

**Reprint
as at 1 April 2019**



Housing Restructuring and Tenancy Matters Act 1992

Public Act 1992 No 76
Date of assent 18 August 1992
Commencement see section 1

Act name: substituted, on 1 July 2006, by section 5(1) of the Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006 (2006 No 34).

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Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

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This Act is administered by the Ministry of Housing and Urban Development and the Ministry of Social Development.

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An Act to—

- (a) **provide for the acquisition by the Crown of shares in the capital of a company incorporated under the Companies Act 1955; and**
- (b) **provide for the vesting in that company of State housing land held by the Crown under the Housing Act 1955 and assets and liabilities of the Housing Corporation of New Zealand; and**
- (c) **provide for related matters, income-related rents, information matching, and other tenancy matters**

Title paragraph (c): amended, on 1 July 2006, by section 4 of the Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006 (2006 No 34).

1 Short Title and commencement

- (1) This Act may be cited as the Housing Restructuring and Tenancy Matters Act 1992.
- (2) Except as provided in subsections (3) and (4), this Act shall come into force on the date on which it receives the Royal assent.
- (3) Section 38 shall be deemed to have come into force on 31 March 1989.
- (4) Section 41 shall come into force on a date to be appointed by the Governor-General by Order in Council.

Section 1(4): section 41 brought into force, on 4 June 1999, by clause 2 of the Housing Restructuring Act Commencement Order 1999 (SR 1999/161).

Section 1(1): amended, on 1 July 2006, by section 5(2) of the Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006 (2006 No 34).

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

additional resident, in relation to any social housing, means a person who—

- (a) is aged 16 years or over; and
- (b) is financially independent (as defined in Schedule 2 of the Social Security Act 2018); and
- (c) resides or is to reside in the housing; but
- (d) is not an applicable person

agency means the social housing agency or agencies appointed under section 100

agreement includes a deed, a contract, an agreement, an arrangement, and an understanding, whether oral or written, express or implied, and whether or not enforceable at law

applicable person, in relation to any social housing,—

- (a) means every person to whom the housing is or is to be let; and
- (b) includes every person who is the spouse or partner of such a person

appointed day means 17 November 2000

assessable assets has the meaning given to that term by the calculation mechanism

assessable income has the meaning given to that term by section 108

authority means the authority appointed under section 159 to perform the functions and exercise the powers of the regulatory authority under Part 10

board means the board of directors of the company

calculate includes ascertain

calculation mechanism,—

- (a) before the commencement of the regulations first made under section 114, means sections 107 to 113 and the provisions of Schedule 2; and
- (b) after that commencement, means sections 107 to 113 and the regulations for the time being in force under section 114

code of conduct,—

- (a) in relation to information that may be required under section 80, means the code of conduct issued under section 86;
- (b) in relation to information that may be required under section 125, means the code of conduct issued under section 138

community housing means any premises that are let or to be let by or on behalf of a registered community housing provider for occupation by any person as a place of residence (whether or not the premises are owned by the provider or any other person)

community housing provider means a housing provider (other than HNZ or the Corporation) that has, as 1 of its objects, the provision of one or both of the following types of housing:

- (a) social rental housing;
- (b) affordable rental housing

company,—

- (a) before the day on which the order under section 53 of the Housing Corporation Act 1974 relating to it comes into force, means the company the shares in which—
 - (i) on 30 June 2001 were owned by the responsible Minister (as that term was then defined by this section) and the Minister of Finance, having been acquired under the former section 9; and
 - (ii) on 1 July 2001 vested in the Corporation under section 52(1) of the Housing Corporation Act 1974; but
- (b) on and after that day, must be read as a reference to the Corporation as that company's successor

contributions, in relation to an additional resident of any social housing, means all payments made by the resident, and the value of all goods or services provided or paid for by the resident,—

- (a) as a contribution towards the costs and expenses incurred by the applicable persons in residing there; or
- (b) in consideration of goods or services provided by the applicable persons while the resident is residing there; or
- (c) in consideration of the resident being allowed to reside there; or
- (d) for 2 or all of those reasons

Corporation means the Housing New Zealand Corporation established under section 3 of the Housing Corporation Act 1974

Corporation assets means any real or personal property of any kind belonging to the Corporation, whether or not subject to rights; and, without limiting the generality of the foregoing, includes—

- (a) any estate or interest in any land belonging to the Corporation, including all rights of occupation of land or buildings;
- (b) all buildings, vehicles, plant, equipment, and machinery belonging to the Corporation, and any rights therein;
- (c) all financial products within the meaning of the Financial Markets Conduct Act 2013 belonging to the Corporation;
- (d) all rights of any kind belonging to the Corporation, including rights under Acts, deeds, agreements, or licences, and all applications, objections, submissions, and appeals in respect of such rights:

- (e) all patents, trade marks, designs, copyright, plant variety rights, and other intellectual property rights whether enforceable by Act or rule of law belonging to the Corporation:
- (f) goodwill and any business undertaking of the Corporation

Corporation liabilities means liabilities of the Corporation

HNZ means the company

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

income-related purpose has the same meaning as in Schedule 2 of the Social Security Act 2018

income-related rent,—

- (a) in relation to a tenant of HNZ housing, means a rent that the agency has—
 - (i) calculated for the tenant under the calculation mechanism or Schedule 3; and
 - (ii) notified to HNZ; or
- (b) in relation to a tenant of a registered community housing provider, means a rent that the agency has—
 - (i) calculated for the tenant under the calculation mechanism; and
 - (ii) notified to the provider

joint Ministers means the Minister of Finance, the Minister of Housing, and the Minister for Social Development

liabilities includes—

- (a) liabilities and obligations under any Act or agreement; and
- (b) deposits and other debt securities within the meaning of the Financial Markets Conduct Act 2013; and
- (c) contingent liabilities

market rent,—

- (a) in relation to HNZ housing, means the rent for the time being determined by HNZ or the Tenancy Tribunal (under the Residential Tenancies Act 1986) as the market rent for that housing; or
- (b) in relation to housing provided by a registered community housing provider, means the rent for the time being determined by that provider or the Tenancy Tribunal (under the Residential Tenancies Act 1986) as the market rent for that housing

notification means notification by the agency under sections 103 or 106

partner, in the phrase “spouse or partner” and in related contexts, means, in relation to any person (A), a person who is A’s civil union partner or de facto partner

prospective tenant means a person—

- (a) who—
 - (i) is not a person to whom any social housing is let or to be let; and
 - (ii) has applied to the agency (alone or together with some other person or people) for an assessment of the person’s eligibility for social housing and—
 - (A) whose eligibility for social housing has not yet been confirmed or declined or whose application for an assessment has not yet been withdrawn; or
 - (B) whose eligibility for social housing has been confirmed but who has not yet been allocated any particular social housing by a social housing provider; or
- (b) who—
 - (i) is already a person to whom social housing is let or to be let; but
 - (ii) has applied to the agency (alone or together with some other person or people) to become a tenant of some other social housing and has not yet had the application accepted or declined, or withdrawn it

registered community housing provider means a community housing provider that is registered by the authority under Part 10 as a community housing provider

reimbursement agreement means an agreement referred to in section 85(1) or an agreement under section 98(1)

rent period, in relation to any social housing, means a period in respect of which the tenant is required by the tenancy agreement to pay rent for the housing

rights includes powers, privileges, interests, licences, approvals, consents, benefits, and equities of any kind, whether actual, contingent, or prospective

security means a mortgage, submortgage, charge (whether legal or equitable), bond, stock, debenture, bill of exchange, promissory note, guarantee, indemnity, defeasance, hypothecation, instrument by way of security, lien, pledge, or other security for the payment of money or for the discharge of any other obligation or liability, and in any case whether upon demand or otherwise, whether present or future and whether actual or contingent, and includes an acknowledgment of debt (whether or not otherwise secured) and an agreement or undertaking to give or execute whether upon demand or otherwise any of the foregoing

sitting day means a sitting day of the House of Representatives

social housing means HNZ housing or community housing

social housing provider means HNZ or a registered community housing provider

standard tax means the amount of tax reckoned on a weekly basis that would be deductible in accordance with tax code M specified in schedule 5, part A, clause 4, table row 1 of the Tax Administration Act 1994

State housing assets means State housing land within the meaning of section 2(1) of the Housing Act 1955; and includes—

- (a) all buildings, vehicles, plant, equipment, machinery, and chattels belonging to the Crown and relating to State housing land (as so defined) and any rights therein;
- (b) all rights of the Crown of any kind relating to State housing land (as so defined) including rights under Acts, deeds, agreements, or licences, and all applications, objections, submissions, and appeals in respect of such rights; and
- (c) all securities belonging to the Crown and relating to State housing land (as so defined)

State housing liabilities means all liabilities of the Crown relating to State housing land within the meaning of section 2(1) of the Housing Act 1955

statement of corporate intent means the current statement of corporate intent for the company prepared pursuant to section 15

study grant means a basic grant or independent circumstances grant under regulations under section 303 of the Education Act 1989 (or an allowance, award, bursary, grant, or scholarship that the agency considers to have been established under that section in place of a basic grant or independent circumstances grant)

tailored agreement means an agreement under section 137A

tenant,—

- (a) in relation to social housing in general,—
 - (i) means any person or people to whom any social housing is let or to be let; and
 - (ii) includes a prospective tenant; and
 - (b) in relation to any particular social housing, means the person or people to whom it is let or to be let.
- (2) In this Act, a reference to **transfer**, **authorise**, or **grant** includes entering into an agreement to transfer, authorise, or grant, as the case may be.
 - (3) References in this Act to State housing land within the meaning of subsection (1) of section 2 of the Housing Act 1955 shall be construed as references to

State housing land within the meaning of that subsection and nothing in subsection (2) of that section shall apply.

- (4) References in this Act to **person** include an agency and any person who is an officer or employee in the service of the Crown in a government department or public body (other than as an officer of a court, in his or her official capacity).

Section 2(1) **additional resident**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **additional resident** paragraph (b): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 2(1) **agency**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **applicable person**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **appointed day**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **assessable assets**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **assessable income**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **authority**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **calculate**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **calculation mechanism**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **code of conduct**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **community housing**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **community housing provider**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **company**: substituted, on 1 July 2001, by section 24(1) of the Housing Corporation Amendment Act 2001 (2001 No 37).

Section 2(1) **contributions**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **Corporation**: amended, on 1 July 2001, by section 24(1) of the Housing Corporation Amendment Act 2001 (2001 No 37).

Section 2(1) **Corporation assets** paragraph (c): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 2(1) **District Land Registrar**: repealed, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 2(1) **HNZ**: inserted, on 28 November 2013, by section 4(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **HNZ housing**: inserted, on 28 November 2013, by section 4(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **income-related purpose**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **income-related purpose**: amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 2(1) **income-related rent**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **joint Ministers**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **liabilities** paragraph (b): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 2(1) **market rent**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **notification**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **partner**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **prospective tenant**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **registered community housing provider**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **reimbursement agreement**: inserted, on 28 May 2015, by section 4 of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 2(1) **rent period**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **responsible Minister**: repealed, on 1 July 2001, by section 24(1) of the Housing Corporation Amendment Act 2001 (2001 No 37).

Section 2(1) **rules**: repealed, on 28 November 2013, by section 4(2) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **shareholding Ministers**: repealed, on 1 July 2001, by section 24(1) of the Housing Corporation Amendment Act 2001 (2001 No 37).

Section 2(1) **social housing**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **social housing provider**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **standard tax**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **standard tax**: amended, on 1 April 2019, by section 259 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section 2(1) **study grant**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(1) **subsidiary**: repealed, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 2(1) **tailored agreement**: inserted, on 28 May 2015, by section 4 of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 2(1) **tenant**: inserted, on 14 April 2014, by section 19(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 2(4): inserted, on 28 November 2013, by section 4(3) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

3 Act to bind the Crown

This Act binds the Crown.

3A Transitional and savings provisions

This Act is subject to Schedule 4, which provides for transitional and savings provisions.

Section 3A: inserted, on 28 November 2013, by section 20 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Part 1 Principles

4 Principal objective of company

[Repealed]

Section 4: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

5 Responsibility of Ministers

[Repealed]

Section 5: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

6 Directors and their role

[Repealed]

Section 6: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

7 Contracts for provision of services

The Crown may, from time to time, require the company to enter into agreements for the provision by the company of housing and related services to any persons in return for the payment by the Crown of the whole or part of the price thereof and, in any such case, the company shall enter into such agreements with the Crown.

8 Collective agreements

[Repealed]

Section 8: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

Part 2

Acquisition by the Crown of shares in company

[Repealed]

Part 2: repealed, on 1 July 2001, pursuant to section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

9 Acquisition by the Crown of shares in company

[Repealed]

Section 9: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

10 Application of Companies Act 1955

[Repealed]

Section 10: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

11 Shareholding Ministers may subscribe for additional shares and equity bonds in company

[Repealed]

Section 11: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

12 Equity bonds

[Repealed]

Section 12: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

13 Provisions relating to Ministers' shareholding

[Repealed]

Section 13: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

14 Powers of shareholding Ministers in respect of company

[Repealed]

Section 14: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

Part 3

Accountability

[Repealed]

Part 3: repealed, on 1 July 2001, pursuant to section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

15 Statement of corporate intent

[Repealed]

Section 15: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

16 Annual report, accounts, and dividend

[Repealed]

Section 16: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

17 Half-yearly reports

[Repealed]

Section 17: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

18 Information to be laid before House of Representatives

[Repealed]

Section 18: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

19 Other information

[Repealed]

Section 19: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

20 Auditor-General to be auditor of company and subsidiaries

[Repealed]

Section 20: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

21 Protection from disclosure of sensitive information

[Repealed]

Section 21: repealed, on 1 July 2001, by section 25(1)(c) of the Housing Corporation Amendment Act 2001 (2001 No 37).

Part 4

Vesting of State housing assets and liabilities and Corporation assets and liabilities in company

22 Agreements in relation to vesting of State housing assets and liabilities and Corporation assets and liabilities

- (1) Notwithstanding any Act, rule of law, or agreement, the shareholding Ministers may, from time to time, do any 1 or more of the following:
 - (a) enter into an agreement with the company on such terms and conditions as the shareholding Ministers and the company think fit that identifies the State housing assets or liabilities or Corporation assets or liabilities that the shareholding Ministers and the company agree should be vested in the company and that states the consideration for such vesting:
 - (b) authorise the company to act on behalf of the Crown or the Corporation in providing housing services or in managing State housing assets or liabilities or Corporation assets or liabilities:
 - (c) grant to the company leases, licences, easements, permits, or rights of any kind in respect of State housing assets or liabilities or Corporation assets or liabilities.
- (2) Any agreement entered into under subsection (1) may apply to State housing assets or liabilities or Corporation assets or liabilities separately or as a group or class and, for the purposes of this subsection, a class of State housing assets or liabilities or Corporation assets or liabilities may comprise—
 - (a) all or any State housing assets or liabilities or Corporation assets or liabilities:
 - (b) all or any State housing assets or liabilities or Corporation assets or liabilities other than State housing assets or liabilities or Corporation assets or liabilities identified separately or as a group or class.
- (3) The responsible Minister shall lay before the House of Representatives any contract or other document entered into pursuant to subsection (1) within 12 sitting days after the date of that contract or document.

23 Assets relating to land and interests in land may be dealt with separately

The shareholding Ministers and the company may agree pursuant to section 22 that any State housing assets or Corporation assets that are fixed to, or are under or over, any land may be vested in the company whether or not the land is also vested in the company and, in any such case, for the purposes of this Part, the assets and the land shall be regarded as separate assets each capable of separate ownership.

24 Vesting of State housing assets and liabilities and Corporation assets and liabilities in company

- (1) The Governor-General may from time to time, by Order in Council, appoint a date on which, by virtue of this Act, State housing assets or liabilities and Corporation assets or liabilities referred to in any agreement entered into between the shareholding Ministers and the company, being an agreement specified in the order, shall vest in the company.
- (2) The vesting of State housing assets and liabilities and Corporation assets and liabilities pursuant to this Part shall take effect notwithstanding any enactment or rule of law or agreement and, in particular, but without limitation, the vesting shall take effect notwithstanding any provision contained in the Land Act 1948, the Reserves Act 1977, the Public Works Act 1981, the Resource Management Act 1991, or any other enactment relating to land.
- (3) An Order in Council under this section is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 24(3): replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

25 Additional provisions relating to vesting

- (1) Nothing in this Part—
 - (a) shall be regarded as placing the Crown, the company, the Corporation, or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
 - (b) shall be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
 - (c) shall be regarded as placing the Crown, the company, the Corporation, or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
 - (d) shall release any surety from any obligation; or
 - (e) shall invalidate or discharge any contract or security.
- (2) The Registrar-General of Land or any other person charged with the keeping of books or registers is hereby authorised to make such entries in their respective books or registers and do everything necessary to give effect to the vesting of any State housing assets or liabilities and Corporation assets or liabilities in the company under this Part.
- (3) A certificate, signed by the Chief Surveyor for the land district in which the land is situated, that land described in the certificate, or described in any document on which the certificate appears, is land vested in the company pursuant

to this Part shall be sufficient evidence, in the absence of proof to the contrary, that the land was so vested.

- (4) Where State housing assets or liabilities or Corporation assets or liabilities vest in the company pursuant to this Part,—
- (a) the publication under the Acts and Regulations Publication Act 1989 or the Legislation Act 2012 of any Order in Council made under section 24 of this Act relating to those State housing assets or liabilities or Corporation assets or liabilities shall be deemed to be notice of the vesting and any third party shall, after the date of such publication, deal with the company in place of the Crown or the Corporation, as the case may be:
 - (b) the Crown or the Corporation, as the case may be, shall remain liable to any third party as if the asset or liability had not been vested but shall be indemnified by the company in respect of any liability to any third party:
 - (c) any satisfaction or performance by the company in respect of the asset or liability shall be deemed to be also satisfaction or performance by the Crown or the Corporation, as the case may be:
 - (d) any satisfaction or performance in respect of the asset or liability by any third party to the benefit of the company shall be deemed to be also to the benefit of the Crown or the Corporation, as the case may be.

Section 25(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 25(4)(a): amended, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

26 Vesting of assets where certain terms and conditions prescribed by statute

- (1) Where—
- (a) rights or obligations to provide goods or services to third parties are vested in the company pursuant to this Part; and
 - (b) those goods or services have previously been provided by the Crown or the Corporation, as the case may be, on terms and conditions wholly or partly prescribed by any Act; and
 - (c) the Governor-General has, by Order in Council, declared that this subsection shall apply in respect of those goods or services,—
- the goods or services shall, to the extent that those terms and conditions are not already contained in contracts between the Crown or the Corporation, as the case may be, and third parties, from the date of vesting be deemed to be provided pursuant to contracts between the company and the third parties (whether or not the Act is repealed).
- (2) Each such contract shall be deemed to include such of the terms and conditions contained in that Act (with all necessary modifications) as are specified in the Order in Council.

- (3) Where any land that is subject to any lease, licence, permit, or right, created on terms and conditions wholly or partly set out in any Act has been vested in the company pursuant to this Part, the Governor-General may, by Order in Council, declare that such of the provisions of that Act as are specified in the order shall continue to apply in relation to the land and such lease, licence, permit, or right.
- (4) Where an Order in Council is made under subsection (3), the provisions of the Act referred to in the order shall, with all necessary modifications, continue to apply in relation to the land and the terms or conditions of the lease, licence, permit, or right subject to any agreement to—
- (a) amend or revoke any such term or condition; or
 - (b) revoke any such term or condition and substitute another term or condition for it—

made between the owner for the time being of the land and the holder for the time being of the lease, licence, permit, or right.

Compare: 1986 No 124 s 23(7), (8), (8A); 1992 No 27 s 4

27 Provisions relating to vesting of land

- (1) Notwithstanding any other provision of this Act, no land that is subject to a lease or licence pursuant to section 66 or section 66AA of the Land Act 1948 shall be vested in the company pursuant to this Part.
- (2) Notwithstanding any other provision of this Act, no land for the time being administered by the Department of Conservation under the Conservation Act 1987 or under any enactment specified in Schedule 1 to that Act shall be vested in the company pursuant to this Part.
- (3) All land that is subject to the Housing Act 1955 and that is vested in the company pursuant to this Part shall cease to be subject to that Act from the date of that vesting unless otherwise expressly provided by this Act or any other Act.
- (4) Nothing in sections 40 to 42 of the Public Works Act 1981 shall apply to the vesting of land in the company pursuant to this Part.
- (4A) To avoid doubt, sections 40 to 42 of the Public Works Act 1981 do not apply (and have never applied) to the sale or disposal by the company of land vested in the company pursuant to this Part.
- (5) Nothing in this Part or in any vesting of land in the company pursuant to this Part shall derogate from the provisions of section 10 or section 11 of the Crown Minerals Act 1991.

Compare: 1986 No 124 s 24(2)–(5); 1987 No 117 s 7(1), (2); 1990 No 31 s 37; 1991 No 70 s 121

Section 27(4A): inserted, on 25 February 2016, by section 4 of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2016 (2016 No 5).

28 Title to land vested in company

- (1) The Registrar-General of Land must, on written application by any person authorised by either of the shareholding Ministers and on payment of any prescribed fee,—
 - (a) register the company as the owner, in substitution for the Crown, of the estate or the interest of the Crown in land that is incorporated in the register or otherwise registered and that is vested in the company pursuant to this Part; and
 - (b) register the company as the owner, in substitution for the Corporation, of the estate or the interest of the Corporation in land that is incorporated in the register or otherwise registered and that is vested in the company pursuant to this Part.
- (2) The powers conferred by subsection (1) may be exercised in respect of any estate or interest that is incorporated in the register by virtue of a lease or licence that has expired or been determined.
- (3) The Registrar-General of Land must, on written application by any person authorised by either of the shareholding Ministers and on payment of the prescribed fee, issue a record of title for land, other than land that is registered under the Land Transfer Act 2017, that is vested in the company pursuant to this Part.
- (4) The Registrar-General of Land must, on written application by a person authorised by either of the shareholding Ministers and on payment of the prescribed fee, issue a record of title for land that is subject to the Land Transfer Act 2017 but for which no record of title has been issued and that is vested in the company pursuant to this Part.
- (5) Every application under subsection (1) must—
 - (a) state that the land has been vested in the Corporation under this Act; and
 - (b) contain a description of the land that is sufficient to identify it; and
 - (c) in the case of land that has not previously been registered under the Land Transfer Act 2017, be accompanied by a certificate from the Surveyor-General in the form required by section 29(1).
- (6) Where land is vested in the company pursuant to this Part and at any time before 1 October 1991 (being the date of the coming into force of Part 10 of the Resource Management Act 1991), in relation to a proposed subdivision of the land, either the Crown or the Corporation held an approval under the Local Government Act 1974 (being an approval that expired before that date) or no approval under that Act or any other Act was required, as the case may be,—
 - (a) any person authorised by either of the shareholding Ministers may, notwithstanding the Resource Management Act 1991, lodge for deposit by a District Land Registrar a survey plan in respect of the land and, in any

such case, the District Land Registrar shall, notwithstanding that Act but subject to the provisions of any other applicable enactment,—

- (i) deposit any such plan; and
 - (ii) on written application by any such person, issue a certificate of title for any land that is shown as a separate allotment on the plan as so deposited:
- (b) a District Land Registrar shall, notwithstanding the Resource Management Act 1991, on written application by a person authorised by either of the shareholding Ministers, issue a certificate of title for any land that is shown as a separate allotment on any survey plan in respect of the land that was deposited before 1 October 1991.
- (7) For the purposes of subsection (6), the expressions **allotment**, **subdivision**, and **survey plan** shall have the same meanings as in the Resource Management Act 1991.

