

Social Welfare (Transitional Provisions) Amendment Bill

Government Bill

As reported from the Social Services Committee

Commentary

Recommendation

The Social Services Committee has examined the Social Welfare (Transitional Provisions) Amendment Bill (the bill) and recommends that it be passed with the amendments shown.

Introduction

The purpose of the bill is to amend section 19 of the Social Welfare (Transitional Provisions) Act 1990. The bill would allow social security agreements entered into by New Zealand with other countries to include mutual assistance provisions for the recovery of the social security debts of either country and for the exchange of information. The bill would also give effect in New Zealand law to any such provisions that are included in these agreements. The bill prescribes detailed provisions that must be included in any such agreements or conventions where they relate to the mutual recovery of debts and the mutual exchange of information, and provides those affected with appropriate protection for their privacy. The bill also includes amendments to the Privacy Act 1993, the Social Security Act 1964 and the Tax Administration Act 1994 as a result of the new provisions.

The immediate need for mutual assistance provisions is in connection with the social security agreement New Zealand has with the

Netherlands. The Netherlands has passed legislation abolishing the right to social pensions outside the Netherlands except under a social security agreement that contains mutual assistance provisions. All existing social security agreements that the Netherlands has with other countries that do not contain these provisions by 1 January 2002 will be terminated and all payments made under those agreements will cease. New Zealand's agreement with the Netherlands is an important cost-sharing social security agreement. Termination of the agreement would result in a fiscal cost to New Zealand. The mutual assistance provisions contained in the bill could lead to a cost-saving to New Zealand in the area of benefit payments to Dutch migrants residing in New Zealand. It is expected that other countries with which New Zealand may wish to enter into agreements in the future may have similar requirements.

Submitters' concerns

We received submissions from the Combined Beneficiaries Union, the Auckland Council for Civil Liberties, and the Auckland District Council of Social Service, all of whom oppose the bill. The submitters can see no overwhelming need for those powers contained in the bill that would result in personal information on beneficiaries being supplied to overseas countries. Submitters consider there are few controls on what will happen to the information once it has left New Zealand. Some of their specific concerns are addressed below.

Terms and conditions for recovery of social security debt

Proposed new section 19B contained in clause 6 sets out the terms and conditions that are to govern the inclusion of mutual assistance in the recovery of debt in a social security agreement.

Paragraph (a) of proposed new section 19B(1) specifies that assistance to recover debts will apply only to those debts meeting certain criteria such as:

- debts that have been found or determined to be owing in the country concerned by the appropriate organisation, person, body, court or tribunal
- all rights of review and appeal have been exhausted or have expired
- the debt can be lawfully recovered in the country concerned

- the debt is less than five years old.

Two of the submitters feel that the relevant government department in either country should be required to formally certify to its counterpart that a decision was made establishing a debt, what facts provided the basis for the decision and how the department determined that a debt arose. We were advised that under proposed new section 19D(1)(f) the country requesting assistance to recover a debt must complete a certificate that confirms the points set out in proposed new section 19B(1)(a). We consider that this resolves the concerns of the submitters for a formal certificate.

One of the submitters does not support the recovery of debt from a person's estate under proposed new section 19B(1)(d) because the operation of such a provision would be legally complex and expensive. However, the Department of Work and Income (DWI) assures us that the procedure is relatively easy, straightforward and inexpensive and is used regularly to recover debts from a deceased's estate.

One of the submitters believes that proposed new section 19B(2), which allows for an extension to the five-year limit on the age of the debt to be recovered, is unnecessary as proposed new section 19B(1)(a)(iv) covers this. However, we consider that proposed new section 19B(2) is necessary because it extends this five-year time frame where the recovery of debt has been postponed or the debt is to be recovered by instalments, both of which could result in the debt becoming older than five years.

Terms and conditions for exchange of information for social security purposes

Proposed new section 19C sets out the terms and conditions that are to govern the inclusion of mutual assistance in the exchange of information in a social security agreement.

