

# **State Sector Amendment Bill**

Government Bill

As reported from the committee of the whole House

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## Key to symbols used in reprinted bill

As reported from the committee of the whole House

### Struck out

Subject to this Act,

Text struck out

### New

Subject to this Act,

Text inserted

~~(Subject to this Act.)~~

Words struck out

Subject to this Act,

Words inserted

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*Hon Trevor Mallard*

# State Sector Amendment Bill

## Government Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the State Sector Amendment Act **2001**.  
 (2) In this Act, the State Sector Act 1988<sup>1</sup> is called “the principal Act”.

<sup>1</sup> 1988 No 20

**Part 1  
Preliminary**

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**2 Commencement**

Except as provided in **section 6**, this Act comes into force on the day after the date on which it receives the Royal assent. 10

**New**

**2 Commencement**

- (1) **Sections 6 to 11(1) and 12 to 15, and Schedule 1**, so far as they relate to the Department of Work and Income, the Department of Social Welfare, or the Ministry of Social Development, are deemed to have come into force on **1 October 2001**. 15
- (2) **Sections 6 to 10 and 13 to 15**, so far as they relate to the Department for Courts or to the Ministry of Justice, come into force on **1 October 2003**.
- (3) **Section 11(2) and (3), and Schedules 2 and 3** come into force on **1 October 2003**. 20
- (4) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

**3 Purpose**

The purpose of this Act is to—

- (a) amend the State Sector Act 1988 to reflect and provide for reorganisations *(within the Public Service)* within and into the Public Service (including by enabling the 25

restriction of compensation for technical redundancies arising from reorganisations); and

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| (b) | reflect and provide for the change of the Department of Work and Income’s name to the Ministry of Social Development and the abolition of the Department of Social Welfare and transfer of its functions to the Ministry of Social Development. | 5 |
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**New**

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| (b)   | reflect and provide for—   |    |
| (i)   | the change of the Department of Work and Income’s name to the Ministry of Social Development; and                              | 10 |
| (ii)  | the abolition of the Department of Social Welfare and the transfer of its functions to the Ministry of Social Development; and |    |
| (iii) | the abolition of the Department for Courts and the transfer of its functions to the Ministry of Justice.                       | 15 |

**Part 2**

**Reorganisations within Public Service**

*Reorganisations generally* 20

**4 New sections 30A to 30H inserted**

The principal Act is amended by inserting, after section 30, the following sections:

**“30A Amendment of First Schedule to reflect reorganisations within Public Service** 25

“(1) The Governor-General may, by Order in Council, amend the First Schedule if a Department is abolished or its name is changed or a new department is established.

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**New**

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“(2) To avoid doubt, this section does not limit the need for a Department that has been established by an Act of Parliament to be abolished or have its name changed by an Act of Parliament.

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- “30B **Restriction of compensation for technical redundancy arising from reorganisations within Public Service** 5
- “(1) An employee is not entitled to receive any payment or other benefit solely on the ground that his or her position in a Department (**Department A**) has ceased to exist if—
- “(a) the position ceases to exist as a result of a transfer of functions of Department A to another Department (**Department B**); and 10
- “(b) the employee is made an equivalent offer of employment in Department B in connection with that transfer; and 15
- “(c) the Governor-General declares, by Order in Council, that this section applies to that transfer.
- “(2) An **equivalent offer** is an offer of employment—
- “(a) in a substantially similar position to the employee’s position in Department A, or another position that the employee is willing to accept; and 20
- “(b) on terms and conditions of employment that are no less favourable than those that apply to the employee immediately before the offer, or on any other terms and conditions to which the employee agrees; and 25
- “(c) on terms that treat the period of service with Department A (or any other period of service recognised by Department A as continuous service) as if it were service with Department B and as if it were continuous.
- “(3) This section overrides the employee’s employment agreement to the extent that it is inconsistent with that agreement. 30
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- 30C Appointment of employees within Public Service following reorganisations**
- “(1) Sections 60 to 61B and 65 do not apply in relation to the appointment of an employee of 1 Department (**Department A**) to a position in another Department (**Department B**) if— 5
- “(a) the employee’s position in Department A ceases to exist as a result of a transfer of functions of Department A to Department B; and
- “(b) the Governor-General declares, by Order in Council, that this subsection applies to that transfer. 10
- “(2) **Sections 30D(2) and (3) and 30E(2) and (3)** do not apply to an individual employment agreement.
- “(3) **Sections 30D(2) and (3) and 30E(2) and (3)** apply to a collective agreement only in respect of those employees of Department A who are appointed to a position in Department B (**reappointed employees**) and other employees whose work is covered by that agreement under **subsection (4)(c)**. 15
- “(4) If the work done by employees of Department B is covered by more than 1 collective agreement as a result of the application of **sections 30D(2) and (3) and 30E(2) and (3)**— 20
- “(a) a reappointed employee’s work is covered by only the collective agreement that covered that work in Department A; and
- “(b) that collective agreement does not cover the work of employees of Department B who are not reappointed employees; but 25
- “(c) the work of a new employee of Department B who is not a reappointed employee is covered by whichever collective agreement would have covered the subject matter of that work if it had been done before the transfer of functions. 30
- “(5) Sections 57, 62(3), and 63(3) of the Employment Relations Act 2000 do not apply to the extent that **subsection (4)(a), (b), or (c)** applies.
- “(6) **Subsection (4)** does not apply in relation to a collective agreement to the extent that the parties agree otherwise. 35

