

Housing Restructuring and Tenancy Matters (Information Matching) Amendment Bill

Government Bill

Explanatory note

General policy statement

Overview

This Bill amends the Act previously called the Housing Restructuring Act 1992 for 2 main purposes, namely to—

- rename it the **Housing Restructuring and Tenancy Matters Act 1992** (to reflect that it provides for tenancy matters); and
- insert in it information matching provisions authorising Housing New Zealand Corporation (**HNZC**) to disclose information about tenants and tenancies to the department responsible for the administration of the Social Security Act 1964, currently the Ministry of Social Development (**MSD**).

Summary of key measures

Renaming of Housing Restructuring Act 1992

The Act's Title is amended to reflect that the Act provides for tenancy matters including—

- income-related rents (provisions inserted by the Housing Restructuring (Income-Related Rents) Amendment Act 2000); and
- disclosure of tenancy information for benefit purposes (provisions to be inserted by this Bill).

Information matching provisions

The Bill provides for an information matching programme to be established from **1 July 2006** between HNZC (including the company

called Housing New Zealand Limited) and the department responsible for the administration of the Social Security Act 1964 (currently MSD).

The information match will help to minimise overpayments of benefits and student allowances, help the recovery of beneficiary and student debt arising from those overpayments, and help the detection of fraud. More generally, the match will be another layer in MSD's efforts to protect the integrity of the benefit system.

This Bill provides for HNZC to supply to MSD data on the people subject to the information match. MSD will match this data against its own records. If discrepancies are discovered, further investigation will occur; this may result in action being taken against clients by MSD. The Bill does not provide for HNZC to match MSD-supplied information against its own records.

The Bill authorises HNZC to disclose information relating to its tenants (including their spouses or partners and dependent children, and the dependent children of their spouses or partners) and tenancies. The Bill does not authorise disclosure of information relating to other residents.

The information that may be disclosed includes—

- the names and dates of birth of tenants of HNZC housing, of their spouses or partners and dependent children, and of the dependent children of their spouses or partners;
- the location of the relevant HNZC housing;
- details of the tenancies, including the start and end date of the tenancies, and the weekly rent of the tenancies;
- income details;
- address details.

Information disclosed will be used by MSD to help it to—

- verify the entitlement or eligibility of a person to or for any benefit; and
- verify the amount of any benefit to which any person is or was entitled or to which any person is or was eligible; and
- recover debts due to the Crown.

The term benefit is defined in the Bill to cover—

- a benefit as defined in the Social Security Act 1964; and
- funeral grants and payments under welfare programmes approved under the Social Security Act 1964; and

- a student allowance (including an accommodation benefit) paid under the Student Allowance Regulations 1998.

The information matching programme will match against all assistance under the Social Security Act 1964 and the Student Allowance Regulations 1998, and will help in the enforcement of debts due to the Crown. In particular, the information match will help to ensure that HNZC tenants, including those paying market rents, do not receive an accommodation supplement under the Social Security Act 1964, or an accommodation benefit. (HNZC tenants are not eligible to receive either an accommodation supplement or an accommodation benefit.)

Consequential amendments to the Privacy Act 1993 ensure that—

- HNZC and the company called Housing New Zealand Limited are specified agencies for the purposes of Part 10 (information matching); and
- the new information matching provision in this Bill appears in the list of information matching provisions in Schedule 3.

These consequential amendments ensure that the information matching programme established by this Bill is subject to the standard provisions on information matching (including the information matching rules) in the Privacy Act 1993.

Clause by clause analysis

Clause 1 is the Title clause. The Bill amends the Act previously called the Housing Restructuring Act 1992 (“the principal Act”).

Clause 2 relates to commencement. The Bill will, when enacted, come into force on **1 July 2006**.

Part 1

Amendments to principal Act

Clause 3 amends the Title of the principal Act to make clear that the principal Act provides for tenancy matters including—

- income-related rents (provided for by Part 5 of the Act, inserted on 9 August 2000 by the Housing Restructuring (Income-Related Rents) Amendment Act 2000); and
- disclosure of tenancy information for benefit purposes (provided for by a *new Part 6*, relating to information matching, and to be inserted by *clause 5* of this Bill).

Clause 4 renames the principal Act the Housing Restructuring and Tenancy Matters Act 1992. It also amends consequentially references to the principal Act in other enactments.

Clause 5 inserts in the principal Act a *new Part 6*.