All three submitters are opposed to the exchange of information with other countries as well as with the Inland Revenue Department (IRD). They argue that paragraphs (a) and (b) of new section 19C are too broad, that information unrelated to debts could be released, and that these provisions also imply that the DWI could ask the IRD for personal information on an individual instead of obtaining information through a data match. The submitters believe that there should be tight restrictions placed in the section to ensure only the

minimum of information, and only information that directly related to the debt, can be provided to another country.

The provisions in the bill relate to the recovery of debts and the exchange of information for social security purposes, as defined in proposed new section 19A, and are not restricted to the recovery of debts. The DWI can request information for the “social security purposes” of the agreement country only after a specific request for information has been made from the other country.

The Privacy Commissioner in his report to the Minister of Justice on this bill states that “the bill takes a variety of special measures to provide individuals with appropriate protection for their privacy, which in general means protections equivalent to the information matching controls in Part X of the Privacy Act 1993”. These measures include proposed new section 19(2A), which stipulates that no Order in Council in respect of a proposed agreement or alteration to an agreement may be made unless the Privacy Commissioner has first presented a report to the Minister of Social Services and Employment and to the Minister of Justice.

The Privacy Commissioner is concerned that proposed new section 19C(1)(d) does not require an agreement to specify (and thereby limit) the types of information that may be exchanged and suggests that an agreement should be approved by the Privacy Commissioner before implementation.

We recommend that proposed new section 19C(1)(d) be amended to require agreements to specify the types of information that may be supplied, and to require that an agreement or convention be agreed to by the Privacy Commissioner with regard to the information matching guidelines in section 98 of the Privacy Act.

We recommend a consequential amendment to clause 9 (proposed new section 85B(4) of the Tax Administration Act 1994) to reflect the effect of our recommendation.

A further change is also recommended to proposed new section 19C(1)(d) to ensure that the technical standards relating to the exchange of information are not specified in the agreement between the countries, but are set out in a separate report. This is to obviate concerns about the availability of information that could lead to computer hacking.

Actions by chief executive under mutual assistance provisions

Proposed new section 19D covers the actions that the chief executive of the Department of Work and Income can take once an agreement with mutual provisions is in force.

Two submitters suggest that proposed new section 19D(4) be amended to ensure that before the DWI can take adverse action, without complying with the notice requirements, it must first hold a belief on reasonable grounds that notice would prejudice any investigation into the commission of an offence.

We do not agree that the subsection should be amended. Administrative law principles ensure that no statutory power can be used arbitrarily or without grounds. The chief executive of DWI could not take adverse action without notice under this section, unless she or he could justify that any notice would prejudice any investigation into the commission of an offence or the possible commission of an offence.

Amendments to the Tax Administration Act 1994

Clause 9 would add two sections to the Tax Administration Act 1994. These sections will govern the disclosure of information requested or supplied under mutual assistance provisions contained in a social security agreement.

All three submitters strongly oppose the transfer of any information between the DWI and the IRD, and then onto another country outside the current data match information. The submitters see the two proposed new sections as allowing unfettered transfer of any information between the IRD and the DWI.

Proposed new section 85B is an information matching provision under the Privacy Act 1993, and as such is governed and restricted by the information matching guidelines and rules as set out in that Act. This new section allows the two departments to exchange information only for the purpose, and within the limits, of the proposed new section 19C of this bill. Only information that has been requested or supplied by another country that has a social security agreement with New Zealand containing mutual assistance provisions for the exchange of information will be exchanged.

Appendix

Committee process

The Social Welfare (Transitional Provisions) Amendment Bill was referred to the committee on 30 May 2000. The closing date for submissions was 11 August 2000. We received and considered three submissions from interested groups and individuals. We heard the three submissions together in Auckland. Hearing evidence took 24 minutes and consideration took one hour and six minutes.

We received advice from the Ministry of Social Policy.