Compare: 1990 No 105 s 9

Section 28(1): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 28(2): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 28(3): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 28(4): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 28(5): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

29 Land certification

- (1) Before the Registrar-General of Land issues a record of title in respect of any land, other than land that is registered under the Land Transfer Act 2017, that is vested in the company pursuant to this Part, the Registrar-General of Land must either receive under the hand of, or request from, the chief executive within the meaning of section 4 of the Cadastral Survey Act 2002 or the Surveyor-General a certificate in a form substantially similar to the form set out in Schedule 2 of the Land Act 1948 as to the legal description of the land, any trusts, reservations, or restrictions affecting the land, and any other matters that the Registrar-General of Land considers appropriate.
- (2) A certificate referred to in subsection (1) must be recorded by the Registrar-General of Land in the register and is conclusive evidence to the Registrar-General of Land of the matters required to be stated in it.

Compare: 1990 No 105 s 10

Section 29(1): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 29(2): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

30 Certification of easements

- (1) Where land is vested in the company pursuant to this Part subject to the reservation of or together with any easement, not being an easement previously registered under the Land Transfer Act 2017, the chief executive within the meaning of section 4 of the Cadastral Survey Act 2002 or the Surveyor-General must include in the certificate given under section 29(1) of this Act a sufficient description of the easement and particulars as to the rights and powers, terms, covenants, conditions, or restrictions attaching to it.
- (2) The Registrar-General of Land shall enter a memorial of the easement upon the relevant record of title by reference to the certificate in which it is described as if that certificate were the instrument creating the easement.
- (3) Where a memorial of an easement is entered upon the relevant record of title under subsection (2), the easement shall be treated for all purposes including all subsequent dealings as if it had been created under the Land Transfer Act 2017.

Compare: 1986 No 124 s 26A; 1992 No 27 s 6

Section 30(1): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 30(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 30(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

31 Orders in Council relating to vesting of State housing assets and liabilities and Corporation assets and liabilities

For the purpose of facilitating the vesting of State housing assets or liabilities and Corporation assets or liabilities in the company pursuant to this Part, the Governor-General may, from time to time, by Order in Council, do any one or more of the following:

- (a) declare that a reference to the Crown or a Minister, officer, employee, department, or instrument of the Crown or to the Corporation or an officer or employee of the Corporation, as the case may be, in any or all regulations, orders, notices, or documents shall be deemed to be or to include a reference to the company:
- (b) declare that the company shall assume or continue to have the rights and obligations of the Crown or a Minister, officer, employee, department, or instrument of the Crown or of the Corporation or an officer or employee of the Corporation, as the case may be, in respect of applications for rights, objections, or proceedings before any court, authority, or other person, being rights and obligations that have been vested in the company pursuant to this Part:
- (c) declare, in respect of any State housing assets or liabilities or Corporation assets or liabilities vested in the company pursuant to this Part, that

the company shall be deemed to have specified rights or obligations in respect of those assets or liabilities, being rights or obligations that are required in respect of those assets or liabilities as a result of the change of ownership or responsibility from the Crown or the Corporation, as the case may be, to the company:

- (d) declare that any Order in Council made under this section shall be deemed to be notice to all persons, and that specific notice need not be given to any authority or other person:
- (e) direct any authority or other person to register or record any such vesting or declaration.

Compare: 1986 No 124 s 28; 1991 No 69 s 362

32 Books and documents to remain evidence

- (1) Any document, matter, or thing, which if this Act had not been passed would have been admissible in evidence in respect of any matter relating to State housing assets or liabilities or Corporation assets or liabilities vested in the company pursuant to this Part for or against the Crown or the Corporation, as the case may be, shall, on and after the date on which those assets or liabilities vest in the company, be admissible in evidence in respect of the same matter for or against the company.
- (2) In this section **document** has the same meaning as in section 2(1) of the Evidence Amendment Act (No 2) 1980.

33 Application of Housing Act 1955 to company

- (1) The Housing Act 1955 shall have effect in respect of State housing land within the meaning of section 2(1) of the Housing Act 1955 vested in the company pursuant to this Part where at the date of vesting there is a lease, licence, permit, agreement, or tenancy in respect of that land to which all or any of the following provisions of the Housing Act 1955 (or any corresponding provisions of any former Housing Act, as the case may be) apply, and those provisions shall continue to apply to that lease, licence, permit, agreement, or tenancy (and any renewal thereof pursuant to a right expressly conferred thereby or by any Act) as if the land were still State housing land subject to the Housing Act 1955 and every reference in those provisions to the Minister of Housing or the Corporation included a reference to the company:
 - (a) section 17 (which relates to the issue of licences to occupy):
 - (b) section 18 (which relates to the registration of agreements for sale and licences to occupy):
 - (c) section 22 (which relates to the acceptance of money after the rescission of an agreement for sale):
 - (d) section 23 (which relates to the recovery of possession of land):

- (e) section 37 (which relates to the registration of dealings with agreements registered under section 18 of the Housing Act 1955).
- (2) Without limiting subsection (1), section 18 of the Housing Act 1955 shall apply in relation to every licence to occupy land that is issued by the company under section 17 of that Act as applied by subsection (1) of this section.
- (3) Without limiting the powers of the company, the provisions of sections 25 to 30 of the Housing Act 1955 shall continue to apply in relation to State housing land within the meaning of section 2(1) of the Housing Act 1955 that has been vested in the company pursuant to this Part, whether or not the land remains vested in the company, as if the land continued to be State housing land subject to that Act and as if the references to the Crown and to the Corporation included a reference to the company.
- (4) Section 36(5) of the Housing Act 1955 shall continue to apply in relation to State housing land within the meaning of section 2(1) of the Housing Act 1955 vested in the company pursuant to this Part as if the land continued to be State housing land and as if the references to the Minister of Housing and the Corporation included a reference to the company.
- (5) Section 3 of the Housing Amendment Act 1956 shall have effect as if—
 - (a) the references to the Corporation and the Minister of Housing included references to the company; and
 - (b) the reference in subsection (2) to State housing land included a reference to land vested in the company pursuant to this Part.

34 Acquisition of land under Public Works Act 1981

Where, before the vesting of any land in the company pursuant to this Part, any negotiations or action had been commenced by the Crown or the Corporation in respect of the taking or acquisition or setting apart of the land under the Public Works Act 1981, the taking or acquisition or setting apart may be continued and concluded as if the land were required for a public work.

35 Return of assets or liabilities by company to the Crown

- (1) The Governor-General may, from time to time, by Order in Council, vest in the Crown, on a date specified in the order, any assets or liabilities specified in the order, being assets or liabilities that were State housing assets or liabilities vested in the company pursuant to this Part and that the shareholding Ministers and the company agree should be vested in the Crown.
- (2) Where, pursuant to an Order in Council under subsection (1), assets or liabilities vest in the Crown,—
 - (a) the provisions of sections 24(2) and 25 shall apply, with such modifications as may be necessary;
 - (b) the company shall remain liable to any third party in respect of any liability in relation to the assets or liabilities incurred on or after the vest-

ing of the assets or liabilities in the company under this Part but shall be indemnified by the Crown in respect of that liability to that third party:

- (c) any satisfaction or performance by the Crown in relation to the assets or liabilities shall be deemed to be also satisfaction or performance by the company:
 - (d) any satisfaction or performance in respect of the assets or liabilities by any third party to the benefit of the Crown shall be deemed to be also to the benefit of the company.
- (3) Where land taken or acquired by the Crown under the Public Works Act 1981 before it was vested in the company pursuant to this Part is vested in the Crown pursuant to an Order in Council under this section, the provisions of that Act shall apply to the land as if the land continued to be land taken or acquired under that Act.

36 Title to land vested in the Crown

- (1) The Registrar-General of Land must, on written application by any person authorised by either of the shareholding Ministers and on payment of the prescribed fee, register the Crown as the owner, in substitution for the company, of the estate or interest of the company in any land that is incorporated in the register or otherwise registered and that is vested in the Crown pursuant to an Order in Council made under section 35.
- (2) Every application under this section shall—
 - (a) state that the land has been vested in the Crown under section 35; and
 - (b) contain a description of the land that is sufficient to identify it.

Section 36(1): replaced, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

37 Application of Housing Act 1955

Where land is vested in the Crown pursuant to an Order in Council made under section 35, the Housing Act 1955 shall apply in relation to the land in the same way as it applied before it was vested in the company.

38 Amendment to section 34 of Housing Act 1955

Amendment(s) incorporated in the Act(s).

39 Amendment to Maori Housing Act 1935

Amendment(s) incorporated in the Act(s).

40 Application of Government Superannuation Fund Act 1956

- (1) For the purposes of the Government Superannuation Fund Act 1956, a person who, at any time within 9 months after the prescribed date, became or becomes an employee of a specified company and who, immediately before becoming such an employee, was an officer or employee of the Corporation and was a

contributor to the Government Superannuation Fund under that Act shall, so long as that person was or continues to be employed by that company, be deemed to have been or to be employed in the government service and that Act shall be deemed to have applied or to apply, as the case may be, to that person as if service with the company were government service.

- (2) Subject to the Government Superannuation Fund Act 1956, nothing in subsection (1) shall entitle any such person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.
- (3) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subsection (1), to a person who is in the service of the company and is a contributor to the Government Superannuation Fund the term **controlling authority**, in relation to that person, means the chief executive of the company.
- (4) In this section—
 - (a) **prescribed date** means a date (whether or not it is a date that is earlier than the date on which this Act comes into force) declared by the responsible Minister by notice in the *Gazette* to be the prescribed date for the purposes of this section:
 - (b) **specified company** means a company declared by the responsible Minister by notice in the *Gazette* to be a specified company for the purposes of this section.

41 Amendments to other Acts

The enactments specified in Schedule 1 are hereby amended in the manner indicated in that schedule.

Section 41: amended, on 1 April 2005 (effective for 2005–06 tax year and later tax years, except when the context requires otherwise), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Part 5

Income-related rents, housing eligibility, and other matters

[Repealed]

Part 5: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

42 Interpretation

[Repealed]

Section 42: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

43 Income-related rent

[Repealed]

Section 43: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

44 Backdating

[Repealed]

Section 44: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

45 Changes in rent

[Repealed]

Section 45: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Calculating income-related rents

[Repealed]

Heading: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

46 Calculating income-related rents

[Repealed]

Section 46: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

47 Assessable income

[Repealed]

Section 47: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

48 Certain amounts included in weekly income

[Repealed]

Section 48: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

49 Calculation mechanism may include amounts in or exclude amounts from weekly income

[Repealed]

Section 49: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Assessable assets, and deprivation of income or property

[Repealed]

Heading: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

50 Assessable assets

[Repealed]

Section 50: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

51 Assessable income may be adjusted in certain cases

[Repealed]

Section 51: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

*Estimating weekly income, and regulations for purposes of calculation
mechanism*

[Repealed]

Heading: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

52 Estimating weekly income

[Repealed]

Section 52: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

53 Regulations for purposes of calculation mechanism

[Repealed]

Section 53: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Transitional matters

[Repealed]

Heading: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

54 Transitional arrangements for certain tenants

[Repealed]

Section 54: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

55 Responsible department may verify entitlement

[Repealed]

Section 55: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

*Administrative matters and review**[Repealed]*

Heading: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

56 Tenant's duty to advise change of circumstances

Section 56: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

57 Reviews of income-related rents*[Repealed]*

Section 57: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

57A HNZ may review housing eligibility*[Repealed]*

Section 57A: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

*Investigations and information-gathering powers**[Repealed]*

Heading: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

57B HNZ may investigate circumstances relevant to income-related rent*[Repealed]*

Section 57B: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

57C HNZ may investigate circumstances of prospective tenant*[Repealed]*

Section 57C: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

57D HNZ may investigate circumstances relevant to continued eligibility*[Repealed]*

Section 57D: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

57E HNZ may investigate circumstances of applicant for financial product*[Repealed]*

Section 57E: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

58 HNZ may ask questions, etc

[Repealed]

Section 58: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

58A Actions that may be taken by HNZ

[Repealed]

Section 58A: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

59 HNZ may seek information

[Repealed]

Section 59: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

59A HNZ may require information for certain purposes

[Repealed]

Section 59A: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

60 Recovery where rate of rent too low

[Repealed]

Section 60: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

61 Allocation of HNZ housing

[Repealed]

Section 61: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Offences

[Repealed]

Heading: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

61A Offence not to provide information or to provide false or misleading information

[Repealed]

Section 61A: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

61B Offence to mislead HNZ for certain purposes or results

[Repealed]

Section 61B: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Appeals

[Repealed]

Heading: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

62 Rights of appeal

[Repealed]

Section 62: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

62A Tenant may appeal

[Repealed]

Section 62A: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

62B Powers of appeal body

[Repealed]

Section 62B: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

62C Where appeal body established by regulations

[Repealed]

Section 62C: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

63 Regulations for purposes other than calculation mechanism

[Repealed]

Section 63: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Delegation

[Repealed]

Heading: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

64 Delegation of powers under this Part

[Repealed]

Section 64: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65 Reimbursement of company

[Repealed]

Section 65: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Code of conduct

[Repealed]

Heading: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65A Code of conduct applying to obtaining information under section 59A

[Repealed]

Section 65A: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65B Who must comply with code of conduct

[Repealed]

Section 65B: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65C Regulations authorising information to be obtained

[Repealed]

Section 65C: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65D Complaints

[Repealed]

Section 65D: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65E Matters to be included in code of conduct

[Repealed]

Section 65E: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Deduction notices

[Repealed]

Heading: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65F Interpretation of deduction notice sections of this Part

[Repealed]

Section 65F: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65G Deduction of overdue Crown debt

[Repealed]

Section 65G: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65H Matters relating to deduction notice

[Repealed]

Section 65H: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65I Issue of deduction notice to State sector employer

[Repealed]

Section 65I: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65J Discharge of debt

[Repealed]

Section 65J: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65K Deduction notices issued to banks

[Repealed]

Section 65K: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65L Making of deductions

[Repealed]

Section 65L: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65M Offences in relation to deduction notices

[Repealed]

Section 65M: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65N Protected earnings

[Repealed]

Section 65N: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65O Penalty for late deductions

[Repealed]

Section 65O: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

65P How notice may be given

[Repealed]

Section 65P: repealed, on 14 April 2014, by section 22 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Part 6

Information matching

Part 6: added, on 1 July 2006, by section 6 of the Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006 (2006 No 34).

66 Interpretation

In this Part, unless the context otherwise requires,—

benefit means any of the following:

- (a) a benefit as defined in Schedule 2 of the Social Security Act 2018;
- (b) a funeral grant lump sum payable under section 90 of that Act;
- (c) any special assistance payable under a programme approved under section 100 or 101 of that Act;
- (d) an allowance established by regulations made under section 303 of the Education Act 1989

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

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 2018

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

Section 66: added, on 1 July 2006, by section 6 of the Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006 (2006 No 34).

Section 66 **benefit**: replaced, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 66 **department**: amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

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—

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

Section 67: added, on 1 July 2006, by section 6 of the Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006 (2006 No 34).

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 the commencement of the Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006,—
 - (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.
- (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.
- (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.
- (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.

Section 68: added, on 1 July 2006, by section 6 of the Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006 (2006 No 34).

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,—

- (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
- (c) the physical address of the Corporation housing that is the subject of the tenancy; and
- (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.

Section 69: added, on 1 July 2006, by section 6 of the Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006 (2006 No 34).

Part 7

HNZ housing

Part 7: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

70 Purpose of this Part and Parts 8 to 10

- (1) The purpose of this Part and Parts 8 to 10 is to reform the provision of social housing by establishing a framework for a multiple-provider social housing market.
- (2) This Part and Parts 8 to 10—
- (a) enable the assessment of need and eligibility for social housing, and eligibility for an income-related rent, and associated functions (such as providing advice, managing applications for social housing, carrying out investigations, and referring and allocating prospective tenants and tenants to social housing providers), to be performed by 1 or more government agencies that are independent of the agency that provides state housing:
 - (b) align Housing New Zealand Corporation's role to the provision of social housing in a multiple-provider environment:
 - (c) facilitate the growth of the community housing sector by enabling the extension, on terms and conditions set by the joint Ministers, of an income-related rent subsidy to registered community housing providers and an income-related rent to their tenants:
 - (ca) provide flexibility for the social housing agency and social housing providers to enter into tailored agreements for the provision of social housing and any related services, subject to ministerial direction:
 - (d) enable the appointment of a government agency as a regulatory authority for registered community housing providers, with associated objectives, functions, and powers to monitor and enforce compliance with regulatory standards:
 - (e) enable the making of regulations that prescribe eligibility criteria and performance standards to be met by registered community housing providers:

- (f) create certain offences for failure to comply with information requirements issued to tenants and associated parties by relevant government agencies.
- (3) In this section, **government agency** means any department, departmental agency, or Crown entity.

Section 70: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 70(2)(ca): inserted, on 28 May 2015, by section 5 of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

71 Interpretation of terms used in this Part

In this Part, unless the context otherwise requires,—

financial product means a financial product administered by HNZ or the Corporation and—

- (a) includes a loan or grant; but
- (b) does not include income-related rent

prospective tenant for HNZ housing means a person—

- (a) who—
- (i) is eligible to be allocated social housing; and
 - (ii) is not a person to whom any HNZ housing is let; and
 - (iii) has been referred or allocated to HNZ to be allocated, assigned, or let HNZ housing; or
- (b) who—
- (i) is already a person to whom HNZ housing is let; but
 - (ii) has applied to HNZ (alone or together with some other person or people) to become a tenant of some other HNZ housing and has not yet had the application accepted or declined, or withdrawn it

tenant,—

- (a) in relation to HNZ housing in general,—
- (i) means any person or people to whom any HNZ housing is let or to be let; and
 - (ii) includes a prospective tenant for HNZ housing; and
- (b) in relation to any particular HNZ housing, means the person or people to whom it is let or to be let.

Section 71: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

72 Income-related rent

- (1) This subsection applies to HNZ housing and a tenant if—

- (a) an income-related rent has been calculated for the tenant under Part 9, the calculation mechanism, or under Schedule 3; and
 - (b) the agency has notified under section 106 the income-related rent calculated for the tenant; and
 - (c) that notification of the income-related rent has not been replaced by a notification from the agency to the effect that the tenant must pay market rent.
- (2) If subsection (1) applies to any HNZ housing and a tenant, the rent for the housing must be the income-related rent for the time being notified by the agency, subject to subsections (4) and (5).
 - (3) If subsection (1) does not apply to any HNZ housing and a tenant, the rent for the housing must be its market rent for the time being.
 - (4) The income-related rent for any HNZ housing must not exceed its market rent for the time being.
 - (5) If satisfied that special circumstances justify its doing so, HNZ may, in its absolute discretion, set for and accept from a tenant of any HNZ housing a rent lower than the rent otherwise required by subsection (2) or (3) to be paid for the housing by the tenant.
 - (6) Subsections (2) to (5) are subject to section 73.

Section 72: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

73 Changes in rent

- (1) This section applies to an existing tenant of HNZ housing if HNZ—
 - (a) is required by section 72 or 74 to change the rent for the housing; or
 - (b) is empowered by section 72 to change the rent for the housing, and decides to do so.
- (2) HNZ must, in accordance with section 136 of the Residential Tenancies Act 1986, give a tenant to whom subsection (1) applies written notice of the change in rent stating—
 - (a) the date on which it takes effect; and
 - (b) the matters referred to in paragraphs (j) and (k) of section 13A of that Act.
- (3) In the case of a reduction in rent, the notice has effect as a variation of the tenancy agreement for the housing whether or not the tenant signs it.
- (4) In the case of an increase in rent, the notice must comply with section 24 of the Residential Tenancies Act 1986 except to the extent that section 74 of this Act provides otherwise.

Section 73: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

74 Increase in rent due to change in tenant's circumstances

- (1) If HNZ receives a notification from the agency under section 106 of an increase in an income-related rent due to a change in the tenant's circumstances or the circumstances of an applicable person in relation to the tenant,—
 - (a) HNZ must, subject to subsection (4), give the tenant written notice, in accordance with section 73(2), stating the date on which the increased income-related rent takes effect (the **effective date**); and
 - (b) the effective date must be a date no earlier than 61 days after the date (as stated in the agency's notification) that the change in circumstances occurred; and
 - (c) HNZ must give the notice to the tenant at least 2 weeks before the effective date.
- (2) The income-related rent notified under subsection (1)(a) for any HNZ housing must not exceed the market rent for the time being for that housing.
- (3) The agency may recover from the tenant as a debt due to the Crown, the difference (if any) between—
 - (a) the higher income-related rent calculated by the agency for the tenant for the housing in respect of the period commencing on the date that is 61 days after the change in circumstances occurred and ending on the day before the effective date (capped at the market rent); and
 - (b) the income-related rent applying to that period that the agency had calculated for the tenant for the housing and set out in its previous notification.
- (4) HNZ must change the rent charged following receipt of a notification from the agency unless, in HNZ's opinion, it would not result in a material difference to the rent charged for the housing concerned.
- (5) Section 24(1)(c) to (h) and 24(1A) and (2) of the Residential Tenancies Act 1986 do not apply to the increase in rent.
- (6) Amounts recoverable under subsection (3) are not rent in arrear for the purpose of the Residential Tenancies Act 1986.

Example

Mary is a tenant of HNZ and is paying an income-related rent to HNZ. On 1 March, Mary returned to full-time employment but did not tell the agency of her change in circumstances.

Several months later, the agency becomes aware that Mary's circumstances had changed on 1 March. The agency calculates an increased income-related rent for Mary, and notifies HNZ accordingly. The increased income-related rent does not exceed the market rent for the housing.

On 1 October that same year, HNZ notifies Mary that she must pay an increased income-related rent (in accordance with the agency's notification) from the rent period beginning on 21 October (the effective date).

The agency is entitled to recover from Mary, as a debt due to the Crown, the difference between—

- (a) the higher income-related rent for the housing (as set out in the agency's notification), in respect of the period commencing on 1 May (61 days after the change in circumstances) and ending on 20 October; and
- (b) the income-related rent applying to that period that the agency had calculated for the tenant for the housing (as set out in the agency's previous notification).