## New

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| <p><b>“30AB Effect of reorganisations within Public Service on employees</b></p>   |    |
| <p>A transfer of functions from one Department (<b>Department A</b>) to another Department (<b>Department B</b>) does not transfer a chief executive or employee of Department A to Department B, despite <b>sections 30D(2) and (3) and 30E(2) and (3)</b>.</p> | 5  |
| <p><b>“30AC Application of employee provisions to reorganisations between Departments</b></p>  |    |
| <p>Each of <b>sections 30B to 30C</b> applies to a transfer of functions from Department A to Department B only if the Governor-General, by Order in Council, declares that that section applies to that transfer of functions.</p>                              | 10 |
| <p><b>“30AD Application of employee provisions to transfers from Crown entities to Departments</b></p>   |    |
| <p><b>“(1)</b> The Governor-General may, by Order in Council, declare that all or any of the following provisions apply to a transfer of functions from a Crown entity (within the meaning of section 2(1) of the Public Finance Act 1989) to a Department:</p>  | 15 |
| <p><b>“(a) sections 30B and 30BA:</b></p>  |    |
| <p><b>“(b) sections 30C to 30E in so far as—</b></p>   | 20 |
| <p><b>“(i)</b> those sections relate to a collective employment agreement that binds the chief executive of the Crown entity before the transfer of the functions; and</p>   |    |
| <p><b>“(ii)</b> that collective employment agreement applies to an employee whose position in the Crown entity ceases to exist as a result of the transfer of functions.</p>   | 25 |
| <p><b>“(2)</b> On the commencement of an Order in Council under <b>subsection (1)</b>, the sections declared to apply in respect of the Crown entity named in the order apply—</p>   | 30 |
| <p><b>“(a)</b> as if a reference to Department A in that section were a reference to that Crown entity; and</p>  |    |
| <p><b>“(b)</b> with all other necessary modifications.</p>   |    |



## New

- “30B Restriction of compensation for technical redundancy arising from reorganisations**
- “(1) An employee is not entitled to receive any payment or other benefit on the ground that his or her position in Department A has ceased to exist if— 5
- “(a) the position ceases to exist as a result of a transfer of functions from Department A to Department B; and
- “(b) in connection with that transfer of functions,— 10
- “(i) the employee is offered equivalent employment in Department B (whether or not the employee accepts the offer); or
- “(ii) the employee is offered, and accepts, other employment in Department B.
- “(2) **Equivalent employment** to the employee’s employment in Department A is employment in Department B— 15
- “(a) in substantially the same position; and
- “(b) in the same general locality; and
- “(c) on terms and conditions of employment that are no less favourable than those that apply to the employee immediately before the offer of equivalent employment (including any service-related, redundancy, and superannuation conditions); and 20
- “(d) on terms that treat the period of service with Department A (and any other period of service recognised by Department A as continuous service) as if it were continuous service with Department B. 25
- “30BA Reappointment of employees following reorganisations**
- Sections 60 to 61B and 65 do not apply to the appointment of an employee of Department A to a position in Department B if the employee’s position in Department A ceases to exist as a result of a transfer of functions from Department A to Department B. 30
- “30C Application of collective agreements to employees following reorganisations**
- “(1) This section limits which employees may be bound by a collective agreement that— 35

