

Reprint
as at 2 April 2019



Social Security Regulations 2018 (LI 2018/202)

Patsy Reddy, Governor-General

Order in Council

At Wellington this 15th day of October 2018

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 418 to 451 of the Social Security Act 2018—

- (a) on the advice and with the consent of the Executive Council; and
- (b) for exemptions from obligations regulations made under section 431(1)(e) of the Act (*see* subparts 8 and 9 of Part 3 of these regulations), on the Minister's recommendation made under section 431(4) and (5) of the Act; and
- (c) for pre-benefit activities regulations made under section 432(1) of the Act (*see* subpart 1 of Part 4 of these regulations), on the Minister's recommendation made under section 432(2) of the Act; and
- (d) for benefit stand-down exemption regulations made under section 440(1) and (2)(a) of the Act (*see* subpart 2 of Part 6 of these regulations), on the Minister's recommendation made under section 440(4) and (5) of the Act; and

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Social Development.

- (e) for suspension of debt recovery regulations made under section 448(1) of the Act (*see* subpart 12 of Part 6 of these regulations), on the Minister's recommendation made under section 448(3) of the Act.

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Regulations

1 Title

These regulations are the Social Security Regulations 2018.

2 Commencement

- (1) These regulations (other than regulations 77, 78, and 147(d)) come into force on 26 November 2018.
- (2) Regulations 77, 78, and 147(d) come into force on the commencement of sections 165 and 168 of the Act.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

Act means the Social Security Act 2018

adopted reciprocity agreement means a reciprocity agreement that is adopted under section 380 of the Act, or the provisions of which are given force and effect so far as they relate to New Zealand by an order made under section 380 of the Act

contracted service provider has the meaning given to it by section 373 of the Act

contracted youth service means a service provided to a young person by a contracted service provider under a section 373 services contract

dentist means a health practitioner who is, or is deemed to be, registered with the Dental Council established by section 114(2) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of dentistry

family violence includes, but is not limited to, domestic violence as that term is defined in section 3 of the Domestic Violence Act 1995

foster child means a child (except a dependent child) placed in a person's charge under section 362 of the Oranga Tamariki Act 1989

midwife means a health practitioner who is, or is deemed to be, registered with the Midwifery Council established by section 114(3) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of midwifery

nurse practitioner means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing and whose scope of practice permits the performance of nurse practitioner functions

psychologist means a health practitioner who is, or is deemed to be, registered with the Psychologists Board continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of psychology

reciprocity agreement means an agreement (for example, one entitled a Convention), or an alteration to an agreement, with the Government of another country providing for reciprocity in respect of matters relating to social security monetary benefits.

- (2) In these regulations, unless the context otherwise requires, terms used and not defined, but listed in Schedule 2 of the Act, have the meanings given to them (for the relevant provisions or purposes of the Act) by the definitions set out, or referred to, in Schedule 2 of the Act.

Part 1

Preliminary provision

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

Part 2

Assistance

5 Guide to Part 2

Part 2 deals with various topics as follows:

- (a) subpart 1 (regulations 6 and 7) deals with a beneficiary's absence from or presence in New Zealand, and the treatment of persons who have had income tax deducted or withheld from earnings from employment overseas:
- (b) subpart 2 (regulations 8 and 9) deals with prescribing health practitioners for jobseeker support certificates and medical examinations:
- (c) subpart 3 (regulations 10 and 11) prescribes a minimum period of eligibility for, and health practitioners for certificates and medical examinations for, supported living payments:
- (d) subpart 4 (regulations 12 to 14) sets out criteria for youth payment incentive payments:
- (e) subpart 5 (regulations 15 to 19) provides for matters related to accommodation supplements:
- (f) subpart 6 (regulations 20 to 48) provides for childcare assistance:
- (g) subpart 7 (regulation 49) deals with prescribing health practitioners for certificates and medical examinations for child disability allowances:
- (h) subpart 8 (regulations 50 to 52) provides for special categories of eligibility for, and prescribes health practitioners for medical examinations for, disability allowances:
- (i) subpart 9 (regulations 53 to 55) provides for methods and amounts of payments of funeral grants:
- (j) subpart 10 (regulations 56 to 71) provides for temporary additional support.

Subpart 1—Beneficiary’s absence from or presence in New Zealand and persons taxed under New Zealand law

6 Effect of absence of beneficiary from New Zealand on residential requirement

- (1) This regulation applies to a person (**P**) who—
 - (a) leaves New Zealand while in receipt of a benefit; and
 - (b) returns to take up ordinary residence in New Zealand within 5 years; and
 - (c) later applies for a benefit of the same class.
- (2) P is not required to comply with the residential requirement applicable in the case of an original application for a benefit of that class.

Compare: 1964 No 136 s 78(1)

7 Persons who have had income tax deducted or withheld on earnings from employment overseas to be treated as resident and present in New Zealand

- (1) This regulation applies to a person (**P**) who was employed outside New Zealand if, with respect to P’s period of employment, P’s employer (or any other relevant person) makes—
 - (a) PAYE income payments (as that term is used in the Income Tax Act 2007) from which P, P’s employer, or any other relevant person must withhold an amount of tax under the PAYE rules as defined in that Act:
 - (b) source deduction payments,—
 - (i) as that term is used in the Income Tax Act 2004, from which P, P’s employer, or any other relevant person must withhold an amount of tax under the PAYE rules as defined in that Act:
 - (ii) as that term is used in the Income Tax Act 1994, from which P, P’s employer, or any other relevant person must make a tax deduction under the PAYE rules as defined in that Act:
 - (iii) as that term is used in the Income Tax Act 1976, from which P, P’s employer, or any other relevant person must make a tax deduction under Part 11 of that Act:
 - (iv) as that term is used in the Income Tax Assessment Act 1957, from which P, P’s employer, or any other relevant person must make a tax deduction under Part 2 of that Act.
- (2) This regulation applies in respect of a period of employment, whether or not P’s employer (or any other relevant person) failed to pay an amount of tax deducted or withheld to the Commissioner of Inland Revenue, if MSD is satisfied that—
 - (a) P’s employer (or any other relevant person) deducted or withheld tax from payments made under subclause (1); and

- (b) P did not contribute to the employer's (or any other relevant person's) failure to pay that tax to the Commissioner.
- (3) For the purposes of satisfying the residential requirement for any benefit after the return to New Zealand, on or after 23 June 1987, of P or the spouse or partner or any child of P,—
 - (a) P must be treated as being resident and present in New Zealand during the period to which this regulation applies:
 - (b) if the spouse or partner or any child of P was with P during that period or any part of it, the spouse or partner or child must be treated as being resident and present in New Zealand during that period or that part of it, as the case may be:
 - (c) any child of P born outside New Zealand during that period must be treated as having been born in New Zealand.
- (4) Nothing in subclause (3) may be construed to derogate from section 219 of the Act, or any regulations referred to in that section.

Compare: 1964 No 136 s 79

Subpart 2—Jobseeker Support: certificates and medical examinations

8 Certificates: prescribed health practitioners

A health practitioner who is any of the following, acting within their scope of practice, is prescribed for the purposes of section 27 of the Act:

- (a) a medical practitioner:
- (b) a dentist:
- (c) a midwife:
- (d) a nurse practitioner.

Compare: 1964 No 136 s 88E(2); SR 2010/259 r 4

9 Medical examinations: prescribed health practitioners

A health practitioner who is any of the following, acting within their scope of practice, is prescribed for the purposes of section 28 of the Act:

- (a) a medical practitioner:
- (b) a psychologist:
- (c) a nurse practitioner.

Compare: 1964 No 136 s 88E(4)

Subpart 3—Supported living payments

10 Minimum period of eligibility

For the purposes of section 35(2)(a) of the Act, the minimum period of time for which a person's restricting health condition, injury, or disability must be expected to continue is 2 years.

Compare: SR 1998/241 r 2

11 Certificates and medical examinations: prescribed health practitioners

Restricted work capacity or total blindness: medical examination

- (1) A health practitioner who is any of the following, acting within their scope of practice, is prescribed for the purposes of section 37 of the Act:

- (a) a medical practitioner:
- (b) a psychologist:
- (c) a nurse practitioner.

Caring for another person: certificate about person cared for

- (2) A health practitioner who is either of the following, acting within their scope of practice, is prescribed for the purposes of section 41 of the Act:

- (a) a medical practitioner:
- (b) a nurse practitioner.

Caring for another person: medical examination of person cared for

- (3) A health practitioner who is either of the following, acting within their scope of practice, is prescribed for the purposes of section 42 of the Act:

- (a) a medical practitioner:
- (b) a nurse practitioner.

Compare: 1964 No 136 ss 40C, 40E

Subpart 4—Youth payment: criteria for incentive payments

12 When young person meets criteria for education, training, or work-based learning incentive payment

A young person meets the criteria for the payment of an education, training, or work-based learning incentive payment (for the purpose of sections 55 and 62 of the Act) if—

- (a) the young person is receiving a youth payment or a young parent payment; and
- (b) the young person has, since starting to receive a youth support payment, completed 6 months' participation and achievement in education, training, or work-based learning, as the case may be; and

- (c) the contracted service provider in question has confirmed to MSD, or, as the case requires, MSD is satisfied, that the young person has complied with paragraph (b).

Compare: SR 2012/207 r 4

13 When young person meets criteria for budgeting incentive payment

A young person meets the criteria for the payment of a budgeting incentive payment (for the purpose of sections 55 and 62 of the Act) if—

- (a) the young person is receiving a youth payment or a young parent payment; and
- (b) the young person has, since starting to receive a youth support payment, completed 3 continuous months' attendance and participation in discussions on budgeting with the person's contracted service provider or, as the case requires, MSD; and
- (c) the young person has completed a budgeting programme approved by MSD for the purposes of section 162(1)(b) of the Act; and
- (d) the service provider has confirmed to MSD, or, as the case requires, MSD is satisfied, that the young person has complied with paragraph (b).

Compare: SR 2012/207 r 5

14 When young person meets criteria for parenting education incentive payment

- (1) A young person meets the criteria for the payment of a parenting education incentive payment (for the purpose of sections 55 and 62 of the Act) if—

- (a) the young person is receiving a young parent payment; and
- (b) the young person has, since starting to receive a youth support payment, completed 3 continuous months' regular engagement with the person's contracted service provider or, as the case requires, MSD; and
- (c) the service provider has confirmed to MSD, or, as the case requires, MSD is satisfied, that the young person has complied with paragraph (b); and
- (d) the young person has participated in and completed a parenting education programme approved by MSD for the purposes of section 164(1)(a) of the Act; and
- (e) each of the young person's dependent children is enrolled with a primary health organisation; and
- (f) each of the young person's dependent children aged 5 years or below is up to date with checks under the WellChild programme or any similar programme established in its place; and

- (g) each of the young person's dependent children aged 5 years or below attends an approved early childhood education programme or is placed in other suitable childcare during any time that the young person spends in education, training, work-based learning, or part-time work.
- (2) If a young person is unable to comply with the requirements of any of paragraphs (d) to (g) of subclause (1) because of the unavailability of the programme, service, or enrolment in question, the young person must be treated as complying if the young person takes steps agreed with the young person's contracted service provider or, as the case requires, with MSD in preparation for the availability of the programme, service, or enrolment (for example, enrolling on a waiting list).

Compare: SR 2012/207 r 6

Subpart 5—Accommodation supplement

15 Assets requirement

- (1) The assets requirement, for the purposes of section 65(1)(b) of the Act, is that a person's cash assets must not exceed—
 - (a) \$16,200, in the case of—
 - (i) a person who is in a relationship; or
 - (ii) a single person who has a dependent child or children:
 - (b) \$8,100, in any other case.
- (2) This regulation is subject to section 69(2) of the Act (under which, for the purposes of the assets requirement in this regulation and of section 69 of the Act, the assets of an applicant for an accommodation supplement (**A**) include the assets of A's spouse or partner (if any), except in the circumstances specified in section 67(c) of the Act).

Compare: 1964 No 136 s 61EC(3)

16 Cash assets exemptions

A person's cash assets, under sections 68(2)(c) and 423(1)(b) of the Act, exclude any amount, item, or kind of cash assets, declared by Part 1 of Schedule 8 of these regulations not to be cash assets.

Compare: 1964 No 136 s 61E(1), definition of cash assets, paragraph (b); SR 2011/287

17 Base rate

- (1) In this regulation,—
beneficiary means a person who is being paid—
 - (a) a main benefit; or
 - (b) New Zealand superannuation or a veteran's pension

benefit, in subclause (2), means a benefit referred to in paragraph (a) or (b) of the definition in this subclause of beneficiary

non-beneficiary means a person who is not a beneficiary (as defined in this regulation).

- (2) The base rate is as follows:

Beneficiaries who are single

- (a) for a single beneficiary under the age of 25 years, the maximum weekly rate of a benefit that the beneficiary would have been entitled to receive, before any abatement or deduction, if the beneficiary had attained the age of 25 years:
- (b) for a single beneficiary with 1 or more dependent children,—
 - (i) the maximum weekly rate of a benefit that the beneficiary is entitled to receive, before any abatement or deduction; plus
 - (ii) the maximum annual rate of family tax credit (divided by 52) that is payable in respect of an eldest dependent child who is under 16 years old under subparts MA to MF and MZ of the Income Tax Act 2007:
- (c) for any other single beneficiary, the maximum weekly rate of a benefit that the beneficiary would be entitled to receive before any abatement or deduction:

Beneficiaries who are in relationship

- (d) for a beneficiary who is in a relationship and is not a beneficiary to whom paragraph (e) applies,—
 - (i) the maximum weekly rate of a benefit that the beneficiary is entitled to receive, before any abatement or deduction; plus
 - (ii) if the beneficiary has 1 or more dependent children, the maximum annual rate of family tax credit (divided by 52) that is paid in respect of an eldest dependent child who is under 16 years (if any) under subparts MA to MF and MZ of the Income Tax Act 2007; plus
 - (iii) the maximum weekly rate of a benefit paid in respect of the beneficiary's spouse or partner:
- (e) for a beneficiary who is in a relationship and whose spouse or partner is not entitled to an accommodation supplement under section 230 of the Act, the rate specified in paragraph (d) as if a rate of a benefit were paid in respect of that spouse or partner:

Non-beneficiaries who are single

- (f) for a single non-beneficiary with 1 or more dependent children,—
 - (i) the appropriate maximum weekly rate of jobseeker support; plus

- (ii) the annual rate of family tax credit (divided by 52) that is payable in respect of an eldest dependent child who is under 16 years under subparts MA to MF and MZ of the Income Tax Act 2007:
- (g) for any other single non-beneficiary, the weekly rate of jobseeker support at the rate in clause 1(d) of Part 1 of Schedule 4 of the Act before any abatement or deduction:

Non-beneficiaries who are in relationship

- (h) for a non-beneficiary who is in a relationship,—
 - (i) the appropriate maximum weekly rate of jobseeker support; plus
 - (ii) if the beneficiary has 1 or more dependent children, the maximum annual rate of family tax credit (divided by 52) that is payable in respect of an eldest dependent child who is under 16 years under subparts MA to MF and MZ of the Income Tax Act 2007; plus
 - (iii) the maximum weekly rate of jobseeker support that would have been payable in respect of the beneficiary's spouse or partner.

Compare: 1964 No 136 s 61E(1), definitions of beneficiary and non-beneficiary, Schedule 18, Part 1, cl 1, definition of base rate, cl 4A

18 Income-based reductions to assessed base rate for non-beneficiary

- (1) This regulation applies to the amount of accommodation supplement assessed—
 - (a) under subpart 10 of Part 2 and Part 7 of Schedule 4 of the Act and these regulations; and
 - (b) for a non-beneficiary (as defined in regulation 17).
- (2) That amount must be reduced by 25 cents for every \$1 of the combined weekly income of the applicant and any spouse or partner of the applicant in excess of the income level specified in subclause (3).
- (3) The income level mentioned in subclause (2) is the amount of income that would prevent payment of jobseeker support,—
 - (a) for a single applicant without dependent children, at the maximum rate in clause 1(d) of Part 1 of Schedule 4 of the Act; or
 - (b) for a sole parent, at the appropriate maximum rate in clause 1(e) or (f) of Part 1 of Schedule 4 of the Act as if Income Test 3 applied to that rate instead of Income Test 1; or
 - (c) for any other applicant, at the appropriate maximum rate in Part 1 of Schedule 4 of the Act.

Compare: 1964 No 136 s 61E(1), definitions of beneficiary and non-beneficiary, Schedule 18, Part 1, cl 2

19 Rounding

- (1) This regulation applies to every accommodation supplement assessed under subpart 10 of Part 2 and Part 7 of Schedule 4 of the Act and these regulations.
- (2) The accommodation supplement must be rounded up to the complete dollar.

Compare: 1964 No 136 Schedule 18, Part 1, cl 4

Subpart 6—Childcare assistance**20 Interpretation**

- (1) In regulations 20 to 48, unless the context otherwise requires,—

applicant means a person who has applied for childcare assistance under regulation 29, and includes a person to whom childcare assistance has been granted

approved activity—

- (a) in regulations 30 to 37, means an activity listed in regulation 33; and
- (b) in regulations 38 to 44, means an activity listed in regulation 40

approved early childhood education programme means a programme of early childhood education that—

- (a) is provided by any of the following (within the meaning of section 309 of the Education Act 1989):
 - (i) a licensed early childhood service;
 - (ii) a playgroup that is a certificated playgroup under the Education (Playgroups) Regulations 2008; and
- (b) charges a uniform monetary fee for the participation of children in the programme

childcare assistance means a childcare subsidy or an OSCAR subsidy

childcare subsidy means the subsidy of the kind provided for in regulations 30 to 37

cohort entry policy, in relation to a school, means a cohort entry policy adopted by the school under section 5A of the Education Act 1989

eligible child—

- (a) in regulations 30 to 37 means a child for whom a childcare subsidy may be paid by virtue of regulation 30; and
- (b) in regulations 38 to 44 means a child for whom an OSCAR subsidy may be paid by virtue of regulation 38

household income, in relation to a child or the child's principal caregiver, means the sum of—

- (a) the total income of the child's principal caregiver; and

- (b) the total income of the spouse or partner (if any) of the child's principal caregiver (whether or not that spouse or partner is also the child's other caregiver)

OSCAR programme—

- (a) means a programme for children's out-of-school care and recreation approved under regulation 45; and
- (b) subject to clause 1 of Schedule 1, includes a programme covered by an approval continued by clause 1 of Schedule 1

OSCAR subsidy (except in the definition in this subclause of OSCAR programme) means the out-of-school care and recreation subsidy provided for in regulations 38 to 47

other caregiver, in relation to a child, means a person who—

- (a) lives together with the child's principal caregiver; and
- (b) is a parent, step-parent, or person having the responsibilities of a parent, of the child

serious disability or illness,—

- (a) in relation to deciding whether a person should be granted childcare assistance because the person, or some other person, has a serious disability or illness, means a physical, medical, psychological, or psychiatric condition that—
 - (i) reduces the person's or the other person's (as the case may be) independent function; and
 - (ii) is likely to continue for more than 6 months; but
- (b) in relation to deciding whether childcare assistance granted to a person because the person, or some other person, has a serious disability or illness should continue to be paid, means a physical, medical, psychological, or psychiatric condition that reduces the person's or the other person's (as the case may be) independent function

tertiary educational institution means an institution within the meaning of section 159(1) of the Education Act 1989

total income, in relation to a child's caregiver, means the sum of—

- (a) the caregiver's income; and
- (b) the amount of any benefit received by the caregiver (other than childcare assistance, a child disability allowance, an orphan's benefit, an unsupported child's benefit, or a winter energy payment, and each of those exemptions has effect in respect of those specified benefits as received by the caregiver on or after 26 November 2017); and
- (c) the amount of any child support received under the Child Support Act 1991 by the caregiver

week means a period of 7 days commencing at midnight on a Sunday.

- (2) For the purposes of the definition of approved early childhood education programme, the provider of the programme charges a uniform monetary fee for children to participate in the programme even if, in the case of families with 2 or more children, it charges for a second or further child a uniform fee that is less than the uniform fee charged for a first or an only child.

Compare: SR 2004/268 r 3

21 Child not eligible for both childcare subsidy and OSCAR subsidy

In relation to any period, payments may be made under a childcare subsidy granted for a child or an OSCAR subsidy granted for that child, but not under both.

Compare: SR 2004/268 r 4

22 Hours to be calculated weekly

The hours during which an eligible child participates in an approved early childhood education programme or OSCAR programme must be calculated by the week.

Compare: SR 2004/268 r 5

23 Childcare assistance not payable in respect of certain hours

Childcare assistance is not payable in respect of any hour of a child's participation in an approved early childhood education programme or OSCAR programme if, for that hour, payment other than childcare assistance is made towards the costs of the child's participation in the programme through a funding programme—

- (a) that is provided by the Government in order to purchase hours of childcare; and
- (b) under which the amount provided per hour for childcare exceeds the hourly rate of childcare assistance as calculated under regulation 24.

Compare: SR 2004/268 r 5A

24 Assistance to be no more than hourly fee payable

- (1) The hourly rate of childcare assistance paid in respect of a child's participation in an approved early childhood education programme or OSCAR programme must be—
- (a) no more than the actual hourly fee payable (or, if subclause (3) applies, the averaged hourly fee payable) for that participation; or
 - (b) if regulation 28 applies, the higher of the fee charged for keeping open the child's place in the programme and the hourly fee calculated under paragraph (a).

- (2) For the purposes of subclause (1), the actual hourly fee payable for a child's participation in a programme does not include any payment made by a person other than the applicant towards the fee payable in respect of that child's participation in the programme.
- (3) If a periodic flat fee is payable for a child's participation in a programme, or for keeping open a child's place in a programme, the averaged hourly fee payable for the purposes of subclause (1) is the amount obtained by—
 - (a) subtracting from that flat fee any payment made by a person other than the applicant towards the flat fee; and
 - (b) dividing the amount calculated under paragraph (a) by the number of hours during the period concerned for which the child is enrolled to participate in the programme.
- (4) This regulation is subject to regulation 23.