Section 74: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

75 HNZ may review placement

- (1) HNZ may—
 - (a) allocate a prospective tenant for HNZ housing to particular HNZ housing;
 - (b) review the eligibility of a tenant to be or to continue to be allocated, assigned, or let particular HNZ housing;
 - (c) require a tenant to transfer to different HNZ housing (being housing that is appropriate for the tenant's housing needs) if HNZ considers that the transfer is necessary or desirable for any reason.
- (2) Nothing in this section limits or affects—
 - (a) a tenant's rights under the Residential Tenancies Act 1986;
 - (b) HNZ's rights as a landlord under the Residential Tenancies Act 1986, including its rights to terminate a tenancy in accordance with that Act;
 - (c) HNZ's functions and powers under this Act or any other Act.

Section 75: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

76 Limits on obligations of HNZ

Nothing in this Act requires HNZ to provide any housing or particular housing to a tenant referred or allocated to HNZ by the agency.

Section 76: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Financial products

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

77 HNZ may investigate circumstances of applicant for financial product

HNZ may investigate the circumstances of—

- (a) an applicant for, or a recipient of, a financial product; or
- (b) any person who, at the time of application, is the spouse or partner of the applicant.

Section 77: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

78 HNZ may ask questions, take actions, etc

- (1) For the purpose of any investigation conducted under section 77, HNZ—
 - (a) may ask any person whose circumstances it may investigate any relevant questions it thinks fit; and
 - (b) may ask any person whose circumstances it may investigate to verify by statutory declaration—
 - (i) any information he or she has given when answering questions asked under paragraph (a); or
 - (ii) any other information that he or she has at any time given to HNZ; or
 - (iii) any information within his or her personal knowledge that has at any time been given to HNZ by the spouse or partner of the person.
- (2) HNZ may take the actions stated in subsection (3) if—
 - (a) any person whose circumstances it may investigate—
 - (i) fails or refuses to answer (or, in HNZ's opinion, fails or refuses to answer fully) any question asked under subsection (1)(a); or
 - (ii) fails or refuses to verify any information by statutory declaration when asked to do so under subsection (1)(b); or
 - (b) it believes on reasonable grounds that any person whose circumstances it may investigate under section 77 has deliberately given a false or misleading answer to any question asked under subsection (1)(a).
- (3) The actions are to—
 - (a) assess the eligibility of an applicant for, or recipient of, a financial product on the basis of HNZ's own understanding of the circumstances;
 - (b) treat the applicant or recipient as not or as no longer eligible for that financial product.

Section 78: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

79 HNZ may seek information

- (1) For the purposes of a review under section 75 or an investigation under section 77, HNZ may request any person to—
 - (a) answer questions; or
 - (b) allow HNZ to inspect any document or other written information; or
 - (c) give HNZ—
 - (i) a copy of any document or other written information; or

- (ii) a printout of any information stored digitally.
- (2) The person does not have to comply with the request but (for the purposes of section 7(1) of the Privacy Act 1993) this subsection authorises the person to make personal information available in response to the request.

Section 79: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

80 HNZ may require information for certain purposes

- (1) HNZ may by written notice require information from any person for any 1 or more of the following purposes:
 - (a) for the purpose of any investigation under section 77:
 - (b) for the purpose of detecting whether a person has committed or is committing an offence under section 82 or 83:
 - (c) for the purpose of determining and detecting the cost of fraud under section 82 or 83:
 - (d) for the purpose of ascertaining whether a person has failed or refused to answer fully, or has deliberately given a false or misleading answer, to any question asked under section 78(1)(a).
- (2) HNZ when requiring any information under subsection (1) must do so in accordance with the code of conduct.
- (3) HNZ may in writing require any person to advise whether any information provided under subsection (1) is accurate.
- (4) A person from whom information is required under subsection (1) or advice is required under subsection (3) must comply with the requirement—
 - (a) no later than 5 working days after the notice was given; and
 - (b) in the manner specified in the notice, without charge to HNZ.
- (5) This subsection authorises (for the purposes of section 7(1) of the Privacy Act 1993) any person who is required to provide information under subsection (1) or advice under subsection (3) to make personal information available in response to the requirement.
- (6) Subsection (1) does not—
 - (a) require any person to provide any information or produce any document that would be privileged in a court of law:
 - (b) require any person to provide any information or produce any document that is legally professionally privileged.
- (7) Subsection (6) does not apply to information—
 - (a) that consists wholly or partly of, or relates wholly or partly to,—
 - (i) the receipts, payments, income, expenditure, or financial transactions of a specified person (whether a lawyer, his or her client, or any other person); or

- (ii) investment receipts (being receipts arising or accruing from any money lodged at any time with a lawyer for investment) of any person or persons (whether the lawyer, his or her client, or any other person or persons); and
 - (b) is contained in, or comprises the whole or part of, any book, account, statement, or other record prepared by or kept in connection with a trust account of the lawyer.
- (8) If a person refuses to disclose any information or document on the ground that it is privileged under subsection (6)(a) or (b),—
- (a) HNZ or that person or any other person to whom the information or document relates may apply to a District Court Judge for an order determining whether or not the claim of privilege is valid; and
 - (b) for the purposes of determining that application, the Judge may require the information or document to be produced to the court.
- (9) In this section,—

lawyer means a barrister or solicitor of the High Court, and includes a firm or an incorporated law firm (within the meaning of the Lawyers and Conveyancers Act 2006) in which the lawyer is, or is held out to be, a partner, director, or shareholder

trust account, in relation to a lawyer, has the same meaning as in section 6 of the Lawyers and Conveyancers Act 2006.

Section 80: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Placement in HNZ housing

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

81 Placement in HNZ housing

- (1) The matters to which HNZ may have regard in doing any of the things stated in subsection (2) may include criteria that have, or are capable of having, the effect that tenants, people who are or might be applicable persons in relation to those tenants, and other people who are or might be residing in the housing concerned are treated differently on the basis of—
- (a) their marital status, disability or absence of disability, age, or family status (as the terms marital status, disability, age, and family status are defined in paragraphs (b), (h), (i), and (l) of section 21(1) of the Human Rights Act 1993); or
 - (b) whether or not they are resident, or ordinarily resident, or permanently resident, or lawfully resident, in New Zealand; or
 - (c) their incomes; or
 - (d) their property; or

- (e) 2 or more of those factors.
- (2) The things are any thing that HNZ does in the course of allocating, assigning, and letting HNZ housing to tenants, and in administering and terminating tenancies, and include—
 - (a) allocating, assigning, and letting, or continuing to let, HNZ housing to a tenant; and
 - (b) reviewing the eligibility of a tenant to be or to continue to be allocated, assigned, or let particular HNZ housing; and
 - (c) terminating a tenancy; and
 - (d) reallocating or reassigning HNZ housing to a tenant; and
 - (e) retaining the current allocation, assignment, or letting of particular HNZ housing to a tenant.
- (3) Nothing in this section affects the application of the New Zealand Bill of Rights Act 1990.

Section 81: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Offences

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

82 Offence not to provide information or to provide false or misleading information

- (1) A person who is required to provide information under section 80(1) commits an offence if the person—
 - (a) fails or refuses to provide, without reasonable excuse, the information required;
 - (b) provides false or misleading information in response to the requirement.
- (2) A person who is required to advise under section 80(3) whether information provided under section 80(1) is accurate commits an offence if the person—
 - (a) fails or refuses to provide the advice without reasonable excuse;
 - (b) provides false or misleading information in response to the requirement.
- (3) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$2,000.

Section 82: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

83 Offence to mislead HNZ for certain purposes or results

- (1) A person commits an offence who, for the purpose described in subsection (2) or with the result described in subsection (3),—
 - (a) makes any statement knowing it to be false in any material particular; or

- (b) deliberately does or says anything for the purpose of misleading or attempting to mislead HNZ; or
 - (c) when required to provide information under section 80, deliberately omits to do or say anything for the purpose of misleading or attempting to mislead HNZ.
- (2) The purpose is—
- (a) for that person or another person to be or continue to be allocated, assigned, or let particular HNZ housing, or to be allocated, assigned, or let some other HNZ housing;
 - (b) for that person or another person to receive or continue to receive a financial product.
- (3) The result is that person, or another person, whether or not entitled to it under this Act,—
- (a) is or continues to be allocated, assigned, or let particular HNZ housing;
 - (b) is allocated, assigned, or let some other HNZ housing;
 - (c) receives or continues to receive a financial product.
- (4) A person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000, or both.

Section 83: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Delegations

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

84 Delegation of powers under this Part

- (1) HNZ—
- (a) may not delegate a power under section 78(1)(b), (2), or (3), except to the Corporation, the agency, the chief executive of the agency, or to an employee of HNZ or the Corporation; and
 - (b) may not delegate any other power under this Part except to—
 - (i) the Corporation; or
 - (ii) an employee of HNZ or the Corporation; or
 - (iii) a person engaged by HNZ or the Corporation under a contract for services providing for the person to exercise that power; or
 - (iv) the agency or chief executive of the agency.
- (2) If a power has been delegated to the Corporation under subsection (1), the Corporation may, with the consent of HNZ, subdelegate that power to an employee of the Corporation or of HNZ.

- (3) An employee to whom a power has been delegated by HNZ in accordance with subsection (1) may, with the consent of HNZ, subdelegate that power to another employee of the Corporation or of HNZ.
- (4) The agency or the chief executive of the agency to whom a power has been delegated by HNZ in accordance with subsection (1), may with the consent of HNZ, subdelegate that power to an employee of the agency.
- (5) If HNZ delegates a power under this Part (not being a power referred to in subsection (1)(a)) to a body corporate engaged by HNZ or the Corporation under a contract for services,—
 - (a) the body corporate cannot subdelegate the power except to a person who is an employee of the body corporate; and
 - (b) an employee of the body corporate to whom the power is subdelegated cannot subdelegate it further.
- (6) Subsections (1) to (5) override section 130(1) of the Companies Act 1993.
Section 84: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Reimbursement

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

85 Reimbursement agreements with HNZ

- (1) Section 7 has effect as if—
 - (a) this Part, the calculation mechanism, and Schedule 3 were a requirement by the Crown for HNZ to enter into agreements (as the circumstances from time to time require) for the provision by HNZ of housing and related services to persons who pay income-related rents rather than market rents for the housing, in return for the payment by the Crown of the price to HNZ of doing so; and
 - (b) that price were the difference between the amounts of market rents for the housing and the income-related rents charged.
- (2) However, subsection (1) does not apply to the extent (if any) that a tailored agreement covers the provision by HNZ of housing and related services to persons who pay income-related rents rather than market rents for the housing. (*See* section 137A.)

Section 85: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 85 heading: amended, on 28 May 2015, by section 6(1) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 85(2): inserted, on 28 May 2015, by section 6(2) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Code of conduct

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

86 Code of conduct applying to obtaining information required under section 80

- (1) HNZ, in consultation with the Privacy Commissioner, must, within 3 months after the commencement of this section, issue a code of conduct that applies in respect of any requirement for information under section 80.
- (2) The code of conduct—
 - (a) must include the matters specified in section 90; and
 - (b) may include restrictions on obtaining—
 - (i) specified classes of information; and
 - (ii) information from specified classes of persons or from persons in specified relationships; and
 - (c) must specify procedures applying to the obtaining of information under section 80.
- (3) HNZ may from time to time, in consultation with the Privacy Commissioner, amend the code of conduct, or revoke the code of conduct and issue a new code of conduct.
- (4) Nothing in the code of conduct may derogate from any code of practice issued by the Privacy Commissioner under Part 6 of the Privacy Act 1993 that applies to the information required under section 80, and HNZ, in consultation with the Privacy Commissioner, must amend the code of conduct to conform with any such code of practice. This subsection is affected by section 88.
- (5) As soon as practicable after issuing any code of conduct and any amendment to it under this section, HNZ must arrange for it to be published on an Internet site that is publicly available at all reasonable times or published in a form that is otherwise accessible to the public.
- (6) The code of conduct that, before the commencement of this section, was issued under Part 5 is, on the commencement of this section, deemed to be issued under this section.

Compare: 1964 No 136 s 11B

Section 86: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

87 Who must comply with code of conduct

The following persons must comply with the code of conduct when requiring information under section 80:

- (a) HNZ and every employee of HNZ:
- (b) the Corporation and every employee of the Corporation:

- (c) the agency and every employee and the chief executive of the agency:
- (d) every person or body corporate engaged by HNZ under a contract for services providing for the person to exercise the power to require such information:
- (e) every employee of a person or body corporate referred to in paragraph (d).

Section 87: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

88 Regulations authorising information to be obtained

- (1) The Governor-General may, on the advice of the joint Ministers given after consultation with the Privacy Commissioner, by Order in Council, make regulations authorising HNZ to obtain pursuant to a requirement under section 80—
 - (a) any specified class of information; or
 - (b) information from any specified class of persons; or
 - (c) information in any specified manner.
- (2) Subsection (1) applies despite the fact that the making of that requirement would otherwise be in breach of any code of practice issued by the Privacy Commissioner under Part 6 of the Privacy Act 1993.

Section 88: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

89 Complaints

- (1) Any person who is required to provide any information under section 80, or who is the subject of that information, may make a complaint to the Privacy Commissioner that the requirement breaches the code of conduct.
- (2) Part 8 of the Privacy Act 1993 applies to any such complaint as if the code of conduct were a code of practice issued under Part 6 of that Act.

Section 89: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

90 Matters to be included in code of conduct

- (1) The code of conduct issued under section 86 must contain the following matters:
 - (a) provisions requiring the information to be first sought, as the case may require, except where compliance with such provision would prejudice the maintenance of the law, from the applicant for or recipient of a financial product or the spouse or partner of the applicant or recipient:
 - (b) provisions allowing a person referred to in paragraph (a) the time that is specified in the code to provide the information before HNZ requires that information or confirmation of that information from another person

or agency, except where compliance with such provision would prejudice the maintenance of the law:

- (c) a provision prohibiting a requirement under section 80 being made in respect of a person referred to in paragraph (a) to any other person (not being a financial institution, a lawyer, employer, or former employer of the person referred to in paragraph (a), and not being a department, departmental agency, Crown entity), unless there is reasonable cause to make a requirement under that section:
 - (d) a provision prohibiting a requirement under section 80 being made to an employer in respect of any information that relates solely to the marital or relationship status of an employee or a former employee of that employer:
 - (e) provisions otherwise restricting requirements under section 80 being made to an employer to information specified in the code relating to the employment and the address of an employee or a former employee of that employer.
- (2) In subsection (1)(c), **reasonable cause** includes—
- (a) cause to suspect that the person—
 - (i) has committed an offence under this Part; or
 - (ii) has obtained by fraud any financial product:
 - (b) the fact that the person has failed, within the time specified in the code, or has refused, to provide information in accordance with a requirement made to that person under a provision referred to in subsection (1)(a).

Compare: 1964 No 136 s 11C

Section 90: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Part 8

Community housing

Part 8: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

91 Interpretation of terms used in this Part

In this Part, unless the context otherwise requires,—

prospective tenant for community housing means a person—

- (a) who—
 - (i) is eligible to be allocated community housing; and
 - (ii) is not a person to whom any community housing is let; and
 - (iii) has been referred or allocated to a registered community housing provider to be allocated, assigned, or let community housing; or

- (b) who—
 - (i) is already a person to whom community housing is let; but
 - (ii) has applied to the registered community housing provider (alone or together with some other person or people) to become a tenant of some other community housing offered by that provider and has not yet had the application accepted or declined, or withdrawn it

tenant,—

- (a) in relation to community housing in general,—
 - (i) means any person or people to whom any community housing is let or to be let; and
 - (ii) includes a prospective tenant for community housing; and
- (b) in relation to any particular community housing, means the person or people to whom it is let or to be let.

Section 91: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

92 Income-related rent

- (1) This subsection applies to community housing, a registered community housing provider, and a tenant if—
 - (a) the tenant is an eligible tenant who—
 - (i) has been allocated or referred to a registered community housing provider by the agency; or
 - (ii) immediately before becoming a tenant of a registered community housing provider—
 - (A) was a tenant or prospective tenant of HNZ housing; and
 - (B) had not been assessed by the agency as being no longer eligible for social housing; and
 - (b) an income-related rent has been calculated for the tenant under Part 9 and the calculation mechanism; and
 - (c) the agency has notified under section 106 the income-related rent calculated for the tenant; and
 - (d) that notification of the income-related rent has not been replaced by a notification from the agency to the effect that the rent for the housing may be determined by the registered community housing provider but must not exceed its market rent for the time being.
- (2) If subsection (1) applies to any community housing, a registered community housing provider, and a tenant, the rent for the community housing must be the income-related rent for the time being notified by the agency, subject to subsections (4) and (5).

- (3) If subsection (1) does not apply to any community housing, a registered community housing provider, and a tenant, the rent for the housing may be determined by the registered community housing provider, but must not exceed its market rent for the time being.
- (4) The income-related rent for any community housing must not exceed its market rent for the time being.
- (5) If a registered community housing provider is satisfied that special circumstances justify its doing so, it may, in its absolute discretion, set for and accept from a tenant a rent lower than the rent otherwise required by subsection (2) to be paid for the housing by the tenant.
- (6) Subsections (2) to (5) are subject to section 93.
- (7) In subsection (1), **eligible tenant** means a tenant who is eligible to be allocated, assigned, or let community housing at an income-related rent on the basis of ministerial directions issued under section 102.

Section 92: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

93 Changes in rent

- (1) This section applies to an existing tenant of community housing if the registered community housing provider—
 - (a) is required by section 92 or 94 to change the rent for the housing; or
 - (b) is empowered by section 92 to change the rent for the housing, and decides to do so.
- (2) The registered community housing provider must, in accordance with section 136 of the Residential Tenancies Act 1986, give a tenant to whom subsection (1) applies written notice of the change in rent, stating—
 - (a) the day on which it takes effect; and
 - (b) the matters referred to in paragraphs (j) and (k) of section 13A of that Act.
- (3) In the case of a reduction in rent, the notice has effect as a variation of the tenancy agreement for the housing whether or not the tenant signs it.
- (4) In the case of an increase in rent, the notice must comply with section 24 of the Residential Tenancies Act 1986 except to the extent that section 94 provides otherwise.

Section 93: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

94 Increase in rent due to change in tenant's circumstances

- (1) If a registered community housing provider receives a notification from the agency under section 106 of an increase in an income-related rent due to a change in the tenant's circumstances or the circumstances of an applicable person in relation to the tenant,—

- (a) the provider must, subject to subsection (4), give the tenant written notice, in accordance with section 93(2), stating the date on which the increased income-related rent takes effect (the **effective date**); and
 - (b) the effective date must be a date no earlier than 61 days after the date (as stated in the agency's notification) that the change in circumstances occurred; and
 - (c) the provider must give the notice to the tenant at least 2 weeks before the effective date.
- (2) The agency may recover from the tenant as a debt due to the Crown, the difference (if any) between—
- (a) the higher income-related rent calculated by the agency for the tenant for the housing in respect of the period commencing on the date that is 61 days after the change in circumstances occurred and ending on the day before the effective date (capped at the market rent); and
 - (b) the income-related rent applying to that period that the agency had calculated for the tenant for the housing and set out in its previous notification.
- (3) The income-related rent notified under subsection (1)(a) for the housing must not exceed its market rent for the time being.
- (4) A registered community housing provider must change the rent charged following receipt of a notification from the agency unless, in the provider's opinion, it would not result in a material difference to the rent charged for the housing concerned.
- (5) Section 24(1)(c) to (h) and 24(1A) and (2) of the Residential Tenancies Act 1986 do not apply to the increase in rent.
- (6) Amounts recoverable under subsection (2) are not rent in arrear for the purposes of the Residential Tenancies Act 1986.

Example

Mary is a tenant of a registered community housing provider and is paying an income-related rent to the provider. On 1 March, Mary returned to full-time employment but did not tell the agency of her change in circumstances.

Several months later, the agency becomes aware that Mary's circumstances had changed on 1 March. The agency calculates an increased income-related rent for Mary, and notifies the registered community housing provider accordingly. The increased income-related rent does not exceed the market rent for the housing.

On 1 October that same year, the registered community housing provider notifies Mary that she must pay an increased income-related rent (in accordance with the agency's notification) from the rent period beginning on 21 October (the effective date).

The agency is entitled to recover from Mary, as a debt due to the Crown, the difference between—

- (a) the higher income-related rent for the housing (as set out in the agency's notification) in respect of the period commencing on 1 May (61 days after the change in circumstances) and ending on 20 October; and
- (b) the income-related rent applying to that period that the agency had calculated for the tenant for the housing (as set out in the agency's previous notification).

Section 94: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

95 Placement in community housing

- (1) The matters to which a registered community housing provider may have regard in doing any of the things stated in subsection (2) may include criteria that have, or are capable of having, the effect that tenants, people who are or might be applicable persons in relation to those tenants, and other people who are or might be residing in the housing concerned are treated differently on the basis of—
 - (a) their marital status, disability or absence of disability, age, or family status (as the terms marital status, disability, age, and family status are defined in paragraphs (b), (h), (i), and (l) of section 21(1) of the Human Rights Act 1993); or
 - (b) whether or not they are resident, or ordinarily resident, or permanently resident, or lawfully resident, in New Zealand; or
 - (c) their incomes; or
 - (d) their property; or
 - (e) 2 or more of those factors.
- (2) The things are anything that a registered community housing provider does in the course of allocating, assigning, and letting community housing to tenants, and in administering and terminating those tenancies, and include—
 - (a) allocating, assigning, and letting community housing to tenants at an income-related rent; and
 - (b) allocating, assigning, and letting community housing to tenants; and
 - (c) reviewing the eligibility of a tenant to be or to continue to be allocated, assigned, or let particular community housing; and
 - (d) terminating a tenancy; and
 - (e) reallocating or reassigning community housing to tenants; and
 - (f) retaining the current allocation, assignment, or letting of particular community housing to tenants.
- (3) Nothing in this section affects the application of the New Zealand Bill of Rights Act 1990.

Section 95: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

96 Registered community housing provider may review placement

- (1) A registered community housing provider may—
 - (a) allocate a prospective tenant for community housing to particular community housing provided by that provider:
 - (b) review the eligibility of a tenant to be or to continue to be allocated, assigned, or let particular community housing provided by that provider:
 - (c) require a tenant to transfer to different community housing provided by that provider if the provider considers that the transfer is necessary or desirable for any reason and the other housing is appropriate to the tenant's housing needs.
- (2) Nothing in this section limits or affects—
 - (a) a tenant's rights under the Residential Tenancies Act 1986:
 - (b) a registered community housing provider's rights as a landlord under the Residential Tenancies Act 1986, including its rights to terminate a tenancy in accordance with that Act.

Section 96: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

97 Limits on obligations of registered community housing provider

Nothing in this Act requires a registered community housing provider to provide any housing or particular housing to a tenant referred or allocated to the provider by the agency.