## New

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| <p>“(a) binds the chief executive of Department A before a transfer of functions from Department A to Department B and that, as a consequence of <b>sections 30D and 30E</b>, binds the chief executive of Department B after that transfer of functions (<b>collective agreement A</b>); or</p> <p>“(b) binds the chief executive of Department B before that transfer of functions (<b>collective agreement B</b>).</p> <p>“(2) After that transfer of functions,—</p> <p>“(a) the only employees of Department B who are entitled to be bound by or enforce collective agreement A are those employees who are appointed to a position in Department B that has been established (whether or not previously existing in Department A) to enable Department B to perform the transferred functions; and</p> <p>“(b) the only employees of Department B who are entitled to be bound by or enforce collective agreement B are those employees who hold, or are appointed to, a position other than a position referred to in <b>paragraph (a)</b>.</p> <p>“(3) <b>Subsection (2)</b> does not bind an employee to a collective agreement, or entitle an employee to be bound by or enforce a collective agreement, if the employee would not otherwise be bound by, or be entitled to be bound by or enforce, that agreement.</p> <p>“(4) This section limits which employees may be bound by collective agreements (including collective employment contracts), and the coverage of those agreements, under Part VI of this Act and sections 56(1), 57, 62(3), 63(3), and 243 of the Employment Relations Act 2000.</p> <p>“(5) This section does not apply to a collective agreement to the extent that the parties agree otherwise.</p> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> |
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“30D **Consequential changes to references to Departments following reorganisations**

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| <p>“(1) If an enactment or other thing refers to a particular Department and that reference is no longer appropriate because the Department’s name has changed, the reference must be read as a reference to the Department under its new name.</p> | <p>35</p> |
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- “(2) If an enactment or other thing refers to a particular Department and that reference is no longer appropriate because the Department has been abolished, the reference must be read as a reference to the new responsible Department.
- “(3) If an enactment or other thing refers to a particular Department and that reference is no longer appropriate because functions have been transferred between Departments, the reference must be read as a reference to the new responsible Department. 5
- “(4) In this section, the **new responsible Department** is the Department to which responsibility for the matter to which the reference relates has been transferred. 10
- “30E **Consequential changes to references to chief executives following reorganisations**
- “(1) If an enactment or other thing refers to a particular designation of a chief executive or a chief executive of a particular Department and that reference is no longer appropriate because the designation or name of the Department has changed, the reference must be read as a reference to the chief executive under the new designation or the Department’s new name (as applicable). 15 20
- “(2) If an enactment or other thing refers to a chief executive of a particular Department and that reference is no longer appropriate because the Department has been abolished, the reference must be read as a reference to the new responsible chief executive. 25
- “(3) If an enactment or other thing refers to a chief executive of a particular Department and that reference is no longer appropriate because functions have been transferred between Departments or between chief executives, the reference must be read as a reference to the new responsible chief executive. 30
- “(4) In this section, the **new responsible chief executive** is the chief executive to whom, or to whose Department, responsibility for the matter to which the reference relates has been transferred. 35

**“30F Application of consequential changes to references****“(1) Sections 30D and 30E—**

- “(a) apply to things that are in force or existing at the time of the name change, abolition, or transfer of functions (whether coming into force, entered into, or created before or after the commencement of this section); and
- “(b) apply to references in anything, including (without limitation) deeds, agreements, proceedings, instruments, documents, and notices.

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**New**

“(1A) Regulations made under **section 30G** may apply **sections 30D and 30E** to things also coming into force, entered into, or created during a transitional period after the relevant name change, abolition, or transfer of functions that is specified in those regulations.

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“(1B) To avoid doubt, **sections 30D and 30E** do not limit the need for a Department that has been established by an Act of Parliament to have its name changed, be abolished, or have statutory functions transferred by an Act of Parliament, and **sections 30D and 30E** apply in respect of that name change, abolition, or transfer only on and after that Act has given effect to it.

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“(2) **Sections 30D(1) and (2) and 30E(1) and (2)** apply only on and after the First Schedule is amended in respect of the relevant name change or abolition.

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“(3) **Sections 30D and 30E** apply to employment agreements only in accordance with **section 30C**.

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**New****“(3) Sections 30D and 30E—**

- “(a) apply to collective employment agreements subject to **sections 30AB and 30C**; but
- “(b) do not apply to individual employment agreements.

**“30G Other saving and transitional matters arising from reorganisations within Public Service**

The Governor-General may, by Order in Council, provide for savings and transitional matters connected with the abolition or change of name of a Department, the transfer of functions between Departments, or the establishment of a new department. 5

**“30H Effect of reorganisations within Public Service**

“(1) The abolition or change of name of a Department, the transfer of functions between Departments, or the establishment of a new department does not affect— 10

“(a) property, rights, or obligations of the Crown (whether or not in the name of the Crown or of a particular Department, chief executive, or other person in a Department); or 15

“(b) the commencement or continuation of proceedings by or against the Crown (whether or not in the name of the Crown or of a particular Department, chief executive, or other person in a Department).