Compare: SR 2004/268 r 6

25 Assistance may continue if caregiver not working because of health condition, injury, or disability

Childcare assistance may continue to be paid for up to 12 weeks of any period when the principal caregiver of the child concerned (or, if applicable, the child's other caregiver) is not working if—

- (a) the assistance would not otherwise be payable because the caregiver is not working; but
- (b) the caregiver is unable to work because of a health condition, an injury, or a disability.

Compare: SR 2004/268 r 7

26 Assistance may continue if caregiver changes employment

Childcare assistance may continue to be paid for up to 10 working days before the start of the new employment concerned if—

- (a) the assistance has been granted on the basis of the employment of the principal caregiver of the child concerned (or, if applicable, of the child's other caregiver); and
- (b) the employment has ended but the caregiver has arranged new employment.

Compare: SR 2004/268 r 8

27 Absence of child to be notified

Within a reasonable time after a child for whom childcare assistance is payable is absent from the early childhood education programme or OSCAR programme concerned, the applicant must notify MSD of the child's absence.

Compare: SR 2004/268 r 9

28 Payment of assistance during child's absence

- (1) Childcare assistance may continue to be paid for the period set out in subclauses (2) and (3) during a child's absence from an early childhood education programme or OSCAR programme if the programme charges a fee for holding open the places of children who are absent.
- (2) The period is calculated as—
 - (a) commencing on the first day of the child's absence from the programme; and
 - (b) including only the time during the absence when the programme is available.
- (3) The period must not exceed—
 - (a) 6 weeks, if the absence is due to the child's medical condition; or
 - (b) 3 weeks, if the absence is due to any other reason.

Compare: SR 2004/268 r 10

29 Applications and evidence

No person can be granted a childcare subsidy or an OSCAR subsidy unless the person—

- (a) has applied for it on a form in writing provided by MSD for the purpose and completed in writing by or on behalf of the applicant (*see also* regulations 166(4)(f) and 172); and
- (b) has given MSD the evidence MSD requires to satisfy MSD that the person is eligible for the subsidy.

Compare: SR 2004/268 r 11

*Childcare subsidy***30 Eligibility of child for payment of childcare subsidy**

- (1) A childcare subsidy may be paid for a child only if the child is a dependent child—
 - (a) who is no older than 5 years and 28 days, and is not yet attending school; or
 - (b) who is 5 years old, whose parent, principal caregiver, or guardian intends to enrol the child in a school that has a cohort entry policy in place, and who (under section 5B(2) of the Education Act 1989) may not be enrolled in that school until the term start date of the next term; or
 - (c) who is under 6 years old, and for whom a child disability allowance is payable.
- (2) Eligibility under subclause (1)(b) ends on the term start date of that term.

Compare: SR 2004/268 r 12

31 Childcare subsidy available only if payable under regulation 32, 34, or 35

A childcare subsidy for an eligible child's participation in approved early childhood education programmes is payable only if regulation 32, 34, or 35 provides that it is payable.

Compare: SR 2004/268 r 13

32 Payment of childcare subsidy if principal caregiver engaged in approved activity

- (1) A childcare subsidy for an eligible child's participation in approved early childhood education programmes is payable for periods of a total of up to 50 hours a week if the child is participating in (or will participate in) 1 or more approved early childhood education programmes for a total of 3 or more hours a week, and—
 - (a) subclause (2) applies to the child, and either subclause (3) or (4) applies to each of those periods; or
 - (b) a child disability allowance is payable for the child; or
 - (c) the child's principal caregiver is also the principal caregiver of some other child, who is either in hospital or is a child for whom a child disability allowance is payable.
- (2) This subclause applies to a child if at least 1 of the following applies:
 - (a) the child has no other caregiver;
 - (b) the child's other caregiver is engaged in an approved activity;
 - (c) the child's other caregiver is not engaged in an approved activity, but MSD is satisfied that for some good reason the other caregiver cannot care for the child.
- (3) This subclause applies to a period if, during that period,—
 - (a) the child is participating in an approved early childhood education programme; and
 - (b) the child's principal caregiver is engaged in an approved activity or travelling between the place where the programme is provided and the place where the activity is engaged in.
- (4) This subclause applies to a period if the child's principal caregiver is engaged in shift employment and (whether the child is participating in an approved early childhood education programme then, or participates in such a programme at other times when the caregiver usually sleeps), during that period, the child's principal caregiver—
 - (a) is undertaking that employment; or
 - (b) is travelling between the place where that employment is engaged in and—

- (i) an approved early childhood education programme that the child is participating in; or
- (ii) the caregiver's home.

Compare: SR 2004/268 r 14

33 Activities in respect of which childcare subsidy available under regulation 32

A childcare subsidy for a child is available under regulation 32 only to enable the child's principal caregiver or other caregiver to undertake one of the following:

- (a) employment (whether full-time or part-time, and whether permanent, temporary, or casual):
- (b) a rehabilitation programme approved by MSD:
- (c) any activity specified in section 146(1)(d) of the Act that the caregiver is required to undertake under that section or is undertaking under section 324 of the Act:
- (d) an employment-related training course offered by a course-provider accredited by the New Zealand Qualifications Authority:
- (e) any other employment-related training course approved by MSD:
- (f) a course of study at a secondary school (within the meaning of section 145(1) of the Education Act 1989) or a tertiary educational institution.

Compare: SR 2004/268 r 15

34 Payment of childcare subsidy if principal caregiver not engaged in approved activity but has serious disability or illness

A childcare subsidy for a child's participation in approved early childhood education programmes is payable for up to 50 hours a week if—

- (a) the child is participating in (or will participate in) 1 or more approved early childhood education programmes for a total of 3 or more hours a week; and
- (b) MSD is satisfied, in the light of a certificate from a medical practitioner or a nurse practitioner, that the child's principal caregiver—
 - (i) has a serious disability or illness; and
 - (ii) needs childcare for the child for more than 9 hours a week; and
- (c) at least 1 of the following applies:
 - (i) the child has no other caregiver:
 - (ii) the child's other caregiver is engaged in an approved activity:
 - (iii) the child's other caregiver is not engaged in an approved activity, but MSD is satisfied that for some good reason the other caregiver cannot care for the child:

- (iv) a child disability allowance is payable for the child.

Compare: SR 2004/268 r 16

35 Payment of childcare subsidy if principal caregiver neither engaged in approved activity nor has serious disability or illness

A childcare subsidy for an eligible child's participation in approved early childhood education programmes is payable for up to 9 hours a week if—

- (a) the child is participating in (or will participate in) 1 or more approved early childhood education programmes for a total of 3 or more hours a week; and
- (b) the child's principal caregiver is not engaged in an approved activity; and
- (c) regulation 34 does not apply.

Compare: SR 2004/268 r 17

36 Rate of childcare subsidy

- (1) A childcare subsidy is payable to a person at the appropriate rate stated in Schedule 2.
- (2) Subclause (1) is subject to regulation 24 (which provides that the hourly rate of childcare assistance paid in respect of a child's participation in an approved early childhood education programme must be no more than the actual hourly fee payable).

Compare: SR 2004/268 r 18

37 Childcare subsidy usually payable to service

- (1) A childcare subsidy in respect of an approved early childhood education programme must be paid to—
 - (a) the service providing the programme; or
 - (b) the service that arranged the scheme under which the programme is provided.
- (2) Subclause (1) does not prevent MSD from paying a lump sum of childcare subsidy directly to a child's principal caregiver if—
 - (a) the sum represents an underpayment of the amounts that should have been paid to a provider of a licensed home-based education and care service in respect of the child's participation in that service; and
 - (b) the caregiver has already paid to the service or arranger the amount of the underpayment.

Compare: SR 2004/268 r 19

*Out-of-school care and recreation subsidy—OSCAR subsidy***38 Eligibility of child for payment of OSCAR subsidy**

An OSCAR subsidy may be paid for a child only if the child—

- (a) is a dependent child; and
- (b) is participating in (or will participate in) 1 or more OSCAR programmes for a total of 3 or more hours a week; and
- (c) is—
 - (i) at least 5, and under 14; or
 - (ii) at least 4, and enrolled in and attending a school that has a cohort entry policy in place; or
 - (iii) 14 or older, and is a child for whom a child disability allowance is payable.

Compare: SR 2004/268 r 20

39 OSCAR subsidy available only if payable under regulation 41 or 42

An OSCAR subsidy for an eligible child's participation in an OSCAR programme is payable only if regulation 41 or 42 provides that it is payable.

Compare: SR 2004/268 r 20A

40 Activities in respect of which OSCAR subsidy available under regulation 41

An OSCAR subsidy for a child is available under regulation 41 only to enable the child's principal caregiver to undertake one of the following:

- (a) employment (whether full-time or part-time, and whether permanent, temporary, or casual);
- (b) any activity specified in section 146(1)(d) of the Act that the caregiver is required to undertake under that section or is undertaking under section 324 of the Act;
- (c) an employment-related training course offered by a course-provider accredited by the New Zealand Qualifications Authority;
- (d) a course of study at a secondary school (within the meaning of section 145(1) of the Education Act 1989) or a tertiary educational institution.

Compare: SR 2004/268 r 21

41 Payment of OSCAR subsidy if principal caregiver engaged in approved activity

- (1) An OSCAR subsidy for an eligible child's participation in OSCAR programmes is payable for periods of a total of up to 20 hours a week during the school term, or up to 50 hours a week during the school holidays, if, and only if,—

- (a) subclause (2) applies to the child, and either subclause (3) or (4) applies to each of those periods; or
 - (b) a child disability allowance is payable for the child; or
 - (c) the child's principal caregiver is also the principal caregiver of some other child who is either in hospital or is a child for whom a child disability allowance is payable.
- (2) This subclause applies to a child if at least 1 of the following applies:
 - (a) the child has no other caregiver;
 - (b) the child's other caregiver is engaged in an approved activity;
 - (c) the child's other caregiver is not engaged in an approved activity, but MSD is satisfied that for some good reason the other caregiver cannot care for the child.
- (3) This subclause applies to a period if, during that period,—
 - (a) the child is participating in an OSCAR programme; and
 - (b) the child's principal caregiver is engaged in an approved activity or travelling between the place where the programme is participated in and the place where the activity is engaged in.
- (4) This subclause applies to a period if the child's principal caregiver is engaged in shift employment and (whether the child is participating in an OSCAR programme then, or participates in such a programme at other times when the caregiver usually sleeps), during that period, the child's principal caregiver—
 - (a) is undertaking that employment; or
 - (b) is travelling between the place where that employment is engaged in and—
 - (i) a place where the child is participating in an OSCAR programme; or
 - (ii) the caregiver's home.

Compare: SR 2004/268 r 22

42 Payment of OSCAR subsidy if principal caregiver has serious disability or illness

An OSCAR subsidy for a child's participation in an OSCAR programme is payable for up to 20 hours a week during the school term, or up to 50 hours a week during the school holidays, if—

- (a) the child is participating in (or will participate in) 1 or more OSCAR programmes for a total of 3 or more hours a week; and
- (b) MSD is satisfied, in the light of a certificate from a medical practitioner or a nurse practitioner, that the child's principal caregiver—
 - (i) has a serious disability or illness; and

- (ii) needs an OSCAR programme for the child for more than 3 hours a week; and
- (c) at least 1 of the following applies:
 - (i) the child has no other caregiver;
 - (ii) the child's other caregiver is engaged in an approved activity;
 - (iii) the child's other caregiver is not engaged in an approved activity, but MSD is satisfied that for some good reason the other caregiver cannot care for the child;
 - (iv) a child disability allowance is payable for the child.

Compare: SR 2004/268 r 22A

43 OSCAR subsidy payable to provider or principal caregiver

An OSCAR subsidy may be paid to the provider of the OSCAR programme concerned, or to the principal caregiver of the child concerned.

Compare: SR 2004/268 r 23

44 Rate of OSCAR subsidy

An OSCAR subsidy is payable to a person at the appropriate rate stated in Schedule 2.

Compare: SR 2004/268 r 24

Approval of OSCAR programmes

45 Approval of programmes

- (1) MSD, if satisfied, in the light of the matters stated in regulation 47, that an out-of-school programme or proposed out-of-school programme is or will be properly run, may, by written notice to the provider, approve it for the purposes of this Part.
- (2) An approval—
 - (a) may be unconditional or subject to conditions stated in the notice; and
 - (b) may be for an indefinite period or for a period stated in the notice.

Compare: SR 2004/268 r 25

46 Suspension and revocation of approvals

MSD may, by written notice to its provider, suspend or revoke the approval of a programme under regulation 45—

- (a) if MSD is satisfied, in the light of the matters stated in regulation 47, that it is not properly run; or
- (b) if, after making reasonable efforts to do so, MSD has been unable to obtain enough information to be satisfied, in the light of the matters stated in regulation 47, that it is properly run; or

- (c) if MSD is satisfied that there has been a breach of a condition subject to which the approval was given.

Compare: SR 2004/268 r 26

47 Matters to be considered before programmes approved or approvals suspended or revoked

The following matters must be considered in deciding whether an out-of-school programme is properly run (or a proposed out-of-school programme will be properly run):

- (a) the adequacy with which the programme provides for—
 - (i) the health and safety of the children participating:
 - (ii) the care and recreation of the children participating:
 - (iii) the health and safety of the staff and volunteers involved:
- (b) the competence, training, and suitability of the staff and volunteers involved in the programme:
- (c) the competence of the programme's supervision:
- (d) the suitability and safety of the environment in which the programme is operating:
- (e) the competence of the provider's management (including its financial management):
- (f) the extent of the programme's compliance with relevant enactments and bylaws:
- (g) the programme's responsiveness to applicable cultural issues.

Compare: SR 2004/268 r 27

Miscellaneous: overpayments

48 Recovery of overpayments

- (1) A payment of childcare assistance that is an overpayment (within the meaning of regulation 206(f)) is—
 - (a) a debt due to the Crown for the purposes of section 353(a) of the Act from the applicant; and
 - (b) subject to recovery under section 362(1) (MSD's duty to recover debts) of the Act from the applicant.
- (2) If, because a child has ceased to be enrolled or has been absent from an approved early childhood education programme or an OSCAR programme, childcare assistance has been paid to a service in excess of the amount that the service was entitled to be paid, MSD may recover the amount of the excess by making 1 or more deductions from any other amount or amounts payable to the service under these regulations.

Compare: SR 2004/268 r 28

Subpart 7—Child disability allowance: certificates and medical examinations

49 Certificates and medical examinations: prescribed health practitioners

A health practitioner who is either of the following, acting within their scope of practice, is prescribed for the purposes of sections 80 and 81 of the Act:

- (a) a medical practitioner:
- (b) a nurse practitioner.

Compare: 1964 No 136 s 39C

Subpart 8—Disability allowance

50 Discretionary grant if life expectancy or continuing disability less than 6 months

- (1) This regulation specifies a special category of eligibility for the purposes of section 85(1)(b) of the Act.
- (2) MSD may grant a disability allowance to a person who would otherwise be eligible for it but—
 - (a) whose life expectancy is less than 6 months; or
 - (b) in respect of whom it is not possible to determine whether the disability is likely to continue for at least 6 months but that is a reasonably possible prognosis.

Compare: 1964 No 136 s 69C(6)

51 Mandatory grant if disability unexpectedly likely to last, or lasts, for at least 6 months

- (1) This regulation specifies a special category of eligibility for the purposes of section 85(1)(b) and (3) of the Act.
- (2) This regulation applies if a person whose application for a disability allowance has been declined only on the ground that the disability is likely to last less than 6 months later satisfies MSD that—
 - (a) the disability is likely to last, or has continued, for 6 months or more; and
 - (b) the person would otherwise have been eligible to receive a disability allowance from the date of the original application.
- (3) MSD must grant a disability allowance to the person commencing on the date of the original application.

Compare: 1964 No 136 s 69C(7)

52 Medical examinations: prescribed health practitioners

A health practitioner who is either of the following, acting within their scope of practice, is prescribed for the purposes of section 88 of the Act:

- (a) a medical practitioner;
- (b) a nurse practitioner.

Compare: 1964 No 136 s 69C(3)

Subpart 9—Funeral grants

53 Funeral grants: methods of payment: people to whom payment may be made

A payment made under section 90 of the Act must be made, in MSD's discretion,—

- (a) to the spouse or partner or any child of the deceased; or
- (b) to the estate of the deceased; or
- (c) to any person who has paid the deceased's funeral expenses; or
- (d) to the appropriate funeral director; or
- (e) in the case of a deceased child, to the parent or any other person or persons who were liable in law to maintain that child immediately before the date of death.

Compare: 1964 No 136 s 61DE(1)

54 Funeral grants: methods of payment: conditional payment

- (1) This regulation applies if, due to 1 or both of the following, there is uncertainty about whether a funeral grant is payable under section 90 of the Act:
 - (a) a deceased person's estate (including, without limitation, any assets of any person from which the deceased person's funeral expenses are under section 91 or 93 of the Act to be paid) is yet to be determined;
 - (b) the income of a person whose income is to be tested under section 91 or 93 of the Act has not yet been determined.
- (2) MSD may pay a funeral grant on the condition that the whole or part of it will be repaid if it is later established that there was no eligibility for all or any part of that payment.
- (3) A funeral grant payment to be repaid under subclause (2), because it is later established that there was no eligibility for all or any part of that payment, is—
 - (a) a debt due to the Crown for the purposes of section 353(a) of the Act from the person to whom the funeral grant payment was made; and
 - (b) subject to recovery under section 362(1) (MSD's duty to recover debts) of the Act.

Compare: 1964 No 136 s 61DE(2)

55 Funeral grants: amounts

A funeral grant under section 90 of the Act is of an amount, not exceeding \$2,093.31, that MSD determines is appropriate to meet the deceased person's reasonable funeral expenses.

Compare: 1964 No 136 ss 61DB, 61DC, 61DD

Regulation 55: amended, on 1 April 2019, by regulation 4 of the Social Security Amendment Regulations 2019 (LI 2019/28).

Subpart 10—Temporary additional support*Criteria and requirements for temporary additional support***56 Overview of this subpart**

This subpart—

- (a) defines the kinds of income, benefits, credits, and receipts that are chargeable income; and
- (b) defines the kinds of costs that are allowable costs; and
- (c) prescribes amounts allowed for standard living costs that ought to be met from chargeable income (that is, amounts defined as standard costs); and
- (d) defines the kinds of assets that are cash assets, and prescribes an amount of cash assets that makes an applicant, under section 96(1)(b) of the Act, ineligible for temporary additional support; and
- (e) prescribes or sets out other eligibility criteria for receiving that support, the amount of it, and the period or periods for which it may be granted.

Compare: SR 2005/334 r 3

57 Interpretation

In this subpart, unless the context otherwise requires,—

ACC earner levies means levies payable under section 219(1) of the Accident Compensation Act 2001

accommodation costs has the meaning given to it by section 65(2) of the Act

allowable costs, in relation to an applicant, and subject to section 186 of the Act (benefit may be subject to repayment of insurance payment), has the meaning given to it by regulation 71

beneficiary means a person who is being paid a specified benefit

Canterbury earthquake means the earthquake that occurred on 4 September 2010 in Canterbury, and includes all of its aftershocks

Canterbury earthquake-related temporary accommodation costs means, in relation to a person, any accommodation costs that the person pays or incurs only or mainly because—

- (a) the person has been required to vacate any affected premises (as defined in clause 5(1) of the Canterbury Earthquake TAA Programme) because the premises are uninhabitable and the person cannot reoccupy the premises until remediation work is carried out; or
- (b) the person is or has been required to vacate any affected premises (as so defined) temporarily to enable remediation work to be carried out

Canterbury Earthquake TAA Programme means the Temporary Accommodation Assistance (Canterbury Earthquake) Programme established and approved by the Minister under section 124(1)(d) of the Social Security Act 1964 (and continued under clause 21 of Schedule 1 of the Act)

cash assets has the meaning given to it by regulation 60

chargeable income has the meaning given to it by regulation 69

consumer credit contract has the meaning given to it by section 11 of the Credit Contracts and Consumer Finance Act 2003

deficiency has the meaning given to it by regulation 62(2)

dependent child, in relation to a person, does not include a child in respect of whom an orphan's benefit or an unsupported child's benefit is being paid, but otherwise has the meaning given to it by Schedule 2 of the Act

disability costs—

- (a) means disability-related expenses, being expenses of a kind for which a disability allowance under section 85 of the Act would be payable; but
- (b) despite paragraph (a), does not include any costs for counselling (including the costs of transport to attend counselling) in excess of the amount paid for that purpose by way of a disability allowance under section 85 of the Act

disability exception amount has the meaning given to it by regulation 64

disposable income, in relation to an applicant, means the remainder (whether a positive or a negative amount) obtained by subtracting the applicant's allowable costs from the applicant's chargeable income

family, in relation to a person, means that person's spouse or partner and the dependent children of the person or the person's spouse or partner

net rate, in relation to any benefit,—

- (a) if the benefit is New Zealand superannuation or a veteran's pension, means the appropriate rate set out in Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001 or, as the case may be, the regulations specifying rates of veteran's pension under section 169 of the Veterans' Support Act 2014, after the deduction of standard tax; or

- (b) for any other benefit, means the appropriate rate set out in the appropriate part of Schedule 4 (or of any other provision) of the Act

non-beneficiary means a person who is not a beneficiary

revolving credit contract has the meaning given to it by section 5 of the Credit Contracts and Consumer Finance Act 2003

specified benefits means the following:

- (a) a main benefit; and
- (b) New Zealand superannuation; and
- (c) a veteran's pension

standard costs, in relation to an applicant, means the appropriate amount set out in Schedule 3

standard tax has the meaning given to it by section 15 of the New Zealand Superannuation and Retirement Income Act 2001 or by section 170 of the Veterans' Support Act 2014, whichever is applicable

temporary additional support means support of that kind under section 96 of the Act

upper limit has the meaning given to it in regulation 62(3) or 63(2), whichever is applicable.

Compare: SR 2005/334 r 4

Eligibility for temporary additional support

58 Who is eligible for support

- (1) A person may apply for temporary additional support—
- (a) whether or not the person is receiving any other benefit, pension, or allowance under the Act, the New Zealand Superannuation and Retirement Income Act 2001, or the Veterans' Support Act 2014; but
 - (b) only if the person is not, under regulation 59, ineligible for that support.
- (2) However, if a person (**A**) is, under regulation 59(2), ineligible for temporary additional support because a member of A's family (**B**) has been granted it, temporary additional support granted to B may be reviewed to ensure that B's allowable costs and chargeable income include A's allowable costs and (if applicable) chargeable income.