Section 97: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

98 Reimbursement agreements with registered community housing providers

- (1) The Crown may require a registered community housing provider to enter into 1 or more agreements for the provision, by that provider, of social housing and related services to any persons paying income-related rents in return for the payment by the Crown of the price to the provider of doing so (being the difference between the amount of market rents for the housing and the income-related rents notified to the provider by the agency).
- (2) However, subsection (1) does not apply to the extent (if any) that a tailored agreement covers the provision by the registered community housing provider of social housing and related services to any persons paying income-related rents. (*See* section 137A.)

Section 98: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 98 heading: amended, on 28 May 2015, by section 7(1) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 98(2): inserted, on 28 May 2015, by section 7(2) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Part 9

Social housing agency

Part 9: inserted, on 28 November 2013, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Preliminary provisions

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

99 Interpretation of terms used in this Part

In this Part, unless the context otherwise requires,—

appeal body means the body specified in regulations made under section 136(1) to whom appeals under section 133 may be made

Ministry means the department for the time being responsible for the administration of the Social Security Act 2018

prescribed means for the time being—

- (a) prescribed by the calculation mechanism for the purposes of the provision; or
- (b) calculated under a means prescribed by the calculation mechanism for the purposes of the provision.

Section 99: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 99 **Ministry**: amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Appointment, functions, and operation of social housing agency

Heading: inserted, on 28 November 2013, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

100 Social housing agency

The Governor-General may, from time to time, by Order in Council made on the recommendation of the joint Ministers, appoint a department, departmental agency, or a Crown entity or any combination of 1 or more departments, departmental agencies, or Crown entities, to perform some or all of the functions and exercise some or all of the powers of the agency under this Act.

Section 100: inserted, on 28 November 2013, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

101 Functions of agency

The functions of the agency include the following:

- (a) providing assistance and advice to people on matters relating to housing or services related to housing; and
- (b) managing applications for social housing, including—

- (i) assessing the eligibility of prospective tenants to be allocated social housing or to be referred or allocated to any particular social housing provider:
 - (ii) assessing the housing needs of prospective tenants:
 - (iii) reviewing the eligibility of tenants to continue to be allocated social housing and reviewing their housing needs:
 - (iv) operating a waiting list or waiting lists of prospective tenants who have been assessed as being eligible for social housing, but who have yet to be allocated, assigned, or let social housing:
 - (v) referring or allocating prospective tenants to social housing providers:
 - (vi) providing the results of its assessments of eligibility and housing needs to HNZ or registered community housing providers; and
- (c) any other functions of the agency set out in this Act and any other functions under Part 7 that are delegated to the agency.

Section 101: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

102 Ministerial directions to agency

- (1) The joint Ministers and, if applicable, any other Minister responsible for the agency may give to the agency directions setting out the terms and conditions on which the funding by way of payments under reimbursement agreements and tailored agreements must be made available to registered community housing providers and HNZ, including—
- (a) the type of housing units that may be funded during any specified period of time; or
 - (b) the number of housing units that may be funded during any specified period of time; or
 - (c) the location of housing units that may be funded during any specified period of time.
- (1A) The Minister responsible for the agency may, in consultation with the joint Ministers and for the following purposes, give to the agency directions in accordance with which the agency may enter into a tailored agreement under section 137A.
- (1B) The purposes of a direction under subsection (1A) are to enable flexible purchasing approaches by the agency and to promote social housing outcomes that reflect the diverse needs of tenants and the diverse range of existing social housing providers and potential providers.
- (1C) Without limiting the generality of subsection (1A), a direction under that subsection may—

- (a) relate to any 1 or more social housing providers or to any particular social housing provider or providers;
 - (b) relate to all social housing and related services, or state the social housing and related services to which it relates (for example, by type or number or location);
 - (c) relate to the provision of social housing now and into the future whether or not the social housing services sought relate to existing or anticipated premises or to premises currently owned by the social housing provider.
- (2) The joint Ministers, and if applicable, any other Minister responsible for the agency must give to the agency directions stating the criteria by which the agency must assess—
 - (a) a person's eligibility for social housing;
 - (b) a person's continued eligibility for social housing.
- (3) The joint Ministers, and if applicable, any other Minister responsible for the agency may give to the agency directions determining—
 - (a) the timing of reviews by the agency under section 117; and
 - (b) the class or classes of people which the agency may or may not review under that section.
- (4) Before making any direction under subsection (1), (2), or (3), the joint Ministers and, if applicable, any other Minister responsible for the agency must consult—
 - (a) the agency and the authority; and
 - (b) any social housing provider that, in the Minister's opinion, will be materially affected by the direction.
- (5) The requirement in subsection (4)(b) does not apply to the first directions to be made under subsection (2) or (3).
- (6) The agency must, in carrying out functions under this Act, give effect to any directions that are given to it under this section and that are signed by the Minister or Ministers who may give the directions.
- (7) If the agency is a Crown entity, subsections (1) to (6) do not limit Part 3 of the Crown Entities Act 2004.
- (8) If there is any inconsistency between the provisions of this Act and the Crown Entities Act 2004 relating to ministerial directions, the provisions of the Crown Entities Act 2004 prevail.
- (9) As soon as practicable after giving a direction under this section, a Minister must publish it in the *Gazette* and present a copy of it to the House of Representatives.

Compare: 2004 No 115 ss 103, 115

Section 102: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 102(1): amended, on 28 May 2015, by section 8(1)(a) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 102(1)(a): amended, on 28 May 2015, by section 8(1)(b) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 102(1)(b): amended, on 28 May 2015, by section 8(1)(b) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 102(1)(c): amended, on 28 May 2015, by section 8(1)(b) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 102(1A): inserted, on 28 May 2015, by section 8(2) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 102(1B): inserted, on 28 May 2015, by section 8(2) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 102(1C): inserted, on 28 May 2015, by section 8(2) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 102(4): amended, on 28 May 2015, by section 8(3) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 102(6): replaced, on 28 May 2015, by section 8(4) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Eligibility, housing needs, and income-related rent

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

103 Agency to notify social housing providers of eligibility and housing needs

- (1) The agency must, in relation to any tenant of a social housing provider that has been referred or allocated to the provider by the agency or is housed by the provider, notify the provider each time the agency makes an assessment of—
 - (a) the eligibility or continued eligibility of the tenant for social housing; and
 - (b) the housing needs of the tenant.
- (2) The notification—
 - (a) must set out the results of the agency’s assessment; and
 - (b) may include any other information that the agency considers reasonable or necessary, including matters relevant to tenancy sustainability; and
 - (c) must include the information reasonably requested by the social housing provider, to enable the social housing provider to make decisions on allocating, assigning, and letting housing, and continuing to allocate, assign, and let housing.
- (3) The agency must update the notification following any determination that affects the tenant’s eligibility for social housing or housing needs assessed by the agency or determined on review and appeal, and may update a notification following an investigation under this Part.

- (4) A social housing provider is entitled to rely on a notification given under this section.
- (5) A notification under this section may be given by electronic means in accordance with subpart 2 of Part 4 of the Contract and Commercial Law Act 2017.

Section 103: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 103(5): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

104 Income-related rent

- (1) This subsection applies to social housing and a tenant if—
 - (a) the tenant is eligible to be allocated social housing or has been allocated, assigned, or let particular social housing; and
 - (b) the tenant has applied to the agency for it to calculate an income-related rent; and
 - (c) the agency is satisfied that—
 - (i) it has had all information reasonably needed to calculate or review an income-related rent for long enough to be able to do so; and
 - (ii) the information is accurate.
- (2) If subsection (1) applies, the agency must—
 - (a) calculate the income-related rent for the time being for the tenant; and
 - (b) provide notification under section 106.
- (3) However, if the agency is not satisfied that it has had all information reasonably needed to calculate or review an income-related rent for long enough to be able to do so or that the information is accurate, the agency must provide notification to the social housing provider under section 106 that, as applicable,—
 - (a) the rent for the housing must be its market rent for the time being, in accordance with section 72(3); or
 - (b) the rent for the housing may be determined by the registered community housing provider, but must not exceed its market rent for the time being, in accordance with section 92(3).
- (4) The agency must update a notification following any change to the income-related rent calculated or determined for the tenant.
- (5) The agency may update a notification following an investigation of circumstances relevant to an income-related rent under this Part.

Section 104: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

105 Backdating of applications for calculation of income-related rent

- (1) The agency may treat an application made at any time for it to calculate an income-related rent as having been made at any earlier time it determines, if satisfied that—
 - (a) it has all information reasonably needed to calculate an income-related rent as at the time determined; and
 - (b) the information is accurate; and
 - (c) it was unreasonable in all the circumstances to expect the application to have been made earlier.
- (2) This subsection applies to an application made to the agency for it to calculate an income-related rent if,—
 - (a) at the time it was made, the agency—
 - (i) did not have all the information reasonably needed to calculate an income-related rent; or
 - (ii) had all the information reasonably needed to calculate an income-related rent, but was not satisfied that it was accurate; and
 - (b) at some later time, the agency is satisfied that—
 - (i) it has all that information; and
 - (ii) the information is accurate.
- (3) The agency may treat an application to which subsection (2) applies as if the agency had had all the information reasonably needed to calculate an income-related rent at any time it determines between the time the application was made and the later time concerned.

Section 105: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

106 Agency must notify social housing providers of tenant's income-related rent

- (1) The agency must notify a social housing provider of the income-related rent calculated for a tenant who has been referred or allocated to, or is housed by, that social housing provider.
- (2) The agency—
 - (a) must update the notification following any change to the income-related rent calculated or notified for the tenant, including any change where the agency's assessment is that the income-related rent should be equal to the market rent; and
 - (b) may update a notification following an investigation under this Part.
- (3) An updated notification must state whether the change in income-related rent is due to a change in the tenant's circumstances or the circumstances of any other applicable person and, if so, the date the change in circumstances occurred.

- (4) A social housing provider is entitled to rely on a notification given under this section.
- (5) A notification under this section may be given by electronic means in accordance with subpart 2 of Part 4 of the Contract and Commercial Law Act 2017.

Section 106: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 106(5): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

Calculating income-related rents

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

107 Calculating income-related rents

- (1) An income-related rent (calculated on a weekly basis) is the higher of the following rents:
- (a) a rent calculated by reference to household income under subsection (2);
 - (b) a rent calculated by reference to benefit levels under subsection (3).
- (2) A rent calculated by reference to household income is the sum of—
- (a) the prescribed proportion of the sum of the assessable incomes of the applicable persons concerned, up to the prescribed threshold (or the threshold prescribed for tenants of a category to which the tenant belongs); and
 - (b) the prescribed proportion of any amount by which that sum is greater than that threshold; and
 - (c) if any of the applicable persons is eligible to receive family tax credits under subparts MA to MF and MZ of the Income Tax Act 2007, the prescribed proportion of the lesser of—
 - (i) the total of the amounts that the applicable persons are eligible to receive as family tax credits under those subparts; and
 - (ii) a prescribed amount (or an amount calculated by a prescribed means).
- (3) A rent calculated by reference to benefit levels is the sum of—
- (a) the prescribed proportion of the rate (before reduction on account of income) of jobseeker support stated in clause 1(a) to (f) of Part 1 of Schedule 4 of the Social Security Act 2018 that would be appropriate if the tenant were a beneficiary; and
 - (b) if any of the applicable persons is eligible to receive family tax credits under subparts MA to MF and MZ of the Income Tax Act 2007, the prescribed proportion of the lesser of—

- (i) the total of the amounts that the applicable persons are eligible to receive as family tax credits under those subparts; and
- (ii) a prescribed amount (or an amount calculated by a prescribed means).

Section 107: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 107(3)(a): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

108 Assessable income

The assessable income of an applicable person is the agency's estimate of the person's weekly income from all sources,—

- (a) if the agency considers that income tax is payable on any part of it, after the deduction of whichever of the following the agency thinks fit in the particular case:
 - (i) any income tax actually paid in respect of or deducted from that part; or
 - (ii) the agency's estimate of the amount of income tax payable in respect of it; and
- (b) if the agency considers that any premium is payable in respect of any part of it under section 219(1) of the Accident Compensation Act 2001, after the deduction of whichever of the following the agency thinks fit in the particular case:
 - (i) any premium actually paid in respect of that part; or
 - (ii) the agency's estimate of the amount of premium payable in respect of it; and
- (c) if the agency considers that any levy is payable in respect of any part of it under section 219 of the Accident Compensation Act 2001, after the deduction of whichever of the following the agency thinks fit in the particular case:
 - (i) any levy actually paid in respect of that part; or
 - (ii) the agency's estimate of the amount of levy payable in respect of it.

Section 108: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

109 Certain amounts included in weekly income

- (1) For the purposes of section 108, a person's weekly income includes—
 - (a) the appropriate weekly proportion of any periodical payment, whether capital or not, made to the person on a regular basis by any other person for income-related purposes and used by the person for income-related purposes; and

- (b) the appropriate weekly proportion of the value of any goods, service, transport, or accommodation (other than accommodation provided by HNZ or a registered community housing provider) supplied to the person on a regular basis by any other person.
- (2) A person's weekly income includes contributions from additional residents to the extent only required by the calculation mechanism.
- (3) Subsection (1) does not limit section 108.
- (4) Subsection (2) overrides subsection (1) and section 108.

Section 109: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

110 Calculation mechanism may include amounts in or exclude amounts from weekly income

- (1) For the purposes of section 108, a person's weekly income—
 - (a) includes any amount or payment (or, as the case requires, the appropriate weekly proportion of any amount or payment) of a prescribed description:
 - (b) does not include any amount or payment (or, as the case requires, the appropriate weekly proportion of any amount or payment) of a prescribed description.
- (2) Subsection (1)(a) does not limit section 108.
- (3) Subsection (1)(b) overrides sections 108 and 109(1).

Section 110: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Assessable assets, and deprivation of income or property

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

111 Assessable assets

- (1) Assessable assets generate imputed income at a rate of interest for the time being stated by the joint Ministers by notice in the *Gazette*; and, for the purposes of section 108,—
 - (a) the gross income from any person's assessable assets is the greater of the actual income from those assets and the imputed income they generate; and
 - (b) the person's weekly income must be estimated accordingly.
- (2) In subsection (1), **assessable assets** has the meaning prescribed in regulations made under section 114.

Section 111: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

112 Assessable income may be adjusted in certain cases

- (1) Subsection (2) applies if the agency is satisfied that—
 - (a) an applicable person has directly or indirectly deprived himself or herself of any income or property; and
 - (b) as a consequence of the deprivation, an income-related rent of any social housing in respect of which the person is an applicable person is (or but for this section would be) lower than it would otherwise be.
- (2) The agency may treat the person's assessable income as having been increased to the extent the agency thinks necessary to reflect the deprivation, or any lesser extent.
- (3) Subsection (2) overrides sections 107(1) and 113.
- (4) In this section,—

income does not include any amount that an applicable person might be considered to derive from any impairment lump sum under Schedule 1 of the Accident Compensation Act 2001

property does not include any such impairment lump sum received by an applicable person for the period of 12 months following the receipt of that payment.

Section 112: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Estimating weekly income, and regulations for purposes of calculation mechanism

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

113 Estimating weekly income

For the purposes of section 108, a person's weekly income is the person's estimated income for the prescribed period commencing on the day on which the estimation is made (or in the case of an application backdated under section 105 or a review under section 116 or action taken under section 123, the day from which the estimation is made), divided so as to equate to a weekly amount; but—

- (a) that estimated income must be treated as an amount equal to—
 - (i) the agency's estimate of the income received by the person for any period equal to the prescribed period (ending on a day before the day concerned) that the agency decides, divided so as to equate to a weekly amount; or
 - (ii) if the agency thinks it more appropriate in all the circumstances, the agency's estimate of the income received by the person for any shorter period (ending on a day before the day concerned) that

the agency decides, divided so as to equate to a weekly amount;
and

- (b) there may be deducted from that amount any items by which the agency is satisfied the income is likely to be reduced, and there may be added to that amount any items by which the agency is satisfied the income is likely to be increased.

Section 113: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

114 Regulations for purposes of calculation mechanism

- (1) The Governor-General may, by Order in Council, make regulations for any or all of the following purposes:
 - (a) prescribing a definition of assessable assets for the purposes of section 111(2):
 - (b) prescribing matters contemplated by sections 107 to 113:
 - (c) providing for any other matters contemplated by sections 107 to 113, necessary for their administration, or necessary for giving them full effect.
- (2) The regulations may—
 - (a) prescribe a zero proportion (or a means for calculating proportions capable of producing a zero proportion) for the purposes of any provision:
 - (b) prescribe a proportion or threshold (or a means for calculating a proportion or threshold) for the purposes of any provision by reference to any or all of the following matters:
 - (i) the relationship status of the tenant concerned:
 - (ii) the relationship status of the applicable persons concerned:
 - (iii) the number of dependent children of the tenant concerned:
 - (iv) the number of dependent children of the applicable persons concerned:
 - (v) the number of people living or intended to live in the housing concerned:
 - (c) prescribe a threshold (or a means for calculating a threshold) for the purposes of any provision by reference to the rate of a benefit as defined in Schedule 2 of the Social Security Act 2018, or the rates of 2 or more such benefits.
- (3) A means for calculating may comprise any number of mechanisms and parameters.
- (4) Subsection (2) does not limit subsection (1).
- (5) Nothing in this section affects the application of the New Zealand Bill of Rights Act 1990.

Section 114: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 114(2)(c): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Administrative matters and review

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

115 Tenant's duty to advise changes of circumstances

- (1) Every person to whom any social housing is let at an income-related rent must promptly advise the agency of—
 - (a) any change in the person's circumstances likely to result in the payment of a higher income-related rent; and
 - (b) any change known to the person in the circumstances of any other applicable person likely to result in the payment of a higher income-related rent by the first-mentioned person.
- (2) Every person to whom any social housing is let (whether at an income-related rent or a market rent) must promptly advise the agency of—
 - (a) any change in the person's circumstances likely to result in the person no longer being eligible to be allocated social housing or no longer in need of the particular social housing the person is being let; and
 - (b) any change known to the person in the circumstances of any other applicable person likely to result in the first-mentioned person no longer—
 - (i) being eligible to be allocated social housing; or
 - (ii) being in need of the particular social housing that the first-mentioned person is being let.
- (3) Every person who is a prospective tenant must promptly advise the agency of any change in the circumstances of the person or the person's spouse or partner likely to result in the person not or no longer—
 - (a) being eligible to be allocated social housing; or
 - (b) needing to be allocated, assigned, or let any particular social housing.

Section 115: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 115(2): brought into force, on 14 April 2016, by section 2(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

116 Reviews of income-related rents

- (1) The agency may at any time, of its own motion or on application by a tenant of the social housing concerned, review any income-related rent to ascertain—
 - (a) whether it or some other income-related rent is now appropriate; or

- (b) whether at some earlier time it or some other income-related rent was appropriate; or
 - (c) both.
- (2) After reviewing the income-related rent, the agency,—
 - (a) if satisfied some other income-related rent (including an income-related rent equivalent to the market rent) is now appropriate, may calculate and notify that other income-related rent for the tenant:
 - (b) if satisfied that at some earlier time a higher income-related rent was appropriate, may take action under section 74(3), 94(2), or 127:
 - (c) if satisfied that at some earlier time a lower income-related rent was appropriate, must make any necessary refund.
- (3) However, if after reviewing the income-related rent, the agency is not satisfied that it has all information reasonably needed to calculate or review an income-related rent, the agency must provide notification to the social housing provider under section 106 that, as applicable,—
 - (a) the rent for the housing must be its market rent for the time being, in accordance with section 72(3); or
 - (b) the rent for the housing may be determined by the registered community housing provider, but must not exceed its market rent for the time being, in accordance with section 92(3).
- (4) The agency—
 - (a) does not have to calculate that other income-related rent under subsection (2)(a) unless, in the agency's opinion, it would result in a material difference to the existing income-related rent; and
 - (b) does not have to give a notification under section 103 or 106 unless the agency has calculated the income-related rent and, in the agency's opinion, the result is a material difference from the existing income-related rent; and
 - (c) does not have to act under subsection (2)(b) unless in the agency's opinion, there has been a material under-payment of rent for the housing concerned.

Section 116: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

117 Agency may review housing eligibility

- (1) The agency may—
 - (a) at any time, on its own motion or on the application of a social housing provider, review the eligibility of a prospective tenant for social housing:
 - (b) subject to and in accordance with any directions given under section 102(3), at any time, on its own motion or on the application of a social

housing provider, review the continued eligibility of a tenant for social housing.

- (2) The agency must conduct a review under subsection (1)(a) in accordance with directions given under section 102(2).
- (3) The agency must conduct a review under subsection (1)(b) in accordance with directions (if any) given under section 102(2)(b).
- (4) Nothing in this section limits or affects any power of the agency to conduct a review under any other enactment.

Section 117: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

118 Agency may review housing needs of tenant

- (1) The agency may, at any time, on its own motion or on the application of a social housing provider, review the housing needs of a tenant.
- (2) Nothing in this section limits or affects any power of the agency to conduct a review under any other enactment.

Section 118: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Investigations and information-gathering powers

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

119 Agency may investigate circumstances relevant to income-related rent

The agency may investigate—

- (a) the present circumstances of—
 - (i) any tenant of social housing who is paying, or has applied to the agency for the agency to calculate, an income-related rent; or
 - (ii) any person who is an applicable person in relation to the tenant:
- (b) the circumstances (as they existed immediately before the income-related rent concerned was calculated or during any period when it was applicable) of—
 - (i) any tenant or former tenant of social housing who was required to pay an income-related rent for the housing; or
 - (ii) any person who was an applicable person in relation to the tenant or former tenant at the time concerned.

Section 119: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

120 Agency may investigate circumstances of prospective tenant

The agency may investigate the circumstances of any prospective tenant or of any person who would be an applicable person in relation to that tenant to the extent that those circumstances might be relevant to—

- (a) the eligibility of the prospective tenant to be allocated social housing or to be allocated or referred to any particular social housing provider; or
- (b) the housing needs of the prospective tenant.

Section 120: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

121 Agency may investigate circumstances relevant to continued eligibility

- (1) The agency may investigate the circumstances of any tenant of social housing (whether paying income-related rent or market rent for the housing) or the circumstances of any applicable person in relation to that tenant, to the extent that those circumstances might be relevant to—

- (a) the continued eligibility of the tenant to be allocated social housing; or
- (b) the housing needs of the tenant.

- (2) The agency may, on application by a social housing provider, investigate the circumstances of any tenant of social housing or an applicable person in relation to the tenant, to the extent that those circumstances might be relevant to the continued need of the tenant for the particular social housing that the tenant has been allocated, assigned, or let.