“(2) In this section, **property** means property of every kind, whether tangible or intangible, real or personal, corporeal or incorporeal; and includes rights, interests, and claims of every kind in relation to property, however they arise. 20

“(3) This section does not limit **sections 30A to 30G**.

“(4) This section applies for the avoidance of doubt.” 25

**5 Consequential amendment relating to new sections 30A to 30H**

Section 27 of the principal Act is amended by repealing subsection (2).

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*Reorganisation resulting in Ministry of Social Development* 30

**6 Commencement of sections 7 to 15**

**Sections 7 to 15** come into force on **1 October 2001**.

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- 7 Purpose of sections 7 to 15**  
 The purpose of **sections 7 to 15** is to reflect and provide for the—
- (a) change of the Department of Work and Income’s name to the Ministry of Social Development; and 5
  - (b) abolition of the Department of Social Welfare (known as the Ministry of Social Policy) and transfer of its functions to the Ministry of Social Development.
- 8 First Schedule amended**  
 The First Schedule of the State Sector Act 1988 is amended— 10
- (a) by inserting, after the item “Serious Fraud Office.”, the item “Ministry of Social Development.”; and
  - (b) by omitting the item “Department of Social Welfare.”; and
  - (c) by omitting the item “Department of Work and Income.” 15
- 9 Restriction of compensation for technical redundancy arising from reorganisation**
- (1) An employee is not entitled to receive any payment or other benefit solely on the ground that his or her position in the Department of Social Welfare has ceased to exist if— 20
    - (a) the position ceases to exist as a result of the transfer of the Department of Social Welfare’s functions to the Ministry of Social Development; and
    - (b) the employee is made an equivalent offer of employment in the Ministry of Social Development in connection with that transfer. 25
  - (2) An **equivalent offer** is an offer of employment—
    - (a) in a substantially similar position to the employee’s position in the Department of Social Welfare, or another position that the employee is willing to accept; and 30
    - (b) on terms and conditions of employment that are no less favourable than those applying to the employee immediately before the offer or on any other terms and conditions to which the employee agrees; and 35
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- (c) on terms that treat the period of service with the Department of Social Welfare (or any other period of service recognised by the Department of Social Welfare as continuous service) as if it were service with the Ministry of Social Development and as if it were continuous. 5
- (3) This section overrides the employee's employment agreement to the extent that it is inconsistent with that agreement.
- 10 Appointment of employees following reorganisation**
- (1) Sections 60 to 61B and 65 do not apply in relation to the appointment of an employee of the Department of Social Welfare to a position in the Ministry of Social Development if the employee's position in the Department of Social Welfare ceases to exist as a result of the transfer of that Department's functions to the Ministry of Social Development. 10
- (2) **Section 13** does not apply to an individual employment agreement. 15
- (3) **Section 13** applies to a collective agreement only in respect of those employees of the Department of Social Welfare who are appointed to a position in the Ministry of Social Development (**reappointed employees**) and other employees whose work is covered by that agreement under **subsection (4)(c)**. 20
- (4) If the work done by employees of the Ministry of Social Development is covered by more than 1 collective agreement as a result of the application of **section 13**,—
- (a) a reappointed employee's work is covered by only the collective agreement that covered that work in the Department of Social Welfare; and 25
- (b) that collective agreement does not cover the work of employees of the Ministry of Social Development who are not reappointed employees; but 30
- (c) the work of a new employee of the Ministry of Social Development who is not a reappointed employee is covered by whichever collective agreement would have covered the subject matter of that work if it had been done before the transfer of functions. 35

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- (5) Sections 57, 62(3), and 63(3) of the Employment Relations Act 2000 do not apply to the extent that **subsection (4)(a), (b), or (c)** applies.
- (6) **Subsection (4)** does not apply in relation to a collective agreement to the extent that the parties agree otherwise. 5
- 11 Consequential amendments to other enactments**  
The enactments specified in the Schedule are amended in the manner indicated in the Schedule.
- 12 Consequential changes to other references to Department of Work and Income and to its chief executive** 10
- (1) If any other enactment or other thing refers to the Department of Work and Income (or to it as Work and Income New Zealand) and that reference is no longer appropriate because the Department's name has changed to the Ministry of Social Development, the reference must be read as a reference to the Department under its new name. 15
- (2) If any other enactment or other thing refers to the chief executive of the Department of Work and Income (or to him or her as the chief executive of Work and Income New Zealand) and that reference is no longer appropriate because the name of the Department has changed, the reference must be read as a reference to the chief executive of the Ministry of Social Development. 20
- 13 Consequential changes to other references to Department of Social Welfare and to its chief executive** 25
- (1) If any other enactment or other thing refers to the Department of Social Welfare (or to it as the Ministry of Social Policy) and that reference is no longer appropriate because the Department has been abolished, the reference must be read as a reference to the Ministry of Social Development. 30
- (2) If any other enactment or other thing refers to the chief executive of the Department of Social Welfare (or to him or her as the chief executive of the Ministry of Social Policy) and that
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reference is no longer appropriate because the Department has been abolished, the reference must be read as a reference to the chief executive of the Ministry of Social Development.