Compare: SR 2005/334 r 6

59 Who is ineligible for support

- (1) A child who is a dependent child or a child in respect of whom an orphan's benefit or an unsupported child's benefit is being paid is ineligible for temporary additional support; but neither of the following is ineligible to be granted temporary additional support in respect of the child:

- (a) the child's principal caregiver; and
 - (b) a spouse or partner of the child's principal caregiver.
- (2) A person is ineligible for temporary additional support if a member of the person's family has applied for and been granted temporary additional support.
- (3) All of the following are also ineligible for temporary additional support:
 - (a) a person who is 15 years old or younger;
 - (b) a person to whom section 230(1) of the Act applies;
 - (c) a person to whom a special benefit continues to be payable under section 23 of the Social Security (Working for Families) Amendment Act 2004 (as saved by clause 19 of Schedule 1 of the Act) and that person's spouse or partner;
 - (d) a person who is a full-time student unless—
 - (i) the person is a beneficiary; or
 - (ii) the person, or the person's spouse or partner, is the principal caregiver of 1 or more dependent children; or
 - (iii) the person, or a member of the person's family, has disability costs (as defined in regulation 57)—
 - (A) in respect of which a disability allowance under section 85 of the Act has been granted; but
 - (B) that are in excess of the maximum amount of a disability allowance under section 85 of the Act;
 - (e) a person whose cash assets together with the cash assets of the person's spouse or partner (if any) exceed in value,—
 - (i) for a single person, the amount in clause 1 of Schedule 5 of the Act; or
 - (ii) for a person who is in a relationship, or a sole parent, the amount in clause 2 of Schedule 5 of the Act.

Compare: SR 2005/334 r 7

60 Cash assets defined

- (1) For the purposes of this subpart and section 96(1)(b) of the Act, and the interpretation of cash assets in section 98 of the Act, **cash assets**, in relation to a person, means—
 - (a) the person's cash; and
 - (b) the other assets of the person that can be converted readily into cash.
- (2) In particular, **cash assets** includes all of the following:
 - (a) shares, stocks, debentures, bonus bonds, and other bonds; and
 - (b) bank accounts, including fixed and term deposits with any bank, friendly society, credit union, or building society; and

- (c) money invested with or lent to any bank or other financial institution or other person, whether on mortgage or other security or unsecured; and
 - (d) the net equity held in property or land not used as the person's home; and
 - (e) building society shares; and
 - (f) bills of exchange or promissory notes; and
 - (g) the person's share in any partnership.
- (3) However, **cash assets** does not include any of the following:
- (a) if the person is single, the motor vehicle or other vehicle required by the person for the person's personal use; or
 - (b) if the person is in a relationship, the motor vehicles or other vehicles (not exceeding 2 in total) required by the person and the person's spouse or partner for their personal use; or
 - (c) a caravan, boat, or other vehicle—
 - (i) in which the net equity is less than \$2,000; or
 - (ii) that is used by the person or a member of the person's family for day-to-day accommodation; or
 - (d) the personal effects of the person; or
 - (e) any specified item, amount, or kind of cash assets exempted from the definition in this regulation by clause 2 of Schedule 8.
- (4) Subclause (2) does not limit the generality of subclause (1); but subclause (3) overrides subclauses (1) and (2).

Compare: SR 2005/334 r 8

Application form for, and amount, period, and form of, support

61 Application form must be completed

- (1) Temporary additional support may be granted to an applicant for that support only if an application form for the purpose is completed in writing by or on behalf of the applicant.
- (2) The form must be provided by MSD (*see* regulations 166 and 172).
- (3) The form must, when completed (*see* regulation 172(e)), set out the information required to allow—
 - (a) the applicant's eligibility for temporary additional support to be assessed; and
 - (b) the rate of any temporary additional support payable to the applicant to be determined.

Compare: SR 2005/334 r 9

62 Prescribed amount of support: general weekly rate

- (1) The amount of temporary additional support that may be granted per week is the sum of—
 - (a) the lesser of the deficiency and the upper limit (*see* subclause (3) or regulation 63, whichever is applicable); and
 - (b) the disability exception amount (if that amount is available to the applicant under regulation 64).
- (2) The **deficiency** is the amount (if any) by which the applicant's standard costs exceed the applicant's disposable income (as those terms are defined in regulation 57), but—
 - (a) is nil if the applicant's disposable income exceeds the applicant's standard costs; and
 - (b) if the applicant's disposable income is a negative amount, is the sum of that income (expressed as a positive amount) and the applicant's standard costs.
- (3) The **upper limit** is 30% of the total before abatement on account of income or other deduction of the net rate per week—
 - (a) of the 1 or more specified benefits payable to the applicant and the applicant's spouse or partner (if any); or
 - (b) if the applicant and the applicant's spouse or partner (if any) are non-beneficiaries, of the benefit that would be payable to the applicant or them if jobseeker support were payable to the applicant or them.

Compare: SR 2005/334 r 10

63 Variation of upper limit for persons awaiting decision on refugee or protected person claims, refugees and protected persons, and certain applicants for residence class visas

- (1) Subclause (2) applies, instead of regulation 62(3), when calculating under regulation 62(1) the amount of temporary additional support that may be granted per week to a person who MSD is satisfied is—
 - (a) a person of the kind referred to in section 205(1)(a) of the Act (a person lawfully present in New Zealand awaiting the outcome of the person's claim for recognition as a refugee or a protected person in New Zealand); or
 - (b) a person referred to in section 205(1)(b) of the Act (a person who is recognised as a refugee or a protected person in New Zealand); or
 - (c) a person referred to in section 205(1)(c) of the Act (a person applying for a residence class visa under the Immigration Act 2009 who is compelled to remain in New Zealand through unforeseen circumstances).
- (2) The **upper limit** is the higher of—

- (a) the appropriate maximum rate of accommodation supplement that would be applicable if section 19(1) of the Act did not prohibit the person receiving a benefit; and
- (b) the upper limit in regulation 62(3).

Compare: SR 2005/334 r 10A

64 Disability exception amount

(1) The disability exception amount—

- (a) is available to the applicant only if—
 - (i) the deficiency exceeds the upper limit; and
 - (ii) the applicant's allowable costs include an **excess disability costs total** (as defined in subclause (2)); and
- (b) if available to the applicant, is 30% of the **excess disability costs total** (as so defined).

(2) In this subpart,—

excess disability costs, in respect of a person, means disability costs (as defined in regulation 57) that—

- (a) are disability costs in respect of which the person has been granted a disability allowance under section 85 of the Act; and
- (b) have been included in the calculation of that disability allowance granted to the person; and
- (c) are in excess of the maximum amount of a disability allowance under section 85 of the Act

excess disability costs total means the total of all of the excess disability costs (if any) for any or all of—

- (a) the applicant; and
- (b) a member of the applicant's family; and
- (c) a child for whom an orphan's benefit or an unsupported child's benefit is being paid.

Compare: SR 2005/334 r 11

65 Amount of support granted must be recalculated after change in chargeable income or allowable costs, or both

If an applicant's chargeable income changes, the applicant's allowable costs change, or both of them change, during the period (*see* regulation 67) for which the applicant has been granted temporary additional support, then despite regulation 62(1)—

- (a) the amount of that support granted to the applicant (whether it results from the original calculation under regulation 62(1) or from an earlier

recalculation required by this paragraph) must, as soon as practicable, be recalculated under regulation 62(1) taking into account all changes—

- (i) in the applicant's chargeable income or allowable costs, or both, during that period; and
 - (ii) that were not taken into account in the original calculation under regulation 62(1) or in any earlier recalculations required by this paragraph; and
- (b) the amount of that support granted to the applicant for any later weeks of that period (until and subject to any later recalculation required by paragraph (a)) is the amount that results from the recalculation required by paragraph (a).

Compare: SR 2005/334 r 12

66 Prescribed amount of support: exceptions

- (1) The amount of temporary additional support that may be granted per week—
 - (a) is 50% of the weekly rate under regulation 62(1) if temporary additional support is granted to the spouse or partner of a person who is ineligible to be granted temporary additional support under regulation 59(3)(b) or (d); and
 - (b) is nil if the result of the calculation under regulation 62(1) or, as the case may be, paragraph (a), is less than \$1 a week.
- (2) Subclause (1)(b) overrides subclause (1)(a).
- (3) This regulation overrides regulations 62 to 65.

Example 1—single jobseeker support beneficiary with 2 dependent children

P is a single jobseeker support beneficiary with 2 dependent children, both of whom are younger than 13 years of age.

- 1 P's weekly chargeable income is \$663.56, and is made up of—
 - \$334.05 net jobseeker support; and
 - \$204.29 family tax credit—a credit of tax under subparts MA to MG and MZ of the Income Tax Act 2007; and
 - \$62.00 accommodation supplement for a resident renting in area 1; and
 - \$63.22 disability allowance (paid at the maximum).
- 2 P's weekly allowable costs are \$308.87, and are made up of—
 - \$200.00 rent in area 1 (deduct \$26.05 loading from accommodation costs); and
 - \$134.92 disability costs via disability allowance.
- 3 P's disposable income is therefore \$354.69, which is the remainder (a positive amount) obtained by subtracting—
 - \$308.87 P's weekly allowable costs; from
 - \$663.56 P's weekly chargeable income.
- 4 P's standard costs are \$376.84, and are made up of—
 - \$233.84 70% of the net jobseeker support; and

\$143.00 70% of family tax credit.

- 5 P's standard costs, \$376.84, exceed P's disposable income, \$354.69, by \$22.15. The deficiency is therefore \$22.15.
- 6 The upper limit is \$100.22 (which is 30% of the net jobseeker support).

If P is eligible for temporary additional support under regulations 58 to 60, and an application form for that support is completed as required by regulation 61, then the amount of that support that P may be granted per week, under regulation 62, is \$22.15, which is the lesser of the deficiency, \$22.15, and the upper limit, \$100.22. (Although P has disability costs included in P's allowable costs, the disability exception amount is not available to P under regulation 64, because P's deficiency does not exceed the upper limit.)

Note: This example is based on rates of benefits and WFF tax credits as at 26 November 2018. When using this example, readers should check the most recent rates of benefits and WFF tax credits.

Example 2—married jobseeker support beneficiary with 3 dependent children

S is a married jobseeker support beneficiary with 3 dependent children, all of whom are younger than 13 years of age.

- 1 S's weekly chargeable income is \$806.48, and is made up of—
 - \$384.50 net jobseeker support; and
 - \$295.54 family tax credit—a credit of tax under subparts MA to MG and MZ of the Income Tax Act 2007; and
 - \$126.44 disability allowance × 2 (paid at the maximum).
- 2 S's weekly allowable costs are \$459.05, and are made up of—
 - \$200.00 Housing New Zealand rent in area 1 (deduct \$26.05 loading from accommodation costs); and
 - \$285.10 disability costs via disability allowance.
- 3 S's disposable income is therefore \$347.43, which is the remainder (a positive amount) obtained by subtracting—
 - \$459.05 S's weekly allowable costs; from
 - \$806.48 S's weekly chargeable income.
- 4 S's standard costs are \$476.03, and are made up of—
 - \$269.15 70% of the net jobseeker support; and
 - \$206.88 70% of family tax credit.
- 5 S's standard costs, \$476.03, exceed S's disposable income, \$347.43, by \$128.60. The deficiency is therefore \$128.60.
- 6 The upper limit is \$115.35 (which is 30% of the net jobseeker support).
- 7 The disability exception amount is \$47.60 (which is 30% of the excess disability costs total).

If S is eligible for temporary additional support under regulations 58 to 60, and an application form for that support is completed as required by regulation 61, then the amount of that support that S may be granted per week, under regulations 62 and 64, is \$162.95.

That amount, \$162.95, is the sum of—

- (a) \$115.35, which is the lesser of the deficiency, \$128.60, and the upper limit, \$115.35 (see regulation 62(1)(a)); and
- (b) \$47.60, which is the disability exception amount available to S under regulation 64 (see regulation 62(1)(b)).

Note: This example is based on rates of benefits and WFF tax credits as at 26 November 2018. When using this example, readers should check the most recent rates of benefits and WFF tax credits.

Example 3—single jobseeker support beneficiary with no dependent children

X is a single jobseeker support beneficiary who is 26 years of age and has no dependent children.

- 1 X's weekly chargeable income is \$238.96, and is made up of—
 - \$215.34 net jobseeker support; and
 - \$23.62 disability allowance.
- 2 X's weekly allowable costs are \$158.01, and are made up of—
 - \$130.00 Housing New Zealand rent in area 1 (deduct \$26.05 loading from accommodation costs); and
 - \$23.62 disability costs via disability allowance; and
 - \$30.44 consumer credit contracts.
- 3 X's disposable income is therefore \$80.95, which is the remainder (a positive amount) obtained by subtracting—
 - \$158.01 X's weekly allowable costs; from
 - \$238.96 X's weekly chargeable income.
- 4 X's standard costs are \$150.74 (which is 70% of the net jobseeker support).
- 5 X's standard costs, \$150.74, exceed X's disposable income, \$80.95, by \$69.79. The deficiency is therefore \$69.79.
- 6 The upper limit is \$64.60 (which is 30% of the net jobseeker support).

If X is eligible for temporary additional support under regulations 58 to 60, and an application form for that support is completed as required by regulation 61, then the amount of that support that X may be granted per week, under regulation 62, is \$64.60, which is the lesser of the deficiency, \$69.79, and the upper limit, \$64.60. (Although X has disability costs included in X's allowable costs, the disability exception amount is not available to X under regulation 64, because X's disability costs are met by X's disability allowance.)

Note: This example is based on rates of benefits and WFF tax credits as at 26 November 2018. When using this example, readers should check the most recent rates of benefits and WFF tax credits.

Compare: SR 2005/334 r 13

67 Prescribed period of support

- (1) The prescribed period referred to in section 96(3) of the Act is—
 - (a) the shorter fixed period (as defined by subclause (3)), if subclause (2) applies to the applicant; and
 - (b) 13 weeks after temporary additional support commences (the **standard period**), in all other cases.

- (2) This subclause applies to the applicant if, when temporary additional support is granted, MSD considers that, on a date (the **non-qualification date**) before the end of the standard period,—
- (a) the deficiency will reduce to nil; or
 - (b) the applicant will for any reason be ineligible for temporary additional support; or
 - (c) temporary additional support will for any reason not be payable to the applicant.
- (3) The **shorter fixed period** means a period that is fixed by MSD, but that must—
- (a) start at the same time as, but be shorter than, the standard period; and
 - (b) end on or after the close of the day before the non-qualification date.

Compare: SR 2005/334 r 14

68 No lump sums payable

- (1) No payment of temporary additional support may be made by way of a lump sum payment.
- (2) Subclause (1) does not apply to any lump sum payment of arrears of temporary additional support made to a person on or after 18 August 2017.
- (3) For the purpose of this subclause, subclause (2), and the tables in Parts 2 and 3 of Schedule 8,—

lump sum eligibility requirements, for a person (A), means that,—

- (a) on 1 April 2006, A was entitled to continue receiving the special benefit; and
- (b) during any period on or after 1 April 2006, A would have received more assistance from temporary additional support than the special benefit but was not advised by the department (as defined in section 3(1) of the Social Security Act 1964) or MSD that A could apply for temporary additional support (lump sum eligibility period); and
- (c) in response to advice by the department (as so defined) or MSD on or after 18 August 2017, A cancels the special benefit and applies for temporary additional support in respect of any lump sum eligibility period

lump sum payment of arrears of temporary additional support means a lump sum payment of arrears of temporary additional support—

- (a) made as a result of an application of section 317 of the Act; and
- (b) made to—
 - (i) a person (A) who meets the lump sum eligibility requirements; or
 - (ii) a person (B) who, during any lump sum eligibility period, is or was the spouse or partner of A and is or was entitled, under regu-

lation 191, to an apportionment of any other benefit payable to A;
and

- (c) calculated after the deduction of the amount of the special benefit that was paid to A or B during any lump sum eligibility period

special benefit means the special benefit as continued under section 23 of the Social Security (Working for Families) Amendment Act 2004 (as saved by clause 19 of Schedule 1 of the Act).

Compare: SR 2005/334 r 15

Chargeable income

69 Chargeable income

- (1) For the purposes of this subpart and of section 98 of the Act, **chargeable income**, in relation to a person, includes the weekly total of all of the items in subclause (3), after deducting the amount (if any) MSD estimates or determines is payable (where applicable) for income tax, for ACC earner levies, or for both, on any of those items.
- (2) A reference in this subpart to a person includes a reference to the person's spouse or partner.
- (3) The items referred to in subclause (1) are (subject to regulation 70)—
 - (a) the net rate of any benefit payable to the person under the Act (other than an orphan's benefit, an unsupported child's benefit, a winter energy payment, or any childcare assistance):
 - (b) the amount of any credit of tax under subparts MA to MG and MZ of the Income Tax Act 2007 that is—
 - (i) paid to the person by instalments in accordance with sections 80KI to 80KU of the Tax Administration Act 1994; or
 - (ii) not paid by instalments but is one to which, in MSD's opinion, the person is entitled under that subpart:
 - (c) any parental leave payment payable to the person under Part 7A of the Parental Leave and Employment Protection Act 1987:
 - (d) any pension or allowance payable under the Veterans' Support Act 2014:
 - (e) the rate of any New Zealand superannuation payable to the person under the New Zealand Superannuation and Retirement Income Act 2001 or any veteran's pension payable to the person under the Veterans' Support Act 2014:
 - (f) income as defined in Part 2 of Schedule 3 of the Act:
 - (g) the amount of any periodical payments (for example, those included by subclause (4)(a))—
 - (i) of special assistance payable to the person under section 101(1) of the Act under any welfare programme; and

- (ii) that, in the opinion of MSD, are for the purpose of replacing lost income or maintaining or supplementing the person's income and not for the purposes of paying or reimbursing specified costs of the person:
 - (h) the amount of any child support payments,—
 - (i) in the case of a non-beneficiary, payable to the person under the Child Support Act 1991; or
 - (ii) in the case of a beneficiary, payable to the person by the Commissioner of Inland Revenue under section 142 or 143 of that Act:
 - (i) the amount of any accommodation benefit, basic grant, or independent circumstances grant payable to the person under the Student Allowances Regulations 1998:
 - (j) the living-costs component of any student loan payable to the person.
- (4) Payments under subclause (3)(g)—
- (a) include, without limitation, any payments payable to the person under the Telephone Costs Payment Programme established and approved by the Minister under section 124(1)(d) of the Social Security Act 1964 (and continued under clause 21 of Schedule 1 of the Act); but
 - (b) do not include any payments for childcare assistance or any payments made under any of the programmes specified in subclause (5).
- (5) The programmes referred to in subclause (4)(b) (and continued under clause 21 of Schedule 1 of the Act) are—
- (a) the Away from Home Allowance Programme:
 - (b) the Home Help Programme:
 - (c) the Social Rehabilitation Assistance Programme:
 - (d) the Special Transfer Allowance Programme 2000:
 - (e) the Canterbury Earthquake TAA Programme (as defined in regulation 57):
 - (f) the Families Package (Transitional Assistance) Programme:
 - (g) the Employment Readiness and Work Assistance Programme.
- (6) In calculating the amount of a person's chargeable income, MSD must disregard any deduction or reduction of the amount of any item of that income made or imposed by or under any statutory power, or under any deduction notice or attachment order or otherwise, on account of any debt, liability, sanction, penalty, child support payment, or student loan repayment.
- (7) Subclause (6) overrides subclauses (1) to (5).

Compare: SR 2005/334 Schedule 1

70 Further limits on chargeable income: exempted payments and income

The items referred to in regulation 69 do not include payments and income exempted by Parts 2 and 3 of Schedule 8.