Committee membership

Taito Phillip Field (Chairperson)
Mahara Okeroa (Deputy Chairperson)
Sue Bradford
Helen Duncan
Dr Liz Gordon
Dr Muriel Newman
Jill Pettis
Katherine Rich
Bob Simcock
Belinda Vernon

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

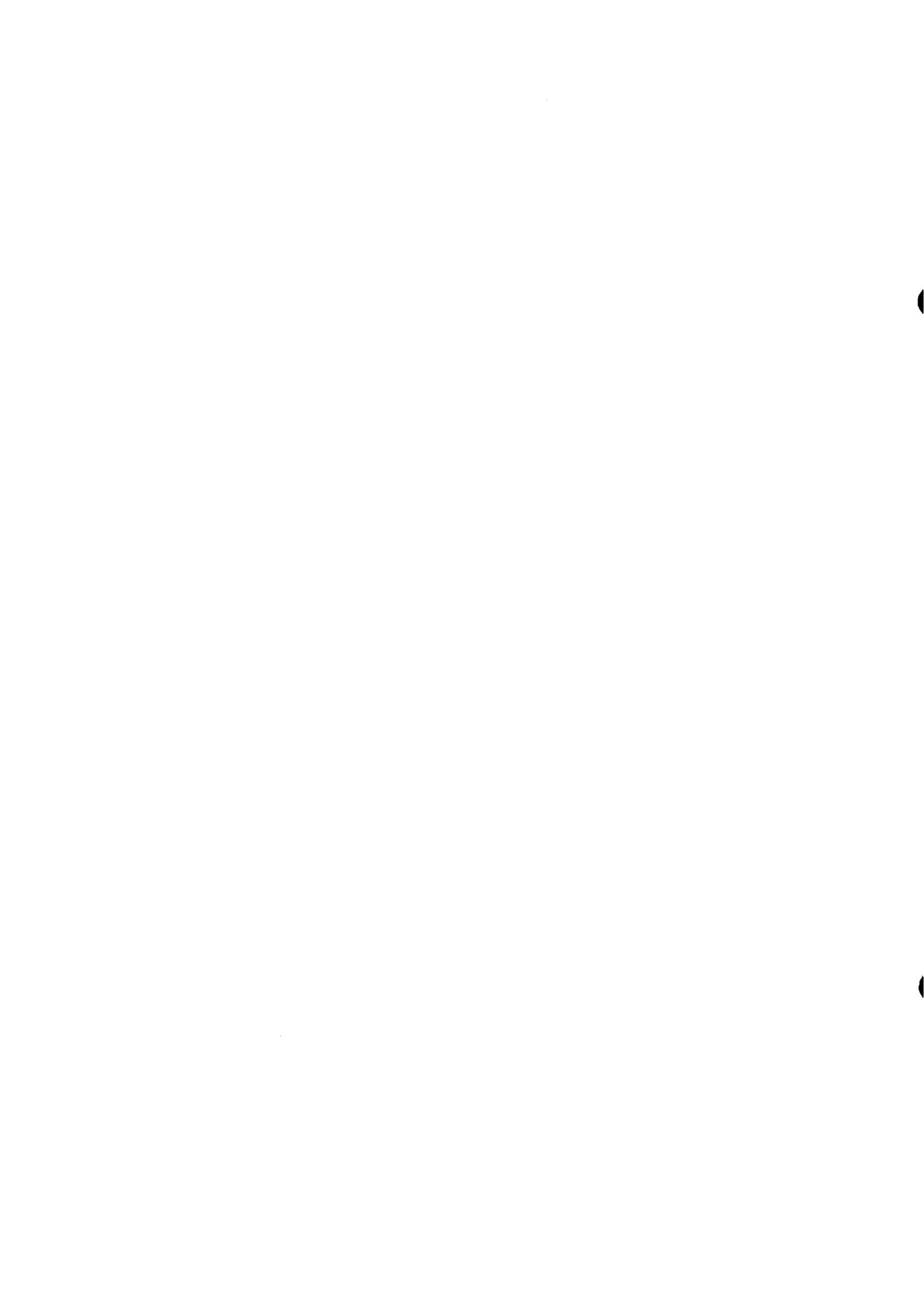
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New (unanimous)