- 14 Application of consequential changes to references** 5
- (1) **Sections 12 and 13—**
- (a) apply to things that are in force or existing at the time of the name change, abolition, or transfer of functions (whether coming into force, entered into, or created before or after the commencement of this section); and
- (b) apply to references in anything, including (without limitation) deeds, agreements, proceedings, instruments, documents, and notices. 10
- (2) **Section 13** applies to an employment agreement only in accordance with **section 10**.
- 15 Effect of reorganisation** 15
- (1) The change of name of the Department of Work and Income to the Ministry of Social Development and the abolition of the Department of Social Welfare and transfer of its functions to the Ministry of Social Development does not affect—
- (a) property, rights, or obligations of the Crown (whether or not in the name of the Crown or of a particular Department, chief executive, or other person in a Department); or 20
- (b) the commencement or continuation of proceedings by or against the Crown (whether or not in the name of the Crown or of a particular Department, chief executive, or other person in a Department). 25
- (2) In this section, **property** means property of every kind, whether tangible or intangible, real or personal, corporeal or incorporeal; and includes rights, interests, and claims of every kind in relation to property, however they arise. 30
- (3) This section does not limit **sections 8 to 14**.
- (4) This section applies for the avoidance of doubt.
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## New

*Specific reorganisations***6 Interpretation**

(1) In sections 8 to 15,—

**abolished department** means—

- (a) the Department of Social Welfare; or 5
- (b) the Department for Courts

**appropriate successor department** means,—

- (a) in relation to the Department of Social Welfare, the Ministry of Social Development; and
- (b) in relation to the Department for Courts, the Ministry of Justice. 10

(2) In **subsection (1)** and in **sections 7 to 15**, a reference to—

- (a) the Department of Social Welfare includes a reference to the Department known as the Ministry of Social Policy; and 15
- (b) a reference to the Department of Work and Income includes a reference to the Department known as Work and Income New Zealand.

**7 First Schedule amended**

(1) The First Schedule of the principal Act is amended— 20

- (a) by omitting the item “Department for Courts.”; and
- (b) by inserting, after the item “Serious Fraud Office.”, the item “Ministry of Social Development.”; and
- (c) by omitting the item “Department of Social Welfare.”; and 25
- (d) by omitting the item “Department of Work and Income.”.

(2) To avoid doubt, it is declared that the amendments made by **subsection (1)(b) and (d)** are made solely to facilitate the change in name of the Department of Work and Income, which continues to exist under the name of the Ministry of Social Development. 30**8 Effect of reorganisation on employees**

The transfer of functions from an abolished department to the appropriate successor department does not transfer the chief 35

## New

executive or an employee of the abolished department to the appropriate successor department, despite **section 13**.

**9 Restriction of compensation for technical redundancy arising from reorganisations**

- (1) An employee is not entitled to receive any payment or other benefit on the ground that his or her position in an abolished department has ceased to exist if—
- (a) the position ceases to exist as a result of the transfer of the abolished department's functions to the appropriate successor department; and
  - (b) in connection with that transfer of functions,—
    - (i) the employee is offered equivalent employment in the appropriate successor department (whether or not the employee accepts the offer); or
    - (ii) the employee is offered, and accepts, other employment in the appropriate successor department.
- (2) **Equivalent employment** to the employee's employment in the abolished department is employment in the appropriate successor department—
- (a) in substantially the same position; and
  - (b) in the same general locality; and
  - (c) on terms and conditions of employment that are no less favourable than those that apply to the employee immediately before the offer of equivalent employment (including any service-related, redundancy, and superannuation conditions); and
  - (d) on terms that treat the period of service with the abolished department (and any other period of service recognised by the abolished department as continuous service) as if it were continuous service with the appropriate successor department.

**9A Reappointment of employees following reorganisations**

Sections 60 to 61B and 65 of the principal Act do not apply to the appointment of an employee of an abolished department to a position in the appropriate successor department if the

## New

employee's position in the abolished department ceases to exist as a result of the transfer of its functions to the appropriate successor department.