Compare: SR 2005/334 Schedule 1, cls 5AA, 5AB, 5AC, 5A

71 Allowable costs

- (1) For the purposes of this subpart and of section 98 of the Act, **allowable costs**—
- (a) means the regular essential expenses (as defined in subclause (2)) (if any) of the applicant and the applicant's family reckoned on a weekly basis; and therefore
 - (b) does not include an expense that is not an essential expense (as so defined).
- (2) In subclause (1), **essential expense** means an expense of a kind, and within the relevant limits (if any), specified in subclause (3), and that (unless the expense is one referred to in subclause (3)(b), (c), (e)(i), (h), or (i) and is in respect of an item acquired in accordance with subclause (4)), in MSD's opinion,—
- (a) is essential for a person to pay or incur in order to meet the daily living needs of the person, of members of the person's family, or of both; and
 - (b) could not, when the expense or the liability for the expense was incurred, readily be avoided or varied.
- (3) The kinds of expenses and limits referred to in subclause (2) are as follows:
- (a) the person's accommodation costs (as defined in subclause (5)) less \$26.49;
 - (b) agreed period payments (as defined in subclause (6)), not exceeding the maximum weekly amount in column 3 of the following table, and made in connection with the acquisition of any of the items in column 1 of that table (within the maximum number of those items in column 2 of that table):

Payments for essential household items

Column 1	Column 2	Column 3
Essential household item	Maximum number of items	Maximum weekly amount (\$)
Beds (including mattresses)		31.19
Combined refrigerator-freezer	1	24.68
<i>or</i>	<i>or</i>	<i>or</i>
Separate refrigerator and separate freezer	1 of each if separate items	24.68 in total if separate items
Dining suite	1	31.19
Lounge suite	1	31.19
Portable heaters		16.88

- | Column 1 | Column 2 | Column 3 |
|---------------------------------|--------------------------------|-----------------------------------|
| Essential household item | Maximum number of items | Maximum weekly amount (\$) |
| Washing machine | 1 | 24.68 |
| Stove | 1 | 24.68 |
| Television set | 1 | 23.38 |
- (c) revolving credit payments (as defined in subclause (7)) for any of the items in column 1 of the table in paragraph (b) (being items acquired in accordance with subclause (4) and within the maximum numbers in column 2 of that table) and not exceeding (in terms of the rate of the payments, and either on a monthly or a weekly basis) the lesser of the maximum monthly payment (as defined in subclause (8)) and the maximum weekly payment in column 3 of that table:
- (d) costs for laundry or laundrette services, being costs incurred instead of regular payments for a washing machine or within a period during which the applicant could reasonably arrange to have repaired a washing machine available to the applicant, and not exceeding \$24.68 per week:
- (e) disability costs (as defined in regulation 57),—
- (i) including any disability costs that are payments to which subclause (9) or (10) applies; but
 - (ii) excluding in all cases any costs of residential care services in respect of which temporary additional support must not be granted under section 96(2) of the Act:
- (f) for a person who is eligible for assistance under the Telephone Costs Payment Programme approved by the Minister under section 124(1)(d) of the Social Security Act 1964 (and continued under clause 21 of Schedule 1 of the Act), and if paragraph (m) of this subclause does not apply, the weekly amount of telephone rental costs (as defined in subclause (11)) that were, immediately before 1 April 1999,—
- (i) claimed by the person; and
 - (ii) treated by MSD as an additional expense under section 69C(2A)(a) of the Social Security Act 1964:
- (g) running costs, at a per kilometre rate set by MSD, for a motor vehicle where no suitable public transport is available for the purpose of transporting the applicant and the applicant's spouse or partner to and from their places of employment and where the vehicle is essential for that purpose:
- (h) agreed period payments (as defined in subclause (6)) not exceeding \$66.71 a week made in connection with the acquisition of a motor vehicle or other vehicle (for example, a bicycle)—
- (i) for the applicant and the applicant's spouse or partner (if any) (whether or not either or both of them are beneficiaries), where no

- suitable public transport is available for the relevant purpose and the vehicle is essential—
- (A) for the purpose of transporting the applicant and the applicant's spouse or partner to and from their places of employment; or
 - (B) for the purpose of transporting the applicant or a member of the applicant's family who is chronically ill or has a disability; or
- (ii) for an applicant who is a beneficiary where—
- (A) there is no public transport reasonably available to the applicant; and
 - (B) the contract or arrangement to acquire the vehicle was entered into before the applicant became a beneficiary:
- (i) revolving credit payments (as defined in subclause (7)) for a motor vehicle or other vehicle (for example, a bicycle) acquired in accordance with subclause (4) and where paragraph (h)(i) or (ii)(A) applies to the applicant and vehicle, and not exceeding (in terms of the rate of the payments, and either on a monthly or a weekly basis) the lesser of the maximum monthly payment (as defined in subclause (8)) and \$66.71 per week:
- (j) the costs of public transport of the applicant and the applicant's spouse or partner to and from their places of employment:
- (k) the net costs of essential childcare (that is, the gross costs of essential childcare, as defined in subclause (12), minus any childcare assistance payable under section 77 of the Act or by way of special assistance under section 101 of the Act):
- (l) essential expenses in respect of a child in the care of the applicant or the applicant's spouse or partner for whom an orphan's benefit or an unsupported child's benefit is paid that are not able to be met from the total of that benefit and any disability allowance payable in respect of the child:
- (m) telephone rental costs (as defined in subclause (11)) for an applicant for whom, in the opinion of MSD, a telephone is a necessity—
- (i) because of the applicant's special family circumstances (for example, to enable an applicant living in a rural location to be contacted by the school that the applicant's children attend); or
 - (ii) to help to ensure the applicant's personal safety or security (for example, a frail person living alone, or a separated person with a protection order against a spouse or partner); or
 - (iii) because of the applicant's employment conditions (for example, an electrical worker on call 24 hours per day).

- (4) An item is **acquired** in accordance with this subclause for the purposes of subclauses (2), (3)(c) and (i), and (10) if,—
- (a) when the item was acquired, neither the applicant nor the applicant's spouse or partner (if any) was a beneficiary (whether or not either of them was a beneficiary, or both of them were beneficiaries, at any time before the item was acquired); and
 - (b) at the time of the application for temporary additional support, the applicant or the applicant's spouse or partner (if any) is a beneficiary, or both of them are beneficiaries, or neither of them is a beneficiary at that time but one or both of them became a beneficiary after the item was acquired.
- (5) For the purposes of subclause (3)(a), a person's **accommodation costs** are that person's accommodation costs as defined in regulation 57 but—
- (a) do not include the following costs:
 - (i) any costs of residential care services in respect of which temporary additional support must not be granted under section 96(2) of the Act; and
 - (ii) any Canterbury earthquake-related temporary accommodation costs (as defined in regulation 57) of the person if the person is eligible for, and the person and any members of the person's family who usually reside with the person are granted (or MSD has not yet declined to grant them), assistance under the Canterbury Earthquake TAA Programme (as so defined), even if those costs exceed the rate of, or are paid or incurred after the ending of, or are otherwise not met or not to be met by, assistance of that kind; and
 - (iii) any Canterbury earthquake-related temporary accommodation costs (as defined in regulation 57) of the person if the person and any members of the person's family who usually reside with the person are not granted assistance under the Canterbury Earthquake TAA Programme (as so defined) because the person is not eligible for, or MSD has in MSD's discretion declined to grant them, assistance of that kind; and
 - (b) include arrears except any that were incurred while the person or the person's spouse or partner was in receipt of—
 - (i) an accommodation benefit under the Student Allowances Regulations 1998; or
 - (ii) an accommodation supplement, a rent rebate allowance, or a tenure protection allowance under the Act; or
 - (iii) an income-related rent (as defined in section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992).

- (6) **Agreed period payments**, in relation to an item referred to in any of subclauses (3)(b) and (h) and (9), means payments, during the agreed period, under a consumer credit contract or other arrangement that—
 - (a) is evidenced in writing to the satisfaction of MSD; and
 - (b) requires regular payments over an agreed period; and
 - (c) was entered into to acquire the item or to repay debt incurred in acquiring the item; and
 - (d) is not a revolving credit contract, an arrangement relating to an advance payment of all or part of 1 or more instalments of a benefit under section 347 of the Act, or an arrangement relating to a recoverable grant of assistance under section 101 of the Act.
- (7) **Revolving credit payments**, in relation to an item referred to in any of subclauses (3)(c) and (i) and (10), means payments—
 - (a) under a revolving credit contract (for example, a credit card contract) that requires regular payments and that was used to acquire the item; and
 - (b) not exceeding (in total) the lesser of the cash price of the item and the amount owing under the contract at the time of the application for temporary additional support; and
 - (c) for the period of 20 months after the acquisition of the item, if the amount owing under the contract at the time of the application for temporary additional support is equal to or greater than the cash price of the item; and
 - (d) for whichever of the following periods ends first, if the amount owing under the contract at the time of the application for temporary additional support is less than the cash price of the item:
 - (i) the period of 20 months after the acquisition of the item; and
 - (ii) the period in whole months that MSD estimates is necessary for that amount owing to be repaid fully at a rate of payment that is the maximum monthly payment (as defined in subclause (8)).
- (8) The **maximum monthly payment**, in relation to an item to which subclause (3)(c) or (i) or (10) applies, means 5% of the cash price of the item.
- (9) The payments (referred to in subclause (3)(e)(i)) to which this subclause applies are agreed period payments (as defined in subclause (6)) not exceeding \$24.68 per week made in connection with the acquisition of 1 clothes dryer for a person for whom the costs of acquiring a clothes dryer are additional costs arising from the person's disability.
- (10) The payments (referred to in subclause (3)(e)(i)) to which this subclause applies are revolving credit payments (as defined in subclause (7)) for 1 clothes dryer, acquired in accordance with subclause (4), for a person for whom the costs of acquiring a clothes dryer are additional costs arising from the person's

disability, and not exceeding (in terms of the rate of the payments, and either on a monthly or a weekly basis) the lesser of the maximum monthly payment (as defined in subclause (8)) and \$24.68 per week.

- (11) In subclause (3)(f) and (m), **telephone rental costs**—
- (a) means the regular and ongoing costs of renting a basic telephone, or of telephone line rental, or of both, as well as any wiring maintenance charges paid; and therefore
 - (b) does not include toll charges.
- (12) In subclause (3)(k), **gross costs of essential childcare**, in relation to an applicant for temporary additional support, means the costs, up to a maximum of \$6 per child per hour, of childcare—
- (a) that enables the applicant, or the applicant's spouse or partner, or both, to take part in employment; or
 - (b) that is required because the applicant is, or the applicant's spouse or partner is, or both of them are, seriously disabled or seriously ill.

Compare: SR 2005/334 Schedule 2

Regulation 71(3)(a): amended, on 1 April 2019, by regulation 5(1) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Regulation 71(3)(b) table: replaced, on 1 April 2019, by regulation 5(2) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Regulation 71(3)(d): amended, on 1 April 2019, by regulation 5(3) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Regulation 71(3)(h): amended, on 1 April 2019, by regulation 5(4) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Regulation 71(3)(i): amended, on 1 April 2019, by regulation 5(4) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Regulation 71(9): amended, on 1 April 2019, by regulation 5(3) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Regulation 71(10): amended, on 1 April 2019, by regulation 5(3) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Part 3 Obligations

72 Guide to Part 3

Part 3 deals with the following topics:

- (a) subpart 1 (regulation 73) deals with when work-test obligations apply:
- (b) subpart 2 (regulations 74 to 80) deals with deferral of work-test obligations:
- (c) subpart 3 (regulations 81 to 89) provides for drug testing of beneficiaries:

- (d) subpart 4 (regulations 90 to 92) deals with social obligations in relation to dependent children:
- (e) subpart 5 (regulation 93) prescribes health practitioners for social obligations of a young person granted a young parent payment and relating to health care enrolment of a dependent child:
- (f) subpart 6 (regulation 94) prescribes health practitioners for obligations of a young person who is a spouse or partner of a beneficiary and relating to health care enrolment of a dependent child:
- (g) subpart 7 (regulations 95 and 96) provides for participation allowances:
- (h) subpart 8 (regulations 97 to 104) provides for exemptions from work-preparation or work-test obligations:
- (i) subpart 9 (regulations 105 to 107) sets out various exemptions from obligations under the Act of certain young people.

Subpart 1—When work-test obligations apply

73 Application of work-test obligations

- (1) This regulation prescribes days of the week for the purposes of, or under, sections 143(1)(b) and 418(1)(e) of the Act.
- (2) The work-test obligations set out in section 144(b) and (c) of the Act apply Monday to Sunday (inclusive).
- (3) The work-test obligation set out in section 146(1)(d) of the Act applies Monday to Sunday (inclusive).

Compare: SR 2007/230 r 4

Subpart 2—Deferral of work-test obligations

74 Deferral of work-test obligations of person with dependent child under age of 1 year

- (1) This regulation applies to a person who—
 - (a) receives jobseeker support (other than on the ground of health condition, injury, or disability); and
 - (b) is subject to work-test obligations; and
 - (c) is a sole parent with a dependent child under the age of 1 year; and
 - (d) is under section 222 of the Act a recipient of jobseeker support instead of sole parent support solely because that child is an additional dependent child.
- (2) On the application of a person to whom this regulation applies or of its own initiative, MSD may defer all of that person's work-test obligations.

Compare: 1964 No 136 ss 88H(1), 88I(1)

75 Mandatory deferral of work-test obligations if person determined under section 141(1) of Act to lack capacity for part-time work

- (1) This regulation applies to a person who—
 - (a) receives jobseeker support on the ground of health condition, injury, or disability; and
 - (b) is the subject of a determination under section 141(1) of the Act that the person does not have the capacity for part-time work.
- (2) MSD must, after determining under section 141(1) of the Act that the person does not have capacity for part-time work (and whether or not the person has applied to defer that person's work-test obligations), defer that person's work-test obligations.

Compare: 1964 No 136 ss 88F(7), 88I(6)

76 Deferral of work-test obligations on ground of later health condition, injury, or disability

- (1) This regulation applies to a person who MSD is satisfied—
 - (a) receives jobseeker support; and
 - (b) is subject to work-test obligations; and
 - (c) has a health condition, an injury, or a disability that first arose or became apparent after the grant of jobseeker support; and
 - (d) because of the health condition, injury, or disability, has no capacity for work or capacity only for work that is less than part-time work.
- (2) On the application of a person to whom this regulation applies or of its own initiative, MSD may defer all of that person's work-test obligations.

Compare: 1964 No 136 ss 88H(2), 88I(2)

77 Deferral of work-test obligations for young person required to receive youth services and on ground of undertaking study

- (1) This regulation applies to a person who is receiving jobseeker support if MSD is satisfied that—
 - (a) the person is a young person who is required to receive youth services under section 165(2) of the Act; and
 - (b) the person is subject to work-test obligations; and
 - (c) the person's undertaking of a full-time course that will give the person credits towards NCEA level 2 or an equivalent qualification would reduce the person's risk of long-term welfare dependency (as defined in section 165(9) of the Act); and
 - (d) the deferral of all of the person's work-test obligations is necessary to enable the person to undertake that study.

- (2) On the application of a person to whom this regulation applies or of its own initiative, MSD may defer all of the person's work-test obligations.

Compare: 1964 No 136 s 88I(6A)

78 Deferral of work-test obligations for person receiving youth payment and on ground of undertaking study

- (1) This regulation applies to a person who is an applicant for jobseeker support if MSD is satisfied that—
- (a) the person has become eligible for jobseeker support while receiving a youth payment; and
 - (b) the person is subject to work-test obligations; and
 - (c) the person is a student in a full-time course of secondary instruction or tertiary education that will give the person credits towards NCEA level 2 or an equivalent or higher qualification that the person commenced or was undertaking while receiving the youth payment; and
 - (d) the deferral of all of the person's work-test obligations is necessary to enable the person to complete study towards that qualification.
- (2) On the application of a person to whom this regulation applies or of its own initiative, MSD may defer all of that person's work-test obligations.

Compare: 1964 No 136 s 88I(6B)

79 Procedure for deferral of work-test obligations

- (1) MSD may require an applicant for deferral of the applicant's work-test obligations to verify particulars relevant to the application in the manner that MSD specifies, either generally or specifically.
- (2) A deferral under regulation 74, 75, 76, 77, or 78 must be in writing and may be granted—
- (a) for a period set by MSD; or
 - (b) on conditions set by MSD; or
 - (c) both for a period, and on conditions, set by MSD.
- (3) Before deciding whether to defer a person's work-test obligations under regulation 74, 75, or 76, MSD must have regard to—
- (a) the certificate for the purpose of section 27 of the Act and any relevant report obtained under section 28 of the Act; and
 - (b) any relevant work ability assessment under sections 115 to 119 of the Act.

Compare: 1964 No 136 ss 88H(3), 88I(3), (5)

80 MSD may review, and extend, vary, or revoke, deferral of work-test obligations

MSD may—

- (a) review a deferral granted under regulation 74, 75, 76, 77, or 78; and
- (b) extend, vary, or revoke it.

Compare: 1964 No 136 s 88I(7)

Subpart 3—Drug testing

81 Interpretation

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

AS/NZS 4308:2008 means the Australian/New Zealand Standard AS/NZS 4308:2008—Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine

sample includes a sample that is or is referred to as a specimen

suitably qualified,—

- (a) for a person and a screening drug test, means that the person is qualified to provide that test because the person complies with (and is therefore a collector under) clause 1.3.14 of AS/NZS 4308:2008; and
- (b) for a person and recognised services for drug issue assessment and assistance (as defined in regulation 85(3)), means a health practitioner, or other person, who MSD is satisfied on reasonable grounds is suitably qualified to provide those services

testing, of a sample, includes collection, storage, handling, and dispatch of the sample.

- (2) In this subpart, unless the context otherwise requires, terms used and not defined in these regulations or in the Act, but defined in AS/NZS 4308:2008, have the meanings given to them by AS/NZS 4308:2008.

Compare: SR 2013/253 r 3

82 Evidential drug test: standard prescribed

- (1) This regulation prescribes a standard—

- (a) for the purposes of the definition (in section 152 of the Act) of evidential drug test; and
- (b) as contemplated by paragraph (c) of that definition.

- (2) The standard that this regulation prescribes for those purposes is the following provisions of AS/NZS 4308:2008 (if, or insofar as, the following provisions apply to evidentiary testing):

- (a) section 1:
- (b) section 2:
- (c) section 3:
- (d) section 5:
- (e) Appendices B to E.

- (3) **Evidentiary testing**, of a sample, means testing of the sample—
- (a) for evidential purposes (but not for screening purposes); and
 - (b) that involves use of laboratory confirmatory procedures for the unequivocal identification and quantitation of controlled drugs.

Compare: SR 2013/253 r 4

83 Screening drug test: standard prescribed

- (1) This regulation prescribes a standard—
- (a) for the purposes of the definition (in section 152 of the Act) of screening drug test; and
 - (b) as contemplated by paragraph (c)(iii) of that definition.
- (2) The standard that this regulation prescribes for those purposes is the following provisions of AS/NZS 4308:2008 (if, or insofar as, the following provisions apply to screening testing, and subject to the modification in subclause (4)):
- (a) section 1:
 - (b) section 2:
 - (c) section 3:
 - (d) section 4 (except the requirement in clause 4.10 that samples with results equal to, or greater than, the cut-off in Table 1 must be subjected to confirmatory testing):
 - (e) Appendix A (if the screening testing is carried out not by way of laboratory screening but on site):
 - (f) Appendices B to E.
- (3) **Screening testing**, of a sample, means testing of the sample—
- (a) for screening purposes (and evidential purposes); and
 - (b) that involves use of a procedure for on-site or laboratory screening for controlled drugs; and
 - (c) that does not involve laboratory confirmatory procedures for the unequivocal identification and quantitation of controlled drugs.
- (4) The modification referred to in subclause (2) is that the requirements in clauses 2.4 and 2.5, and in Appendix A, clause A3.2, paragraph (i), for dispatch of the sample to the laboratory do not apply if, after receiving from the potential employer or training provider advice that complies with subclause (5) on the effect of a waiver of those requirements, the beneficiary waives (in any manner) those requirements.
- (5) Advice from the potential employer or training provider on the effect of a waiver of those requirements must communicate that a waiver of those requirements—

- (a) results in the sample not being available for evidentiary testing (as defined in regulation 82(3)) for any purposes (for example, for the purposes of the beneficiary's disputing under section 257 of the Act a sanction to be imposed under any of sections 234 to 238 of the Act); and
 - (b) is therefore also a waiver of evidentiary testing (as so defined) for all purposes of the sample; and
 - (c) results (in the absence of a good and sufficient reason described in section 250 of the Act) in a sanction under any of sections 234 to 238 of the Act being able to be imposed on the beneficiary based solely on the beneficiary's having failed a screening drug test.
- (6) Nothing in this regulation limits or affects the right under section 149(1) of the Act of a candidate for employment or training to waive (in any manner) an evidential drug test requested by a potential employer or a training provider.
- (7) Nothing in this regulation limits or affects the right of a beneficiary to whom section 257 of the Act applies to dispute under that section a sanction to be imposed on the beneficiary (the beneficiary's benefit being reduced, suspended, or cancelled), under any of sections 234 to 238 of the Act, based on the beneficiary's having failed a screening drug test, by having the sample taken from the beneficiary for the screening drug test (if the beneficiary has not waived the requirement for dispatch of that sample to the laboratory) subjected to an evidential drug test.

Compare: SR 2013/253 r 5

84 Maximum reimbursement amounts prescribed

- (1) This regulation prescribes for the purposes of section 151 of the Act maximum amounts that MSD may reimburse an employer for the actual and reasonable costs of a screening drug test, an evidential drug test, or both, that the employer has (in accordance with section 147 of the Act) requested in respect of a work-tested beneficiary.
- (2) The maximum reimbursement amounts that this regulation prescribes are set out in Schedule 4.

Compare: SR 2013/253 r 6

85 Good and sufficient reason for specified failures to comply: ground specified

- (1) This regulation prescribes for the purposes of section 250(1)(e) of the Act a ground on which a beneficiary may for the purposes of section 153 or 154(a) of the Act have a good and sufficient reason for either or both of the following specified failures:
 - (a) not complying with a drug testing obligation under section 147 of the Act:

- (b) failing to apply for suitable employment that requires candidates to undertake drug tests.
- (2) The ground prescribed by this regulation is that—
 - (a) the person has completed a screening process that has identified the person (based on information the person provided) as—
 - (i) a user of (even if not dependent on, or addicted to) 1 or more controlled drugs; and
 - (ii) a person who requires or may require support in addressing the person's use (including, without limitation, the causes of the person's use) of 1 or more controlled drugs; and
 - (b) the person has (in any manner) agreed to receive services for drug issue assessment and assistance for a period that—
 - (i) is reasonable for that purpose; and
 - (ii) has been recommended by a suitably qualified provider of services of that kind; and
 - (c) the period referred to in paragraph (b) has not expired.
- (3) **Recognised services for drug issue assessment and assistance** means services—
 - (a) to assess any needs of the recipient for support in addressing the recipient's use (including, without limitation, the causes of the recipient's use) of 1 or more controlled drugs, give the recipient support of that kind, or both; and
 - (b) that will be, or have been, provided by a suitably qualified provider of services of that kind.

Compare: SR 2013/253 r 7

86 Requirements for drug test

A compliant drug test of a person is—

- (a) a screening drug test of the person undertaken without any associated later evidential drug test of the person; or
- (b) an evidential drug test of the person if the person has failed any associated prior screening drug test under paragraph (a); or
- (c) an evidential drug test of the person undertaken without any associated prior screening drug test of the person.

Compare: 1964 No 136 s 102B(2)

87 Use of drug test result

- (1) This regulation prescribes, for the purposes of sections 150 and 431(1)(b) of the Act, how MSD may use the result of a drug test undertaken under section 147 of the Act and disclosed to MSD under section 149(2) of the Act.

- (2) MSD may use the result for all or any of the following purposes:
- (a) for the purposes of all or any of sections 124 to 140, and subpart 2 of Part 5, of the Act;
 - (b) for the purposes of a review or an appeal against a decision under all or any of the provisions specified in paragraph (a).
- (3) MSD must not use or communicate the result for any other purpose.
- Compare: 1964 No 136 s 102E

88 Costs of drug test

MSD may reimburse a potential employer for the costs of a drug test under section 147 of the Act requested by the employer if—

- (a) reimbursement of the costs is not prevented by section 151(2) of the Act (on the costs of an evidential drug test if the person waives the right to an evidential drug test in the situation specified in section 149(1) of the Act); and
- (b) the costs are the actual and reasonable costs of the test and do not exceed the prescribed maximum amount of reimbursement set out in Schedule 4 of these regulations; and
- (c) MSD has been provided with the result of the test; and
- (d) MSD is satisfied that the result relates to the person required to undergo the test; and
- (e) MSD is satisfied that the person required to undergo the test has failed the test.