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(Subject to this Act,) Words struck out unanimously

Subject to this Act, Words inserted unanimously



Hon Steve Maharey

Social Welfare (Transitional Provisions) Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Social Welfare (Transitional Provisions) Amendment Act **2000**.
- (2) In this Act, the Social Welfare (Transitional Provisions) Act 1990¹ is called “the principal Act”.
¹ 1990 No 26

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 10

3 Purpose

The purpose of this Act is—

- (a) to allow agreements or Conventions entered into by New Zealand with the governments of other countries

providing for reciprocity in respect of matters relating to social security monetary benefits to include mutual assistance provisions for the recovery of the social security debts of either country:

- (b) to allow such agreements or Conventions to include mutual assistance provisions for the exchange of information for the administration and enforcement of social security laws: 5
- (c) to give effect to any such mutual assistance provisions:
- (d) to provide individuals to whom such mutual assistance provisions relate with appropriate protection of their privacy. 10

Part 1

Amendments to principal Act

- 4 New section 2 substituted** 15
- (1) The principal Act is amended by repealing section 2, and substituting the following section:
- “2 Interpretation**
- “(1) In this Act, unless the context otherwise requires,—
- “Minister**, in relation to any provisions of this Act, means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of those provisions 20
- “Privacy Commissioner** means the Privacy Commissioner appointed under the Privacy Act 1993 25
- “social security debt—**
- “(a) in relation to New Zealand, means an amount that may be recovered from any person under section 86 of the Social Security Act 1964; and
- “(b) in relation to any other country, means an amount that may be recovered from any person— 30
- “(i) under the laws relating to social security in that country; or
- “(ii) for taxation or other contribution levied specifically for social security under the laws of that country. 35
- “(2) Unless the context otherwise requires, expressions defined in section 3(1) of the Social Security Act 1964 and in section 2 of

the War Pensions Act 1954 have in this Act the meanings so defined.”

- (2) The Employment Services and Income Support (Integrated Administration) Act 1998 is consequentially amended by repealing so much of the Schedule as relates to section 2 of the principal Act. 5

5 Adoption of reciprocity agreement with other countries

Section 19 of the principal Act is amended by inserting, after subsection (2), the following subsections:

- “(2A) If an agreement or Convention or alteration to an agreement or Convention contains a provision of the kind referred to in **section 19A(2)**, no Order in Council in respect of that agreement or Convention or alteration may be made under subsection (1) unless the Privacy Commissioner has first presented a report to the Minister and to the Minister of Justice on the following matters: 10 15

Struck out (unanimous)

“(a) whether the provision complies with the privacy principles set out in that Act, having regard to the matters set out in paragraphs (a) to (f) of section 98 that Act:

New (unanimous)

“(a) whether the provision complies with the privacy principles set out in the Privacy Act 1993, having regard to the matters set out in paragraphs (a) to (f) of section 98 of that Act: 20

“(b) if the provision is of the kind referred to in section **19A(2)(b)**, the adequacy of the privacy protection given in the other country to information about any individual that may be supplied by New Zealand under the provision. 25

- “(2B) **Subsection (2A)** does not apply to a provision that relates solely to the recovery of moneys paid under the agreement or Convention in excess of that to which the recipient was entitled under that agreement or Convention.” 30

6 New sections 19A to 19D inserted

The principal Act is amended by inserting, after section 19, the following sections:

- “19A Inclusion of mutual assistance provisions in reciprocity agreement** 5
- “(1) In this section and in sections 19B to 19D,—**
- “agreement** means an agreement or Convention with the government of another country of the kind referred to in section 19, or an alteration to an agreement or Convention of that kind 10
- “competent institution** means an institution of a party that is responsible for the application of the agreement
- “party** means a government that has entered into an agreement
- “requested institution** means the competent institution of a party to which a request is made by the competent institution of the other party 15
- “requesting institution** means the competent institution of a party that makes a request to the competent institution of the other party 20
- “social security laws**, in relation to a party, means the laws of that party relating to social security, including laws relating to taxation or other contribution levied specifically for social security
- “social security purposes** include— 25
- “(a) the administration of the social security laws of a party:**
- “(b) the collection of the social security debts of a party:**
- “(c) the maintenance of the social security laws of a party, including the prevention, detection, prosecution, and punishment of offences under those laws: 30**
- “(d) the enforcement of any social security laws of a party imposing a pecuniary penalty:**
- “(e) the conduct of any proceedings under the social security laws of a party before any court or tribunal.**
- “(2) An agreement may contain— 35**
- “(a) provision for the governments of New Zealand and the other country to provide each other with assistance in the recovery of social security debts; or**

- “(b) provision for those governments to supply each other with information for social security purposes; or
“(c) both provisions described in paragraphs (a) and (b).
- “(3) No provision of the kind referred to in **subsection (2)(a)** may be included in an agreement unless it contains the terms and conditions set out in **section 19B** or terms and conditions to the like effect. 5
- “(4) No provision of the kind referred to in **subsection (2)(b)** may be included in an agreement unless it contains the terms and conditions set out in **section 19C** or terms and conditions to the like effect. 10
- “(5) Nothing in **section 19(2A)** or this section prevents an agreement containing other provisions for mutual assistance if those provisions are not of the kind referred to in **subsection (2)**.
- “19B **Terms and conditions for recovery of social security debts** 15
- “(1) The terms and conditions referred to in **section 19A(3)** are—
- “(a) assistance to recover any social security debt of a party may be provided by the other party only in respect of a debt— 20
- “(i) that has been found or determined to be owing in the country concerned by a court or tribunal having jurisdiction in the matter, or by a person, body, or organisation in that country acting administratively within the terms of his, her, or its lawful authorisation; and 25
- “(ii) in respect of which any right of review or appeal of the determination of the debt, under the law under which the debt was determined (other than a right of judicial review or complaint under laws relating to administrative decisions generally, or under human rights laws), has been exhausted or has expired; and 30
- “(iii) that may be lawfully recovered under the laws of that country; and 35
- “(iv) that was first found or determined to be owing less than 5 years prior to the date that the request for assistance is made, except as provided in **subsection (2)**;

- “(b) when providing assistance to recover any social security debt of a party, the party giving the assistance is not required to—
- “(i) give priority to the recovery of social security debts of the other party; and 5
- “(ii) take any measures for recovery not provided for under the laws relating to the recovery of debts of that party:
- “(c) a party may not seek to recover a social security debt by imprisonment of the individual by whom it is owed or of any other individual: 10
- “(d) any recovery of a social security debt of a deceased individual is limited to the value of that individual’s estate:
- “(e) any institution, court, or tribunal involved in the recovery of a social security debt may defer recovery of the debt, or may order or arrange for the debt to be paid in instalments, if— 15
- “(i) the institution, court, or tribunal has the power to do so; and 20
- “(ii) it is its normal practice to do so:
- “(f) a party may give assistance only in respect of a social security debt that the requesting institution has certified is of a kind described in **subparagraphs (i) to (iv) of paragraph (a)**: 25
- “(g) the party requesting assistance to recover a social security debt must pay the costs of the other party of recovering the debt, including court costs or other fees payable under the laws of that party.
- “(2) Where any institution, court, or tribunal defers the recovery of a social security debt, or orders or arranges for a social security debt to be paid by instalments, the 5-year period referred to in **subsection (1)(a)(iv)** is extended by the period of deferral or, as the case requires, the period over which the debt is to be paid by instalments. 30 35
- “19C **Terms and conditions for exchange of information for social security purposes**
- “(1) The terms and conditions referred to in **section 19A(4)** are—
- “(a) a request for information relating to an individual may be made only for social security purposes: 40