Section 121: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

122 Agency may ask questions

For the purpose of any investigation conducted under section 119, 120, or 121, the agency—

- (a) may ask any person whose circumstances it may investigate any relevant questions it thinks fit; and
- (b) may ask any person whose circumstances it may investigate to verify by statutory declaration—
 - (i) any information he or she has given when answering questions asked under paragraph (a); or
 - (ii) any other information that he or she has at any time given to the agency; or
 - (iii) any information within his or her personal knowledge that has at any time been given to the agency by—
 - (A) an applicable person in relation to that person (where the person whose circumstances are being investigated is a tenant); or

- (B) a person who would be an applicable person in relation to that person (where the person whose circumstances are being investigated is a prospective tenant); or
- (C) any person who was an applicable person in relation to the tenant or former tenant at the time concerned.

Section 122: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

123 Actions that may be taken by agency

- (1) The agency may take the actions stated in subsection (2) if—
 - (a) any person whose circumstances it may investigate—
 - (i) fails or refuses to answer (or, in the agency’s opinion, fails or refuses to answer fully) any question asked under section 122(a); or
 - (ii) fails or refuses to verify any information by statutory declaration when asked to do so under section 122(b); or
 - (b) it believes on reasonable grounds that any person whose circumstances it may investigate has deliberately given a false or misleading answer to any question asked under section 122(a); or
 - (c) for the purpose of a review under section 117 or 118, the agency requires information from a tenant under section 125(1)(d), and—
 - (i) the tenant fails or refuses to comply fully with the requirement for information; or
 - (ii) the agency believes on reasonable grounds that the tenant has deliberately given false or misleading information in response to the requirement.
- (2) The actions are,—
 - (a) to the extent that the tenant is the person or people to whom any social housing is let or to be let,—
 - (i) calculate an income-related rent for the tenant on the basis of the agency’s own understanding of the circumstances; or
 - (ii) calculate the income-related rent for the tenant as being equal to the market rent from time to time for the social housing;
 - (b) to the extent that the tenant is a prospective tenant only,—
 - (i) suspend the process of determining whether the tenant is eligible to be allocated social housing; or
 - (ii) suspend the process of determining whether the tenant is eligible to be referred or allocated to HNZ or any registered community housing provider; or
 - (iii) decline the tenant’s application to become a tenant of social housing:

- (c) to the extent that the tenant is an existing tenant only,—
 - (i) treat the tenant as having had a change in circumstances (and the date of change in circumstances) on the basis of its own understanding of the circumstances; or
 - (ii) for the purpose of section 117, review, on the basis of the agency's own understanding of the circumstances, the eligibility of the tenant for social housing;
 - (iii) for the purpose of section 118, review, on the basis of the agency's own understanding of the circumstances, the tenant's housing needs;
 - (iv) treat the tenant as not eligible to be or continue to be allocated social housing, on the basis of the agency's own understanding of the circumstances.

Section 123: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

124 Agency may seek information

- (1) For the purposes of a review under section 116, 117, or 118 or an investigation under section 119, 120, or 121, the agency may request any person to—
 - (a) answer questions; or
 - (b) allow the agency to inspect any document or other written information; or
 - (c) give the agency—
 - (i) a copy of any document or other written information; or
 - (ii) a printout of any information stored digitally.
- (2) The person does not have to comply with the request, but (for the purposes of section 7(1) of the Privacy Act 1993) this subsection authorises the person to make personal information available in response to the request.

Section 124: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

125 Agency may require information for certain purposes

- (1) The agency may by written notice require information from any person for any 1 or more of the following purposes:
 - (a) the purpose of ascertaining the housing needs of a prospective tenant;
 - (b) the purpose of ascertaining the eligibility of a tenant to be allocated social housing;
 - (c) the purpose of calculating an appropriate income-related rent;
 - (d) the purpose of a review under section 116, 117, or 118;
 - (e) the purpose of any investigation under section 119, 120, or 121:

- (f) the purpose of detecting whether a person has committed or is committing an offence under section 130 or 131:
 - (g) the purpose of determining and detecting the cost of fraud under section 130 or 131:
 - (h) the purpose of ascertaining whether a person has failed or refused to answer fully, or has deliberately given a false or misleading answer, to any question asked under section 122(a).
- (2) The agency when requiring any information under subsection (1) must do so in accordance with the code of conduct.
- (3) The agency may in writing require any person to advise whether any information provided under subsection (1) is accurate.
- (4) A person from whom information is required under subsection (1) or advice is required under subsection (3) must comply with the requirement—
- (a) no later than 5 working days after the notice was given; and
 - (b) in the manner specified in the notice, without charge to the agency.
- (5) This subsection authorises (for the purposes of section 7(1) of the Privacy Act 1993) any person who is required to provide information under subsection (1) or (3) to make personal information available in response to the requirement.
- (6) Subsection (1) does not—
- (a) require any person to provide any information or produce any document that would be privileged in a court of law:
 - (b) require any person to provide any information or produce any document that is legally professionally privileged.
- (7) Subsection (6) does not apply to information that—
- (a) consists wholly or partly of, or relates wholly or partly to,—
 - (i) the receipts, payments, income, expenditure, or financial transactions of a specified person (whether a lawyer, his or her client, or any other person); or
 - (ii) investment receipts (being receipts arising or accruing from any money lodged at any time with a lawyer for investment) of any person or persons (whether the lawyer, his or her clients, or any other person or persons); and
 - (b) is contained in, or comprises the whole or part of, any book, account, statement, or other record prepared by or kept in connection with a trust account of the lawyer.
- (8) If a person refuses to disclose any information or document on the ground that it is privileged under subsection (6)(a) or (b),—

- (a) the agency or that person or any other person to whom the information or document relates may apply to a District Court Judge for an order determining whether or not the claim of privilege is valid; and
 - (b) for the purposes of determining that application, the Judge may require the information or document to be produced to the court.
- (9) In this section,—

lawyer means a barrister or solicitor of the High Court, and includes a firm, or an incorporated law firm (within the meaning of the Lawyers and Conveyancers Act 2006), in which the lawyer is, or is held out to be, a partner, director, or shareholder

trust account, in relation to a lawyer has the same meaning as in section 6 of the Lawyers and Conveyancers Act 2006.

Section 125: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

126 Powers of agency to use information

If the agency is the Ministry, the agency may, despite any other enactment,—

- (a) use information obtained under this Part and Schedule 4 to perform its functions, duties, and powers under the Social Security Act 2018; and
- (b) use information obtained under the Social Security Act 2018 to perform its functions, duties, and powers under this Part.

Section 126: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 126(a): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 126(b): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

127 Recovery where rate of rent too low

- (1) Subsection (2) applies to a tenant of social housing and a period of time if, at any later time, the agency—
- (a) has in its possession information (whether or not obtained as a result of a review or an investigation under this Act) that—
 - (i) it did not have during that period, or had but did not have reasonable grounds to believe; and
 - (ii) it now believes on reasonable grounds; and
 - (b) is satisfied that, if it had had the information before the period and had had reasonable grounds to believe the information, it would have calculated for the tenant an income-related rent higher than the income-related rent that it last notified to the social housing provider in respect of the period (capped at the market rent).

- (2) If this subsection applies to a tenant of social housing and a period of time, the agency may calculate, and recover as a debt due to the Crown, the difference between—
- (a) the higher income-related rent it would have calculated for the tenant, but capped at the market rent for the housing, in respect of the period; and
 - (b) the income-related rent calculated and notified for the tenant (capped at the market rent).
- (3) Amounts recoverable under subsection (2) are not rent in arrear for the purposes of the Residential Tenancies Act 1986.

Section 127: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

128 Recovery of debt where agency is Ministry

For the purpose of section 74(3), 94(2), or 127(2), if the agency is the Ministry,—

- (a) the agency must treat the debt as if it were a debt due to the Crown under regulations made under section 444 of the Social Security Act 2018, with any necessary modification; and
- (b) to avoid doubt, the agency may recover that debt in accordance with that Act from any tenant or former tenant of social housing.

Section 128: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 128(a): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Allocation of social housing

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

129 Allocation of social housing

- (1) The matters to which the agency may have regard in doing any of the things stated in subsection (2) may include criteria that have, or are capable of having, the effect that tenants, people who are or might be applicable persons in relation to those tenants, and other people who are or might be residing in the housing concerned are treated differently on the basis of—
- (a) their marital status, disability or absence of disability, age, or family status (as the terms marital status, disability, age, and family status are defined in section 21(1)(b), (h), (i), and (l) of the Human Rights Act 1993); or
 - (b) whether or not they are resident, or ordinarily resident, or permanently resident, or lawfully resident, in New Zealand; or
 - (c) their incomes; or

- (d) their property; or
 - (e) 2 or more of those factors.
- (2) The things are any thing that the agency does in the course of determining eligibility for social housing or social housing offered by a social housing provider, and include—
- (a) assessing the housing needs of a tenant:
 - (b) assessing the eligibility of prospective tenants to be allocated social housing:
 - (c) reviewing the eligibility of tenants to be or continue to be allocated social housing, or reviewing the eligibility of a tenant under section 117 or the housing needs of a tenant under section 118:
 - (d) operating a waiting list of tenants who have been assessed as being eligible for social housing, but who have yet to be allocated, assigned, or let social housing or particular social housing:
 - (e) providing the results of its assessments of eligibility and housing needs to HNZ or registered community housing providers:
 - (f) referring or allocating prospective tenants to social housing providers.
- (3) Nothing in this section affects the application of the New Zealand Bill of Rights Act 1990.

Section 129: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Offences

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

130 Offence not to provide information or to provide false or misleading information

- (1) A person who is required to provide information under section 125(1) commits an offence if the person—
- (a) fails or refuses to provide, without reasonable excuse, the information required:
 - (b) provides false or misleading information in response to the requirement.
- (2) A person who is required under section 125(3) to advise whether the information provided under section 125(1) is accurate commits an offence if the person—
- (a) fails or refuses to provide that advice, without reasonable excuse:
 - (b) provides false or misleading information in response to the requirement.
- (3) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$2,000.

Section 130: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

131 Offence to mislead agency for certain purposes or results

- (1) A person commits an offence who, for the purpose described in subsection (2) or with the result described in subsection (3),—
 - (a) makes any statement knowing it to be false in any material particular; or
 - (b) deliberately does or says anything for the purpose of misleading or attempting to mislead the agency; or
 - (c) when required to advise the agency under section 115 or provide information under section 125, deliberately omits to do or say anything for the purpose of misleading or attempting to mislead the agency.
- (2) The purpose is—
 - (a) for that person or another person to be eligible or continue to be eligible to be allocated social housing;
 - (b) for that person or another person to be eligible or continue to be eligible to be allocated, assigned, or let particular social housing, or to be allocated, assigned, or let some other social housing;
 - (c) for that person or another person to have calculated for them, or to pay or continue to pay as rent for social housing, an income-related rent or lower income-related rent than they would otherwise be entitled to under this Act or an income-related rent that they are not entitled to under this Act.
- (3) The result is that that person or another person, whether or not entitled to it under this Act,—
 - (a) is or continues to be assessed as eligible to be allocated social housing;
 - (b) is or continues to be allocated or assigned to a particular social housing provider;
 - (c) is or continues to be allocated, assigned, or let particular social housing;
 - (d) is allocated, assigned, or let some other social housing;
 - (e) is let social housing at an income-related rent or lower income-related rent.
- (4) A person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000, or both.

Section 131: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Appeals

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

132 Rights of appeal

- (1) This section and sections 133 to 135 apply to—
 - (a) any decision or determination of the agency made under this Part, the calculation mechanism, or Schedule 3 in respect of an income-related rent; and
 - (b) any assessment by the agency of—
 - (i) the eligibility of any tenant to be, or to continue to be, allocated social housing; or
 - (ii) the housing needs of any tenant.
- (2) Nothing in this section and sections 133 to 135, or in any regulations made under section 136, limits or affects the rights of any tenant of social housing, or of any social housing provider as landlord, under the Residential Tenancies Act 1986.

Section 132: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

133 Tenant may appeal

A tenant may, in accordance with regulations made under section 136, appeal against a decision, determination, or assessment referred to in section 132(1) if the agency—

- (a) has confirmed it (whether as originally made or as varied) under the process for the time being established by the agency to review such decisions, determinations, or assessments; or
- (b) has no such process for the time being established.

Section 133: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

134 Powers of appeal body

- (1) In determining the appeal, the appeal body has all the powers, duties, functions, and discretions the agency had in relation to the matter concerned and may—
 - (a) confirm, modify, or reverse the decision, determination, or assessment; or
 - (b) refer all or any part of the matter back to the agency for further consideration, together with—
 - (i) any directions it thinks just relating to the reconsideration; and
 - (ii) a written statement of its reasons for doing so.
- (2) The appeal body—

- (a) may award costs against the agency in respect of any appeal if—
 - (i) it is allowed in whole or in part; or
 - (ii) all or any part of the matter is referred back to the agency for further consideration; and
- (b) may award costs against the appellant in respect of any appeal that is refused, if the appeal body believes that it was frivolous or vexatious, or should not have been brought.

Section 134: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

135 Where appeal body established by regulations

If the agency is not the Ministry and regulations under section 136(1)(a) establish a body to dispose of appeals under sections 132 to 134, any party to any appeal to the body who is dissatisfied with any determination of the body may appeal to the District Court and in that case,—

- (a) within 14 days after the date of the determination, the appellant must—
 - (i) lodge a notice of appeal with the court; and
 - (ii) give a copy of the notice to every other party to the appeal:
- (b) the court or a Judge may, on the application of the appellant or intending appellant, extend any time prescribed or allowed under this section for the lodging of a notice of appeal:
- (c) except as provided by this subsection, the case must be dealt with in accordance with the rules of the District Court.

Section 135: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 135: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Regulations

Heading: inserted, on 28 November 2013, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

136 Regulations relating to appeals and other matters

- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
 - (a) for the purposes of section 133,—
 - (i) establishing a body to dispose of appeals under that section, prescribing how its members are to be appointed, and prescribing how it is to hear and dispose of appeals; or
 - (ii) providing that such appeals are to be made to the social security appeal authority established by or under section 401 and Schedule 8 of the Social Security Act 2018 as if they were appeals against decisions or determinations under that Act, and providing that sec-

- tions 395 to 410, regulations made under section 451, and Schedule 8 of that Act apply, with or without modification, to the hearing and disposal of appeals; or
- (iii) providing, if the agency is not the Ministry, that such appeals are to be made to the District Court, and providing that the District Court Act 2016 and the rules of the District Court apply, with or without modification, to the hearing and disposal of appeals; or
- (b) providing for any other matters contemplated by the provisions of this Part (other than sections 107 to 113), necessary for their administration, or necessary for giving them full effect.
- (2) Any body established under subsection (1)(a)(i) is a statutory board within the meaning of the Fees and Travelling Allowances Act 1951, and every member of it is entitled to—
- (a) remuneration by way of fees, salary, or allowances for the member's services as a member of it;
- (b) payment of travelling allowances and expenses in respect of time spent travelling in its service.
- (3) If regulations made under subsection (1) provide for the matters described in subsection (1)(a)(ii) (relating to the Social Security Appeal Authority), regulations may—
- (a) provide for the function of the Benefits Review Committees in relation to appeals under this Act; and
- (b) require that an appeal to the Social Security Appeal Authority may not be heard until the matter has been confirmed or varied by the Benefits Review Committee.

Section 136: inserted, on 28 November 2013, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 136(1)(a)(ii): replaced, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 136(1)(a)(iii): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Delegations

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

137 Delegation of powers under this Part

- (1) The agency—
- (a) may not delegate a power under section 116(2)(b), 122(b), 123, or 127, except to a person who is an employee of the agency; and
- (b) may not delegate any other power under this Part, the calculation mechanism, or Schedule 3, except to a person who is—

- (i) an employee of the agency; or
 - (ii) engaged by the agency under a contract for services providing for the person to exercise that power.
- (2) Despite subsection (1), if the agency is a department, it may delegate any power under this Part to the chief executive of another department, HNZ, or the Corporation, or to an employee of the department, in accordance with section 41 of the State Sector Act 1988.
- (3) A power that has been delegated in accordance with subsection (2) may, with the consent of the agency, be delegated,—
 - (a) by the chief executive of a department, to a departmental agency or an employee of that department or departmental agency:
 - (b) by HNZ, to the Corporation, or an employee of HNZ or the Corporation:
 - (c) by the Corporation, to an employee of the Corporation:
 - (d) by an employee of the agency, to another employee of the agency.
- (4) If the agency delegates a power under this Part, the calculation mechanism, or Schedule 3 (not being a power referred to in subsection (1)(a)) to a body corporate engaged by the agency under a contract for services,—
 - (a) the body corporate cannot subdelegate it except to a person who is an employee of the body corporate; and
 - (b) an employee of the body corporate to whom it is subdelegated cannot subdelegate it further.
- (5) This section overrides section 130(1) of the Companies Act 1993.

Section 137: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Flexible purchasing

Heading: inserted, on 28 May 2015, by section 9 of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

137A Tailored agreements with social housing providers

The agency may, for the purposes of and in accordance with a direction under section 102(1A), enter into 1 or more agreements with a social housing provider for the provision, by that provider, of social housing and any related services, for the price and on the terms and conditions agreed between the agency and the provider.

Section 137A: inserted, on 28 May 2015, by section 9 of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Code of conduct

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

138 Code of conduct applying to obtaining information under section 125

- (1) The agency, in consultation with the Privacy Commissioner must, within 3 months after the commencement of this section, issue a code of conduct that applies in respect of any requirement for information under section 125.
- (2) The code of conduct—
 - (a) must include the matters specified in section 142; and
 - (b) may include restrictions on obtaining—
 - (i) specified classes of information; and
 - (ii) information from specified classes of persons or from persons in specified relationships; and
 - (c) must specify procedures applying to the obtaining of information under section 125.
- (3) The agency may from time to time, in consultation with the Privacy Commissioner, amend the code of conduct, or revoke the code of conduct and issue a new code of conduct.
- (4) Nothing in the code of conduct may derogate from any code of practice issued by the Privacy Commissioner under Part 6 of the Privacy Act 1993 that applies to the information required under section 125, and the agency, in consultation with the Privacy Commissioner, must amend the code of conduct to conform with any such code of practice. This subsection is affected by section 140.
- (5) As soon as practicable after issuing any code of conduct and any amendment to it under this section, the agency must arrange for it to be published on an Internet site that is publicly available at all reasonable times or published in a form that is otherwise accessible to the public.
- (6) The code of conduct that, before the commencement of this section, was issued under Part 5—
 - (a) is, on the commencement of this section, deemed to be issued under this section; and
 - (b) applies, subject to any necessary modification, in respect of any requirements for information under section 125.

Section 138: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

139 Who must comply with code of conduct

The following persons must comply with the code of conduct when requiring information under section 125:

- (a) the agency, the chief executive of the agency (if a department), and every employee of the agency:
- (b) every person to whom the power to require such information has been delegated under section 137:
- (c) every person or body corporate engaged by the agency under a contract for services providing for the person to exercise the power to require such information:
- (d) every employee of a person or body corporate referred to in paragraph (c).

Section 139: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

140 Regulations authorising information to be obtained

- (1) The Governor-General may, on the advice of the joint Ministers given after consultation with the Privacy Commissioner, by Order in Council, make regulations authorising the agency to obtain pursuant to a requirement under section 125—
 - (a) any specified class of information; or
 - (b) information from any specified class of persons; or
 - (c) information in any specified manner.

- (2) Subsection (1) applies despite the fact that the making of that requirement under that section would otherwise be in breach of any code of practice issued by the Privacy Commissioner under Part 6 of the Privacy Act 1993.

Section 140: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

141 Complaints

- (1) Any person who is required to provide any information under section 125 or who is the subject of that information may make a complaint to the Privacy Commissioner that the requirement breaches the code of conduct.
- (2) Part 8 of the Privacy Act 1993 applies to the complaint as if the code of conduct were a code of practice issued under Part 6 of the Privacy Act 1993.

Section 141: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

142 Matters to be included in code of conduct

- (1) The code of conduct issued under section 138 must contain the following matters:
 - (a) provisions requiring any information to be first sought, as the case may require, except where compliance with the provision would prejudice the maintenance of the law, from—
 - (i) the tenant or an applicable person in relation to the tenant; or

- (ii) the prospective tenant or the person who would be an applicable person in relation to the prospective tenant; or
 - (iii) a former tenant:
 - (b) provisions allowing a person referred to in paragraph (a) the time that is specified in the code to provide the information before the agency requires that information, or advice on the accuracy of that information, from another person or agency, except where compliance with such provision would prejudice the maintenance of the law:
 - (c) a provision prohibiting a requirement under section 125 being made in respect of a person referred to in paragraph (d) (not being a lawyer, an employer, or a former employer of a person referred to in paragraph (a) and not being a department, departmental agency, Crown entity, financial institution), unless there is reasonable cause to make a requirement under that section:
 - (d) a provision prohibiting a requirement under section 125 being made to an employer in respect of any information that relates solely to the marital or relationship status of an employee or former employee of that employer:
 - (e) provisions otherwise restricting requirements under section 125 being made to an employer to information specified in the code relating to the employment and the address of an employee or former employee of that employer.
- (2) In subsection (1)(c), **reasonable cause** includes—
- (a) cause to suspect that the person—
 - (i) has committed an offence under this Act; or
 - (ii) has obtained by fraud any income-related rent or social housing; or
 - (iii) as a result of committing fraud, pays or continues to pay an income-related rent or remains in social housing or particular social housing:
 - (b) the fact that the person has failed, within the time specified in the code, or has refused to provide information in accordance with a requirement made to that person under a provision referred to in subsection (1)(a).

Compare: 1964 No 136 s 11C

Section 142: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Debt recovery by agency other than Ministry

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

143 Debt recovery by agency other than Ministry

- (1) If the agency is not the Ministry of Social Development, subsection (2) applies to the exercise by the agency of its power to recover debt under section 74(3), 94(2), or 127.
- (2) The agency may not recover any sum comprising that part of the debt that was caused wholly or partly by an error to which the tenant did not intentionally contribute if—
 - (a) the tenant acted in good faith in—
 - (i) continuing to pay the lower income-related rent during the period to which the debt relates; or
 - (ii) failing to advise the agency in accordance with section 115(1); or
 - (b) it would be inequitable in all the circumstances, including the tenant's financial circumstances, to permit recovery.
- (3) In subsection (2), **error** means—
 - (a) any incorrect information provided to or held by the agency;
 - (b) any erroneous act or omission of the agency that occurs during an investigation or review under this Part;
 - (c) any other erroneous act or omission by the agency.

Compare: 1964 No 136 s 86(9A), (9B)

Section 143: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

144 Application of sections 145 to 155

Sections 145 to 155 apply for the purpose of debt recovery under section 74(3), 94(2), or 127 to the agency only if the agency is not the Ministry.