Compare: 1964 No 136 s 102C(1), (3), (4)

89 Costs of drug test: supplementary provisions

- (1) Regulation 88 does not apply to the costs of a screening drug test if the person who undertook the test has later undertaken and passed an associated evidential drug test requested by the potential employer.
- (2) The amount that is reimbursed to a potential employer under regulation 88 is a debt due to the Crown from the person who undertook the drug test.

Compare: 1964 No 136 s 102C(5), (6)

Subpart 4—Social obligations in relation to dependent children

90 Definitions relating to social obligations

For the purposes of sections 131 to 134 of the Act,—

approved early childhood education programme means—

- (a) an approved early childhood education programme (as defined in regulation 20 for the purposes of regulations made under section 424 of the Act); or

- (b) an early childhood education programme approved by MSD having regard to all relevant approval criteria (if any) prescribed for the purposes of this paragraph by the Minister by a written notice—
 - (i) of the kind referred to in section 430(2) of the Act; and
 - (ii) published and notified as required by section 430(3) and (4) of the Act; or
- (c) a programme of early childhood education provided by a school that is currently designated under section 152(1) of the Education Act 1989 as a correspondence school.

core check, for a child and a programme to which section 134(2) of the Act applies, means a check—

- (a) of the child's health and well-being; and
- (b) done under, and identified in contract or funding arrangements as an essential part of, the programme; and
- (c) funded, directly or indirectly, through Vote Health

registered school has the meaning given by section 2(1) of the Education Act 1989.

Compare: 1964 No 136 ss 60RA(3)(a), 60RAB(1), (4)

91 Prescribed target number of hours of attendance at approved early childhood education programme

- (1) This regulation prescribes a target number of hours of attendance at every approved early childhood education programme for the purposes of sections 131(1)(b) and 132(1)(a) of the Act.
- (2) The target number of hours that this regulation prescribes for those purposes is 15 hours per week.

Compare: SR 2013/252 r 3

92 Health care enrolment: prescribed health practitioners

A health practitioner who is either of the following, acting within their scope of practice, is prescribed for the purposes of section 134 of the Act (which relates to ensuring that a dependent child is enrolled with a primary health care provider who is a prescribed health practitioner who is a provider of primary health care):

- (a) a medical practitioner;
- (b) a nurse practitioner.

Compare: 1964 No 136 s 60RA(3)(d)

Subpart 5—Social obligations of young person granted young parent payment: health care enrolment of dependent child

93 Health care enrolment: prescribed health practitioners

A health practitioner who is either of the following, acting within their scope of practice, is prescribed for the purposes of section 164 of the Act (which relates to ensuring that a dependent child is enrolled with a primary health care provider who is a prescribed health practitioner who is a provider of primary health care):

- (a) a medical practitioner:
- (b) a nurse practitioner.

Compare: 1964 No 136 s 170(2)(a)

Subpart 6—Obligations of young person who is spouse or partner of beneficiary: health care enrolment of dependent child

94 Health care enrolment: prescribed health practitioners

A health practitioner who is either of the following, acting within their scope of practice, is prescribed for the purposes of section 167 of the Act (which relates to ensuring that a dependent child is enrolled with a primary health care provider who is a prescribed health practitioner who is a provider of primary health care):

- (a) a medical practitioner:
- (b) a nurse practitioner.

Compare: 1964 No 136 s 170(2)(a)

Subpart 7—Participation allowance

95 Participation allowance

- (1) MSD may pay any beneficiary a participation allowance in respect of the beneficiary's participation under the Act in an activity of the kind described in the first column of Schedule 5.
- (2) The relevant rates of participation allowance are set out in the second column of Schedule 5.

Compare: SR 1998/268 r 3

96 Reimbursement portion of participation allowance

If a participation allowance includes a maximum amount for reimbursement of a beneficiary's actual costs of participation in an activity, MSD must determine the amount to be paid to the beneficiary.

Compare: SR 1998/268 r 4

Subpart 8—Exemptions from work-preparation or work-test obligations

97 Procedure for grant of exemption

- (1) MSD may grant an exemption under section 158 of the Act—
 - (a) on the application of the person concerned; or
 - (b) on its own initiative.
- (2) MSD may require an applicant for an exemption under section 158 of the Act to verify particulars that are relevant to the application in the manner that MSD specifies.
- (3) Under section 158(2) of the Act, MSD—
 - (a) may grant the exemption for a period set by MSD; and
 - (b) may make the exemption subject to conditions set by MSD.

Compare: 1964 No 136 s 105(3), (4), (7)

98 MSD may review, and extend, vary, or revoke, exemption

MSD may from time to time review an exemption granted under section 158 of the Act and may extend, vary, or revoke it.

Compare: 1964 No 136 s 105(6)

99 Definition of special needs in relation to child

In this subpart and in regulation 107, unless the context otherwise requires, **special needs**, in relation to a child, means that the child has 1 or more of the following:

- (a) a physical or an intellectual disability;
- (b) a medical condition;
- (c) a chronic or recurring illness;
- (d) a learning or behavioural difficulty;
- (e) a need to adjust to a new placement as a foster child.

Compare: SR 1998/270 r 2

100 Exemption from work-preparation obligations

- (1) A person to whom section 124 or 125 of the Act applies may apply under section 158 of the Act to be exempted from some or all of the person's obligations under section 124 or 125 of the Act, on a ground specified in subclause (2).
- (2) A person described in subclause (1) may be granted an exemption from some or all of the person's obligations under section 124 or 125 of the Act on the grounds that—
 - (a) the person has recently changed the person's living circumstances because of family violence and needs time to adjust to the change; or

- (b) in the case of a person who falls within section 121 of the Act, the person needs time to adjust because—
 - (i) the person's spouse or partner has recently died; or
 - (ii) the person has recently separated from or ceased to live together with the person's spouse or partner; or
 - (iii) the person's de facto relationship has recently ended; or
- (c) the person is caring full-time for another person whose health condition, injury, or disability requires full-time care; or
- (d) the person has a health condition, an injury, or a disability that prevents the person from meeting the person's obligations; or
- (e) the person is the principal caregiver of a dependent child or foster child with special needs (as defined in regulation 99)—
 - (i) whose welfare would be unduly harmed if the person met the person's obligations; and
 - (ii) for whom satisfactory alternative care arrangements are not available to, or are unable to be made by, the caregiver; or
- (f) the person's capacity to meet the person's obligations is limited because that person is subject to—
 - (i) a sentence of supervision under the Sentencing Act 2002; or
 - (ii) release conditions (as that term is defined in section 4(1) of the Parole Act 2002); or
 - (iii) conditions of release on bail under any enactment; or
 - (iv) any other sentence or order imposed by a court.

Compare: SR 1998/270 r 3A

101 Exemption from work-test obligations: all work-tested beneficiaries

- (1) Any beneficiary to whom the work test applies may apply under section 158 of the Act to be exempted from some or all of the beneficiary's work-test obligations, on any ground specified in subclause (2).
- (2) A person described in subclause (1) may be granted an exemption from the work test on the ground that—
 - (a) the person has recently changed the person's living circumstances because of family violence and needs time to adjust to the change; or
 - (b) the person's benefit is being paid under an adopted reciprocity agreement, and the person resides in a country other than New Zealand; or
 - (c) the person is serving a sentence of home detention under the Sentencing Act 2002; or
 - (d) the person's capacity to meet the obligations of the work test is limited because that person is subject to—

- (i) a sentence of supervision under the Sentencing Act 2002; or
 - (ii) release conditions (as that term is defined in section 4(1) of the Parole Act 2002); or
 - (iii) conditions of release on bail under any enactment; or
 - (iv) any other sentence or order imposed by a court; or
- (e) the person needs time to adjust because—
 - (i) the person's spouse or partner has recently died; or
 - (ii) the person has recently separated from or ceased to live together with the person's spouse or partner; or
 - (iii) the person's de facto relationship has recently ended.
- (3) In determining whether to grant an exemption from some or all of a person's work-test obligations on the ground specified in subclause (2)(a), MSD may consider, among other things, whether—
 - (a) the person is living in temporary accommodation (for example, a refuge) while seeking more permanent accommodation;
 - (b) the exemption is required to allow the person to help any children who are in the person's care to adjust to the new family situation.

Compare: SR 1998/270 r 4

102 Exemption from work-test obligations: work-tested spouses or partners

- (1) A work-tested spouse or partner may apply under section 158 of the Act to be exempted from some or all of that person's work-test obligations, on any ground specified in regulation 101 or in subclause (2).
- (2) A person described in subclause (1) may be granted an exemption from some or all of the person's work-test obligations on the ground that—
 - (a) it would be unreasonable to expect the person to undertake employment because—
 - (i) the person is the principal caregiver of a dependent child or foster child with special needs (as defined in regulation 99)—
 - (A) whose welfare would be unduly harmed if the person attended employment or training; and
 - (B) for whom satisfactory alternative care arrangements are not available to, or are unable to be made by, the caregiver; or
 - (ii) the person would qualify for a supported living payment on the ground of restricted work capacity or total blindness under section 34 of the Act; or
 - (iii) the person is engaged in study of a kind approved by MSD and was so engaged when the person became subject to the work test; or

- (b) the person is caring on a full-time basis for a person with a health condition, an injury, or a disability of a kind that requires that person to be cared for full-time; or
 - (c) the person is engaged in full-time study of a kind approved by MSD; or
 - (d) both the following apply:
 - (i) the person is actively engaged in teaching the person's dependent child or foster child who is aged 5 years or is exempt from enrolment in school under an exemption granted under section 21 or 22 of the Education Act 1989; and
 - (ii) it would be unreasonable to expect the child to attend school because of the family's circumstances; or
 - (e) the person has primary responsibility for the day-to-day care of a child, other than on a temporary basis, and the child—
 - (i) is aged less than 3 years; and
 - (ii) is not a dependent child of that person; or
 - (f) the person is—
 - (i) at least 27 weeks pregnant; or
 - (ii) less than 27 weeks pregnant, if MSD is satisfied that the person is suffering from complications arising from the pregnancy; or
 - (g) the person meets the criteria for jobseeker support on the health condition, injury, or disability ground in section 21(1)(b) or 22(c) of the Act.
- (3) In determining whether to grant an exemption from some or all of a person's work-test obligations on the ground that subclause (2)(d)(ii) applies to the person, MSD may consider, among other things, whether—
- (a) there are particular needs or reasons that prevent the child from attending school (for example, the child has special needs or has been excluded or expelled from school);
 - (b) there are other mitigating circumstances involved (for example, home schooling is a reasonable option because the nearest school is a significant distance away).

Compare: SR 1998/270 r 5

103 Exemption from work-test obligations: work-tested sole parents receiving jobseeker support

- (1) A work-tested beneficiary who is a sole parent in receipt of jobseeker support may apply under section 158 of the Act to be exempted from some or all of that beneficiary's work-test obligations on any of the following grounds:
- (a) any ground specified in regulation 101:
 - (b) any ground specified in subclause (2).

- (2) A person described in subclause (1) may be granted an exemption from some or all of the person's work-test obligations on the ground that—
 - (a) it would be unreasonable to expect the person to undertake employment because the person is the principal caregiver of a dependent child or foster child with special needs (as defined in regulation 99)—
 - (i) whose welfare would be unduly harmed if the person attended employment or training; and
 - (ii) for whom satisfactory alternative care arrangements are not available to, or unable to be made by, the caregiver; or
 - (b) both of the following apply:
 - (i) the person is actively engaged in teaching the person's dependent child or foster child who is aged 5 years or is exempt from enrolment in school under an exemption granted under section 21 or 22 of the Education Act 1989; and
 - (ii) it would be unreasonable to expect the child to attend school because of the family's circumstances; or
 - (c) the person has primary responsibility for the day-to-day care of a child, other than on a temporary basis, and the child—
 - (i) is aged less than 3 years; and
 - (ii) is not a dependent child of that person.
- (3) In determining whether to grant an exemption from some or all of a person's work-test obligations on the ground that subclause (2)(b)(ii) applies to the person, MSD may consider, among other things, whether—
 - (a) there are particular needs or reasons that prevent the child from attending school (for example, the child has special needs or has been excluded or expelled from school);
 - (b) there are other mitigating circumstances involved (for example, home schooling is a reasonable option because the nearest school is a significant distance away).

Compare: SR 1998/270 r 6

104 Exemption from work-test obligations: work-tested sole parent support beneficiaries

- (1) A work-tested sole parent support beneficiary may apply under section 158 of the Act to be exempted from some or all of that person's work-test obligations, on any ground specified in regulation 101 or 103 or in subclause (2).
- (2) A person described in subclause (1) may be granted an exemption from some or all of that person's work-test obligations on the ground that—
 - (a) it would be unreasonable to expect the person to undertake employment because the person would qualify for a supported living payment on the

- ground of restricted work capacity or total blindness under section 34 of the Act; or
- (b) the person is—
 - (i) at least 27 weeks pregnant; or
 - (ii) less than 27 weeks pregnant, if MSD is satisfied that the person is suffering from complications arising from the pregnancy; or
 - (c) the person meets the criteria for jobseeker support on the health condition, injury, or disability ground in section 21(1)(b) or 22(c) of the Act; or
 - (d) the person is engaged in full-time study at a level higher than NCEA level 3 on the National Qualifications Framework developed by the New Zealand Qualifications Authority under section 253(1)(c) of the Education Act 1989; or
 - (e) the person is engaged in study of a kind approved by MSD, and was so engaged when the person became subject to the work test; or
 - (f) the person is engaged in full-time study of a kind approved by MSD; or
 - (g) the person has primary responsibility for the day-to-day care of a child, other than on a temporary basis, and the child—
 - (i) is aged less than 3 years; and
 - (ii) is not a dependent child of that person.

Compare: SR 1998/270 r 7

Subpart 9—Exemption from obligations under Act of certain young people

105 Exemption from obligations under section 162, 164, 166, or 167 of Act: youth support payment recipients and spouses and partners of specified beneficiaries

- (1) Any young person who is subject to obligations under section 162, 164, 166, or 167 of the Act may apply under section 158 of the Act to be exempted from some or all of those obligations on any ground specified in subclause (2).
- (2) A person referred to in subclause (1) may be granted an exemption from some or all of the person's obligations under section 162, 164, 166, or 167 of the Act on the ground that—
 - (a) the person has recently changed the person's living circumstances because of family violence and needs time to adjust to the change; or
 - (b) the person would qualify for a supported living payment on the ground of restricted work capacity or total blindness under section 34 of the Act; or

- (c) the person would meet the criteria (except for the person's age) for job-seeker support on the health condition, injury, or disability ground in section 21(1)(b) or 22(c) of the Act; or
- (d) the person is caring full-time for the person's spouse or partner (who has a health condition, an injury, or a disability of a kind that requires that person to be cared for full-time); or
- (e) the person is serving a sentence of home detention under the Sentencing Act 2002; or
- (f) the person's capacity to meet the person's obligations under section 162, 164, 166, or 167 of the Act is limited because the person is subject to—
 - (i) a sentence of supervision under the Sentencing Act 2002; or
 - (ii) release conditions (as that term is defined in section 4(1) of the Parole Act 2002); or
 - (iii) conditions of release on bail under any enactment; or
 - (iv) any other sentence or order imposed by a court.

Compare: SR 1998/270 r 8A

106 Exemption from obligations under section 162 or 164 of Act: youth support payment recipients who have been in relationship

- (1) This regulation applies to any young person who receives—
 - (a) a young parent payment; or
 - (b) a youth payment.
- (2) Any young person to whom this regulation applies may apply under section 158 of the Act to be exempted from some or all of the person's obligations under section 162 or 164 of the Act on the ground that the person needs time to adjust because—
 - (a) the person's spouse or partner has recently died; or
 - (b) the person has recently separated from or ceased to live together with the person's spouse or partner; or
 - (c) the person's de facto relationship has recently ended.

Compare: SR 1998/270 r 8B

107 Exemption from obligations under section 162, 164, 166, or 167 of Act: young parent payment recipients, and young persons with dependent children who are spouses or partners of specified beneficiaries

- (1) This regulation applies to any young person who is subject to obligations under section 162, 164, 166, or 167 of the Act because—
 - (a) the young person receives a young parent payment; or
 - (b) section 167(1) of the Act applies.

- (2) Any young person to whom this regulation applies may apply under section 158 of the Act to be exempted from some or all of the person's obligations under section 162, 164, 166, or 167 of the Act on the ground that—
- (a) the person is the principal caregiver of a dependent child or foster child with special needs (as defined in regulation 99)—
 - (i) whose welfare would be unduly harmed if the person were required to comply with an obligation of the kind referred to in section 162, 164, 166, or 167 of the Act that requires full-time attendance; and
 - (ii) for whom satisfactory alternative care arrangements are not available to, or are unable to be made by, the caregiver; or
 - (b) the person is aged 18 years and has primary responsibility for the day-to-day care of a foster child, other than temporarily, and the foster child is aged less than 12 months.

Compare: SR 1998/270 r 8C

Part 4

Factors affecting benefits

108 Guide to Part 4

Part 4 deals with the following topics:

- (a) subpart 1 (regulations 109 to 112) deals with pre-benefit activities:
- (b) subpart 2 (regulations 113 to 117) deals with the effect of insurance recovery:
- (c) subpart 3 (regulations 118 to 123) deals with the effect of an entitlement to overseas pensions:
- (d) subpart 4 (regulations 124 to 136) deals with overseas pension deduction:
- (e) subpart 5 (regulations 137 and 138) prescribes a reduction amount and an additional reduction amount related to a failure to assist child support:
- (f) subpart 6 (regulations 139 to 153) deals with factors affecting benefits: absence from New Zealand:
- (g) subpart 7 (regulations 154 to 162) deals with beneficiaries excluded from provisions about the effect of a warrant for a beneficiary's arrest.

Subpart 1—Factors affecting benefits: pre-benefit activities

109 Who can MSD require to undertake activities?

Applicant for certain financial assistance

- (1) Regulation 110 applies to a person who contacts MSD requesting financial assistance under the Act, if MSD considers that the appropriate financial assistance would be a benefit that is—
 - (a) jobseeker support; or
 - (b) sole parent support; or
 - (c) an emergency benefit.

Applicant's spouse or partner

- (2) Regulation 110 also applies to the spouse or partner of a person who contacts MSD requesting financial assistance under the Act, if the spouse or partner is not, in the spouse's or partner's own right, receiving or applying for a main benefit under the Act (as defined in Schedule 2 of the Act), New Zealand superannuation, or a veteran's pension, and MSD considers that the appropriate financial assistance would be a benefit that is—
 - (a) jobseeker support; or
 - (b) a supported living payment on the ground of restricted work capacity or total blindness; or
 - (c) an emergency benefit.

Compare: 1964 No 136 s 11E(1)

110 Requirements related to activities

- (1) MSD may, for the purpose stated in section 3(a)(ii) of the Act, require a person to whom this section applies (under regulation 109(1) or (2)), unless MSD has determined that the person does not have the capacity to seek, undertake, and be available for part-time work, to do any or all of the following:
 - (a) undertake 1 or more stated pre-benefit activities;
 - (b) at a time before the benefit to which regulation 109(1) or (2) applies commences, attend and participate in any interview for an opportunity of suitable employment to which the person is referred by MSD;
 - (c) at a time before the benefit to which regulation 109(1) or (2) applies commences, accept any offer of suitable employment (whether or not the offer results from an interview of the kind described in paragraph (b)).
- (2) A requirement under subclause (1) may be oral or written and, in the case only of a requirement under subclause (1)(a), may be revoked orally or in writing in accordance with subclause (4).

- (3) A pre-benefit activity stated under subclause (1)(a) must be available for the person to undertake not later than 10 working days after the date of first contact.
- (4) MSD may revoke a requirement that the person undertake a pre-benefit activity under subclause (1)(a) if, and only if, MSD considers the requirement is no longer reasonable.
- (5) **Pre-benefit activity**, in this regulation and regulations 111 and 112 and section 184 of the Act, means an activity that is not an activity in the community (as defined in Schedule 2 of the Act) but is all or any of the following:
 - (a) reporting on the progress of job-search activities:
 - (b) completing a curriculum vitae and providing it to MSD:
 - (c) attending and participating in an employment-related seminar provided by MSD or by any other person approved by MSD for the purpose:
 - (d) attending and participating in employment-related training approved by MSD for the purpose:
 - (e) attending and participating in any interview with an MSD employee:
 - (f) completing any self-assessment or planning required by MSD.
- (6) **Suitable employment**, for the purposes of subclause (1),—
 - (a) for a person who has a dependent child aged under 14 years, and to whom this regulation applies by virtue of regulation 109(1)(b) or (2), means employment that would be suitable employment within the meaning of Schedule 2 of the Act if the person were a part-time work-tested beneficiary:
 - (b) for a person for whom MSD considers that the appropriate financial assistance under the Act would be jobseeker support on the ground of health condition, injury, or disability, means employment that would be suitable employment within the meaning of Schedule 2 of the Act if the person were a part-time work-tested beneficiary:
 - (c) for any other person, means employment that would be suitable employment within the meaning of Schedule 2 of the Act if the person were a work-tested beneficiary.

Compare: 1964 No 136 s 11E(2)–(7); SR 2012/269 r 3

111 Non-compliance by applicant

- (1) In this regulation,—
 - applicant** means a person to whom regulation 109(1) applies
 - specified benefit** means the benefit to which regulation 109(1) applies.
- (2) MSD is not required under section 298(1) of the Act to inquire into a claim for the specified benefit made by the applicant unless satisfied that the applicant has undertaken any required pre-benefit activities.

- (3) Subclause (2) applies whether or not the applicant has completed the form of application for the specified benefit, and (under section 298(2)(c) of the Act) overrides section 298(1) of the Act.
- (4) If the applicant fails to undertake any required pre-benefit activities within 20 working days after the date of first contact, any application for the specified benefit the applicant has made lapses.
- (5) Subclause (4) overrides regulation 168 (date application received for when benefit commences).
- (6) If MSD considers that the applicant has, without a good and sufficient reason, failed to comply with a requirement under regulation 110(1)(b) or (c) (which relate to interviews for, or offers of, suitable employment), MSD must, as the case requires,—
 - (a) refuse to grant the applicant the specified benefit; or
 - (b) cancel any grant of the specified benefit already made to the applicant.