- 10 Application of collective agreements to employees following reorganisations** 5
- (1) This section limits which employees may be bound by a collective agreement that—
- (a) binds the chief executive of an abolished department before the transfer of its functions to the appropriate successor department and that, as a consequence of **section 13**, binds the chief executive of the appropriate successor department after that transfer of functions (**collective agreement A**); or 10
- (b) binds the chief executive of the appropriate successor department before that transfer of functions (**collective agreement B**). 15
- (2) After that transfer of functions,—
- (a) the only employees of the appropriate successor department who are entitled to be bound by or enforce collective agreement A are those employees who are appointed to a position in the appropriate successor department that has been established (whether or not previously existing in the abolished department) to enable the appropriate successor department to perform the transferred functions; and 20
- (b) the only employees of the appropriate successor department who are entitled to be bound by or enforce collective agreement B are those employees who hold, or are appointed to, a position other than a position referred to in **paragraph (a)**. 25
- (3) **Subsection (2)** does not bind an employee to a collective agreement, or entitle an employee to be bound by or enforce a collective agreement, if the employee would not otherwise be bound by, or be entitled to be bound by or enforce, that agreement. 30
- (4) This section limits which employees may be bound by collective agreements (including collective employment contracts), 35

## New

and the coverage of those agreements, under Part VI of the principal Act and sections 56(1), 57, 62(3), 63(3), and 243 of the Employment Relations Act 2000.

- (5) This section does not apply to a collective agreement to the extent that the parties agree otherwise. 5
- 11 Consequential amendments to other enactments**
- (1) The enactments specified in **Schedule 1** (which include references to the Department of Social Welfare or to the Department of Work and Income) are amended in the manner indicated in that schedule. 10
- (2) The enactments specified in **Schedule 2** (which include references to the Department for Courts) are amended in the manner indicated in that schedule.
- (3) The Fifth Schedule of the Privacy Act 1993 is amended in the manner indicated in **Schedule 3**. 15
- 12 Consequential changes to other references to Department of Work and Income and to its chief executive**
- (1) If any other enactment or other thing refers to the Department of Work and Income and that reference is no longer appropriate because the Department's name has changed to the Ministry of Social Development, the reference must be read as a reference to the Department under its new name. 20
- (2) If any other enactment or other thing refers to the chief executive of the Department of Work and Income and that reference is no longer appropriate because the name of the Department has changed, the reference must be read as a reference to the chief executive of the Ministry of Social Development. 25
- 13 Consequential changes to other references to abolished departments and to their chief executives** 30
- (1) If any other enactment or other thing refers to an abolished department and that reference is no longer appropriate because the department has been abolished, the reference

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**New**

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- must be read as a reference to the appropriate successor department.
- (2) If any other enactment or other thing refers to the chief executive of an abolished department and that reference is no longer appropriate because the department has been abolished, the reference must be read as a reference to the chief executive of the appropriate successor department. 5
- 14 Application of consequential changes to references**
- (1) **Sections 12 and 13—**
- (a) apply to things that are in force or existing at the time of the name change or abolition or that come into force, are entered into, or are created during the transitional period (whether coming into force, entered into, or created before or after the commencement of this section); and 10 15
- (b) apply to references in anything, including (without limitation) deeds, agreements, proceedings, instruments, documents, and notices.
- (2) **Section 13—**
- (a) applies to collective employment agreements subject to **sections 8 and 10**; but 20
- (b) does not apply to individual employment agreements.
- (3) The **transitional period**, in relation to any department, ends on 1 October **2004** unless it is extended, under **subsection (4)**, in relation to the department. 25
- (4) The Governor-General may, by Order in Council, extend the transitional period in relation to the Department of Work and Income or any abolished department to any date specified in the order, and different dates may be specified in respect of different departments. 30
- 15 Effect of reorganisations**
- (1) The change of name of the Department of Work and Income to the Ministry of Social Development and the abolition of each abolished department and transfer of its functions to the appropriate successor department does not affect— 35
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**New**

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|-----|--|----|
| (a) | property, rights, or obligations of the Crown (whether or not in the name of the Crown or of a particular Department, chief executive, or other person in a Department); or  |    |
| (b) | the commencement or continuation of proceedings by or against the Crown (whether or not in the name of the Crown or of a particular Department, chief executive, or other person in a Department).   | 5  |
| (2) | In this section, <b>property</b> means property of every kind, whether tangible or intangible, real or personal, corporeal or incorporeal; and includes rights, interests, and claims of every kind in relation to property, however they arise. | 10 |
| (3) | This section does not limit <b>sections 7 to 14</b> .  |    |
| (4) | This section applies for the avoidance of doubt.   |    |

s 11(1)