Section 144: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Deduction notices

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

145 Interpretation of deduction notice sections of this Part

In this section and in sections 146 to 155, unless the context otherwise requires,—

deduction notice means a notice issued under section 146

overdue amount means the amount—

- (a) recoverable as a debt due to the Crown under section 74(3), 94(2), or 127(2); and
- (b) that remains unpaid and includes any part of any amount of that kind **payment**, in relation to a third party, includes payments made, or to be made, by the third party as—
 - (a) salary or wages;
 - (b) a retiring allowance or pension or other payment of a similar nature;
 - (c) a benefit;
 - (d) weekly compensation under the Accident Compensation Act 2001;
 - (e) a bonus or an incentive payment;
 - (f) a commission;
 - (g) consideration for work performed under a contract for services

tenant—

- (a) means 1 or more people to whom social housing is or was let at an income-related rent; and
- (b) includes any former tenant

third party means the person required to make 1 or more deductions under a deduction notice.

Compare: 1957 No 87 ss 2(1), 79

Section 145: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

146 Deduction of overdue Crown debt

- (1) The agency may recover an amount as a debt due to the Crown by issuing a deduction notice in accordance with this section if any overdue amount remains unpaid, after the agency has reminded the tenant of the obligation to pay the amount and has done all it reasonably can to obtain repayment of the unpaid amount.
- (2) Nothing in subsection (1) requires the chief executive to take proceedings in any court to establish or recover the debt before issuing a deduction notice.
- (3) The deduction notice may require a third party to deduct an amount specified in the notice due from any payment that is payable or will become payable by the third party to the tenant, whether that payment will be made—
 - (a) on the third party's own account; or
 - (b) in the third party's capacity as an agent or a trustee; or
 - (c) for any other reason.

Compare: 1964 No 136 s 86A

Section 146: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

147 Matters relating to deduction notice

- (1) The agency must specify in the deduction notice—
 - (a) whether the deduction is to be made as a lump sum or by instalments; and
 - (b) the time or times by which the amounts deducted must be paid to the agency; and
 - (c) the date on which the deduction notice takes effect, being a date not earlier than 7 working days after the date on which it was issued.
- (2) The agency must make all reasonable efforts to give the tenant a copy of a deduction notice within 7 working days after the notice is issued.
- (3) A deduction notice is revoked when the agency notifies the third party in writing to that effect or issues a new deduction notice to that third party.
- (4) The agency—
 - (a) may revoke a deduction notice at any time;
 - (b) must revoke the deduction notice if satisfied that the overdue amount has been paid.
- (5) Every deduction notice is subject to sections 148 to 155.
- (6) A notice under this section may be given by electronic means in accordance with subpart 2 of Part 4 of the Contract and Commercial Law Act 2017.

Section 147: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 147(6): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

148 Issue of deduction notice to State sector employer

In any case where a tenant is employed within a department (within the meaning of the State Sector Act 1988), a deduction notice may be issued under section 146 to the chief executive of that department in respect of any salary or wages payable to the tenant.

Compare: 1964 No 136 s 86B

Section 148: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

149 Discharge of debt

In any case where a third party deducts, under a deduction notice, any money payable to a tenant, the tenant is, to the extent of the amount deducted, discharged from his or her debt to the Crown.

Compare: 1964 No 136 s 86C

Section 149: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

150 Deduction notices issued to banks

- (1) Where the third party is a bank, any money held by the bank to the credit of the tenant is subject to the provisions of section 146 and the amount required to be deducted under the deduction notice is, without prejudice to any other remedies against the tenant or any other person, deemed to be held in trust for the Crown and is a debt due to the Crown and may be recovered by the agency in any court or tribunal of competent jurisdiction.
- (2) For the purposes of this section, **bank** means a person carrying on in New Zealand the business of banking, a credit union within the meaning of the Friendly Societies and Credit Unions Act 1982, and a building society within the meaning of the Building Societies Act 1965, but does not include the Reserve Bank of New Zealand established under the Reserve Bank of New Zealand Act 1989 (except in relation to an account maintained by that bank for an employee of the bank).
- (3) For the purposes of this section, **money held by the bank to the credit of the tenant** includes money, and any interest on money, that is on deposit or deposited with a bank to the credit of the tenant, whether or not—
 - (a) the deposit or depositing is on current account;
 - (b) the money is to be at interest at a fixed term or without limitation of time;
 - (c) the tenant has made any application to withdraw or uplift the money.
- (4) For the purposes of this section, money on deposit with a bank is deemed to be to the credit of the tenant if the money—
 - (a) is held in a joint bank account in the name of the tenant and 1 or more other persons; and
 - (b) can be withdrawn from the account by or on behalf of the tenant without a signature being required at the time of that withdrawal from, or on behalf of, the other person or persons.

Compare: 1964 No 136 s 86D

Section 150: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

151 Making of deductions

- (1) Any person who makes a deduction under a deduction notice is deemed to be acting—
 - (a) on the authority of the tenant and any other person concerned, and neither the tenant nor that other person has any claim against the third party or the agency or the Crown in respect of that deduction; and

- (b) on behalf of the agency, and, without prejudice to any other remedies against the tenant or any other person, any amount deducted must be held in trust for the Crown and is a debt due to the Crown and may be recovered by the agency in any court or tribunal of competent jurisdiction.
- (2) A third party must, on request, give the tenant a statement in writing of any amount deducted, and of the purpose for which the deduction was made.

Compare: 1964 No 136 s 86E

Section 151: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

152 Offences in relation to deduction notices

- (1) Every person commits an offence and is liable on conviction to a fine not exceeding \$2,000 who—
- (a) fails to make any deduction required by a deduction notice; or
 - (b) fails, after making a deduction, to pay the amount deducted to the agency within the time specified in the notice; or
 - (c) permits payment to or on behalf of any person, other than the agency, of any amount deemed to be held in trust for the Crown under sections 150 and 151.
- (2) Every employer commits an offence and is liable on conviction to a fine not exceeding \$1,000 who dismisses an employee or alters an employee's position in the employer's business or undertaking to the employee's prejudice by reason of a deduction notice having been issued to the employer.

Compare: 1957 No 87 s 106A; 1964 No 136 s 86F

Section 152: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

153 Protected earnings

- (1) Despite anything in sections 146 to 151, where a deduction notice is issued to an employer of a tenant, the employer must not, in making deductions under the deduction notice, reduce the amount paid to the tenant by way of salary or wages in respect of any week to an amount that is less than 60% of the amount calculated as being the tenant's net ordinary weekly pay for a week.
- (2) For the purposes of this section, the tenant's net ordinary weekly pay for a week is the balance left after deducting from the tenant's ordinary weekly pay (as defined in section 8 of the Holidays Act 2003) the amount of tax required to be withheld or deducted in accordance with the PAYE rules of the Income Tax Act 2007 if that ordinary weekly pay were the only salary or wages paid to the tenant by the employer in respect of a week.

Compare: 1964 No 136 s 86G

Section 153: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

154 Penalty for late deductions

- (1) A third party is liable to pay to the agency a penalty calculated in accordance with subsection (2) if the third party fails wholly or in part to—
 - (a) deduct the amount required by the notice; or
 - (b) pay any amount deducted under the notice to the agency by the time specified in the notice.
- (2) The penalty referred to in subsection (1) must be calculated as follows:
 - (a) on the amount in default, 10% of that amount or \$5, whichever is the greater;
 - (b) for each additional month or part of a month in which the amount in default or any part of the amount has not been deducted or, as the case may be, has not been paid to the agency, a further penalty of 2% of that amount or part of the amount or \$1, whichever is the greater.
- (3) The agency may, in its discretion, remit the whole or part of a penalty if satisfied that the failure to make the deduction or the payment was due to circumstances reasonably beyond the third party's control, or that, in all the circumstances, the imposition of that penalty would be inequitable.
- (4) If the agency decides to remit the whole or part of any penalty and any amount of the penalty has been paid under this section, the agency may refund any excess.
- (5) An amount payable to the agency under subsection (1) is a debt due to the Crown and may be recovered by the agency in any court or tribunal of competent jurisdiction.

Compare: 1964 No 136 s 86I

Section 154: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

155 How notice may be given

- (1) Every notice given to any person under any of sections 146 to 154 may be given by delivering it to that person,—
 - (a) in the case of a natural person (other than an officer or employee in the service of the Crown in his or her official capacity),—
 - (i) personally; or
 - (ii) by leaving it at that person's usual or last known place of residence or business or at the address specified by that person in any application or other document received from that person; or
 - (iii) by posting it in a letter addressed to that person at that place of residence or business or at that address;
 - (b) in the case of any other person, including an officer or employee in the service of the Crown in his or her official capacity,—

- (i) where applicable, personally; or
 - (ii) by leaving it at that person's place of business; or
 - (iii) by posting it in a letter addressed to that person at that place of business.
- (2) If any such notice is sent to any person by post, then, in the absence of evidence to the contrary, the notice is deemed to have been received by that person on the fourth day after the day on which it is posted, and, in proving the delivery, it is sufficient to prove the letter was properly addressed and posted.
- (3) A notice to a person under any of sections 146 to 154 may be given by electronic means in accordance with subpart 2 of Part 4 of the Contract and Commercial Law Act 2017.

Compare: 1964 No 136 s 86J

Section 155: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 155(3): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

Transitional matters

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

156 Transitional arrangements for certain tenants

- (1) This section and Schedule 3 apply to a tenant of HNZ if, but for the provisions of that schedule,—
- (a) the rent that the tenant would be required to pay for the first rent period commencing on or after the appointed day—
would be greater than—
 - (b) the rent, after the deduction of any accommodation assistance (within the meaning of clause 1 of Schedule 3) to which the tenant was entitled, that the tenant was required to pay for the last rent period commencing before the appointed day.

- (2) Schedule 3 overrides section 104.

Section 156: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

157 Responsible department may verify entitlement

For the purposes of section 156 and Schedule 3,—

- (a) the agency may, with the consent of the applicable persons concerned, give the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Social Security Act 2018 details of—

- (i) those persons' assessable incomes and the components of those incomes, and their cash assets, as supplied—
 - (A) to the company under section 43(1); or
 - (B) to the agency for the purpose of section 104(1); and
 - (ii) the weekly market rent in relation to the housing; and
 - (iii) the dates of the beginning and end of the rent period in respect of the housing that commenced immediately prior to the appointed day; and
- (b) an officer or employee of the department may, on the basis of the details given under paragraph (a),—
- (i) certify in writing to the applicable persons the kinds of accommodation assistance (within the meaning of clause 1 of Schedule 3) they were receiving and, in respect of assistance of each kind, whether they were receiving more than their entitlement, their entitlement, or less than their entitlement immediately before the appointed day; and
 - (ii) give the agency a copy of the certificate; and
- (c) the agency may rely on the certificate.

Section 157: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 157(a): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Part 10

Regulatory authority

Part 10: inserted, on 28 November 2013, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Preliminary provisions

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

158 Interpretation of terms used in this Part

In this Part, unless the context otherwise requires,—

appeal body means the body specified in regulations made under section 187 to whom appeals under section 184 may be made

prescribed means prescribed in regulations made under section 190

prescribed eligibility criteria means the eligibility criteria prescribed under section 190(1)(d) that a community housing provider must meet to be registered or obtain registration of a specified class

prescribed performance standards means the performance standards prescribed under section 190(1)(e) that a community housing provider must meet to maintain registration or registration of a specified class

register means the register of community housing providers established under section 172.

Section 158: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Appointment, objectives, functions, and operation of authority

Heading: inserted, on 28 November 2013, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

159 Regulatory authority

- (1) The Governor-General may by Order in Council made on the recommendation of the joint Ministers appoint a department, any specified business unit within a department, departmental agency, or a Crown entity to perform the functions and exercise the powers of the regulatory authority under this Part.
- (2) If the authority is a Crown entity, then the Crown Entities Act 2004 applies to the authority except to the extent that this Act expressly provides otherwise.

Section 159: inserted, on 28 November 2013, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

160 Authority's main objectives

The authority's main objectives are—

- (a) to register and regulate community housing providers, in order to ensure that their tenants are appropriately housed; and
- (b) to support the growth of a fair, efficient, and transparent community housing sector.

Section 160: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

161 Authority's functions

The functions of the authority are to—

- (a) approve and register community housing providers in accordance with prescribed eligibility criteria and performance standards; and
- (b) suspend or revoke such registration where a community housing provider no longer meets the prescribed eligibility criteria and performance standards; and
- (c) maintain a register of registered community housing providers; and
- (d) recommend to the joint Ministers the making of regulations for the purposes of this Part; and
- (e) monitor and enforce compliance by registered community housing providers with any regulations made under this Part; and

- (f) comply with any directions from the joint Ministers in relation to the regulation of registered community housing providers; and
- (g) provide the joint Ministers with such information and reports about the carrying out of its functions under this Part as the joint Ministers may request; and
- (h) perform any other functions conferred on the authority by this Part.

Section 161: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

162 Ministerial directions to authority

- (1) The joint Ministers and, if applicable, any other Minister responsible for the authority may give to the authority—
 - (a) directions specifying how registered community housing providers may be eligible for the funding by way of payments under reimbursement agreements and tailored agreements, including,—
 - (i) the type of housing units that may be funded during any specified period of time; and
 - (ii) the number of housing units that may be funded during any specified period of time; and
 - (iii) the location of housing units that may be funded during any specified period of time:
 - (b) directions stating the terms and conditions on which Crown grants are to be made available to registered community housing providers:
 - (c) directions stating the terms and conditions on which assets of the Crown or of a Crown entity are to be made available to registered community housing providers.
- (2) Before making any direction under this section, the joint Ministers and, if applicable, any other Minister responsible for the agency must consult—
 - (a) the agency and the authority; and
 - (b) any social housing provider that, in the Minister's opinion, will be materially affected by the direction.
- (3) The requirement in subsection (2)(b) does not apply to the first directions to be made under this section.
- (4) The authority must, in carrying out functions under this Act, give effect to any directions that are given to it under this section and that are signed by the joint Ministers and if applicable, any other Minister responsible for the authority.
- (5) If the authority is a Crown entity,—
 - (a) subsections (1) to (4) do not limit Part 3 of the Crown Entities Act 2004; and

- (b) if there is any inconsistency between the provisions of this Act and the Crown Entities Act 2004 in relation to a direction under this section, the provisions of the Crown Entities Act 2004 prevail.
- (6) As soon as practicable after giving a direction under this section, a Minister must publish it in the *Gazette* and present a copy of it to the House of Representatives.

Compare: 2004 No 115 ss 103, 115

Section 162: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 162(1)(a): amended, on 28 May 2015, by section 10(a) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 162(1)(a)(i): amended, on 28 May 2015, by section 10(b) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 162(1)(a)(ii): amended, on 28 May 2015, by section 10(b) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 162(1)(a)(iii): amended, on 28 May 2015, by section 10(b) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Registration of community housing providers

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

163 Application for registration

- (1) A community housing provider may apply to the authority to be registered under this Part.
- (2) An application must—
 - (a) contain the prescribed information; and
 - (b) be accompanied by any relevant prescribed fee.

Section 163: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

164 Further information to be provided with registration application

- (1) The authority may require a community housing provider to provide any further information that the authority considers appropriate to an application for registration by that provider.
- (2) The authority may refuse an application for registration if the community housing provider does not provide the further information required within a reasonable time after the requirement is made.

Section 164: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

165 Authority must decide application for registration

The authority must, as soon as practicable after receiving an application for registration that complies with section 163,—

- (a) decide whether to register the applicant; and
- (b) give the applicant written notice of its decision; and
- (c) specify in the decision the class or classes of registration that the applicant has obtained.

Section 165: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

166 Approval of registration

- (1) The authority may approve a community housing provider as a registered community housing provider if the authority is satisfied that—
 - (a) the community housing provider’s application for registration complies with this Part; and
 - (b) any relevant prescribed fee has been paid; and
 - (c) having regard to the prescribed eligibility criteria and any other relevant matter, registration is appropriate.
- (2) The authority must in approving a registered community housing provider, determine the particular class or classes of registration that the provider has obtained.
- (3) The authority must give effect to any approval of a community housing provider under subsection (1) by—
 - (a) giving notice of the registration of that provider in the *Gazette*; and
 - (b) entering that provider’s name in the register.
- (4) The effect of registration is that the community housing provider is, depending on the class or classes of registration it has obtained, eligible to receive any 1 or more of the following, on terms and conditions set by the joint Ministers:
 - (a) funding by way of payments under reimbursement agreements and tailored agreements;
 - (b) Crown grants;
 - (c) assets of the Crown, or of a Crown entity.

Section 166: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 166(4)(a): replaced, on 28 May 2015, by section 11 of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

167 Refusal of registration

- (1) If the authority is not satisfied that the requirements for registration in section 166 have been met, the authority must refuse to register the community housing provider.
- (2) The authority must give the community housing provider a written notice of the reasons for the decision to refuse to register the provider under this Part.

Section 167: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

168 Registration continuous so long as criteria continue to be met

- (1) The authority must assess at least annually, and may assess at any other time, whether a registered community housing provider continues to meet the prescribed eligibility criteria and prescribed performance standards.
- (2) A registered community housing provider that continues to meet those criteria and standards is entitled to the continuation of its registration and any specified class of registration that it has obtained.

Section 168: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

169 Suspension of registration

- (1) If, after making an assessment under section 168, the authority determines that a registered community housing provider no longer meets the prescribed eligibility criteria and prescribed performance standards, the authority must—
 - (a) suspend the provider’s registration until the provider satisfies the authority that it meets those criteria and standards; and
 - (b) record the suspension in the register.
- (2) The authority must give the provider at least 14 days’ written notice and the opportunity to be heard before suspending its registration.
- (3) During the period for which the provider’s registration is suspended,—
 - (a) the provider may not take on any new tenants paying an income-related rent;
 - (b) the provider may be paid under a reimbursement agreement or a tailored agreement, subject to the terms of the agreement;
 - (c) the provider may not apply for any further Crown grants;
 - (d) the provider may not apply for any further assets of the Crown or of a Crown entity.
- (4) If the provider does not satisfy the authority for the purposes of subsection (1)(a) within 12 months after the suspension, or any further period that the authority may determine, the authority must revoke the provider’s registration in accordance with sections 170 and 171.

Section 169: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 169(3)(b): replaced, on 28 May 2015, by section 12 of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

170 When registration may be revoked

- (1) The authority may revoke the registration of a community housing provider under this Part if the authority is satisfied on reasonable grounds that the provider—
 - (a) has failed, or is failing, to meet 1 or more of the prescribed eligibility criteria; or
 - (b) has failed, or is failing, to meet 1 or more of the prescribed performance standards; or
 - (c) has failed, or is failing, to comply with a lawful requirement of the authority under this Part; or
 - (d) has ceased to operate as a community housing provider; or
 - (e) is unable to pay its debts or to continue carrying on its business.
- (2) The authority may revoke the registration of a community housing provider under this Part on the written request of the community housing provider.
- (3) The authority may revoke the registration of a community housing provider whether or not that registration has been suspended under section 169.

Section 170: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

171 Procedure for revocation

- (1) In any case where the authority revokes a community housing provider's registration under section 170, the authority must—
 - (a) give written notice to the provider specifying the effective date of the revocation; and
 - (b) give notice of the revocation in the *Gazette*; and
 - (c) remove that provider's name from the register; and
 - (d) give written notice to the agency of this as soon as practicable.
- (2) If the revocation is on any of the grounds referred to in section 170(1), the authority must—
 - (a) give the provider at least 14 days' written notice and the opportunity to be heard before revoking the registration; and
 - (b) give the provider a written notice of reasons for the decision.
- (3) The effect of revocation is that the provider is no longer eligible to receive any benefits associated with any specified class or classes of registration that the provider has obtained, and those benefits may, without limitation, include payments under reimbursement agreements or tailored agreements, Crown grants, or assets of the Crown or of a Crown entity.

Section 171: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 171(3): amended, on 28 May 2015, by section 13 of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

172 Register of community housing providers

The authority must establish and maintain a register of community housing providers that includes the following information about each registered provider:

- (a) the current (and any former) full name and address and incorporation details (if applicable) of the provider; and
- (b) the full names and addresses and appointment details of the current (and former) members of its governing body (if applicable); and
- (c) the full details of any land in respect of which the provider is or was a registered owner, or over which it holds or has held a lease, tenancy agreement, or licence of more than 3 years' duration, or at which it provides or has provided community housing services to the public; and
- (d) its registration details as a registered community housing provider; and
- (e) any prescribed information or documents.

Section 172: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 172(c): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

173 Certain community housing providers deemed to be registered

- (1) A community housing provider that on the date of commencement of this section (**commencement date**) has entered into a Relationship and Grant Agreement with the Ministry of Business, Innovation, and Employment is, on and from the commencement date, deemed to be a registered community housing provider that has obtained a class of registration that qualifies the provider as being eligible to receive the income-related rent subsidy for 1 year after the commencement date.
- (2) A community housing provider may choose not to be a deemed registered community housing provider by notifying the authority.
- (3) To avoid doubt, this section does not affect a community housing provider's right to receive Crown grants under the agreement referred to in subsection (1).

Section 173: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Provisions relating to registered community housing providers

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

174 Authority to monitor registered community housing providers

The authority—

- (a) must monitor the compliance of registered community housing providers with the prescribed eligibility criteria and prescribed performance standards; and
- (b) may require persons to supply information or produce documents for that purpose under section 178.

Section 174: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

175 Reporting requirements of registered community housing providers

- (1) A registered community housing provider must provide reports on its operations to the authority—
 - (a) annually in accordance with section 176; and
 - (b) at any other time as required by the authority.
- (2) A report must be in the form approved by the authority.

Section 175: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

176 Annual reports provided by registered community housing providers

- (1) The reports to be provided annually by a registered community housing provider must include—
 - (a) a report setting out its performance against the prescribed performance standards; and
 - (b) a report containing its financial statements and accounts in accordance with a direction from the authority under this section; and
 - (c) any other reports that the authority may require.
- (2) The authority may give directions in relation to the contents of financial statements and accounts to be provided by registered community housing providers.
- (3) The authority must publish a direction under this section in the *Gazette*.
- (4) Reports must be provided to the authority in each year not more than 28 days after the annual general meeting of the registered community housing provider.

Section 176: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

177 Complaints about registered community housing providers

- (1) Any person may complain to the authority alleging that a registered community housing provider has failed, or is failing, to meet prescribed eligibility criteria or prescribed performance standards.
- (2) As soon as practicable after receiving a complaint, the authority must—
 - (a) inform the registered community housing provider concerned of the complaint; and
 - (b) decide whether to accept or decline the complaint.
- (3) The authority must, immediately after making a decision under subsection (2),—
 - (a) give written notice of the decision to the person who made the complaint and the registered community housing provider concerned; and
 - (b) if the authority decides to accept the complaint, proceed to investigate the complaint.
- (4) The authority may decline to accept, and is not required to investigate, a complaint that it considers vexatious or frivolous.
- (5) Nothing in this section affects the rights and obligations of community housing providers and their tenants under the Residential Tenancies Act 1986.