Compare: 1964 No 136 s 11G

112 Non-compliance by applicant's spouse or partner

- (1) In this regulation,—
 - applicant** means a person who contacts MSD in accordance with regulation 109(1)
 - applicant's spouse or partner** means an applicant's spouse or partner to whom regulation 109(2) applies
 - specified benefit** means the benefit to which regulation 109(2) applies.
- (2) This subclause applies to an applicant's spouse or partner if MSD considers that the applicant's spouse or partner—
 - (a) has failed to undertake a required pre-benefit activity within 20 working days after the date of the applicant's first contact; or
 - (b) has failed without a good and sufficient reason to comply with a requirement under regulation 110(1)(b) or (c).
- (3) If subclause (2) applies to an applicant's spouse or partner, the applicant receives the following (if all or any of them is granted) at the following rate or rates only:
 - (a) the specified benefit—half of the rate of that benefit payable to a beneficiary—
 - (i) who is in a relationship; and
 - (ii) whose spouse or partner is not granted a benefit in the spouse's or partner's own right:
 - (b) the accommodation supplement, temporary additional support, or both (if any), to which the applicant and the applicant's spouse or partner

would apart from this subclause be entitled—half of the otherwise applicable rate or rates.

- (4) Subclause (3) overrides other regulations of these regulations but does not preclude a review under subpart 3 of Part 6 of the Act (review of entitlement to, or rate of, benefit granted).

Compare: 1964 No 136 s 11H

Subpart 2—Factors affecting benefits: insurance recovery

113 Interpretation

In regulations 114 to 117,—

benefit includes special assistance under a welfare programme approved under section 101 of the Act

debt insurance payment, in relation to a person (**P**), includes any payment made or provided on the occurrence of a contingency under a contract of insurance or by reason of P's membership of any society, organisation, or body (whether incorporated or not)—

- (a) for the purpose of enabling P to make payments that P is liable to make on account of any debt or liability; and
- (b) that is not for any reason treated as being the income of P under these regulations.

Compare: 1964 No 136 s 68A(8)

114 Income-related insurance payment

- (1) This regulation applies when a person (**P**) applies for a benefit and is, or may be, entitled or eligible to receive, or receive the equivalent in value of, an income-related insurance payment (the **payment**).
- (2) If MSD grants the benefit, MSD may make the benefit or rate of benefit subject to the condition that all or part of the benefit as MSD requires must be repaid to MSD if the payment is made to—
 - (a) P; or
 - (b) another person on P's behalf or for P's benefit; or
 - (c) a member of P's family.
- (3) The amount repayable to MSD under subclause (2)—
 - (a) constitutes a charge on the payment referred to in subclause (1); and
 - (b) is a debt due to the Crown from the person to whom the payment is made; and
 - (c) is subject to recovery under section 362(1) of the Act (MSD's duty to recover debts) from—
 - (i) P; or

- (ii) the person to whom the payment is made; or
- (iii) the person liable to make the payment.

Compare: 1964 No 136 s 68A(5)

115 Debt insurance or health or disability insurance payment

- (1) This regulation applies when a person (**P**) applies for a benefit specified in subclause (2) and is, or may be, entitled or eligible to receive, or receive the equivalent in value of, an insurance payment (the **payment**) that is 1 of the following:
 - (a) a debt insurance payment:
 - (b) a health insurance payment:
 - (c) a disability insurance payment.
- (2) The benefits referred to in subclause (1) are benefits of a kind referred to in any of the following sections of the Act:
 - (a) section 65 (accommodation supplement):
 - (b) section 85 (disability allowance):
 - (c) section 96 (temporary additional support):
 - (d) section 101 (special assistance under an approved welfare programme).
- (3) If MSD grants the benefit, MSD may make the benefit or rate of benefit subject to the condition that all or part of the benefit as MSD requires must be repaid to MSD if the payment is made to—
 - (a) P; or
 - (b) another person on P's behalf or for P's benefit; or
 - (c) a member of P's family.
- (4) The amount repayable to MSD under subclause (3)—
 - (a) constitutes a charge on the payment referred to in subclause (1); and
 - (b) is a debt due to the Crown from the person to whom the payment is made; and
 - (c) is subject to recovery under section 362(1) (MSD's duty to recover debts) of the Act by MSD from—
 - (i) P; or
 - (ii) the person to whom the payment is made; or
 - (iii) the person liable to make the payment.

Compare: 1964 No 136 s 68A(5)

116 Calculation of insurance payment

For the purposes of these regulations, the amount of an income-related insurance payment or a debt insurance payment or a health or disability insurance payment must, to the extent that MSD determines, be reduced by the amount of

any costs incurred by an applicant for a benefit or a beneficiary in obtaining receipt of that payment.

Compare: 1964 No 136 s 68A(7)

117 Effect on liabilities of insurance payments

This subpart does not limit or affect Part 5 of Schedule 3 of the Act.

Subpart 3—Factors affecting benefits: entitlement to overseas pensions

118 Interpretation

In regulations 119 to 123,—

benefit means a benefit under NZ benefits legislation

overseas pensioner means a person who receives an overseas pension

person affected by the receipt of an overseas pension has the same meaning as in section 188 of the Act.

Compare: 1964 No 136 s 70(1)(a) and (b), (1A), (1B)

119 Benefit of person affected by receipt of overseas pension is reduced by amount of overseas pension

The rate of the benefit or benefits that would otherwise be payable under NZ benefits legislation (as defined in section 187 of the Act) to a person affected by the receipt of an overseas pension must be reduced under section 189(1) of the Act by the amount of the overseas pension to be deducted, as that amount is determined by MSD under this subpart and subpart 4.

Compare: 1964 No 136 s 70(1)

120 Benefits of overseas pensioner not to be reduced for overseas pension in nature of compensation for injury or death, etc

- (1) MSD may determine that an overseas pension is in the nature of, and is paid for similar purposes as,—
 - (a) compensation for injury or death for which payment could be made under the Accident Compensation Act 2001 if the injury or death had occurred in New Zealand after the commencement of that Act; or
 - (b) a war disablement pension or a disablement pension or allowance that—
 - (i) is granted under the Veterans' Support Act 2014, excluding Part 6 of that Act; and
 - (ii) is of a type that would not affect any recipient's entitlement to a benefit in accordance with section 200 of the Act (exceptions to rule that veteran's entitlement excludes any other benefit); or
 - (c) a disability allowance granted under the Act.

- (2) No reduction may be made under regulation 119 for an overseas pension that MSD has determined falls within subclause (1)(a), (b), or (c).

Compare: 1964 No 136 s 70(1)

121 Date that determination takes effect

- (1) As part of the determination under regulation 119, MSD may fix the date on which a determination that an overseas pension is a qualifying overseas pension takes effect.
- (2) The date may be before, on, or after the determination.

Compare: 1964 No 136 s 70(2)

122 MSD may pay overseas pensioner benefit in return for amount of overseas pension

- (1) This regulation applies in the case of a person affected by the receipt of an overseas pension.
- (2) MSD and the overseas pensioner in question may (in accordance with and subject to the conditions set out in subclause (3)) enter into an arrangement under which—
- (a) MSD pays the overseas pensioner, in line with the arrangement, the rate of a benefit or benefits under the NZ benefits legislation; and
 - (b) MSD receives from the overseas pensioner an amount that is equivalent to the amount of the overseas pension that the overseas pensioner receives.
- (3) The conditions are that—
- (a) the overseas pensioner has agreed to make the arrangement; and
 - (b) the arrangement must comply with this subpart and subpart 4; and
 - (c) the overseas pensioner must not have voluntarily cancelled a previous such arrangement with MSD; and
 - (d) MSD has not previously ceased to make payments under subclause (2)(a) because of the overseas pensioner's failure to comply with the arrangement.

Compare: 1964 No 136 s 70(3)

123 Arrangements with overseas pensioners: administration

- (1) MSD may from time to time, on behalf of the Crown, enter into contracts with 1 or more registered banks for the purpose of implementing arrangements under regulation 122.
- (2) Money in a bank account maintained in accordance with these regulations to implement an arrangement under regulation 122 must not be—
- (a) attached or taken in execution under any order or process of any court;
 - (b) made the subject of any set-off, charge, or assignment:

- (c) claimed or deducted under any notice or other instrument issued under any enactment (other than this subpart).
- (3) If the benefit under an arrangement under regulation 122 is New Zealand superannuation, MSD must pay any amount received from the overseas pensioner under the arrangement into the New Zealand Superannuation Fund established under the New Zealand Superannuation and Retirement Income Act 2001, in accordance with arrangements made from time to time by MSD with the Guardians of New Zealand Superannuation.
- (4) For the purposes of the Act, a payment to an overseas pensioner under an arrangement under regulation 122 is, for the period to which the payment relates, treated as payment of—
 - (a) the benefit or benefits that are payable to the overseas pensioner in that period under the NZ benefits legislation, at the rate at which that benefit or those benefits are so payable but reduced under regulation 119; and
 - (b) the amount of the overseas pension that the overseas pensioner is entitled to receive or has received in that period.

Compare: 1964 No 136 s 70(3A)–(4)

Subpart 4—Overseas pension deduction

124 Interpretation

In this subpart, unless the context otherwise requires,—

average, in relation to a calculation period, includes (but is not limited to) the case in which there is only 1 exchange rate (in which case the average is that exchange rate)

business day means a day on which a nominated bank is open for business

calculation period means a period—

- (a) beginning on the commencement of the 16th day of one month; and
- (b) ending with the close of the 15th day of the following month

calculation rate has the meaning given to it by regulation 126

cross rate means a currency exchange rate between the New Zealand dollar and the currency of a country paying an overseas pension computed from time to time, where applicable, by pricing the New Zealand dollar and the currency of that country against the United States of America dollar

figure, in relation to the calculation rate, means an average of the cross rates at which the nominated bank would purchase an overseas currency for settlement by telegraphic transfer as at the opening of business on each business day during the calculation period immediately before the payment month for which the calculation is made

nominated bank means a bank for the time being nominated by MSD

notification deadline means—

- (a) the close of the fifth day after the end of the calculation period; or
- (b) if that fifth day is not a working day, the close of the next working day

payment month, in relation to an instalment of a benefit, means the calendar month in which the instalment is payable (under section 338 of the Act).

Compare: SR 2013/463 r 3

125 Reduction formula

- (1) If section 189(1) of the Act requires a benefit to be reduced,—
 - (a) each instalment of the benefit payable in the payment month immediately following the end of a calculation period must be reduced; and
 - (b) the amount per week by which each instalment is reduced must be calculated according to the following formula:

$$(a \times b) - c$$

where—

- a is the rate per week of the overseas pension, in the currency of the country paying the pension payable to the overseas pensioner during the calculation period; and
 - b is the calculation rate determined under regulation 126; and
 - c is the bank fee determined under regulation 127.
- (2) If the benefit is payable by an instalment of 2 or more weeks' benefit, the amount by which each instalment is reduced is the amount calculated according to the formula in subclause (1)(b) multiplied by the appropriate number of weeks.
- (3) Unless provided otherwise in any adopted reciprocity agreement, a reference in this regulation to an instalment of a benefit or to an overseas pension is a reference to that instalment or pension before the deduction of income tax (if any).

Compare: SR 2013/463 r 4

126 Calculation rate

- (1) For the purposes of the formula set out in regulation 125(1)(b), the **calculation rate** is,—
 - (a) in the case where subclause (2) does not apply, the figure for the currency of the country paying the overseas pension that the nominated bank notifies to MSD; or
 - (b) in the case where subclause (2) applies, the more favourable to the overseas pensioner of the following:
 - (i) the figure specified in paragraph (a); or
 - (ii) the currency exchange rate notified under subclause (2).

- (2) This subclause applies if a country (or a bank on its behalf) paying the overseas pension—
- (a) notifies MSD or provides public notice of the currency exchange rate used to convert that country's overseas pensions to New Zealand currency for payment of that country's overseas pensions in New Zealand, in which case the currency exchange rate for the purposes of subclause (1)(b)(ii) is that rate:
 - (b) notifies more than 1 exchange rate used to convert that country's overseas pensions to New Zealand currency, in which case the currency exchange rate for the purposes of subclause (1)(b)(ii) is the average of those rates:
 - (c) notifies an average currency exchange rate used to convert that country's overseas pensions to New Zealand currency, in which case the currency exchange rate for the purposes of subclause (1)(b)(ii) is that average rate.
- (3) Subclause (2) does not apply unless a currency exchange rate is notified to MSD or publicly by the country (or a bank on its behalf) paying the overseas pension before the notification deadline that is immediately before the payment month for which the calculation is made.

Compare: SR 2013/463 r 5

127 Bank fee

For the purposes of the formula set out in regulation 125(1)(b), the **bank fee**—

- (a) is the amount in New Zealand currency (not exceeding \$40) specified by MSD to compensate an overseas pensioner for any of the following fees that MSD is satisfied that the overseas pensioner has incurred:
 - (i) a fee charged by an overseas country's bank to convert the currency of the overseas country into New Zealand currency for the purpose of payment of an overseas pension into New Zealand:
 - (ii) a fee charged by the overseas pensioner's New Zealand bank to convert an overseas pension into New Zealand currency:
 - (iii) if the overseas country will not or cannot pay an overseas pension to a New Zealand bank account, an amount charged by an overseas bank to convert the currency of the overseas country into New Zealand currency for the purpose of payment of the pension into the pensioner's New Zealand bank account:
 - (iv) a fee charged by an overseas country's bank to load an overseas pension onto an electronic cash, credit, or debit card; but
- (b) does not include—
 - (i) any fee charged by an overseas bank to receive an overseas pension if that pension is not transferred by that bank to a New Zealand bank; or

- (ii) any fee associated with the overseas pensioner accessing an overseas pension loaded onto an electronic cash, credit, or debit card; or
- (iii) any margin included in any currency exchange rate used to convert an overseas currency into New Zealand currency, whether directly or indirectly.

Compare: SR 2013/463 r 6

128 Determination conclusive

- (1) A determination made by MSD under section 189(1) of the Act and in accordance with these regulations is conclusive.
- (2) This regulation does not limit anything in sections 304 to 310 of the Act.

Compare: SR 2013/463 r 7

Alternative arrangements for pensions

129 Interpretation

In regulations 130 to 136, unless the context otherwise requires,—

alternative arrangement has the meaning given to it by regulation 130

competent authority means the competent authority of the country paying the overseas pension

eligible overseas pensioner means an overseas pensioner to whom MSD may make an offer under regulation 133

nominated bank—

- (a) means a bank with which MSD has, for the time being, entered into an agreement under regulation 132(1); and
- (b) where MSD has entered into such agreements with different banks in respect of overseas pensions payable by different countries, under regulation 132(3), means, in relation to an overseas pensioner, the bank with which MSD has entered into an agreement in respect of the country paying the overseas pensioner's overseas pension

operate, in relation to a special bank account, includes—

- (a) to deposit money into the account:
- (b) to withdraw money from the account, or to draw on the account in any other way:
- (c) to authorise another person to do any action referred to in paragraph (a) or (b)

special bank account has the meaning given to it by regulation 131.

Compare: SR 1996/317 r 2

130 Meaning of alternative arrangement

- (1) In these regulations, **alternative arrangement** means an arrangement, made under section 190 of the Act by MSD with an eligible overseas pensioner (as that term is defined in regulation 129), that includes—
- (a) the condition that no payment may be made under section 190 of the Act before 26 November 2018 (or, for an arrangement saved by clause 30(2) of Schedule 1 of the Act, that no payment may be made under section 70(3)(b) of the Social Security Act 1964 before 1 April 1997); and
 - (b) the condition that the disposition by the overseas pensioner of the overseas pensioner's overseas pension to MSD is made in consideration of MSD making payments to the overseas pensioner under section 190 of the Act; and
 - (c) the conditions set out in subclause (2).
- (2) The conditions referred to in subclause (1)(c) are that the overseas pensioner—
- (a) complies with any obligation imposed on the overseas pensioner by these regulations; and
 - (b) signs a written authority to the nominated bank to—
 - (i) open and administer a special bank account in the overseas pensioner's name; and
 - (ii) operate the account for the purposes for which it may be operated; and
 - (iii) on the occurrence of any of the circumstances set out in subclause (3), transfer any money in the account to MSD and close the account; and
 - (c) signs a written authority to the competent authority to pay the overseas pension into the overseas pensioner's special bank account; and
 - (d) must not revoke an authority given under paragraph (b) or (c) unless the overseas pensioner closes the special bank account with effect from the date on which the revocation of the authority takes effect; and
 - (e) must not operate the overseas pensioner's special bank account for any purpose for which it may not be operated; and
 - (f) agrees that MSD, the competent authority, and the nominated bank may disclose to one another—
 - (i) information about the overseas pensioner's special bank account; and
 - (ii) information about payments of the overseas pension made to the special bank account,—if the disclosure is necessary to facilitate the administration of the overseas pensioner's alternative arrangement or special bank account.

- (3) The circumstances referred to in subclause (2)(b)(iii) are that—
- (a) the nominated bank receives notice from MSD of the cessation of the alternative arrangement with the overseas pensioner; or
 - (b) the nominated bank receives notice from MSD of the termination of the alternative arrangement with the overseas pensioner; or
 - (c) the overseas pensioner attempts to operate the overseas pensioner's special bank account for a purpose for which it may not be operated; or
 - (d) the nominated bank is notified, by means on which it is reasonable to rely, that—
 - (i) the overseas pensioner has ceased to reside in New Zealand; or
 - (ii) the overseas pensioner has died.

Compare: SR 1996/317 r 3

131 Meaning of special bank account

- (1) In these regulations, the term **special bank account** means a bank account that is opened and administered by the nominated bank in the name of an overseas pensioner in respect of a pension or pensions received from a country listed in regulation 133(b).
- (2) The purposes for which a special bank account may be operated are—
- (a) to receive payments of the overseas pensioner's overseas pension or pensions from the competent authority of a country listed in regulation 133(b); and
 - (b) to transfer to MSD, from time to time, amounts equivalent to the amounts of those payments of the overseas pension or pensions.
- (3) No special bank account may—
- (a) be opened and administered in the name of more than 1 overseas pensioner; or
 - (b) be operated for any purpose other than a purpose referred to in subclause (2); or
 - (c) be operated in respect of more than 1 country listed in regulation 133(b).

Compare: SR 1996/317 r 4

132 Nominated bank

- (1) MSD must from time to time enter into an agreement with a bank, whether by way of contract or otherwise, specifying terms and conditions in respect of the opening, administration, and operation of special bank accounts.
- (2) The terms and conditions of any agreement entered into under subclause (1) may include, without limitation, terms and conditions relating to—
- (a) the obligations of the bank not to—

- (i) open or administer any special bank account in the name of more than 1 overseas pensioner; or
 - (ii) allow any special bank account to be operated for any purpose for which it may not be operated:
 - (b) the frequency with which the nominated bank must transfer to MSD amounts equivalent to amounts of payments of overseas pensioners' overseas pensions:
 - (c) the disclosure of information by MSD, the competent authority, and the nominated bank to one another about—
 - (i) overseas pensioners' special bank accounts; and
 - (ii) payments of overseas pensions made to special bank accounts,—if the disclosure is necessary to facilitate the administration of overseas pensioners' alternative arrangements or special bank accounts:
 - (d) the obligation of the bank to notify MSD of the closure of any special bank account and of the reason for the closure:
 - (e) the transfer to MSD of any money in a special bank account that is closed for any reason other than the bankruptcy of the overseas pensioner.
- (3) MSD may enter into agreements under subclause (1) with different banks in respect of overseas pensions payable by different countries.

Compare: SR 1996/317 r 5

133 Category of eligible overseas pensioners

MSD may offer to make an alternative arrangement with any overseas pensioner who—

- (a) is not an undischarged bankrupt; and
- (b) is entitled to receive or receives an overseas pension paid by, or on behalf of, any of the following:
 - (i) the Government of the United Kingdom of Great Britain and Northern Ireland:
 - (ii) the Government of the Commonwealth of Australia:
 - (iii) the Government of the Kingdom of the Netherlands:
 - (iv) the Government of Ireland:
 - (v) the States of Jersey:
 - (vi) the States of Guernsey.

Compare: SR 1996/317 r 6

134 Making of alternative arrangement

An overseas pensioner who wishes to accept an offer made under regulation 133 must—

- (a) give MSD written notice of the overseas pensioner's acceptance; and
- (b) attach to that written notice the authorities signed under regulation 130(2)(b) and (c).

Compare: SR 1996/317 r 7

135 Cessation of alternative arrangement

(1) An alternative arrangement ceases if—

- (a) the nominated bank closes the special bank account on the occurrence of any of the circumstances set out in regulation 130(3)(c) or (d); or
- (b) the overseas pensioner gives MSD written notice that the alternative arrangement is to cease; or
- (c) MSD determines that the overseas pensioner either never has been or is no longer—
 - (i) entitled to a benefit; or
 - (ii) an overseas pensioner to whom regulation 133 applies; or
- (d) the overseas pensioner ceases to reside in New Zealand; or
- (e) the overseas pensioner is adjudicated bankrupt; or
- (f) the overseas pensioner dies.

(2) MSD must give notice of the cessation of any alternative arrangement—

- (a) to the competent authority, where any of paragraphs (a) to (f) of subclause (1) applies; and
- (b) to the nominated bank, where any of paragraphs (b) to (f) of subclause (1) applies.

(3) The cessation of an alternative arrangement under subclause (1) takes effect immediately after—

- (a) the nominated bank transfers any money in the special bank account to MSD (or, where the overseas pensioner has been adjudicated bankrupt, to the Official Assignee) and closes the special bank account; and
- (b) MSD makes (except where the overseas pensioner has been adjudicated bankrupt) the corresponding payment under section 70(3)(b) of the Social Security 1964 or section 190 of the Act.

Compare: SR 1996/317 r 8

136 Termination of alternative arrangement

- (1) MSD may terminate an alternative arrangement, with effect from a date determined by MSD, if the overseas pensioner fails to comply with any condition set out in regulation 130(2).
- (2) MSD must give notice of the termination of any alternative arrangement—
 - (a) to the competent authority; and
 - (b) to the nominated bank.