- “(b) the requested institution of a party may supply to the requesting institution—
 - “(i) such information on the person to whom the request relates as it holds or is lawfully able to obtain; and 5
 - “(ii) such information on that person as it may obtain from the taxation authorities of that party:
- “(c) the requesting institution of a party (the **requesting party**) to whom information is supplied by the requested institution of the other party may supply that information to the taxation authorities of the requesting party for either or both of the following purposes: 10
 - “(i) making an assessment of the tax due by any person under the laws of the requesting party relating to taxation: 15
 - “(ii) detecting tax fraud or tax evasion under the laws of the requesting party:

Struck out (unanimous)

- “(d) every request for and supply of information made by and to the competent institutions of the parties must be made in terms of an agreement between the competent institutions of the parties that, in relation to New Zealand,— 20
 - “(i) contains, with all necessary modifications, the safeguards required to be set out in an information matching agreement within the meaning of section 99 of the Privacy Act 1993; and 25
 - “(ii) is consistent with the information matching rules set out in the Fourth Schedule of that Act, with all necessary modifications:

New (unanimous)

- “(d) every request for and supply of information made by and to the competent institutions of the parties must be made in terms of an agreement between the competent institutions of the parties that— 30

New (unanimous)

- | | |
|---|----------|
| “(i) specifies the types of information that the competent institutions may supply to each other; and | |
| “(ii) limits the supply of information to the types of information specified; and | |
| “(iii) subject to subparagraph (iv) , in relation to New Zealand, contains, with all necessary modifications, the safeguards required to be set out in an information matching agreement within the meaning of section 99 of the Privacy Act 1993; and | 5
10 |
| “(iv) in relation to New Zealand, requires the information matching rules set out in clause 4 of the Fourth Schedule of the Privacy Act 1993, with all necessary modifications, to be applied; and | |
| “(v) in relation to New Zealand, has been agreed to by the Privacy Commissioner under the Privacy Act 1993, the Commissioner having had regard to the information matching guidelines in section 98 of that Act: | 15 |
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| “(e) Subject to paragraphs (b) and (c) , any information supplied by a party to the other party must be subject to the same privacy protections as any other personal information obtained under the social security laws of the other party: | 20 |
| “(f) no party that receives, under the agreement, personal information about any individual from the competent institution of the other party may supply that information to any other country without the prior written consent of that competent institution or the individual concerned: | 25
30 |
| “(g) a party must supply the competent institution of the other party with any information required by that institution to answer any questions or to make any report or return required by a person or body authorised to monitor compliance with that party’s privacy laws. | 35 |

- “(2) In relation to New Zealand, section 99(4) of the Privacy Act 1993 applies, with any necessary modifications, to an agreement between the competent institutions of the parties under **subsection (1)(d)**.
- “19D **Actions by chief executive under mutual assistance provisions** 5
- “(1) Where an Order in Council is made under section 19 in respect of an agreement which contains a provision of the kind referred to in **section 19A(2)(a)**,—
- “(a) any social security debt of the other country may, in accordance with and subject to the provision and to the extent that it has not been recovered in the other country, be recovered by the chief executive under section 86(1D) of the Social Security Act 1964 as if it were a debt due to the Crown; and 10 15
- “(b) any amount so recovered may, after the deduction of the costs of collection, be paid to the other country without any further appropriation than this paragraph.
- “(2) For the purposes of **subsection (1)(a)**, a certificate signed by an authorised officer of the competent institution of the other country that the debt is of a kind described in **subparagraphs (i) to (iv) of section 19B(1)(a)** is, in the absence of proof to the contrary, sufficient evidence of the existence of the debt. 20
- “(3) Where an Order in Council is made under section 19 in respect of an agreement which contains a provision of the kind referred to in **section 19A(2)(b)**,— 25
- “(a) the chief executive may supply any information in the department’s possession about any person to, or receive information about any person from, the competent institution of the other country in accordance with, and subject to, the provision: 30
- “(b) the chief executive may from time to time, in accordance with arrangements made in an agreement with the Commissioner of Inland Revenue, supply any information received from the competent institution of the other country to the Commissioner for either or both of the purposes referred to in **section 19C(1)(c)**: 35
- “(c) if any information received from the competent institution of the other country under the provision has produced a discrepancy and the chief executive proposes to 40

