as a deduction notice remains in force, the employer against whom it is issued shall from time to time, whenever any money becomes due and payable by the employer to the liable parent by way of salary or wages,—

“(a) Deduct from that money such sum as is sufficient to satisfy the charge on the money so far as the same has accrued before the day on which the salary or wages become due and payable; and

“(b) Not later than the 20th day of the month next after the month in which the deduction is made, pay the amount so deducted to the Commission at any office of the Department of Social Welfare.

“(2) All sums so deducted and paid shall be deemed, to the extent to which they are so deducted and paid, to have been paid by the employer in satisfaction of the salary or wages payable by the employer to the liable parent.

“(3) All sums so deducted shall be deemed to have been paid by the liable parent in satisfaction of the liable parent’s liability under section 27k of this Act.

“(4) The employer, in making any deduction or payment in pursuance of the deduction notice and in accordance with the terms of the notice, shall not be concerned to inquire whether any money is due and payable under section 27k of this Act, and shall not be affected by any notice to the contrary.

“(5) Where a liable parent in respect of whom a deduction notice is in force leaves or is dismissed from the employment of the employer, the employer shall, within 7 days, notify the Commission.

“(6) Where the employer makes default in the payment of any money in satisfaction of any such charge, that money shall become a debt due by the employer to the Crown, and may be recovered at the suit of any member of the Commission in any Court of competent jurisdiction, or may be recovered from the employer under the provisions of section 86 (1) of this Act as if that money was an instalment of benefit received by the employer to which he was not entitled.

“(7) Every employer commits an offence and is liable on summary conviction to a fine not exceeding \$200 who fails without reasonable excuse to comply with paragraph (a) or paragraph (b) of subsection (1) of this section.

“27zB. Protected earnings—(1) Notwithstanding anything in sections 27z and 27zA of this Act, the employer shall not in making deductions under a deduction notice reduce the

amount paid to the liable parent by way of salary or wages in respect of any week to an amount that is less than 60 percent of the amount calculated as being the liable parent's net ordinary pay for a week.

“(2) For the purposes of this section the liable parent's net ordinary pay for a week is the balance left after deducting from the liable parent's 'ordinary pay' (as defined in section 2 of the Annual Holidays Act 1944) for a week the tax deductions that would be required to be made in accordance with Part XI of the Income Tax Act 1976 if that ordinary pay were the only salary or wages paid to the liable parent by the employer in respect of a week.

“27zc. **Variation or discharge of deduction notice**—(1) If an employer of a liable parent considers that a deduction notice has been issued in error, or contains an error, the employer or the liable parent may bring the matter to the notice of any office of the Department of Social Welfare.

“(2) If the matter is not rectified to the satisfaction of the employer or the liable parent, as the case may require, within 7 days of the day on which the employer or the liable parent brings the matter to the notice of an office of the Department of Social Welfare, the employer or the liable parent may apply *ex parte* to the Registrar of a District Court for variation or discharge of the notice.

“(3) Where the Registrar is satisfied that an error has been made and the notice ought to be varied or discharged, the Registrar may vary or discharge the notice.

“(4) The variation or discharge shall take effect when notice of it is served on the employer in accordance with section 27zi of this Act.

“(5) The Registrar shall forthwith send a copy of the variation or discharge of the notice by registered letter to the office of the Department of Social Welfare from which the notice was issued.

“27zd. **Transaction fee**—Where an employer makes a deduction from wages or salary in order to comply with the terms of a deduction notice, a transaction fee of 50 cents may, in respect of each occasion on which such a deduction is made, be paid to the employer from the Consolidated Account out of money appropriated for the purpose by Parliament.

“27ze. **Wrongful treatment of employee**—(1) Every employer commits an offence and is liable on summary conviction to a fine not exceeding \$500 who dismisses any employee

or alters any employee's position in the employer's business or undertaking to the employee's prejudice by reason of a deduction notice having been served on the employer.

“(2) In any prosecution for an offence against subsection (1) of this section in which it is proved that the employer, within 6 months after the serving on the employer of a deduction notice in respect of any employee, dismissed the employee or altered the employee's position in the employer's business or undertaking to the employee's prejudice, it shall be deemed to be proved that the action was taken by reason of the notice having been served on the employer unless the employer proves to the contrary.