**Schedule 1***((Consequential amendments to other enactments))***Consequential amendments to enactments arising out of  
the reorganisation resulting in Ministry of  
Social Development**

5

## Part 1

## Acts

**Housing Restructuring Act 1992** (1992 No 76)

Omit from the heading to section 55 the words “**Department of Work and Income**” and substitute “**Responsible department**”. 10

Omit from section 55(a) the words “Department of Work and Income” and substitute the words “department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Social Security Act 1964”.

Omit from section 55(b) the word “Department”, and substitute the word “department”. 15

**Immigration Act 1987** (1987 No 74)

Omit from Schedule 1 the item “Department of Work and Income” and substitute the words “The department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Social Security Act 1964”. 20

Omit from Schedule 1 the item “Department of Social Welfare”.

**Ombudsmen Act 1975** (1975 No 9)

Omit from Part 1 of the First Schedule the item “The Department of Social Welfare.” 25

Omit from Part 1 of the First Schedule the item “The Department of Work and Income.”

Insert in Part 1 of the First Schedule, after the item “The Serious Fraud Office.”, the item “The Ministry of Social Development.”

## Part 2

## Regulations

30

**Evidence (Videotaping of Child Complainants) Regulations 1990** (SR 1990/164)

Revoke the definition of the term **Director-General** in regulation 2 and substitute the following definition: 35

“**Director-General** means the chief executive of the responsible department”.



## Part 2—continued

**Evidence (Videotaping of Child Complainants) Regulations 1990** (SR 1990/164)—continued

Insert in regulation 2, in its appropriate alphabetical order, the following definition:

“**responsible department** means the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989”.

5

Omit from the heading to regulation 11A the words “**Department of Social Welfare**” and substitute the words “**Responsible department**”.

10

Omit from regulation 11A the words “Department of Social Welfare” in each place where they occur and substitute in each case the words “responsible department”.

Omit from regulation 11A(1) and (3) the words “that Department” in both places where they occur and substitute in each case the words “that department”.

15

Omit from regulation 11A(1) the words “the Department for” and substitute the words “the department for”.

Omit from regulation 11C(1), (3), and (5) the words “Department of Social Welfare” in each place where they occur and substitute in each case the words “responsible department”.

20

Omit from regulation 14(5), (6)(b), (7)(b), and (9) the words “Department of Social Welfare” in each place where they occur and substitute in each case the words “responsible department”.

Omit from regulation 14(5), (6)(b), and (7)(b) the words “that Department” in each place where they occur and substitute in each case the words “that department”.

25

**Family Proceedings Rules 1981** (SR 1981/261)

Omit from regulation 80(1) the words “Department of Social Welfare” and substitute the words “the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Social Security Act 1964”.

30

Omit from form F.P.34 in the First Schedule the words “Department of Social Welfare” and substitute the words “Ministry of Social Development”.

35

Omit from form F.P.71 in the First Schedule the words “Department of Social Welfare” in each place where they occur and substitute in each case the words “Ministry of Social Development”.

Part 2—*continued***Income Tax (Social Assistance Suspensory Loans) Order 1995**  
(SR 1995/79)

Omit from clause 2 of the Schedule the words “Department of Social Welfare” and substitute the words “the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Social Security Act 1964”. 5  
Omit from clause 3 of the Schedule the words “made by the Department of Social Welfare” and substitute the words “granted by the Secretary for War Pensions”.

**State Sector Order 1998** (SR 1998/171) 10  
Revoke.

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## New

s 11(2)

**Schedule 2**  
**Consequential amendments to enactments arising out**  
**of abolition of Department for Courts**

**Part 1**  
**Acts**

5

**District Courts Act 1947** (1947 No 16)  
 Repeal section 11B(2)(c)(iii).

**Hazardous Substances and New Organisms Act 1996**  
 (1996 No 30)

Omit from section 3(8) the words “the Minister of Justice and the Minister of the Crown who is responsible for the Department for Courts” and substitute the words “the Minister of the Crown who is responsible for the Ministry of Justice”. 10

**Juries Act 1981** (1981 No 23)  
 Repeal section 8(h)(iii).

15

**Ombudsmen Act 1975** (1975 No 9)

Omit from Part I of the First Schedule the item “The Department for Courts.”

