



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. General duty of Director-General to ensure that work-tested beneficiaries aware of obligations</p> <p>3. Disclosure of information between Department of Social Welfare and Department of Labour</p> <p>4. New sections inserted</p> <p style="padding-left: 2em;">131B. Definitions for purposes of sections 131C and 131D</p>	<p>131C. Notice of decision to suspend, reduce, or cancel work-tested benefit</p> <p>131D. Reduction of notice period</p> <p>131E. Notices</p> <p>131F. Jurisdiction of Privacy Commissioner</p> <p>131G. Privacy Commissioner to report on compliance with section 131C</p>
	<p>5. Twenty-ninth Schedule amended</p>

1997, No. 22

An Act to amend the Social Security Act 1964

[30 June 1997]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Social Security Amendment Act (No. 2) 1997, and is part of the Social Security Act 1964 (“the principal Act”).

(2) This Act comes into force on the day after the date on which it receives the Royal assent.

2. General duty of Director-General to ensure that work-tested beneficiaries aware of obligations—The principal Act is amended by inserting, after section 60HC (as inserted by section 18 of the Social Security Amendment Act 1996), the following section:

“60HCA. The Director-General has a duty to take reasonable and appropriate steps to ensure that, while a person is a work-tested beneficiary, the beneficiary is aware of—

“(a) The beneficiary’s obligations under sections 60HC and 60J; and

“(b) The consequences of failure to comply with the requirements of those sections.”

3. Disclosure of information between Department of Social Welfare and Department of Labour—Section 131A of the principal Act (as inserted by section 37 of the Social Security Amendment Act 1996) is amended by inserting, after subsection (3), the following subsections:

“(3A) Where, in relation to a person referred to in subsection (2), the chief executive has any information to which paragraph (e) or paragraph (f) of subsection (3) applies, the chief executive must not disclose that information under subsection (3) to the Director-General during either of the following periods:

“(a) The period beginning on the fifth working day immediately before Good Friday and ending with the following Easter Monday:

“(b) The period beginning on the tenth working day immediately before 25 December in any year and ending with 15 January in the following year.

“(3B) Nothing in subsection (3A) prevents the chief executive from disclosing any information under subsection (3) to the Director-General after either of the periods referred to in subsection (3A), whether the matter to which the information relates occurred before or during either of those periods.”

4. New sections inserted—The principal Act is amended by inserting, after section 131A (as so inserted), the following sections:

“131B. Definitions for purposes of sections 131C and 131D—In sections 131C and 131D, unless the context otherwise requires, ‘payday’, ‘working day’, ‘work-tested beneficiary’, and ‘work-tested benefit’ have the same meaning as in section 3 (1).

“131C. Notice of decision to suspend, reduce, or cancel work-tested benefit—(1) When information is exchanged under section 131A,—

“(a) Section 103 of the Privacy Act 1993 (which requires notice to be given of any adverse action based on the result of an information matching programme) does not apply; and

“(b) This section and sections 131D and 131E apply instead.

“(2) When this section applies, the Director-General must not, as a result of an exchange of information under section 131A, suspend, reduce, or cancel a work-tested benefit payable to a work-tested beneficiary unless the following requirements have been complied with:

“(a) The Director-General must have given the beneficiary written notice—

“(i) Stating that information disclosed to the Department of Social Welfare by the Department of Labour indicates that the beneficiary (or, where applicable, the beneficiary’s spouse) has failed to comply with a requirement of section 60HC or section 60J; and

“(ii) Stating that, on the basis of that non-compliance, the Director-General is suspending, cancelling, or reducing the work-related benefit payable to the beneficiary; and

“(iii) Specifying the date on which the suspension, cancellation, or reduction is to take effect; and

“(iv) If the benefit is to be reduced, specifying the amount of the benefit after the reduction; and

“(v) Stating that the beneficiary has 5 working days from the giving of the notice to dispute the suspension, cancellation, or reduction; and

“(vi) Advising the beneficiary to contact the Department of Social Welfare or the Department of Labour if the beneficiary wants to dispute or discuss the decision to suspend, reduce, or cancel the benefit; and

“(vii) Containing a clear statement of the beneficiary’s right, under section 10A, to apply for a review of the decision of the Director-General, and of the procedure for applying for a review:

“(b) The suspension, cancellation, or reduction of the benefit must not take effect until after the 5 working days specified in the notice.

“(3) Section 131D may affect the operation of this section.

“131D. **Reduction of notice period**—(1) This section applies if—

“(a) A day that would normally count as a working day for the purposes of a notice given under section 131C (2) (a) would not count because that particular

day falls on Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, or Waitangi Day; and

“(b) The fact that the particular day would not count as a working day means that section 131C (2) (b) would prevent the Director-General from suspending, cancelling, or reducing a beneficiary's work-related benefit until the payday following the payday on which the suspension, cancellation, or reduction would take effect if that day did count as a working day.

“(2) Where this section applies, the references in subsections (2) (a) (v) and (2) (b) of section 131C to 5 working days are to be read as references to 4 working days.

“131E. **Notices**—A notice may be given under section 131C to a person—

“(a) By delivering it to that person personally; or

“(b) By leaving it—

“(i) At that person's usual or last known place of residence or business; or

“(ii) At the address given by that person in the most recent application or other document received from that person;—

and in that case the notice is given when it is left; or

“(c) By posting it in a letter addressed to that person at that place of residence or business or at that address; and in that case the notice is given when it is posted.

“131F. **Jurisdiction of Privacy Commissioner**—If the Director-General fails to comply, in relation to any individual, with section 131C, then for the purposes of Part VIII of the Privacy Act 1993, that failure constitutes a failure to comply with the provisions of Part X of that Act.

“131G. **Privacy Commissioner to report on compliance with section 131C**—When, pursuant to section 105 (1) (b) of the Privacy Act 1993, the Privacy Commissioner includes in any annual report of the Commissioner an assessment relating to exchanges of information authorised by section 131A of this Act, that assessment must also include an assessment of the extent of compliance, during the relevant year, with section 131C of this Act.”

5. Twenty-ninth Schedule amended—The Twenty-ninth Schedule of the principal Act (as added by section 43 of the

Social Security Amendment Act 1996) is amended by inserting, after the item relating to section 12K (8), the following item:

“Section 60HCA

— The Director-General’s function under that section.”

This Act is administered in the Department of Social Welfare.