“27ZF. Extent to which deduction notices bind the Crown—(1) In this section—

“ ‘Employing department’ means—

“(a) A department of State in which a person is employed; and

“(b) In relation to a person to whom any retiring allowance or pension or other payment of a similar nature is payable out of the Government Superannuation Fund or the National Provident Fund, the Treasury:

“ ‘Servant of the Crown’ means a person in the service of Her Majesty in respect of the Government of New Zealand; and includes a person in temporary or casual service but does not include a person in honorary service; and also includes any person serving in any of the New Zealand Armed Forces; and also includes a person to whom any retiring allowance or pension or other payment of a similar nature is payable out of the Government Superannuation Fund or the National Provident Fund.

“(2) Sections 27Y to 27ZE of this Act shall bind the Crown to the extent of and subject to subsection (3) of this section.

“(3) Where a liable parent is a servant of the Crown, a deduction notice may be issued to the Crown as employer, and—

“(a) The employing department shall be named in the notice as the employer; and

“(b) Service of the notice shall be effected on the permanent head of the employing department, and also on any officer of the Crown (described by

the name of the office, the name of the department, and the place where the officer is stationed) specified in the notice; and

- “(c) Service of the notice shall be effected in the manner specified in section 27zi of this Act, and, where service is effected by registered post, it shall be sufficient if the letter is addressed to the person to be served by that person’s official title or any sufficient description without that person’s personal name.

“27zg. **Relief in cases of serious hardship**—In any case where it is shown to the satisfaction of the Commission—

- “(a) That any liable parent is in such circumstances that the exaction of the full amount of the contribution has entailed or would entail serious hardship; or

- “(b) That, owing to the death of a liable parent, the dependants of the liable parent are in such circumstances that the exaction of the full amount of the contribution owing at the liable parent’s death has entailed or would entail serious hardship,—

the Commission may, subject to this section, release the liable parent or the executor or administrator of the deceased liable parent (as the case may be) wholly or in part from the liability, and may make such alterations in the contribution as are necessary for that purpose; and may, if the contribution as previously calculated or any part of the contribution has been already paid, refund any amount paid in excess of the contribution as altered under this section.

“27zh. **Review of contributions**—(1) The Commission shall from time to time review every contribution.

“(2) A liable parent may at any time apply to the Commission for a review of a contribution on either of the following grounds:

- “(a) That, since the contribution was calculated, there has been a change of circumstances:

- “(b) That evidence that was not considered when the contribution was calculated would justify a different contribution.

“(3) On an application under subsection (2) of this section, the Commission shall review the contribution and notify the liable parent of its decision within 14 days after it receives the application for review.

“(4) Where, on any review under this section,—

“(a) The circumstances are found to have changed, the revised contribution shall be backdated to the date on which that change may reasonably be held to have occurred, as determined by the Commission or (in the case of an objection) by the Court; or

“(b) The Commission is satisfied, having regard to any evidence referred to in subsection (2) (b) of this section, that the contribution should be revised, the revised contribution shall be backdated to the date from which the original contribution was payable.

“(5) Sections 27L to 27ZF of this Act, so far as they are applicable and with the necessary modifications, shall apply in respect of a review of a contribution as if it were an original calculation.

“27ZI. **Service of notices, etc., by Commission**—(1) Every notice of the grant of a benefit, or of the required contribution, or of the decision of the Commission in respect of any reconsideration or review of a contribution, and every copy of a deduction notice or revocation of such a notice, shall be given to or served on the liable parent either personally or by leaving it at the liable parent’s place of residence or business, or by sending it by registered letter addressed to the liable parent at the liable parent’s place of residence or business.

“(2) Every copy of a deduction notice or revocation of such a notice shall be given to or served on the employer either personally or by leaving it at his place of business, or by sending it by registered letter addressed to the employer at his place of business.

“(3) Where service of a document to which subsection (1) or subsection (2) of this section applies is effected by registered letter, then, in the absence of proof to the contrary, the document shall be deemed to have been served when it would have been delivered in the ordinary course of post, and in proving service it shall be sufficient to prove that the letter was properly addressed and posted.”

8. Special provisions in respect of child supplements—Section 61B of the principal Act (as substituted by section 8 (1) of the Social Security Amendment Act 1979) is hereby

amended by inserting in subsection (1), after the words "applicant for a benefit", the words ", other than an applicant for a benefit under section 27B of this Act,".