**Part 2**  
**Regulations**

20

**Disputes Tribunals Rules 1989** (SR 1989/34)  
 Repeal rule 35A(5) and substitute:

“(5) An assessment panel must consist of the Chief District Court Judge or a District Court Judge named by the Chief District Court Judge, who is the chairperson of the panel, and— 25

“(a) a person appointed by the Secretary for Justice; and

“(b) a person appointed by the head of the Ministry of Consumer Affairs.”

**Jury Rules 1990** (SR 1990/226)

Omit from rule 24 the words “the chief executive of the Department for Courts, after consultation with the Secretary for Justice” and substitute the words “the Secretary for Justice”. 30

## New

s 11(3)

**Schedule 3**  
**Consequential amendments to Fifth Schedule of**  
**Privacy Act 1993 arising out of abolition of**  
**Department for Courts**

<b>Heading “Department for Courts Records” and items related to that heading</b>	5
Omit from the third column the items that relate to the Ministry of Justice.	
Omit the heading “ <i>Department for Courts Records</i> ” and substitute the heading “ <i>Ministry of Justice Records</i> ”.	10
<b>Items related to heading “Police Records”</b>	
Omit from the item relating to the Ministry of Justice in the third column, opposite the item “Details of overseas hearings”, all the words after the words “Ministry of Justice”.	
Omit from the third column, opposite the item “Details of overseas hearings”, the item “Department for Courts”.	15
Omit from the third column, opposite the item “Police temporary file index”, the words “Department for Courts” and substitute the words “Ministry of Justice”.	
Omit from the third column, opposite the item “Offender identity”, the item relating to the Department for Courts.	20
Omit from the third column, opposite the item “Offender identity”, the item relating to the Ministry of Justice and substitute:	
Ministry of Justice (access is limited to—	
(a) identity details for the purposes of—	25
(i) entering information relating to prosecutions initiated otherwise than by the Police or the Land Transport Safety Authority of New Zealand; or	
(ii) providing assistance to victims in accordance with the Criminal Justice Act 1985, the Sentencing Act 2002, the Parole Act 2002, and the Victims’ Rights Act 2002; or	30
(iii) updating an existing database of court proceedings; or	
(b) obtaining information for the purpose of research conducted by the Ministry, and with the limitation that information so obtained must not be published in a form that could reasonably be expected to identify the individual concerned).	35
Omit from the third column, opposite the item “Victim identity”, the words “Department for Courts” and substitute the words “Ministry of Justice”.	
Omit from the third column, opposite the item “Medical details”, the item “Department for Courts”.	40

## New

**Items related to heading “Police Records”—continued**

Omit from the item relating to the Ministry of Justice in the third column, opposite the item “Medical details”, all the words after the words “Ministry of Justice”.

Omit from the third column, opposite the item “Traffic offence and infringement enforcement and document processing” the words “Department for Courts” and substitute the words “Ministry of Justice”.

5

Omit from the third column, opposite the item “Wanted persons”, the words “Department for Courts” and substitute the words “Ministry of Justice”.

10

Omit from the third column, opposite the item “Missing persons”, the words “Department for Courts” and substitute the words “Ministry of Justice”.

Omit from the third column, opposite the item “Firearm licences”, the words “Department for Courts” and substitute the words “Ministry of Justice”.

15

**Items related to heading “Land Transport Safety Authority Records”**

Omit from the third column, opposite the item relating to the Driver licences register, the item “Department for Courts”.

20

Omit from the item relating to the Ministry of Justice in the third column, opposite the item relating to the Driver licences register, all the words after the words “Ministry of Justice”.

**Items related to heading “Ministry of Transport Records”**

Omit from the third column, opposite the item “Motor vehicles register”, the item “Department for Courts” and substitute the item “Ministry of Justice”.

25

**Items related to heading “Department of Corrections Records”**

Omit from the third column, opposite the item relating to community-based sentences, the item “Department for Courts”.

30

Omit from the item relating to the Ministry of Justice in the third column, opposite the item relating to community-based sentences, all the words after the words “Ministry of Justice”.

Omit from the third column, opposite the item “Records of inmates”, the item “Department for Courts”.

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**New**

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**Items related to heading “Department of Corrections Records”—continued**

Omit from the item relating to the Ministry of Justice in the third column, opposite the item “Records for inmates”, all the words after the words “Ministry of Justice”.

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**Legislative history**

23 July 2001	Introduction (Bill 143–1)
31 July 2001	First reading and referral to Government Administration Committee
4 September 2001	Discharged from Government Administration Committee
11 September 2001	Second reading
23, 24 July 2003	Committee of the whole House (Bill 143–2)

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