- take action against an individual as a result, the chief executive must give that individual written notice—
- “(i) specifying particulars of the discrepancy and of the adverse action the chief executive proposes to take; and 5
- “(ii) stating that the individual has 5 working days from the receipt of the notice in which to show cause why that action should not be taken:
- “(d) the chief executive may not take any adverse action against an individual to whom a notice has been sent until the expiry of the 5 working days referred to in **paragraph (c)**: 10
- “(e) sections 100 to 102 and 104 to 106 of the Privacy Act 1993 apply in respect of the provision as if the provision were an authorised information matching programme and the department were the only specified agency involved in that programme. 15
- “(4) Nothing in **paragraph (c) or paragraph (d) of subsection (3)** prevents the chief executive from taking adverse action against an individual if compliance with the requirements of **subsection (3)(c)** would prejudice any investigation into the commission of an offence or the possible commission of an offence. 20
- “(5) Subsections (3) and (4) of section 103 of the Privacy Act 1993 apply to any notice to be given to any individual under **subsection (3)(c)**. 25
- “(6) Where the chief executive fails to comply, in relation to any individual, with the provisions of **subsection (3)(c)**, the failure is considered, for the purposes of Part VIII of the Privacy Act 1993, to constitute a failure to comply with the provisions of Part X of that Act. 30
- “(7) In this section, expressions defined in section 97 of the Privacy Act 1993 have the meanings so defined, with any necessary modifications.”

Part 2

Amendments to other Acts 35

- 7 **Amendments to Third Schedule of Privacy Act 1993**
The Third Schedule of the Privacy Act 1993 is amended—
- (a) by omitting from the second column of the item relating to the Tax Administration Act 1994, the expression

“and 85A”, and substituting the expression “85A, and 85B”:

(b) by adding the following item:

Social Welfare (Transitional Provisions) Act 1990 **section 19D(3)(b).** 5

8 Amendments to Social Security Act 1964

(1) Section 10A of the Social Security Act 1964 is amended by repealing subsection (1), and substituting the following subsections: 10

“(1) This section applies to—

“(a) an applicant or beneficiary affected by a decision made by any person in the exercise of any power, function, or discretion conferred on the person by delegation under this Act, against which the applicant or beneficiary has a right of appeal under section 12J; or 15

“(b) an applicant, beneficiary, or other person in respect of whom a person makes any decision in the exercise of a power under **section 19D(1)(a)** of the Social Welfare (Transitional Provisions) Act 1990 conferred on the decision-making person by delegation under that Act, against which the applicant or beneficiary or other person has a right of appeal under section 12J. 20

“(1A) A person to whom this section applies may apply in writing for a review of the decision to the appropriate district review committee established under this section. 25

“(1B) The application must be made—

“(a) within 3 months after receiving notification of the decision; or

“(b) if the committee considers there is good reason for the delay, within such further period as the committee may allow on application made either before or after the expiration of that period of 3 months.” 30

(2) Section 12J of the Social Security Act 1964 is amended by inserting, after subsection (1), the following subsection: 35

“(1A) An applicant or beneficiary or other person may appeal to the Appeal Authority against a decision—

“(a) that was made in relation to that person by the chief executive under the power conferred by **section 19D(1)(a)**