Section 177: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

178 Authority may require person to supply information or produce documents

- (1) If the authority considers it necessary or desirable for the purposes of performing or exercising its functions, powers, or duties under this Act, the authority may, by written notice served on any person, require the person—
 - (a) to supply to the authority, within the time and in the manner specified in the notice, any information or class of information specified in the notice; or
 - (b) to produce to the authority, or to a specified person named in the notice, any document or class of documents specified in the notice (within the time and in the manner specified in the notice); or
 - (c) if necessary, to reproduce, or assist in reproducing, in usable form, information recorded or stored in any document or class of documents specified in the notice (within the time and in the manner specified in the notice).
- (2) Information supplied in response to a notice under subsection (1)(a) must be—
 - (a) given in writing; and
 - (b) signed in the manner specified in the notice.

- (3) If a document is provided in response to a notice under subsection (1), the authority, or the specified person to whom the document is produced, may—
- (a) inspect and make records of that document; and
 - (b) take copies of the document or extracts from the document.
- (4) In this section, **specified person** means—
- (a) an employee of the authority; or
 - (b) another person to whom the authority has delegated the power to receive the relevant information.

Section 178: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Intervention powers in respect of registered community housing providers

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

179 Use of intervention powers by authority

- (1) The intervention powers of the authority under this Part may be used only in relation to a registered community housing provider that has obtained a class of registration that qualifies the provider as being eligible to receive Crown grants or assets of the Crown or of a Crown entity.
- (2) The authority may use its intervention powers in relation to a registered community housing provider referred to in subsection (1) if—
 - (a) there has been a failure by the provider to meet the prescribed eligibility criteria or prescribed performance standards; or
 - (b) the provider fails to comply with a legal requirement or direction given by the authority; or
 - (c) as a result of a change to the constitution or rules of the provider, or to the business activities carried on by the provider, the authority believes that the ability of the provider to do either or both of the following things is, or will be, adversely affected:
 - (i) comply with the prescribed eligibility criteria and prescribed performance standards;
 - (ii) provide social rental housing or affordable rental housing to people.
- (3) The authority must not exercise a power under this Part unless it is satisfied that the exercise of the power—
 - (a) is appropriate in the circumstances; and
 - (b) accords with guidelines established under subsection (4).
- (4) The joint Ministers must establish guidelines for the exercise of the authority's powers under this Part.

- (5) Guidelines established under subsection (4) must be published in the *Gazette*.
- (6) The authority must make a copy of the current guidelines available to each registered community housing provider.

Section 179: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

180 Authority may appoint to governing body of registered community housing provider

- (1) The authority, after consulting the governing body of a registered community housing provider and considering any nominations made by that governing body, may appoint 1 or more persons, whom the authority considers to be appropriately qualified, to that governing body.
- (2) The appointment may be in place of 1 or more existing members of the governing body or in addition to the existing members of the governing body.
- (3) If the appointment is in place of an existing member, the governing body must terminate the existing member's appointment.
- (4) An appointment or termination under this section has effect as if made in accordance with the constitution or rules of the registered community housing provider.
- (5) This section applies despite anything to the contrary in the constitution or rules of the registered community housing provider.
- (6) No appointment may be made to a governing body under this section that would result in the proportion of members appointed by the authority being greater than that of a minority.

Section 180: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

181 Authority may give binding instructions to registered community housing provider

- (1) The authority may, after consultation with the governing body of a registered community housing provider, give binding instructions to the registered community housing provider or the members of its governing body.
- (2) The instructions may relate to—
 - (a) the entering by the registered community housing provider into arrangements that the authority considers appropriate with 1 or more other registered community housing providers:
 - (b) the appointment of an administrator to control and direct the registered community housing provider:
 - (c) any other matter relating to the registered community housing provider that the authority thinks fit.
- (3) The instructions may specify—

- (a) the time within which a matter referred to in subsection (2) must be complied with; and
 - (b) conditions to which that matter is subject, including a requirement for prior approval of the authority.
- (4) In giving an instruction or an approval under this section, the authority must have regard to the interests of the tenants of the registered community housing provider.
- (5) A registered community housing provider must comply with an instruction given to it under this section.
- (6) A member of the governing body of a registered community housing provider must comply with an instruction given to the members of the governing body under this section.
- (7) The authority may give more than 1 set of instructions to a registered community housing provider in relation to the same matter.

Section 181: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Other reporting

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

182 Reporting obligations

The joint Ministers may, by notice to the authority, request that the authority inquire into, and report on, any matter relating to the community housing sector.

Section 182: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Appeals

Heading: inserted, on 28 November 2013, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

183 Rights of appeal

This section and sections 184 to 188 apply to any decision of the authority made under this Part—

- (a) relating to the registration (including eligibility for registration) of a community housing provider:
- (b) appointing a person to the governing body of a registered community housing provider under section 180:
- (c) giving binding instructions to a registered community housing provider under section 181.

Section 183: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

184 Community housing provider may appeal

A community housing provider may, in accordance with regulations made under section 187 and within 28 days after the decision was made, appeal against a decision referred to in section 183 if the authority—

- (a) has confirmed it (whether as originally made or as varied) under the process for the time being established by the authority to review such decisions; or
- (b) has no such process for the time being established.

Section 184: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

185 Powers of appeal body

- (1) In determining the appeal, the appeal body has all the powers, duties, functions, and discretions the authority had in relation to the matter concerned and may—
 - (a) confirm, modify, or reverse the decision of the authority or any part of it; or
 - (b) refer all or any part of the matter back to the authority for further consideration, together with—
 - (i) any directions it thinks just relating to the reconsideration; and
 - (ii) a written statement of its reasons for doing so.
- (2) Without limiting subsection (1), the appeal body may make an order requiring an entity—
 - (a) to be registered in the register with effect from a specified date; or
 - (b) to be restored to the register with effect from a specified date; or
 - (c) to be removed from the register with effect from a specified date; or
 - (d) to remain registered in the register.
- (3) The specified date may be a date that is before or after the order is made.
- (4) The appeal body may make any other order it thinks fit.
- (5) An order may be subject to any terms or conditions that the appeal body thinks fit.
- (6) The appeal body—
 - (a) may award costs against the authority in respect of any appeal if—
 - (i) it is allowed in whole or in part; or
 - (ii) all or any part of the matter is referred back to the authority for further consideration; and
 - (b) may award costs against the appellant in respect of any appeal that is refused, if the appeal body believes that the appeal was frivolous or vexatious, or should not have been brought.

- (7) Subject to section 188, a decision of the authority that is the subject of the appeal stands pending determination of the appeal.

Section 185: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

186 Where appeal body established by regulations

If regulations under section 187(1)(a) establish a body to dispose of appeals under sections 183 to 188, any party to an appeal to the body who is dissatisfied with any determination of the body may appeal to the District Court and in that case,—

- (a) within 14 days after the date of the determination, the appellant must—
 - (i) lodge a notice of appeal with the court; and
 - (ii) give a copy of the notice to every other party to the appeal:
- (b) the court or a Judge may, on the application of the appellant or intending appellant, extend any time prescribed or allowed under this section for the lodging of a notice of appeal:
- (c) except as provided by this section, the case must be dealt with in accordance with the rules of the District Court.

Section 186: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 186: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

187 Regulations relating to appeals

- (1) The Governor-General may, by Order in Council, make regulations—
 - (a) establishing a body to dispose of appeals under section 184, prescribing how its members are to be appointed, and prescribing how it is to hear and dispose of appeals; or
 - (b) providing that such appeals are to be made to the District Court, and providing that the District Court Act 2016 and the rules of the District Court apply, with or without modification, to the hearing and disposal of appeals.
- (2) Any body established under subsection (1)(a) is a statutory board within the meaning of the Fees and Travelling Allowances Act 1951, and every member of it is entitled to—
 - (a) remuneration by way of fees, salary, or allowances for the member's services as a member of it;
 - (b) payment of travelling allowances and expenses in respect of time spent travelling in its service.

Section 187: inserted, on 28 November 2013, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 187(1)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

188 Appeal body may make interim order pending determination of appeal

- (1) At any time before the final determination of an appeal, the appeal body may make an interim order requiring an entity—
 - (a) to be registered in the register from a specified date; or
 - (b) to be restored to the register with effect from a specified date; or
 - (c) to be removed from the register with effect from a specified date; or
 - (d) to remain registered in the register.
- (2) The specified date may be a date that is before or after the order is made.
- (3) An interim order may be subject to any terms or conditions that the appeal body thinks fit.
- (4) If the appeal body refuses to make an interim order, the person or persons who applied for the order may, within 1 month after the date of the refusal, appeal to the High Court against the decision.
- (5) If an interim order is made under subsection (1), the authority must—
 - (a) amend the register in accordance with the order as soon as is reasonably practicable after receiving the order; and
 - (b) include a copy of the order in the register, unless the appeal body orders otherwise.
- (6) To enable the authority to fulfil the duties imposed by this section, the Registrar of the appeal body in which the interim order is made must send a copy of the order to the authority as soon as practicable.

Section 188: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

189 Delegation of powers under this Part

- (1) The authority may not delegate a power under this Part, except to—
 - (a) an employee of the authority; or
 - (b) a person engaged by the authority under a contract for services providing for the person to exercise that power.
- (2) Despite subsection (1), if the authority is a department it may, in accordance with section 41 of the State Sector Act 1988, delegate any power under this Part to the chief executive of another department, or to an employee of the department.
- (3) A power delegated by the authority in accordance with subsection (1) or (2) may, with the consent of the authority, be further delegated,—
 - (a) by the chief executive of a department or departmental agency, to an employee of that department or departmental agency; or
 - (b) by an employee of the authority, to another employee of the authority.

- (4) If the authority delegates a power under this Part to a body corporate engaged by the authority under a contract for services,—
- (a) the body corporate cannot subdelegate it except to a person who is an employee of the body corporate; and
 - (b) an employee of the body corporate to whom it is subdelegated cannot subdelegate it further.
- (5) This section overrides section 130(1) of the Companies Act 1993.

Section 189: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Regulations under this Part

Heading: inserted, on 28 November 2013, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

190 Regulations relating to community housing providers

- (1) The Governor-General may, by Order in Council made on the recommendation of the joint Ministers, make regulations for all or any of the following purposes:
- (a) providing for the way in which applications for registration as a community housing provider must be made or the information that those applications must contain:
 - (b) in relation to the registration of community housing providers, specify different classes of registration for different purposes, including for the purposes of receiving—
 - (i) funding by way of payments under reimbursement agreements and tailored agreements:
 - (ii) Crown grants:
 - (iii) assets of the Crown or of a Crown entity:
 - (c) specifying any relevant fee that applies to applications or the method by which it may be calculated:
 - (d) prescribing the eligibility criteria that must be met to be registered or to obtain registration of a specified class, including—
 - (i) financial viability requirements; and
 - (ii) requirements related to organisational capacity and capability:
 - (e) prescribing the performance standards that must continue to be met to maintain registration or to maintain registration of a specified class, including matters that relate to—
 - (i) governance and management:
 - (ii) financial viability:
 - (iii) tenancy management:

- (iv) asset and property management:
 - (f) prescribing procedures, requirements, and other matters for the register of community housing providers established and maintained under section 172, including matters that relate to—
 - (i) the operation of the register:
 - (ii) the form of the register:
 - (iii) the information and documents that must be included on the register:
 - (iv) access to the register:
 - (v) the location of, and hours of access to, the register:
 - (vi) search criteria for the register:
 - (g) specifying—
 - (i) the information that must be provided by persons who make complaints against a registered community housing provider; and
 - (ii) the way in which that information must be evaluated; and
 - (iii) the way in which decisions on whether to proceed with the complaint must be made and implemented:
 - (h) specifying the date on which (in accordance with this Part, the calculation mechanism, and the terms of the contracts between the authority and registered community housing providers)—
 - (i) the income-related rent subsidy will become available to some or all registered community housing providers; and
 - (ii) an income-related rent will be available to some or all tenants of registered community housing providers:
 - (i) specifying the type or types of registered community housing providers to whom funding by way of payments under reimbursement agreements and tailored agreements may or may not be made available:
 - (j) providing for any other matters contemplated by this Part, necessary for its administration, or necessary for giving it full effect.
- (2) Any fee prescribed under subsection (1)(c) must be reasonable, having regard to the need to recover the costs incurred by the authority in performing its functions under this Part.

Section 190: inserted, on 28 November 2013, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 190(1)(b)(i): replaced, on 28 May 2015, by section 14(1) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

Section 190(1)(i): amended, on 28 May 2015, by section 14(2) of the Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50).

191 Consultation requirements for making regulations

- (1) Before making a recommendation for the making of an Order in Council under section 190, the joint Ministers must be satisfied that the authority has consulted in accordance with subsections (2) and (3).
- (2) The authority must do everything reasonably practicable to consult with the persons or organisations that appear to the authority to be representative of the interests of persons likely to be substantially affected by the making of the relevant order.
- (3) The process for consultation must, to the extent practicable in the circumstances, include—
 - (a) giving adequate and appropriate notice of the intention to make the order; and
 - (b) giving a reasonable opportunity for interested persons to make submissions; and
 - (c) adequate and appropriate consideration of submissions.
- (4) A failure to comply with this section does not affect the validity of any Order in Council made.

Section 191: inserted, on 28 November 2013, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Notice

Heading: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

192 How notice may be given

- (1) Every notice given to any person under this Part may be given by delivering it to that person,—
 - (a) in the case of a natural person (other than an officer or employee in the service of the Crown in his or her official capacity),—
 - (i) personally; or
 - (ii) by leaving it at that person's usual or last known place of residence or business or at the address specified by that person in any application or other document received from that person; or
 - (iii) by posting it in a letter addressed to that person at that place of residence or business or at that address; or
 - (iv) by an electronic means of communication to that person that complies with subpart 2 of Part 4 of the Contract and Commercial Law Act 2017;
 - (b) in the case of any other person, including an officer or employee in the service of the Crown in his or her official capacity,—
 - (i) where applicable, personally; or

- (ii) by leaving it at that person's place of business; or
 - (iii) by posting it in a letter addressed to that person at that place of business; or
 - (iv) by an electronic means of communication to that person that complies with subpart 2 of Part 4 of the Contract and Commercial Law Act 2017.
- (2) If any such notice is sent to any person by post, then, in the absence of evidence to the contrary, the notice is deemed to have been received by that person on the fourth day after the day on which it is posted, and, in proving the delivery, it is sufficient to prove the letter was properly addressed and posted.

Section 192: inserted, on 14 April 2014, by section 21 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 192(1)(a)(iv): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

Section 192(1)(b)(iv): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

Schedule 1
Enactments amended

s 41

Income Tax Act 1976 (1976 No 65) (RS Vol 12, p 1)*Amendment(s) incorporated in the Act(s).***Official Information Act 1982 (1982 No 156) (RS Vol 21, p 579)***Amendment(s) incorporated in the Act(s).***Ombudsmen Act 1975 (1975 No 9) (RS Vol 21, p 657)***Amendment(s) incorporated in the Act(s).***Public Finance Act 1989 (1989 No 44)***Amendment(s) incorporated in the Act(s).*

Schedule 2

Prescribed elements of calculation mechanism

s 42

Schedule 2: added, on 9 August 2000, by section 6 of the Housing Restructuring (Income-Related Rents) Amendment Act 2000 (2000 No 22).

Prescribed proportions, thresholds, and amounts

1 Proportion of income up to threshold

The proportion of 25% is prescribed for the purposes of section 107(2)(a).

Schedule 2 clause 1: amended, on 14 April 2014, by section 23(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

2 Thresholds

The following thresholds are prescribed for the purposes of paragraphs (a) and (b) of section 107(2):

- (a) in the case of a sole tenant who has no spouse or partner and no dependent children (as defined in Schedule 2 of the Social Security Act 2018), is the rate stated in clause 1(a) of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001, after deduction of standard tax; and
- (b) in every other case, is the rate stated in clause 1(c) of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001, after deduction of standard tax, multiplied by 2.

Schedule 2 clause 2: amended, on 14 April 2014, by section 23(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 2 clause 2(a): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Schedule 2 clause 2(a): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Schedule 2 clause 2(a): amended, on 21 April 2005, by section 9(1) of the New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42).

Schedule 2 clause 2(a): amended, on 12 October 2001, by section 77 of the New Zealand Superannuation Act 2001 (2001 No 84).

Schedule 2 clause 2(b): amended, on 21 April 2005, by section 9(1) of the New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42).

Schedule 2 clause 2(b): amended, on 12 October 2001, by section 77 of the New Zealand Superannuation Act 2001 (2001 No 84).

3 Proportion of income above threshold

The proportion of 50% is prescribed for the purposes of section 107(2)(b).

Schedule 2 clause 3: amended, on 14 April 2014, by section 23(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

4 Proportion of family tax credit

The proportion of 25% is prescribed for the purposes of sections 107(2)(c) and 107(3)(b).

Schedule 2 clause 4 heading: amended (with effect on 1 April 2007), on 19 December 2007, by section 295 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 2 clause 4: amended, on 14 April 2014, by section 23(2) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

5 Prescribed amount of family tax credit

The maximum rate of family tax credit payable under subparts MA to MF and MZ of the Income Tax Act 2007 in respect of an eldest dependent child who is under 16 is prescribed for the purposes of sections 107(2)(c)(ii) and 107(3)(b)(ii).

Schedule 2 clause 5 heading: amended (with effect on 1 April 2007), on 19 December 2007, by section 295 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 2 clause 5: amended, on 14 April 2014, by section 23(3) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 2 clause 5: amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Schedule 2 clause 5: amended (with effect on 1 April 2007), on 19 December 2007, by section 295 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

6 Proportion of benefit

The proportion of 25% is prescribed for the purposes of section 107(3)(a).

Schedule 2 clause 6: amended, on 14 April 2014, by section 23(4) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

*Contributions by additional residents***7 Application**

This clause applies to social housing if, and only if, in the agency's opinion, the applicable persons' principal source of income is contributions from additional residents.

Schedule 2 clause 7: amended, on 14 April 2014, by section 23(5) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 2 clause 7: amended, on 14 April 2014, by section 23(6) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

8 Extent to which contributions included in income

For the purposes of section 109(2),—

- (a) if clause 7 applies to social housing, the weekly income of the applicable persons includes all contributions from additional residents:
- (b) if clause 7 does not apply to social housing and the applicable persons receive contributions from fewer than 3 additional residents, their

weekly income does not include any contributions from additional residents:

- (c) if clause 7 does not apply to social housing and the applicable persons receive contributions from 3 or more additional residents, their weekly income—
 - (i) does not include any contributions from the 2 additional residents making the greatest contributions; and
 - (ii) includes only 62% of the sum of the contributions from the other additional resident or residents.

Schedule 2 clause 8: amended, on 14 April 2014, by section 23(7) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 2 clause 8(a): amended, on 14 April 2014, by section 23(8) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 2 clause 8(b): amended, on 14 April 2014, by section 23(8) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 2 clause 8(c): amended, on 14 April 2014, by section 23(8) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Payments included in or excluded from income

9 Certain payments to be income

For the purposes of section 110(1)(a), a person's weekly income includes—

- (a) the appropriate weekly proportion of every amount or payment received as—
 - (ia) a specified benefit (as defined in section 198(3) of the Social Security Act 2018) other than an orphan's benefit or an unsupported child's benefit; or
 - (i) an income-tested benefit (within the meaning of section 3(1) of the Social Security Act 1964) other than an orphan's benefit or an unsupported child's benefit; or
 - (ii) New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001 or a veteran's pension under Part 6 of the Veterans' Support Act 2014; or
 - (iii) a study grant; and
- (b) amounts received from Accident Compensation Corporation or an insurer under the Accident Compensation Act 2001 as weekly compensation for loss of earnings or potential earning capacity; and
- (c) any minimum family tax credit the person is eligible for under subparts MA to MF and MZ of the Income Tax Act 2007.

Schedule 2 clause 9: amended, on 14 April 2014, by section 23(9) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 2 clause 9(a)(ia): inserted, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Schedule 2 clause 9(a)(ii): substituted, on 15 April 2003, by section 12(1) of the War Pensions Amendment Act 2003 (2003 No 18).

Schedule 2 clause 9(a)(ii): amended, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

Schedule 2 clause 9(a)(ii): amended, on 21 April 2005, by section 9(1) of the New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42).

Schedule 2 clause 9(b): amended, on 14 April 2014, by section 23(10) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 2 clause 9(b): amended, on 3 March 2010, pursuant to section 5(1)(b) of the Accident Compensation Amendment Act 2010 (2010 No 1).

Schedule 2 clause 9(b): amended, on 1 April 2002, by section 337(1) of the Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49).

Schedule 2 clause 9(c): amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Schedule 2 clause 9(c): amended (with effect on 1 April 2007), on 19 December 2007, by section 295 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

10 Certain payments not to be income

For the purposes of section 110(1)(b), a person's weekly income does not include—

- (a) an amount or payment—
 - (i) received as a benefit, allowance, or other payment under the Social Security Act 2018 not referred to in clause 9(a); or
 - (ii) received as a parental tax credit, child tax credit, in-work tax credit, or Best Start tax credit under subparts MA to MG and MZ of the Income Tax Act 2007; or
 - (iii) of a kind stated in any of clauses 8(b) to (j) and 9 of Schedule 3, and regulations made under section 422, of the Social Security Act 2018; or
- (b) in the case of a person with a disability, the value of any regular disability support services supplied to the person; or
- (c) the value of any regular disability support services supplied to any dependent child of the person who—
 - (i) is residing in the social housing concerned; and
 - (ii) is a person with a disability.

Schedule 2 clause 10: amended, on 14 April 2014, by section 23(11) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 2 clause 10(a)(i): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Schedule 2 clause 10(a)(ii): replaced, on 1 July 2018, by section 41 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Schedule 2 clause 10(a)(iii): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Schedule 2 clause 10(c)(i): amended, on 14 April 2014, by section 23(12) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

11 Assessable assets

- (1) For the purposes of section 111(2), **assessable assets**,—
- (a) in the case of a person with a spouse or partner or a single person with a dependent child or children, means any cash assets (as defined in section 68 of the Social Security Act 2018) in excess of \$5,400;
 - (b) in any other case, means any cash assets (as defined in section 68 of the Social Security Act 2018) in excess of \$2,700.
- (2) If, on or after the date this subclause comes into force, a person receives an impairment lump sum under Schedule 1 of the Accident Compensation Act 2001 or a lump sum payment of an independence allowance under Part 13 or Part 4 of Schedule 1 of the Accident Insurance Act 1998, then for the period of 12 months following the receipt of that lump sum payment, the applicable amount in subclause (1)(a) or (b) is considered to be increased by the amount of that payment.

Schedule 2 clause 11: amended, on 14 April 2014, by section 23(13) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 2 clause 11(1)(a): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Schedule 2 clause 11(1)(a): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Schedule 2 clause 11(1)(b): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Schedule 2 clause 11(2): added, on 1 April 2002, by section 337(1) of the Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49).

Schedule 2 clause 11(2): amended, on 3 March 2010, pursuant to section 5(1)(b) of the Accident Compensation Amendment Act 2010 (2010 No 1).