Compare: SR 1996/317 r 9

Subpart 5—Factors affecting benefits: failure to assist child support**137 Reduction amount**

The prescribed amount for the purposes of section 192(2) of the Act is \$22.

Compare: 1964 No 136 s 70A(2)

138 Additional reduction amount

The prescribed additional amount for the purposes of section 194(2) of the Act is \$6.

Compare: 1964 No 136 s 70A(5)

Subpart 6—Factors affecting benefits: absence from New Zealand**139 Interpretation**

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

4-week rule means the rule set out in regulation 142

benefit subject to obligations rule means the rule set out in regulation 144

family member, in relation to a beneficiary, includes a person who is treated by the beneficiary as, and acknowledged by the beneficiary to be, a member of the beneficiary's family

general rule means the rule set out in regulation 140(1)

medical exception means the exception set out in regulation 150

natural disaster or adverse event means a fire, flood, drought, or other emergency involving damage or danger to life or property

other enactments exception means the exception set out in regulation 153

part-time work-tested beneficiary has the meaning set out in paragraph (a) of the definition of that term in Schedule 2 of the Act

Special Olympic or Paralympic Games exception means the exception set out in regulation 152

vocational training exception means the exception set out in regulation 151.

- (2) In this subpart, a **significant event**, in relation to a beneficiary's family member, includes the following events:
- (a) serious illness or serious injury or imminent death:
 - (b) any of the following connected to the family member's death:
 - (i) a funeral (however called) or unveiling:
 - (ii) if the beneficiary has missed the family member's funeral, a visit to pay respects to a family member of the deceased:
 - (iii) attending to legal matters in relation to the deceased's affairs:
 - (c) a wedding or civil union:
 - (d) the birth of a child:
 - (e) a court case in which a family member is a party or witness.
- (3) In regulations 142, 143, and 144, a benefit is a **qualifying benefit** for the purposes of the 4-week rule if it is not one of the following benefits:
- (a) sole parent support for a work-tested beneficiary:
 - (b) supported living payment on the ground of restricted work capacity or total blindness for a work-tested spouse or partner:
 - (c) jobseeker support (other than jobseeker support for a spouse or partner who is not a work-tested spouse or partner):
 - (d) an emergency benefit:
 - (e) any benefit that, but for the 1 or more absences in question, would be payable to a beneficiary who is subject to 1 or more work-preparation obligations required by MSD under section 125(d) of the Act:
 - (f) a youth payment:
 - (g) a young parent payment.
- (4) In regulation 141(3)(a), **humanitarian reasons** means any of the following:
- (a) a need or desire to provide aid or assistance to a family member immediately following a natural disaster or adverse event:
 - (b) a need or desire to be with a family member who is facing imminent death or who has suddenly become seriously ill or seriously injured:
 - (c) a need or desire to attend the sudden funeral (however called) of a family member.

Compare: 1964 No 136 s 77(2A); SR 2013/248 rr 3, 8

140 General rule: benefit not payable while beneficiary absent from New Zealand

- (1) A benefit is not payable to a person (**P**) for any period during which P is absent from New Zealand (the **general rule**) unless 1 of the following exceptions applies:

- (a) the 4-week rule; or
 - (b) the benefit subject to obligations rule; or
 - (c) the medical exception; or
 - (d) the vocational training exception; or
 - (e) the Special Olympic or Paralympic Games exception; or
 - (f) the other enactments exception.
- (2) For the purposes of this regulation, if P would have become entitled to a benefit during P's absence but for subclause (1), P's absence is treated as commencing on the day P would have become entitled to the benefit.

Compare: 1964 No 136 s 77(1), (5)

141 If exception to general rule applies, beneficiary must notify MSD of absence

- (1) A person (**P**) is not entitled to be paid a benefit under the following exceptions unless P has, in accordance with section 114(1) of the Act, notified MSD in advance (before leaving New Zealand) of P's intended absence from New Zealand:
- (a) the 4-week rule (including the extended 4-week rule);
 - (b) the benefit subject to obligations rule;
 - (c) the medical exception;
 - (d) the vocational training exception;
 - (e) the Special Olympic or Paralympic Games exception.
- (2) If P has not performed the duty imposed by section 114(1) of the Act and notifies MSD of P's current absence only after departing from New Zealand, a benefit payable under one of the exceptions set out in subclause (1) is payable only from the date of notification.
- (3) However, MSD may, in its discretion, pay P a benefit in respect of a non-notified absence if MSD is satisfied that—
- (a) both P's absence and the failure to notify are justified for 1 or more humanitarian reasons (*see* regulation 139(4)); and
 - (b) P notifies MSD of P's departure (whether P notifies MSD of P's departure during P's absence from New Zealand, or after P has returned to New Zealand after that absence) as soon as is reasonably practicable in the circumstances.

Compare: 1964 No 136 s 77(6)–(8); SR 2013/248 r 8

142 Exception to general rule: 4-week rule

- (1) Under the 4-week rule, a qualifying benefit for the purposes of the 4-week rule (*see* regulation 139(3)) is payable during absences from New Zealand by a beneficiary for 4 weeks or less in total in any 52-week period.

- (2) For the purposes of the 4-week rule,—
- (a) a 52-week period is calculated, in relation to any day of overseas absence, as the preceding period of 52 weeks ending on that day:
 - (b) a day of absence may be counted once only, even though more than 1 benefit was paid in respect of that day.

143 When MSD must apply 4-week rule

MSD must apply the 4-week rule to a benefit if—

- (a) the benefit is a qualifying benefit for the purposes of the 4-week rule (*see* regulation 139(3)); and
- (b) the benefit would be payable if it were not for the absences in question; and
- (c) MSD is satisfied that the absences do not affect the beneficiary's eligibility for the benefit.

Compare: 1964 No 136 s 77(2)

144 Exception to general rule: benefit subject to obligations rule

- (1) This regulation applies when a beneficiary is absent from New Zealand and the benefit is not a qualifying benefit for the purposes of the 4-week rule (that is, it is a benefit listed in regulation 139(3)(a) to (g)).
- (2) MSD may, in its discretion, pay the benefit to the beneficiary in respect of any 1 or more absences of the beneficiary from New Zealand equal to or shorter than 4 weeks in total in any 52-week period if—
 - (a) the benefit would be payable if it were not for the absences in question; and
 - (b) MSD is satisfied that payment of the benefit complies with any applicable criteria prescribed by regulation 145 for the purposes of this regulation.
- (3) For the purposes of subclause (2),—
 - (a) a 52-week period is calculated, in relation to any day of overseas absence, as the preceding period of 52 weeks ending on that day:
 - (b) a day of absence may be counted once only, even though more than 1 benefit was paid in respect of that day.

Compare: 1964 No 136 s 77(3)

Absences of up to 4 weeks in 52-week period

145 Criteria for discretionary payment of certain benefits in respect of absences of up to 4 weeks in 52-week period

For the purposes of regulation 144, the applicable criteria are—

- (a) that MSD is satisfied that the absence is solely for a reason permitted by regulation 146; or
- (b) that MSD is satisfied that the absence does not prevent the beneficiary from meeting all the beneficiary's obligations specified in regulation 147 because the absence is during a time when the beneficiary is not required to attend the employment, education, training, or work-based learning referred to in that regulation (for example, during a period of leave or a semester break or during the period between the end of one academic year and the start of the next, as the case may require); or
- (c) that MSD is satisfied that the absence does not prevent the beneficiary from continuing to undertake employment of the kind to satisfy the work test for that person, if the beneficiary is a person to whom the work test does not apply under section 142(c) of the Act, because the absence is during a time when the beneficiary is not required to attend that employment (for example, during a period of leave), and the beneficiary is—
 - (i) a work-tested beneficiary receiving sole parent support; or
 - (ii) a work-tested spouse or partner (other than a spouse or partner receiving an emergency benefit).

Compare: SR 2013/248 r 4

146 Permitted reasons for absence

The permitted reasons for absence for the purposes of regulation 145(a) are 1 or more of the following:

- (a) to attend a job interview or follow up on a job prospect:
- (b) to attend a significant event relating to a family member that a person with the beneficiary's relationship to the family member would reasonably be expected to attend:
- (c) to attend a court case that the beneficiary is required to attend as a party or a witness:
- (d) to receive, in the case of a beneficiary with a disability, vocational training, or disability assistance dog training, that is not available in New Zealand at the time of the absence:
- (e) to compete, in the case of a beneficiary with a disability to whom regulation 152 does not apply, in any overseas multinational or international Special Olympic or Paralympic Games competition:
- (f) to provide aid or assistance to a family member immediately following a natural disaster or adverse event.

Compare: SR 2013/248 r 5

147 Absences that do not prevent beneficiary meeting obligations

The obligations that the beneficiary must continue to meet for the purposes of regulation 145(b) are as follows:

Obligation to participate in employment-related training

- (a) the obligations under sections 124 and 125 of the Act, if the beneficiary has been required under section 125(d)(iv) of the Act to participate in or undertake, and is participating in or undertaking, employment-related training, and if the beneficiary is—
 - (i) a beneficiary receiving sole parent support; or
 - (ii) a spouse or partner of a person who is receiving—
 - (A) a benefit under section 34 of the Act (supported living payment on the ground of restricted work capacity or total blindness); or
 - (B) jobseeker support:

Youth support payment obligations

- (b) in the case of a young person receiving a youth support payment under the Act, the obligations in section 162 of the Act:

Other obligations of young persons

- (c) in the case of a young person who is the spouse or partner of a specified beneficiary (within the meaning of section 169 of the Act), the obligations in section 166 or 167 of the Act:
- (d) in the case of a young person who is required, under section 165 or 168 of the Act, to receive youth services, the obligations in that section.

Compare: SR 2013/248 r 6

Absences of longer than 4 weeks in 52-week period

148 Discretion to pay benefit in respect of absences longer than total of 4 weeks in 52-week period

MSD may, in its discretion, determine that a benefit may be paid under regulation 143 or 144 in respect of absences longer than a total of 4 weeks in any 52-week period if MSD is satisfied that payment of the benefit complies with the relevant qualifying circumstances set out in regulation 149.

Compare: 1964 No 136 s 77(3AA)

149 Qualifying circumstances for discretionary payment of certain benefits in respect of absences longer than 4 weeks in 52-week period

- (1) For the purposes of regulation 148, the **relevant qualifying circumstances**, in respect of an absence from New Zealand, are the circumstances in any of sub-clauses (2), (3), (4), and (5).
- (2) The first circumstances are as follows:

1 or more absences totalling more than 4 weeks that are necessitated by 1 or more specified reasons

- (a) the absence from New Zealand must be solely for 1 or more reasons permitted by regulation 146; and
- (b) MSD must be satisfied that the length of the total absence is not longer than is necessitated by those reasons; and
- (c) if the absence is not the first in respect of which a benefit is or was payable under this subpart or section 77 of the Social Security Act 1964 in any 52-week period, MSD must be satisfied—
 - (i) either that the beneficiary could not reasonably have foreseen an absence of longer than 4 weeks in a 52-week period or that the beneficiary could not reasonably have rearranged the beneficiary's affairs to avoid an absence of longer than 4 weeks in a 52-week period; and
 - (ii) that it would be unreasonable for the benefit not to be paid.

- (3) The second circumstances are as follows:

Return to New Zealand prevented by reasons outside beneficiary's control

- (a) the beneficiary's return to New Zealand from an absence in respect of which a benefit is paid under this subpart has been prevented by new circumstances that—
 - (i) were not reasonably foreseeable at the time when the beneficiary last left New Zealand; and
 - (ii) are outside the beneficiary's control; and
 - (b) MSD must be satisfied that the extension of the absence is not longer than is necessitated by the new circumstances.
- (4) The third circumstances are as follows:

Combination of 1 or more absences totalling up to 4 weeks that are necessitated by 1 or more specified reasons plus family support absence of up to 4 weeks

- (a) the beneficiary is a young person receiving a youth support payment under the Act or a young person referred to in section 166 or 167 of the Act; and
- (b) the beneficiary is absent from New Zealand for the purpose of obtaining support from a family member residing overseas (being support that the beneficiary could not reasonably obtain in New Zealand); and
- (c) MSD must be satisfied that the absence does not prevent the beneficiary from meeting all the beneficiary's obligations in section 162, 164, 166, or 167 of the Act because the absence is during a time when the beneficiary is not required to attend the work-based learning or education or

training referred to in those sections (for example, during a period of leave or a semester break or during the period between the end of one academic year and the start of the next, as the case may require); and

- (d) in the case of a young person receiving a youth support payment under the Act, the total period of absence from New Zealand in respect of which a benefit is paid under regulation 144 or 148 on the grounds that the absence does not prevent the beneficiary from meeting all of the beneficiary's obligations in section 162 or 164 of the Act does not exceed 4 weeks in any 52-week period; and
- (e) in the case of a young person referred to in section 166 or 167 of the Act, the total period of absence from New Zealand that was solely for 1 or more reasons permitted by regulation 146 does not exceed 4 weeks in any 52-week period.

- (5) The fourth circumstances are as follows:

Absence to attend approved disability forum

- (a) the beneficiary has a long-term physical, mental, intellectual, or sensory impairment that, in interaction with various barriers, may hinder the beneficiary's full and effective participation in society on an equal basis with others; and
- (b) the absence from New Zealand must be for the purpose of attending a disability forum approved by MSD; and
- (c) MSD must, before approving the disability forum, be satisfied that the forum is—
 - (i) a disability programme or event associated with the United Nations or an international disability organisation; or
 - (ii) another type of programme or event that the beneficiary is attending to contribute a disability perspective; and
- (d) the total period of absence from New Zealand in respect of which a benefit is paid on the grounds that the beneficiary is attending an approved disability forum must not exceed 12 weeks in any 52-week period.

Compare: SR 2013/248 r 7

150 Exception to general rule: medical treatment

MSD may, in its discretion, pay a benefit to a person (**P**) who is absent from New Zealand for a period or periods not longer than 2 years in total if—

- (a) P would otherwise be entitled to be paid the benefit; and
- (b) P is absent because P or P's spouse or partner, dependent child, or sibling is receiving medical treatment overseas for which the Ministry of Health has granted assistance.

Compare: 1964 No 136 s 77(4)(a)

151 Exception to general rule: vocational training

MSD may, in its discretion, pay a benefit to a person (**P**) who is absent from New Zealand for a period or periods not longer than 2 years in total if—

- (a) P would otherwise be entitled to be paid the benefit; and
- (b) P is in receipt of a supported living payment granted on the ground of P's restricted work capacity or total blindness; and
- (c) P is absent in order to receive vocational training or disability assistance-dog training; and
- (d) MSD is satisfied that P could not obtain the training in New Zealand during the period or periods of absence.

Compare: 1964 No 136 s 77(4)(b)

152 Exception to general rule: attendance at Special Olympic or Paralympic Games

MSD may, in its discretion, pay a supported living payment granted on the ground of restricted work capacity or total blindness to a person (**P**) who is absent from New Zealand for a period not longer than 6 weeks if—

- (a) P would otherwise be entitled to be paid the benefit; and
- (b) P is not a work-tested spouse or partner of a supported living payment beneficiary; and
- (c) P is absent from New Zealand for the sole or predominant purpose of competing in any overseas multinational or international Special Olympic or Paralympic Games competition.

Compare: 1964 No 136 s 77(3A)

Exceptions in Act to general rules about absences and notification

153 Subpart is subject to exceptions in Act

- (1) This subpart is subject to sections 114(2) and 219(2) of the Act.
- (2) Those sections ensure that section 114 (obligation to notify absence from New Zealand) and section 219 (general rule: benefit not payable while beneficiary absent from New Zealand) of the Act do not apply to a benefit payable under—
 - (a) subpart 11 of Part 2 (winter energy payment) of the Act; or
 - (b) sections 21 to 35 of the New Zealand Superannuation and Retirement Income Act 2001; or
 - (c) sections 176 to 196 of the Veterans' Support Act 2014; or
 - (d) any adopted reciprocity agreement.

Compare: 1964 No 136 s 77(1)(b)–(d), (9)

Subpart 7—Effect of warrant for beneficiary's arrest

Exclusion from warrant to arrest provisions

154 Beneficiaries excluded from warrant to arrest provisions

Each class, description, or kind of beneficiary to which any of regulations 155 to 162 applies is prescribed by this regulation as a class, description, or kind of beneficiary that is—

- (a) excluded from the operation of sections 209 and 213 of the Act for the purposes of paragraph (b) of the definitions of beneficiary in sections 210 and 214 of the Act; and so
- (b) not a beneficiary, under those definitions, for the purposes of sections 209 and 213 of the Act.

Compare: SR 2013/249 r 4

Excluded beneficiaries

155 Beneficiaries younger than 14 years

This regulation applies to every beneficiary who—

- (a) has been granted a benefit, or is a person in respect of whom a benefit or part of a benefit has been granted (for example, a benefit that is an orphan's benefit or an unsupported child's benefit under section 43 or 46 of the Act); and
- (b) is not a young person as defined in section 2(1) of the Oranga Tamariki Act 1989 (and so is not an excluded beneficiary under paragraph (a) of the definitions of beneficiary in sections 210 and 214 of the Act); but
- (c) is of or under the age of 13 years.

Compare: SR 2013/249 r 5

156 Principal caregivers paid only or mainly orphan's benefit or unsupported child's benefit

This regulation applies to every beneficiary who—

- (a) is a principal caregiver in respect of a dependent child; and
- (b) is being paid, in respect of that dependent child,—
 - (i) an orphan's benefit under section 43 of the Act; or
 - (ii) an unsupported child's benefit under section 46 of the Act; and
- (c) is not being paid, in the beneficiary's own right, a main benefit under the Act (as defined in Schedule 2 of the Act), New Zealand superannuation, or a veteran's pension.

Compare: SR 2013/249 r 6

157 Overseas residents paid specified benefits under adopted reciprocity agreements

This regulation applies to every beneficiary who—

- (a) is residing (even if not ordinarily resident) in another country; and
- (b) is being paid a main benefit under the Act (as defined in Schedule 2 of the Act), New Zealand superannuation, or a veteran's pension, under an adopted reciprocity agreement.

Compare: SR 2013/249 r 7

158 Persons absent from New Zealand and under specified provisions paid portable New Zealand superannuation

(1) This regulation applies to every beneficiary who—

- (a) is absent from New Zealand; but
- (b) is being paid New Zealand superannuation (not under any adopted reciprocity agreement but) under section 26 of the New Zealand Superannuation and Retirement Income Act 2001.

(2) This regulation also applies to every beneficiary who—

- (a) is absent from New Zealand; but
- (b) is being paid New Zealand superannuation in a specified Pacific country (not under any adopted reciprocity agreement but) under section 31 of the New Zealand Superannuation and Retirement Income Act 2001.

Compare: SR 2013/249 r 8

159 Persons absent from New Zealand and under specified provisions paid portable veterans' pensions

(1) This regulation applies to every beneficiary who—

- (a) is absent from New Zealand; but
- (b) is being paid a veteran's pension (not under any adopted reciprocity agreement but) under section 182 of the Veterans' Support Act 2014.

(2) This regulation also applies to every beneficiary who—

- (a) is absent from New Zealand; but
- (b) is being paid a veteran's pension in a specified Pacific country (not under any adopted reciprocity agreement but) under section 191 of the Veterans' Support Act 2014.

Compare: SR 2013/249 r 9

160 Beneficiaries paid benefits at specified hospital rates

This regulation applies to every beneficiary who is being paid a benefit at the rate of benefit specified in—

- (a) Part 12 of Schedule 4 of the Act (which specifies rates of benefits payable to long-term hospital patients); or
- (b) clause 3 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001 (which specifies a hospital rate payable under section 19 of that Act to a person who is married or in a civil union or in a de facto relationship and who has no dependent children, or who is a single person, who receives New Zealand superannuation).

Compare: SR 2013/249 r 10

161 Beneficiaries paid residential care subsidy

This regulation applies to every beneficiary—

- (a) who has been granted a benefit, or is a person in respect of whom a benefit or part of a benefit has been granted; and
- (b) who is a resident assessed as requiring care (within the meaning of section 5 of the Residential Care and Disability Support Services Act 2018); and
- (c) for whom a funder's liability for the cost of the beneficiary's LTR contracted care (as defined in that section) arises under section 18, 22, 24, or 26 of that Act.

Compare: SR 2013/249 r 11

162 Beneficiaries paid residential support subsidy

This regulation applies to every beneficiary—

- (a) who has been granted a benefit, or is a person in respect of whom a benefit or part of a benefit has been granted; and
- (b) who is not a resident assessed as requiring care (within the meaning of section 5 of the Residential Care and Disability Support Services Act 2018); but
- (c) who is receiving care—
 - (i) because the beneficiary has a psychiatric, intellectual, physical, or sensory disability; and
 - (ii) that is residential disability care or rest home care (within the meaning of the Health and Disability Services (Safety) Act 2001); and
 - (iii) that is wholly or partly funded under the New Zealand Public Health and Disability Act 2000.

Compare: SR 2013/249 r 12

Part 5

Enforcement: sanctions and offences

163 Guide to Part 5

Part 5—

- (a) deals with sanctions and offences; and
- (b) prescribes a ground on which a beneficiary may have a good and sufficient reason for failures to comply with the drug-testing regime.

164 Good and sufficient reason for failure to comply with drug-testing obligation

- (1) This regulation prescribes for the purposes of section 250(1)(e) of the Act a ground on which a beneficiary may for the purposes of section 232 of the Act have a good and sufficient reason for (as the case may be) either or both of the following specified failures:
 - (a) not complying with a drug-testing obligation:
 - (b) failing to apply for suitable employment that requires candidates to undertake drug tests.
- (2) The ground prescribed by this regulation is that—
 - (a) the person has completed a screening process that has identified the person (based on information the person provided) as—
 - (i) a user of (even if not dependent on, or addicted to) 1 or more controlled drugs; and
 - (ii) a person who requires or may require support in addressing the person's use (including, without limitation, the causes of the person's use) of 1 or more controlled drugs; and
 - (b) the person has (in any manner) agreed to receive recognised services for drug issue assessment and assistance for a period that—
 - (i) is reasonable for that purpose; and
 - (ii) has been recommended by a suitably qualified provider of services of that kind; and
 - (c) the period referred to in paragraph (b) has not expired.
- (3) **Recognised services for drug issue assessment and assistance** means services—
 - (a) to assess any needs of the recipient for support in addressing the recipient's use (including, without limitation, the causes of the recipient's use) of 1 or more controlled drugs, give the recipient support of that kind, or both; and
 - (b) that will be, or have been, provided by a suitably qualified provider of services of that kind.