- of the Social Welfare (Transitional Provisions) Act 1990; and
- “(b) that has been confirmed or varied by a benefits review committee under section 10A or that was made by the chief executive other than pursuant to a delegation.” 5
- (3) The following enactments are repealed:
- (a) section 3 of the Social Security Amendment Act (No 4) 1997:
- (b) so much of the Schedule of the Employment Services and Income Support (Integrated Administration) Act 1998 as relates to section 10A(1) of the Social Security Act 1964. 10
- 9 New sections 85B and 85C inserted in Tax Administration Act 1994**
- The Tax Administration Act 1994 is amended by inserting, 15
after section 85A, the following sections:
- “85B Disclosure of information for purposes of mutual assistance provision contained in social security agreement**
- “(1) The purpose of this section is to facilitate the exchange of 20
information between the Inland Revenue Department and the department for the time being responsible for the administration of the Social Security Act 1964 for the purpose of giving assistance to the government of a country with which New Zealand has a social security agreement. 25
- “(2) For the purpose of this section, any authorised officer of the department for the time being responsible for the administration of the Social Security Act 1964 may from time to time supply to the Commissioner any personal information supplied to that department by the government of that country. 30
- “(3) Where, in relation to any person, personal information is supplied in accordance with **subsection (2)** to the Commissioner, the Commissioner may compare that information with any information held by the Commissioner which relates to the person. 35

Struck out (unanimous)

- “(4) For the purpose of this section, where the Commissioner has information relating to the person, the Commissioner may supply to an authorised officer such information as is held by the Commissioner in relation to that person, including—
- “(a) the street address of the person; and 5
 - “(b) the name and street address of the last known employer of the person; and
 - “(c) where the result of any comparison carried out under **subsection (3)** indicates that the person is receiving, or has, during the previous income year, received, any gross income from any source, the details of that gross income; and 10
 - “(d) where the Commissioner knows the names and dates of birth of any dependent children of the person, those names and dates. 15

New (unanimous)

- “(4) For the purpose of this section, where the Commissioner has information relating to the person, the Commissioner may supply to an authorised officer—
- “(a) any of the following information held by the Commissioner if that information is of a type specified in the agreement made under **section 19C(1)(d)** of the Social Welfare (Transitional Provisions) Act 1990: 20
 - “(i) the street address of the person; and
 - “(ii) the name and street address of the last known employer of the person; and 25
 - “(iii) where the result of a comparison carried out under **subsection (3)** indicates that the person is receiving, or has, during the previous income year, received, any gross income from any source, the details of that gross income; and 30
 - “(iv) where the Commissioner knows the names and dates of birth of any dependent children of the person, those names and dates; and

New (unanimous)

“(b) any other information held by the Commissioner that is of a type specified in the agreement made under **section 19C(1)(d)** of the Social Welfare (Transitional Provisions) Act 1990.

- “(5) Where the Commissioner has supplied information under **sub-section (4)** to an authorised officer of the department for the time being responsible for the administration of the Social Security Act 1964, the department may supply that information to the competent institution of the government of the other country in accordance with the mutual assistance provision of the social security agreement. 5 10
- “(6) The provisions of this section apply despite any other provision of this Act.
- “(7) In this section, unless the context otherwise requires,—
- “**authorised officer** means any officer, employee, or agent of the department for the time being responsible for the administration of the Social Security Act 1964 who is authorised by the chief executive of that department to supply information or receive information from the Commissioner under this section 15 20
- “**personal information** means information that identifies an individual, which may include the individual’s tax file number
- “**social security agreement** means an agreement or Convention or alteration to an agreement or Convention—
- “(a) in respect of which an Order in Council has been made 25 under section 19 of the Social Welfare (Transitional Provisions) Act 1990; and
- “(b) that contains a mutual assistance provision of a kind referred to in **section 19A(2)(b)** of that Act.
- “85C **Use and supply of information supplied for purposes of section 85B** 30
- Where information is supplied to the Commissioner under **section 85B(2)**, the Commissioner—
- “(a) may use that information for any of the following purposes: 35

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- “(i) the purposes set out in **subsections (3) and (4)** of that section:
- “(ii) making an assessment of the amount of tax due by any person:
- “(iii) detecting tax fraud or tax evasion: 5
- “(b) may not supply that information to any other country without the prior written consent of the chief executive of the department for the time being responsible for the administration of the Social Security Act 1964 and subject to such conditions as that chief executive sets.” 10

Legislative history

8 May 2000
30 May 2000

Introduction (Bill 21-1)
First reading and referral to Social Services Committee