9. Special provisions in respect of inadequate maintenance—(1) The principal Act is hereby amended by adding to section 61c (as inserted by section 9 (1) of the Social Security Amendment Act 1973) the following subsection:

"(3) For the purposes of this section the term beneficiary does not include a beneficiary granted a benefit under section 27B of this Act."

10. New Twentieth Schedule added to principal Act—The principal Act is hereby amended by adding the Twentieth Schedule set out in the Schedule to this Act.

SCHEDULE

Section 10

NEW TWENTIETH SCHEDULE TO PRINCIPAL ACT

"TWENTIETH SCHEDULE

Section 27N (1)

"RATES OF CONTRIBUTIONS BY LIABLE PARENTS TO COST
OF DOMESTIC PURPOSES BENEFIT

1. In this Schedule, unless the context otherwise requires,—

"Outgoings", in relation to a dwellinghouse owned by the liable parent, means the aggregate weekly sum that, at the time of calculating the contribution, the liable parent is obliged to pay in respect of the dwellinghouse by way of—

(a) Mortgage payments (whether in respect of principal or interest); and

(b) Rates; and

(c) Insurance premiums:

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

"Weekly income", in relation to a liable parent, means the liable parent's gross earnings divided by 52, or, in the case of income derived from employment (including self-employment), by the number of weeks in which the liable parent derived that income during the income year, whichever is the lesser.

2. The weekly contribution required of a liable parent shall be the least of the following amounts:

(a) In respect of each of the beneficiary's dependent children whom the liable parent is liable in law to maintain, the sum of \$20, plus a further sum of \$20 where one or more of those children is or are under the age of 5 years; or

(b) The weekly amount of benefit payable to the beneficiary; or

(c) The amount of the liable parent's weekly income after deduction of the following:

(i) Income tax at the current rate of tax deductions for Code 'S'; and

(ii) Either—

(aa) In the case of a liable parent who is paying outgoings or rent in respect of a dwelling occupied by the liable parent, the amount of the outgoings or rent or \$50 (whichever is the lesser), plus \$60; or

(bb) In the case of a liable parent who is paying board, the weekly amount of the board or \$50 (whichever is the lesser), plus \$30; and

(iii) Either—

(aa) Where public transport is reasonably available to the liable parent between the liable parent's home and place of employment, an amount equal to the liable parent's actual weekly cost of travel between home and place of employment, or the amount

SCHEDULE—*continued*

that that travel would cost the liable parent if the liable parent used public transport, whichever is the lesser; or

- (bb) Where public transport is not reasonably available to the liable parent between the liable parent's home and place of employment, an amount equal to the liable parent's actual weekly cost of travel between home and place of employment, or the amount calculated on the current vehicle mileage allowance prescribed for members of the Public Service, whichever is the lesser; and
- (iv) The sum of \$20 for each child (other than a dependent child of the beneficiary) who is dependent on the liable parent; and
- (v) The sum of \$60 for each adult who is dependent on the liable parent; and
- (vi) Either—
 - (aa) Where the liable parent is paying rent in respect of a dwelling occupied by the beneficiary, the weekly amount of that rent; or
 - (bb) Where the liable parent is paying outgoings in respect of a dwelling occupied by the beneficiary, the outgoings or an amount calculated by dividing 8 percent of the capital value of the dwelling (as that value is disclosed in the current rolls of the Valuer-General) by 52, whichever is the lesser; or
- (d) An amount equal to one-third of the liable parent's weekly income after income tax is deducted at the current rate of tax deductions for Code 'S'.

3. Notwithstanding any of the foregoing provisions of this Schedule, where 2 liable parents are liable to contribute in respect of the same dependent child, the amount of each person's contribution attributable to the child shall be reduced by one half.

4. Notwithstanding any of the foregoing provisions of this Schedule, where 2 or more persons are liable to contribute towards the cost of the same benefit, the total amount payable by those persons shall not exceed the amount of the benefit; and, where necessary, the respective amounts payable by those persons shall abate proportionately.

5. After being calculated in accordance with this Schedule, the amount so calculated shall be rounded down to the next complete dollar."

This Act is administered in the Department of Social Welfare.