New Part 6 relates to information matching. In general terms, it authorises Housing New Zealand Corporation (including the company called Housing New Zealand Limited) to disclose information about tenants and tenancies to the department responsible for the administration of the Social Security Act 1964. The disclosure is for the purpose of helping the department to—

- verify the entitlement or eligibility of any person to or for any benefit; and
- verify the amount of any benefit to which any person is or was entitled or to which any person is or was eligible; and
- recover debts due to the Crown in respect of benefits.

In *new Part 6*, benefits are defined not only as benefits and certain payments under the Social Security Act 1964, but also as student allowances under the Student Allowances Regulations 1998.

New Part 6 includes *new sections 66 to 69*.

New section 66 is an interpretation section that defines terms used in *new Part 6* including benefit, Corporation, and department.

New section 67 states the purpose of *new section 68*, which is to facilitate the disclosure of information by the Corporation to the department for the purpose of helping the department to—

- verify the entitlement or eligibility of any person to or for any benefit; and
- verify the amount of any benefit to which any person is or was entitled or to which any person is or was eligible; and
- recover debts due to the Crown (acting by and through the department) in respect of benefits.

New section 68 authorises the Corporation, on a request for the purpose by the chief executive of the department, to disclose tenancy information to the department for benefit purposes.

New section 69 gives examples of the information and details to be disclosed for every tenant, but does not prevent other information, or other details, from being disclosed, if that is necessary for the purpose stated in *new section 67*.

Part 2

Consequential amendments to Privacy Act 1993

Part 2 makes consequential amendments to the Privacy Act 1993. The amendments ensure that standard provisions on information matching in Part 10 of the Privacy Act 1993 will apply to information matching under *new Part 6* of the principal Act.

The standard provisions on information matching in Part 10 of the Privacy Act 1993 include—

- section 99, which requires disclosure of personal information pursuant to an information matching provision to be done pursuant to a written agreement between the relevant agencies, and requires that agreement to incorporate provisions that reflect, or provisions that are no less onerous than, the information matching rules set out in Schedule 4 of the Privacy Act 1993; and
 - sections 100 to 103, which relate to an agency taking adverse action against an individual on the basis of a discrepancy produced by an authorised information matching programme; and
 - sections 104 and 105, which contain reporting requirements related to authorised information matching programmes; and
 - section 106, under which the Privacy Commissioner must, at intervals of not more than 5 years, review, and report on, the operation of information matching provisions.
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Hon Chris Carter

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The Parliament of New Zealand enacts as follows:

1 Title

(1) This Act is the Housing Restructuring and Tenancy Matters (Information Matching) Amendment Bill **2005**.

(2) In this Act, the Act that was previously called the Housing Restructuring Act 1992¹ is called “the principal Act”.

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¹ 1992 No 76

2 Commencement

This Act comes into force on **1 July 2006**.

Part 1

Amendments to principal Act

3 Title amended

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Paragraph (c) of the Title of the principal Act is amended by adding the words “, income-related rents, information matching, and other tenancy matters”.

4 Name of principal Act changed

- (1) After the commencement of this Act, the principal Act is called the Housing Restructuring and Tenancy Matters Act 1992.
- (2) Section 1(1) of the principal Act, and all of the following enactments, are consequentially amended by inserting, after the word “Restructuring” wherever it occurs, the words “and Tenancy Matters”:
- (a) section 19A(1) of the Housing Act 1955; and
 - (b) the definition of **HNZ** in section 2, and sections 20B(3) and (4) and 52(2), of the Housing Corporation Act 1974; and
 - (c) sections 24(3) and 25(2), and the heading to Schedule 3, of the Housing Corporation Amendment Act 2001; and
 - (d) the enacting statement, regulation 1, and the definition of **Act** in regulation 3, of the Housing Restructuring (Appeals) Regulations 2000; and
 - (e) section 7(1)(i) of the Legal Services Act 2000; and
 - (f) section 3, and the heading above section 3, of the Relationships (Statutory References) Act 2005; and
 - (g) section 25(3) of the Residential Tenancies Act 1986; and
 - (h) paragraph (f)(xvi) of the definition of **income** in section 3(1), and section 61EA(2A), of the Social Security Act 1964; and
 - (i) regulation 9(2)(aa) of the Student Allowances Regulations 1998.
- (3) Unless the context otherwise requires, any reference to the Housing Restructuring Act 1992 in any enactment, rule, order, agreement, deed, or document of any other kind in force on **1 July 2006** must be read as a reference to the Housing Restructuring and Tenancy Matters Act 1992.