Period for estimating income

12 Period for estimating income

The period of 52 weeks is prescribed for the purposes of section 113.

Schedule 2 clause 12: amended, on 14 April 2014, by section 23(14) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 3

Transitional matters relating to certain HNZ tenants

s 54

Schedule 3: added, on 9 August 2000, by section 6 of the Housing Restructuring (Income-Related Rents) Amendment Act 2000 (2000 No 22).

Schedule 3 heading: amended, on 14 April 2014, by section 24(1) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

1 Interpretation

In this schedule, unless the context otherwise requires,—

55+ rent protection programme means the programme for the protection of rents applied by the company on and after 1 July 1995 to any tenant of HNZ housing who on that day—

- (a) did not qualify for the tenure protection allowance; and
- (b) had been a tenant of that housing continuously since at least 30 July 1991; and
- (c) either was, or had a spouse or partner who was, aged 55 or more

accommodation assistance, in relation to any HNZ housing, means accommodation benefit, accommodation supplement, tenure protection allowance, or special transfer allowance, payable in respect of that housing

accommodation benefit means an accommodation benefit under regulation 9 of the Student Allowances Regulations 1998

accommodation supplement means an accommodation supplement under section 65 of the Social Security Act 2018

affected tenant means a tenant of HNZ housing to whom this schedule (by virtue of section 156(1)) applies

special transfer allowance means an amount payable by way of special assistance under the special transfer allowance programme approved under section 124(1)(d) of the Social Security Act 1964 (as that programme is saved by section 11 and clause 21 of Schedule 1 of the Social Security Act 2018)

tenure protection allowance means the tenure protection allowance formerly payable under the sections 61FC and 61FD of the Social Security Act 1964.

Schedule 3 clause 1 **55+ rent protection programme** paragraph (c): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Schedule 3 clause 1 **accommodation supplement**: amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Schedule 3 clause 1 **affected tenant**: amended, on 14 April 2014, by section 24(2) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 3 clause 1 **special transfer allowance**: amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

2 Saving in respect of tenure protection allowance and special transfer allowance

- (1) This clause applies to an affected tenant who, immediately before the appointed day, was receiving in respect of the housing a tenure protection allowance or special transfer allowance that the tenant was entitled to receive.
- (2) The income-related rent for any HNZ housing occupied immediately before the appointed day by an affected tenant to whom subclause (1) applies must be calculated by deducting from the rent otherwise payable under the calculation mechanism (capped at the market rent for the housing) the appropriate rebate (if any) calculated under subclause (3).
- (3) The rebate is the amount (if any) by which—
 - (a) the weekly income-related rent for the housing calculated in accordance with the calculation mechanism—
exceeds—
 - (b) the weekly market rent for the housing immediately before the appointed day (after the deduction of the sum of—
 - (i) the total of the weekly amounts of accommodation supplement or accommodation benefit the applicable persons in relation to the housing were entitled to receive immediately before the appointed day; and
 - (ii) the weekly amount of tenure protection allowance or special transfer allowance the tenant was entitled to receive in relation to the housing immediately before the appointed day).

Schedule 3 clause 2(2): amended, on 14 April 2014, by section 24(3) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

3 Saving in respect of 55+ rent protection programme

- (1) This clause applies to an affected tenant who, immediately before the appointed day, was receiving, and was entitled to receive, the protection of the 55+ rent protection programme.
- (2) The income-related rent for any HNZ housing occupied immediately before the appointed day by an affected tenant to whom subclause (1) applies must be calculated by deducting from the rent otherwise payable under the calculation mechanism (capped at the market rent for the housing) the appropriate rebate (if any)—
 - (a) calculated under subclause (3); and
 - (b) where appropriate, reduced under subclause (4).
- (3) The rebate is the amount (if any) by which—
 - (a) the weekly income-related rent for the housing calculated in accordance with the calculation mechanism (capped at the market rent for the housing)—

exceeds—

- (b) the weekly amount of the rent that applied to the tenant immediately before the appointed day under the 55+ rent protection programme (after the deduction of the total of the weekly amounts of any accommodation supplement or accommodation benefit the applicable persons concerned were entitled to receive immediately before the appointed day).
- (4) The agency must reduce the amount of the rebate by \$5 a week if—
- (a) it reviews the tenant's income-related rent under section 116 at a time after 30 June 2001; and
 - (b) the rebate has not been reduced under this subclause during the 12 months before that time.

Schedule 3 clause 3(2): amended, on 14 April 2014, by section 24(4) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 3 clause 3(3)(a): amended, on 14 April 2014, by section 24(4) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 3 clause 3(4): amended, on 14 April 2014, by section 24(5) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 3 clause 3(4)(a): amended, on 14 April 2014, by section 24(6) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

4 Saving in other circumstances

- (1) The following provisions apply to an affected tenant who is not and has never been entitled to a rebate under clause 2 or clause 3:
- (a) the income-related rent for the housing must be calculated by applying the calculation mechanism (capped at the market rent for the housing), if—
 - (i) not all the applicable persons have consented for the purposes of section 157; or
 - (ii) the company is satisfied that the tenant is an affected tenant because of receiving more than the amount of accommodation assistance to which the tenant was entitled:
 - (b) in any other case, the income-related rent for the housing must be calculated by deducting from the rent otherwise payable under the calculation mechanism (capped at the market rent for the housing) the appropriate rebate (if any)—
 - (i) calculated under subclause (2); and
 - (ii) where appropriate, reduced under subclause (3).
- (2) The rebate is the amount (if any) by which—
- (a) the weekly income-related rent for the housing calculated in accordance with the calculation mechanism (capped at the market rent for the housing)—

exceeds—

- (b) the weekly amount of the rent that applied to the tenant immediately before the appointed day (after the deduction of the sum of the accommodation assistance the applicable persons in relation to the housing were entitled to receive immediately before the appointed day).
- (3) The agency must reduce the amount of the rebate by \$5 a week if—
- (a) it reviews the tenant's income-related rent under section 116 at a time after 30 June 2001; and
 - (b) the rebate has not been reduced under this subclause during the 12 months before that time.

Schedule 3 clause 4(1)(a): amended, on 14 April 2014, by section 24(7) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 3 clause 4(1)(a)(i): amended, on 14 April 2014, by section 24(8) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 3 clause 4(1)(b): amended, on 14 April 2014, by section 24(7) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 3 clause 4(2)(a): amended, on 14 April 2014, by section 24(7) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 3 clause 4(3): amended, on 14 April 2014, by section 24(9) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 3 clause 4(3)(a): amended, on 14 April 2014, by section 24(10) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

5 Ending of rebates

- (1) Clauses 2 to 4 cease to apply to a tenant who—
- (a) ceases to occupy the HNZ housing in respect of which the rebate applied (otherwise than by beginning to occupy replacement social housing); or
 - (b) in the case of a sole tenant, dies.
- (2) In subclause (1)(a), **replacement social housing**, in relation to any HNZ housing in respect of which a rebate applied, means any HNZ housing a tenancy of which replaced—
- (a) a tenancy of that housing; or
 - (b) a tenancy of some other HNZ housing that was replacement HNZ housing in relation to that housing.

Schedule 3 clause 5(1)(a): amended, on 14 April 2014, by section 24(11) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 3 clause 5(2): amended, on 14 April 2014, by section 24(12) of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Schedule 4
Transitional and savings provisions relating to Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013

s 3A

Schedule 4: inserted, on 28 November 2013, by section 26 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Part 1
Transitional and savings provisions

1 Interpretation of this Part

In this Part, unless the context otherwise requires,—

2013 Amendment Act means the Social Housing Reform (Housing Restructuring and Tenancy Matters) Amendment Act 2013

delegation includes subdelegation

new, in relation to a Part or provision of this Act, means the Part or provision as amended or replaced by Part 1 of the 2013 Amendment Act

old, in relation to a Part or provision of this Act, means the Part or provision immediately before it was amended or replaced by Part 1 of the 2013 Amendment Act

Royal assent commencement date means the date on which Part 1 of the 2013 Amendment Act (other than section 12 so far as it relates to new section 56(2)) comes into force

transfer date means the date on which Part 7 of this Act comes into force.

2 Continuation of review process under section 62

The process for reviews established by HNZ under section 62, as in force immediately before the commencement of section 15 of the 2013 Amendment Act, continues in force, until replaced or revoked, after that commencement as if it were established under new section 62.

3 Continuation of delegations under section 64

A delegation made under old section 64 before the Royal assent commencement date—

- (a) continues in force, until that delegation is replaced or revoked, after the Royal assent commencement date as if it were a delegation made under new section 64; and
- (b) new section 64 applies to that delegation with any necessary modifications.

4 Income-related rent last calculated by HNZ carries forward as if calculated and notified by agency

- (1) This clause applies if a tenant was required to pay an income-related rent under new Part 5 immediately before the transfer date.
- (2) That rent as it was last calculated by HNZ for the tenant under old or new Part 5 must be treated for the purposes of Parts 7 to 9—
 - (a) as if it had been calculated by the agency as the income-related rent for the tenant; and
 - (b) as if it had been notified by the agency to HNZ under section 106.

5 Application of sections 56 to 57D to existing and prospective tenants

To avoid doubt, sections 56 to 57D (which relate to duty to advise change in circumstances, review of housing eligibility, and investigation of circumstances)—

- (a) apply to a tenant regardless of whether the tenant was let HNZ housing before or after the Royal assent commencement date; and
- (b) apply to a prospective tenant regardless of whether the person applied for HNZ housing before or after that date.

6 Application of sections 72, 73, 74, and 75 to existing and prospective tenants

To avoid doubt, sections 72, 73, 74, and 75 (which relate to income-related rent, change in rent, increase in rent, and review of placement)—

- (a) apply to a tenant regardless of whether the tenant was let HNZ housing before or after the Royal assent commencement date or the transfer date; and
- (b) apply to a tenancy agreement for HNZ housing regardless of whether the agreement was entered into before or after either of those dates.

7 Application of sections 115 to 121 to existing, prospective, and community housing tenants

- (1) To avoid doubt, sections 115 to 121 (which relate to administrative matters, reviews, investigations, and information-gathering powers)—
 - (a) apply to a tenant regardless of whether the tenant was let HNZ housing before or after the Royal assent commencement date or the transfer date; and
 - (b) apply to a prospective tenant regardless of whether the person has applied for HNZ housing before or after either of those dates.
- (2) However, sections 115 to 121 do not apply to a tenant of community housing unless the tenant—

- (a) has been referred or allocated to the provider by the agency as being eligible for social housing; or
- (b) is a tenant to whom subclause (1) refers.

8 Saving of definition of income under Social Security Act 1964

The definition of income in section 3(1) of the Social Security Act 1964, as it was immediately before the transfer date, continues in force for the purpose of any recalculation of debt by HNZ after the transfer date in respect of debt calculated or recovered before the transfer date.

9 HNZ may use new Part 5 powers for purpose of recovery of section 60 debt (which relates to where rate of rent too low) calculated before transfer date

- (1) For the purposes of the administration and recovery, after the transfer date, of section 60 debt calculated by HNZ before the transfer date,—
 - (a) new Part 5 continues in force despite its repeal by section 22 of the 2013 Amendment Act; and
 - (b) Schedules 2 and 3 (as they were before Part 7 came into force) continue in force for the purpose of any recalculation of that debt; and
 - (c) any delegations made under section 64 (whether before or after its replacement by the 2013 Amendment Act), and any delegations continued by clause 3, continue in force until replaced or revoked.
- (2) In this clause, **section 60 debt** means debt calculated before the transfer date under section 60 (whether before or after the commencement of section 15 of the 2013 Amendment Act).

10 Agency may use Part 9 powers for purpose of recovery of pre-transfer debt not calculated before transfer date

- (1) The agency may exercise its powers or perform its functions conferred by or under Part 9 to calculate pre-transfer debt and to recover that debt.
- (2) In this clause and clause 11, unless the context otherwise requires,—

debt includes an amount by which the amount of income-related rent that has been paid by a tenant is less than the amount of income-related rent that would have been calculated for the tenant if the tenant had complied with all of the tenant's obligations under Part 5 of the Act that applied at the relevant time

pre-transfer debt means any debt—

 - (a) that was incurred before the transfer date; and
 - (b) that has not been calculated by HNZ before the transfer date; and
 - (c) that HNZ would have been entitled to recover under this Act as a debt due to the Crown if the debt had been calculated before the transfer date.

11 Pre-transfer debt if agency is Ministry

- (1) This clause applies only if the agency is the Ministry.
- (2) The agency must comply with section 128, and may exercise or perform its duties, functions, or powers under regulations made under section 444 of the Social Security Act 2018, in respect of pre-transfer debt.

Schedule 4 clause 11(2): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

12 Agency may use Part 9 powers in respect of offending and other matters before transfer date

- (1) The agency may exercise its powers or perform its functions conferred by or under Part 9—
 - (a) to investigate circumstances that occurred before the transfer date; and
 - (b) to investigate and prosecute pre-transfer offending.
- (2) In this clause and clause 13, unless the context otherwise requires, **pre-transfer offending** means any act or omission before the transfer date that constituted an offence at the time that it occurred.
- (3) This clause does not limit the Limitation Act 2010 (or the Limitation Act 1950, as the case may be).

13 Certain appeals after transfer date

- (1) Any appeal under old or new Part 5 that is commenced before the transfer date may be continued and completed under new Part 5, and under any regulations and rules made under that Part, after the transfer date as if Part 2 of the 2013 Amendment Act had not been enacted.
- (2) Any appeal in respect of any debt that is calculated, or recovered, under—
 - (a) old or new Part 5 before the transfer date; or
 - (b) old or new Part 5 on or after the transfer date as applied by this schedule—

may be commenced (after completion of the review process referred to in clause 2), continued, and completed under new Part 5, and under any regulations and rules made under that Part, after the transfer date as if Part 2 of the 2013 Amendment Act had not been enacted.

- (3) In relation to any appeal referred to in subclause (1) or (2), if the matter that is the subject of the appeal is referred back to HNZ for further action, HNZ continues to have all the powers, functions, and duties in respect of the completion of the matter as HNZ had immediately before the transfer date.
- (4) The State Housing Appeal Authority established under the Housing Restructuring and Tenancy Matters (Appeals) Regulations 2000 continues in existence for the purpose of appeals until 1 April 2017 or an earlier date appointed by the Governor-General by Order in Council.

- (5) For the purposes of subclauses (1) and (2), the Housing Restructuring and Tenancy Matters (Appeals) Regulations 2000 are deemed to be made under new Part 5.

14 Housing Restructuring and Tenancy Matters (Appeals) Regulations 2000 modified and continued

- (1) Without limiting clause 13 and subclause (2), the Housing Restructuring and Tenancy Matters (Appeals) Regulations 2000 must be read with the following modifications:
- (a) in the definition of decision in regulation 3, the reference to section 62(2) must be read as a reference to section 62A; and
 - (b) in the heading above regulation 4, the reference to section 62 must be read as a reference to section 62A; and
 - (c) in regulations 4(1), 16(2), and 17(1)(a), the reference to section 62(2) must be read as a reference to section 62A.
- (2) The Housing Restructuring and Tenancy Matters (Appeals) Regulations 2000 may continue to be amended as if section 63 had not been repealed by section 22 of the 2013 Amendment Act.

15 Continuation of prosecutions started before transfer date

- (1) HNZ may continue any prosecution started by HNZ before the transfer date as if the 2013 Amendment Act had not been passed.
- (2) For the purpose of any such prosecution, the functions, powers, and duties of HNZ immediately before the transfer date continue to apply.

Part 2

Transitional provisions relating to transfer of employees of Corporation to agency

16 Transfer of employees of Corporation to agency

- (1) The chief executive of the Corporation must identify and consult the employees of the Corporation—
- (a) who are likely to be affected by the transfer of functions of the Corporation or HNZ to the agency; and
 - (b) whose duties are overall more closely connected with the functions of the agency than with the Corporation; and
 - (c) whose positions will, as a result of the transfer of functions to the agency, cease to exist within the Corporation.
- (2) An employee who is identified under subclause (1) may be offered equivalent employment by the agency, being employment that is—
- (a) in substantially the same position; and

- (b) in the same general locality; and
 - (c) on terms and conditions that are no less favourable than those applying to the employee immediately before the date the offer of employment is made to that employee; and
 - (d) on terms that treat the period of service with the Corporation (and every other period of service recognised by the Corporation as continuous service) as if it were continuous service with the agency.
- (3) The employee is not entitled to receive any payment or other benefit on the ground that the position held by the person in the Corporation has ceased to exist if—
- (a) the employee's position ceases to exist because the duties of the position are more closely connected with the functions of the agency; and
 - (b) the employee is offered employment in an equivalent position in the agency (whether or not the employee accepts the offer).
- (4) This clause overrides any provision to the contrary in Part 6A of the Employment Relations Act 2000.
- (5) Nothing in sections 60, 61, and 65 of the State Sector Act 1988 applies to the appointment of an employee to a position in the agency as a result of the transfer of functions of HNZ and the Corporation to the agency.

17 No compensation for technical redundancy of employees of Corporation

- (1) An employee of the Corporation is not entitled to receive any payment or other benefit on the ground that the position held by the person in the Corporation has ceased to exist if the employee's position ceases to exist because the duties of the position are more closely connected with the functions of the agency, and—
- (a) the employee is offered employment in an equivalent position in the agency (whether or not the employee accepts the offer); or
 - (b) the employee is offered and accepts employment in the agency.
- (2) In subclause (1)(a), **employment in an equivalent position** means employment that is—
- (a) in substantially the same position; and
 - (b) in the same general locality; and
 - (c) on terms and conditions that are no less favourable than those applying to the employee immediately before the date the offer of employment is made to that employee; and
 - (d) on terms that treat the period of service with the Corporation (and every other period of service recognised by the Corporation as continuous service) as if it were continuous service with the agency.

18 Consequences of transfer of functions to agency

- (1) On the date that Part 7 commences,—
 - (a) all relevant information held by HNZ or the Corporation is held by the agency; and
 - (b) any relevant thing done, or omitted to be done, or that is to be done, by or in relation to HNZ or the Corporation is to be treated as having been done, or having been omitted to be done, or to be done, by or in relation to the agency.
- (2) In this clause,—

relevant information means all information that relates to the exercise of a function or power of HNZ or the Corporation that is, on the commencement of Part 7, a function or power of the agency

relevant thing means any thing that relates to a function or power of HNZ or the Corporation that, on the commencement of Part 7, is a function or power of the agency.
- (3) The transfer of information from HNZ or the Corporation to the agency under subclause (1)(a) does not constitute an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993.

19 No claims for breach of contract

No claim for breach of contract lies against HNZ, the Corporation, the agency, or any of their employees in respect of any information, knowledge, intellectual property, or goods to which the agency has gained access or has acquired as a result of the transfer of functions of HNZ and the Corporation to the agency.

Part 3**Transitional and savings regulations****20 Transitional and savings regulations**

- (1) The Governor-General may, by Order in Council made on the Minister's recommendation, make regulations prescribing transitional provisions, savings provisions, or both, for either or both of the following purposes:
 - (a) facilitating or ensuring the orderliness of the transition to the amendments made to this Act by the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013:
 - (b) ensuring that existing rights or obligations continue as part of, or despite, that transition.
- (2) The Minister must not recommend the making of regulations under subclause (1) unless satisfied that those regulations—

- (a) are reasonably necessary for either or both of the purposes in subclause (1)(a) and (b); and
 - (b) are consistent with the purposes of this Act.
- (3) The transitional provisions or savings provisions prescribed by regulations under subclause (1) may be provisions in addition to or instead of those set out in Parts 1 and 2 of this schedule, and may—
 - (a) provide that, for a transitional period, in any circumstances, or subject to any conditions, specified in the regulations, 1 or more provisions (including definitions) of those amendments to this Act do not apply, or apply with modifications or additions:
 - (b) provide that, for a transitional period, in any circumstances, or subject to any conditions, specified in the regulations, 1 or more provisions repealed, amended, or revoked by those amendments to this Act are to continue to apply, or apply with modifications or additions, as if they had not been repealed, amended, or revoked:
 - (c) provide for any other matter necessary for either or both of the purposes in subclause (1)(a) and (b).
- (4) No regulations made under this clause may be made, or continue in force, after the close of 14 April 2017.

Housing New Zealand Limited Vesting Order 1993

(SR 1993/179)

Catherine A Tizard, Governor-General

Order in Council

At Wellington this 21st day of June 1993

Present:

The Hon Doug Kidd presiding in Council

Pursuant to section 24 of the Housing Restructuring Act 1992, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

Order

1 Title

This order may be cited as the Housing New Zealand Limited Vesting Order 1993.

3 Appointment of date for vesting of State housing assets and liabilities and Corporation assets and liabilities in Housing New Zealand Limited

28 June 1993 is hereby appointed as the date on which the State housing assets and liabilities and the Corporation assets and liabilities referred to in an agreement dated 10 June 1993 and entered into pursuant to section 22 of the Act between Ruth Margaret Richardson in her capacity as Minister of Finance and Murray John Finlay Luxton in his capacity as the responsible Minister, of the one part, and the company, of the other part, shall, by virtue of the Act, vest in the company.

Marie Shroff,
Clerk of the Executive Council.

Date of notification in *Gazette*: 24 June 1993.

Reprints notes

1 *General*

This is a reprint of the Housing Restructuring and Tenancy Matters Act 1992 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Social Security Act 2018 (2018 No 32): section 459

Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5): section 259

Families Package (Income Tax and Benefits) Act 2017 (2017 No 51): section 41

Land Transfer Act 2017 (2017 No 30): section 250

Contract and Commercial Law Act 2017 (2017 No 5): section 347

District Court Act 2016 (2016 No 49): section 261

Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2016 (2016 No 5)

Housing Restructuring and Tenancy Matters (Social Housing Reform) Amendment Act 2015 (2015 No 50)

Veterans' Support Act 2014 (2014 No 56): section 278

Companies Amendment Act 2013 (2013 No 111): section 14

Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97)

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Legislation Act 2012 (2012 No 119): section 77(3)

Accident Compensation Amendment Act 2010 (2010 No 1): section 5(1)(b)

Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109): section 295

Income Tax Act 2007 (2007 No 97): section ZA 2(1)

Housing Restructuring and Tenancy Matters (Information Matching) Amendment Act 2006 (2006 No 34)

New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42): section 9(1)

Relationships (Statutory References) Act 2005 (2005 No 3): section 7

Income Tax Act 2004 (2004 No 35): section YA 2

War Pensions Amendment Act 2003 (2003 No 18): section 12(1)

New Zealand Superannuation Act 2001 (2001 No 84): section 77

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49): sections 337(1), 339(1)

Housing Corporation Amendment Act 2001 (2001 No 37): sections 24(1), 25(1)(c)

Housing Restructuring (Income-Related Rents) Amendment Act 2000 (2000 No 22)

Housing Restructuring Act Commencement Order 1999 (SR 1999/161)