5 New Part 6 inserted

The principal Act is amended by inserting, after Part 5, the following Part: 35

“Part 6
“Information matching

“66 Interpretation

In this Part, unless the context otherwise requires,—

“benefit means— 5

“(a) a benefit as defined in section 3(1) of the Social Security Act 1964; or

“(b) a lump sum payable under any of sections 61DB, 61DC, and 61DD of that Act; or

“(c) any special assistance granted out of a Crown Bank Account from money appropriated by Parliament under section 124(1)(d) of that Act; or 10

“(d) an allowance established by regulations made under section 303 of the Education Act 1989

“Corporation, despite section 2(1), includes the company 15

“Corporation housing means premises (whether owned by the Crown, the Corporation, or any other person) let or to be let by or on behalf of the Corporation for occupation by any person as a place of residence

“department means the department for the time being responsible for the administration of the Social Security Act 1964 20

“partner, in the phrase ‘spouse or partner’ and in related contexts, means, in relation to any person (A), a person—

“(a) who is A’s civil union partner or de facto partner; and 25

“(b) who is not, in the Corporation’s opinion, living apart from A.

“67 Purpose of section 68

The purpose of **section 68** is to facilitate the disclosure of information by the Corporation to the department for the purpose of helping the department to— 30

“(a) verify the entitlement or eligibility of any person to or for any benefit; and

“(b) verify the amount of any benefit to which any person is or was entitled or to which any person is or was eligible; and 35

“(c) recover debts due to the Crown (acting by and through the department) in respect of benefits.

- “68 Disclosure of tenancy information for benefit purposes**
- “(1) For the purpose stated in **section 67**, the chief executive of the department may from time to time request the Corporation to supply, in respect of persons who are tenants in relation to Corporation housing, or were tenants of that kind on or after **1 July 2006**,— 5
- “(a) the biographical information held by the Corporation that is sufficient to identify those persons, including their addresses; and
- “(b) the details of the tenancies of those persons held by the Corporation that are necessary for the purpose stated in **section 67**. 10
- “(2) A request under **subsection (1)** must be made in accordance with arrangements made from time to time between the chief executive of the department and the Corporation. 15
- “(3) On receipt of a request under **subsection (1)**, the Corporation may supply the information requested to any person who is an officer or employee or agent—
- “(a) of the chief executive of the department; and
- “(b) authorised for the purpose by that chief executive. 20
- “(4) Information supplied under a request under **subsection (1)** may be supplied in a form determined by agreement between the Corporation and the chief executive of the department.
- “69 Information and details to be disclosed**
- Examples of the information and details referred to in **section 68(1)(a) and (b)** are, for every tenant or former tenant,— 25
- “(a) his or her full name, any other names used by him or her, and his or her date of birth; and
- “(b) the full name, any other names used by, and the date of birth of, his or her spouse or partner (if any) and the full names, any other names used by, and the dates of birth of, any dependent children of the tenant or his or her spouse or partner (if any); and 30
- “(c) the physical address of the Corporation housing that is the subject of the tenancy; and 35
- “(d) the start date, end date (if any), and weekly rent of the tenancy; and
- “(e) his or her income, and the components of it, as advised by him or her on any form or forms, or in any other

information, supplied to the Corporation for the purposes of enabling it to determine his or her rental, and the period or periods to which that income, or a component of it, relates; and

- “(f) any address or other details supplied to the Corporation for the purposes of enabling it to contact him or her after the tenancy has ended.” 5

Part 2

Consequential amendments to Privacy Act 1993

6 Interpretation 10

- (1) The definition of **specified agency** in section 97 of the Privacy Act 1993 is consequentially amended by inserting, after paragraph (b), the following paragraph:

“(ba) the company within the meaning of section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992:”.

- (2) The definition of **specified agency** in section 97 of the Privacy Act 1993 is consequentially amended by inserting, after paragraph (f), the following paragraph:

“(fa) the Housing New Zealand Corporation established (as the Housing Corporation of New Zealand) by section 3(1) of the Housing Corporation Act 1974:”.

7 Schedule 3 amended

Schedule 3 of the Privacy Act 1993 is consequentially amended by inserting, in its appropriate alphabetical order, the following item: 25

Housing Restructuring and

Tenancy Matters Act 1992

Section 68