- (4) **Suitably qualified**, for a person and recognised services for drug issue assessment and assistance, means a health practitioner, or other person, who MSD is satisfied on reasonable grounds is suitably qualified to provide those services.

Compare: SR 2013/253, rr 3(1), 7

Part 6

Administration

165 Guide to Part 6

Part 6 deals with various topics as follows:

- (a) subpart 1 (regulations 166 to 176) deals with the application process for benefits, including an applicant's or beneficiary's travelling expenses and allowances:
- (b) subpart 2 (regulations 177 to 185) deals with exemptions from, and the period of, stand down:
- (c) subpart 3 (regulations 186 to 190) deals with expiry and regrant of benefits:
- (d) subpart 4 (regulations 191 and 192) deals with apportionment and payments on the death of a beneficiary:
- (e) subpart 5 (regulations 193 to 200) deals with money management:
- (f) subpart 6 (regulations 201 to 204) deals with advance payment of benefits:
- (g) subpart 7 (regulation 205) deals with the appropriate number of weeks for calculating weekly income:
- (h) subpart 8 (regulation 206) deals with debts:
- (i) subpart 9 (regulations 207 to 215) deals with the recovery of debt:
- (j) subpart 10 (regulations 216 to 226) deals with deductions:
- (k) subpart 11 (regulations 227 to 237) deals with the suspension of debt recovery:
- (l) subpart 12 (regulation 238) deals with ways MSD or a person can meet a requirement to give notices or other documents:
- (m) subpart 13 (regulation 239) deals with medical services and rates and conditions of employment and payment of prescribed health practitioners:
- (n) subpart 14 (regulations 240 to 244) deals with requirements and process for reciprocity agreements.

Subpart 1—Application process for benefits, including applicant's or beneficiary's travelling expenses and allowances

166 How application completed or lapses

- (1) An applicant must not be granted a benefit unless MSD has received from the applicant a claim for a benefit made by way of—
 - (a) an application form that complies with regulation 172; and
 - (b) any supporting evidence reasonably required by MSD.

Examples

Evidence that the applicant meets, if applicable, the residential requirement
If MSD considers the appropriate benefit is a youth support payment, the supporting evidence described in regulation 173

- (2) An applicant's application for a benefit lapses (*see* regulation 169) unless MSD has received that form and evidence within the period for completing the application.
- (3) The **period for completing the application** (in this regulation and regulations 168 and 170) means—
 - (a) 20 working days after the date of first contact by or on behalf of the applicant; or
 - (b) a longer period allowed by MSD under regulation 170.
- (4) This regulation is subject to—
 - (a) section 74(5) of the Act (winter energy payment: instalments, rates, and payment); and
 - (b) section 184 of the Act (pre-benefit activities: consequences of non-compliance by applicant); and
 - (c) regulation 167 (exceptions from regulation 166(2) for overseas applications); and
 - (d) regulation 174 (waiver of required form and evidence); and
 - (e) sections 307 and 308 of the Act (which apply if MSD is satisfied, because of a review under section 304 of the Act, that a benefit on another eligibility ground, or another benefit, is more appropriate than the one granted); and
 - (f) any contrary requirements of these regulations relating to childcare assistance or temporary additional support.

Compare: 1964 No 136 s 11D(1), (2), (6), (8), (10), (12)

167 Exceptions from regulation 166(2) for overseas applications

- (1) Regulation 166(2) does not apply to an application for a benefit made by a person ordinarily resident in an overseas country to the competent authority of that country under an adopted reciprocity agreement.
- (2) Regulation 166(2) does not prevent the making of an application for New Zealand superannuation—
 - (a) by or on behalf of a person (resident in the Cook Islands, Niue, or Tokelau on the date of the application) to whom section 31(4) of the New Zealand Superannuation and Retirement Income Act 2001 applies; and
 - (b) at a time allowed by section 31(6) of that Act.
- (3) Regulation 166(2) does not prevent the making of an application for a veteran's pension—
 - (a) by or on behalf of a person (resident in the Cook Islands, Niue, or Tokelau on the date of the application) to whom section 191(4) of the Veterans' Support Act 2014 applies; and
 - (b) at a time allowed by section 191(6) of that Act.

Compare: 1964 No 136 s 11D(9), (9A)

168 Date application received for when benefit commences

- (1) This regulation applies to an application for a benefit if, within the period for completing the application (as defined in regulation 166(3)), MSD receives the form and evidence required under regulation 166.
- (2) For the purposes of sections 311 to 316 of the Act (commencement and stand downs), the application is taken to have been received on the date of first contact by or on behalf of the applicant.
- (3) This regulation is subject to regulation 111(4) (which is about undertaking any required pre-benefit activities within 20 working days after the date of first contact).

Compare: 1964 No 136 s 11D(7)

169 Effect of lapse of application

An applicant whose application for a benefit has lapsed (under regulation 166(2)) cannot become entitled to the benefit without—

- (a) applying for it, in accordance with regulation 166, again; and
- (b) establishing the applicant's eligibility to receive it.

Compare: 1964 No 136 s 11D(1), (8), (11)

170 MSD may allow longer period for completing

Before or after the end of the period for completing the application (as defined in regulation 166(3)), MSD may allow a longer period if, in a particular case,

MSD thinks that good and sufficient reason exists for non-compliance with the requirement stated in regulation 166(1) within that period.

Compare: 1964 No 136 s 11D(10)

171 Help in te reo Māori or NZSL if requested and reasonable

- (1) This regulation applies to an employee of the State services who—
 - (a) is asked by a Māori or an NZSL user for help in connection with an application for a benefit; and
 - (b) has the necessary knowledge of te reo Māori or NZSL.
- (2) The employee must, without fee or other consideration, give the applicant all reasonable help with the application.
- (3) In this regulation,—

Māori has the meaning given to Maori by section 4 of the Maori Land Act 1993

NZSL means New Zealand sign language (as defined in section 4 of the New Zealand Sign Language Act 2006)

NZSL user means a person whose first or preferred language is NZSL

State services has the meaning given to it by section 2 of the State Sector Act 1988.

Compare: SR 2007/229 r 4

172 Required form

The application form required by regulation 166—

- (a) does not have to refer to a benefit of any particular kind; and
- (b) does not, by referring to a particular kind of benefit, prevent MSD from granting any other kind or kinds of benefit; and
- (c) must be a form in writing provided by MSD for the purpose; and
- (d) must be completed in writing by or on behalf of the applicant and the applicant's spouse or partner (if any); and
- (e) must be completed to MSD's satisfaction.

Compare: 1964 No 136 s 11D(2)(a), (3), (4)

173 Supporting evidence if youth support payment appropriate

- (1) MSD may require as supporting evidence, if MSD considers that the appropriate benefit for an applicant is a youth support payment, evidence of the applicant's accommodation costs and service costs (within the meaning of section 65 of the Act), debts, and other liabilities.
- (2) This regulation does not limit regulation 166(1)(b).

Compare: 1964 No 136 s 11D(3A), (3B)

174 Waiver of required form and evidence

- (1) MSD may waive the requirement under regulation 166(1)(a) to complete an application form if satisfied that MSD already holds a form relating to an application that has lapsed under regulation 166.
- (2) MSD may waive some or all of a requirement to provide information under regulation 166(1)(a) or (b) if satisfied that MSD—
 - (a) already holds the information concerned; or
 - (b) already holds enough other information to determine the matter for which the information concerned is needed.

Compare: 1964 No 136 s 11D(5)

175 Applicant's or beneficiary's travelling expenses and allowances

- (1) This regulation applies to any applicant or beneficiary who has to be absent from that person's regular place of residence—
 - (a) to be medically examined by direction of MSD; or
 - (b) to appear before a medical board established under Schedule 9 of the Act; or
 - (c) for any other purpose approved by MSD.
- (2) The applicant or beneficiary—
 - (a) may be provided with advance payment for that person's fares; or
 - (b) may be granted a refund of travelling expenses reasonably incurred—
 - (i) by way of public transport; or
 - (ii) if it would have been impracticable to use public transport, by private means of transport.
- (3) Advance payment may, in MSD's discretion, be made to the applicant or beneficiary for meals and accommodation during the period of necessary absence, or a refund may, in MSD's discretion, be paid for actual and reasonable out-of-pocket expenses for the period of necessary absence.
- (4) If the physical or mental condition of the applicant or beneficiary makes the applicant or beneficiary unable to travel unaccompanied, advance payment or refunds may be made under this regulation in respect of the travelling and accommodation expenses of a person travelling with the applicant or beneficiary.
- (5) MSD may, in any special case, authorise payment of travelling expenses in respect of any applicant or beneficiary, or applicants or beneficiaries of any description, at rates and subject to conditions determined by MSD.
- (6) Subclause (5) applies despite the rest of this regulation and regulation 176.

Compare: SR 2007/229 r 7(1)–(4), (7), (8)

176 Claims for refunds: receipt and deadline requirements

- (1) A refund must not be made under regulation 175 for an item of expense (other than transport fares) of more than \$1 unless the claim is supported by the receipt of the person to whom the amount concerned was paid.
- (2) A claim for a refund of expenses must not be accepted under regulation 175 unless made—
 - (a) within 1 month of the day on which they were incurred; or
 - (b) in any special circumstances, within any extended time MSD thinks reasonable.

Compare: SR 2007/229 r 7(5), (6)

Subpart 2—Exemptions from, and period of, stand down**177 Exemptions from stand down: youth training, relationship breakdown, chronic illness, health condition, injury or disability from accident or birth, prison**

- (1) This regulation applies to a benefit listed in an item of the following table if the applicant for the benefit meets the condition specified in the item:

Item	Benefit	Condition
1	Youth payment or young parent payment	The applicant is a person who is participating in a training course approved by MSD
2	Sole parent support, youth payment, young parent payment, supported living payment, jobseeker support	The applicant is a person who has entered a refuge following the breakdown of the person's marriage, civil union, or de facto relationship
3	Jobseeker support on the ground of health condition, injury, or disability	The applicant— <ol style="list-style-type: none"> (a) is suffering from a chronic illness; and (b) has on a prior occasion applied for any 1 or more of the following benefits for that illness: <ol style="list-style-type: none"> (i) a sickness benefit; (ii) a community wage on the ground of health condition, injury, or disability; (iii) jobseeker support on the ground of health condition, injury, or disability
4	Supported living payment on the ground of restricted work capacity or total blindness (under section 34 of the Act)	The applicant— <ol style="list-style-type: none"> (a) has a health condition, or is suffering from an injury or disability from accident or existing from birth; and (b) has on a prior occasion applied for any 1 or more of the following benefits for that health condition, injury, or disability: <ol style="list-style-type: none"> (i) an invalid's benefit on the ground of health condition, injury, or disability; (ii) a supported living payment on the ground of health condition, injury, or disability

Item	Benefit	Condition
5	Any benefit	The applicant— (a) previously received a benefit, which was cancelled because the applicant was imprisoned or detained for less than 31 days in a prison (as defined in the Corrections Act 2004); and (b) applied for the benefit listed in this item immediately following the applicant's release from the prison

- (2) The benefit commences on whichever of the following occurs last:
- (a) the date on which the applicant became entitled to receive it;
 - (b) the day after the date on which the applicant's employment ceased;
 - (c) the date on which the application for it was received.

Compare: 1964 No 136 s 80(5)

178 Exemptions from stand down: temporary or part-time work

- (1) This regulation applies if—
- (a) a person received a benefit before accepting an offer of employment; and
 - (b) the benefit was cancelled or suspended because of the employment; and
 - (c) the employment—
 - (i) was temporary employment, whether or not the person was aware it would be temporary employment when accepting the offer; or
 - (ii) was part-time work for a period of less than 26 weeks, whether or not the person was aware it would be part-time work for a period of less than 26 weeks when accepting the offer; and
 - (d) the person applies for a benefit following the termination of the employment.
- (2) The benefit commences on whichever of the following occurs later:
- (a) the day after the date on which the person's employment ceased;
 - (b) the date of the application for the benefit.

Compare: 1964 No 136 s 80(8)

179 Exemptions from stand down: benefit required to be paid towards cost of treatment or care in residential programme

A benefit granted to a person who is required to pay all or a part of the benefit towards the cost of the person's treatment or care in a residential programme may be commenced by MSD on any date but not earlier than the later of the following:

- (a) the date on which the person became entitled to the benefit; or

- (b) the date on which the person entered into residence under the programme.

Compare: 1964 No 136 s 80(10)

180 Benefit person becomes eligible for while receiving, and granted instead of, other benefit

A benefit commences on the day on which it was granted if—

- (a) the person has become eligible for the benefit while receiving another benefit; and
- (b) the benefit is granted instead of that other benefit.

Compare: 1964 No 136 s 80(13)

181 Disability allowance sought with specified other benefit

- (1) This regulation applies to a disability allowance applied for, or under regulation 172(b) granted, at the same time as any other benefit that is—
 - (a) jobseeker support on the ground of health condition, injury, or disability; or
 - (b) sole parent support; or
 - (c) a supported living payment; or
 - (d) a young parent payment.
- (2) The disability allowance commences on the same day as the other benefit commences.

Compare: 1964 No 136 s 80(14)

182 Period of benefit stand down: interpretation

In this regulation and regulations 183 to 185,—

average income, in relation to a person, means the person's specified income divided by the number of weeks in the average income calculation period

average income calculation period, in relation to a person, means,—

- (a) if the person has made an election under regulation 183(2), the 52 weeks immediately before the later of the following dates:
 - (i) the date on which the person became entitled to receive the benefit;
 - (ii) if the person's employment terminated or the person is given notice of termination of employment before the person applied for the benefit, the date on which the person's employment ceased; or
- (b) in any other case, the 26 weeks immediately before the later of the dates referred to in paragraph (a)(i) and (ii)

average wage means the before-tax average ordinary time weekly wage (all sectors, male and female combined) as specified in the relevant survey (as defined in this regulation) and at the later of the following dates:

- (a) the date on which the person became entitled to receive the benefit; and
- (b) if the person's employment terminated or the person is given notice of termination of employment before the person applied for the benefit, the date on which the person's employment ceased

dependent child means a person who was a dependent child of the applicant for the benefit at any time during the average income calculation period

income, for a person, includes—

- (a) the amounts received by the person of any of the following benefits:
 - (i) jobseeker support:
 - (ii) sole parent support:
 - (iii) supported living payment:
 - (iv) youth payment:
 - (v) young parent payment:
 - (vi) emergency benefit:
 - (vii) accommodation supplement under section 65 of the Act:
 - (viii) widow's benefit and domestic purposes benefit (as saved by clause 55 of Schedule 1 of the Act):
- (b) the amount of any tax withheld or deducted under section RD 11(3) of the Income Tax Act 2007 for all or any of those benefits

redundancy payment means a payment (before the deduction of income tax) made in relation to the termination of a person's employment if—

- (a) either—
 - (i) the main reason for the termination is that the person's position is or will be superfluous to the employer's needs, and the person is not a seasonal worker; or
 - (ii) the person's usual seasonal employment is not made available by the employer mainly because the person's position, or usual position, is or will be superfluous to the employer's needs; and
- (b) the payment is not a specified excluded payment or a retirement payment

relevant survey, for the purposes of the definition in this regulation of average wage, means—

- (a) the latest Quarterly Employment Survey published by Statistics New Zealand; or

- (b) if the survey referred to in paragraph (a) ceases to be published, a survey certified by the Government Statistician as an equivalent survey to the survey referred to in that paragraph

retirement payment means a payment (before the deduction of income tax) that is made because of the termination of a person's employment on the person's retirement and paid in 1 or more lump sums or on a periodical basis, and that is not a specified excluded payment or a payment from a superannuation fund or other similar payment

specified excluded payment means a payment that is any of the following:

- (a) a payment solely because of a seasonal lay-off;
- (b) a payment that depends on the completion of—
 - (i) a fixed-term engagement; or
 - (ii) an engagement to complete work specified in a contract;
- (c) a payment instead of notice terminating the employment;
- (d) any payment (including holiday pay) if MSD considers that, but for the termination of the employment, it would have been paid as monetary remuneration of the person;
- (e) any payment made by a company (within the meaning of the Companies Act 1993) to a director of the company under section 161 of the Companies Act 1993

specified income, in relation to a person, means—

- (a) the person's income in the average income calculation period; and
- (b) the amount of any redundancy payment or retirement payment, before the deduction of income tax, not included in the person's income under paragraph (a) and made to the person—
 - (i) before the person's employment ceased; or
 - (ii) in the 52 weeks after the date on which the employment ceased.

Compare: 1964 No 136 ss 3(1), 80B, 80BA(1A), Schedule 28

183 Period of benefit stand down: general

- (1) The stand-down period for a benefit to which section 316 of the Act applies (see sections 313, 314, and 316(1)(b) of the Act) is,—
 - (a) for a person who is in a relationship,—
 - (i) with average income less than the average wage plus \$80 for each dependent child, 1 week; or
 - (ii) in any other case, 2 weeks; and
 - (b) for a single person,—
 - (i) with average income less than the average wage minus \$80 plus \$80 for each dependent child, 1 week; and

(ii) in any other case, 2 weeks.

- (2) A person who is entitled to a benefit to which section 316(1) of the Act applies (*see* sections 313 and 314 of the Act) may elect to have the person's average income calculated by reference to a period of 52 weeks instead of 26 weeks.

Compare: 1964 No 136 ss 80B, 80BA(1A), Schedule 28

184 Delayed redundancy and retirement payments

- (1) This regulation applies to a person who has applied for a benefit of a kind specified in section 313(1) or 314(1) of the Act if—
- (a) the person is entitled to receive a redundancy payment or a retirement payment; and
 - (b) the person has not received the whole or a part of that payment.
- (2) The person is entitled to receive the benefit applied for on a provisional basis and to have the stand-down period calculated as if the person's average income did not include the amount not yet received.
- (3) If the person receives later, but within 52 weeks after the date on which the person's employment ceased, the whole or a part of the redundancy payment or retirement payment, then this subclause applies to any payment of the benefit that is a payment—
- (a) that is received by the person; and
 - (b) to which the person would not be entitled but for subclause (2).
- (4) A payment to which subclause (3) applies is a debt due to the Crown and subject to recovery under section 362(1) (MSD's duty to recover debts) of the Act by MSD from the person.

Compare: 1964 No 136 s 80BB

185 Seasonal workers made redundant after benefit commences

- (1) This regulation applies to a person who is a seasonal worker if the person—
- (a) applies following a seasonal layoff for a benefit of a kind specified in section 313(1) of the Act; and
 - (b) becomes entitled to receive a redundancy payment because the person's usual seasonal employment is made unavailable by the employer after the benefit commences; and
 - (c) receives the whole or a part of the redundancy payment within 52 weeks after the date on which the person's seasonal employment ceased.
- (2) This subclause applies to any payment of the benefit that is a payment—
- (a) that is received by the person; and
 - (b) to which the person would not have been entitled if the redundancy payment received had been taken into account in calculating the stand-down period under regulation 183.

- (3) A payment to which subclause (2) applies is a debt due to the Crown and subject to recovery under section 362(1) (MSD's duty to recover debts) of the Act by MSD from the person.

Compare: 1964 No 136 s 80BC

Subpart 3—Expiry and regrant of benefits

186 Certain benefits not subject to benefit expiry and regrant provisions

The following benefits are not specified benefits for the purposes of sections 331 to 336 of the Act:

- (a) a supported living payment on the ground of restricted work capacity or total blindness, under section 34 of the Act;
- (b) a supported living payment on the ground of caring for another person, under section 40 of the Act;
- (c) an emergency benefit.

Compare: SR 2013/251 r 4

187 Expiry date for jobseeker support

General rule: 12-month anniversary of date benefit commenced or last commenced

- (1) The expiry date for jobseeker support for the purposes of sections 331 to 336 of the Act is (subject to subclauses (2) to (6)) the 12-month anniversary of the date on which the person's jobseeker support commenced or, as the case may be, last commenced.

Exception: if sole parent support replaced with jobseeker support

- (2) For a beneficiary whose sole parent support is replaced with jobseeker support under section 33 of the Act when the beneficiary's youngest dependent child turns 14 years old, that expiry date is the 12-month anniversary of the date on which the beneficiary's original benefit commenced or, as the case may be, last commenced.
- (3) For the purpose of subclause (2), the original benefit is,—
- (a) for a beneficiary who transferred to sole parent support on 15 July 2013 under clause 2(6) to (8) or (9) and (11) of Schedule 32 of the Social Security Act 1964, either a domestic purposes benefit under section 27B of that Act or a widow's benefit under section 21 of that Act, as the case may be; and
 - (b) for any other beneficiary, sole parent support.

Exception: if transferred from unemployment benefit on 15 July 2013

- (4) For a beneficiary who was, on 15 July 2013, transferred to jobseeker support from receipt of an unemployment benefit by clause 7(6) to (8) of Schedule 32 of the Social Security Act 1964, that expiry date is the 12-month anniversary of

the date on which the person's unemployment benefit commenced, or as the case may be, last commenced.

Exception: if transferred from sickness benefit on 15 July 2013

- (5) For a beneficiary who was, on 15 July 2013, transferred to jobseeker support from receipt of a sickness benefit by clause 8(5) to (7) of Schedule 32 of the Social Security Act 1964, that expiry date is the 12-month anniversary of the date on which the person's sickness benefit commenced, or as the case may be, last commenced.

Exception: if transferred from DPB for women alone on 15 July 2013

- (6) For a beneficiary who was, on 15 July 2013, transferred to jobseeker support from receipt of domestic purposes benefit for women alone by clause 10(6) to (8) of Schedule 32 of the Social Security Act 1964, that expiry date is the 12-month anniversary of the date on which the person's domestic purposes benefit for women alone commenced, or as the case may be, last commenced.

Compare: SR 2013/251 r 5

188 Expiry date for sole parent support

- (1) The expiry date for sole parent support for the purposes of sections 331 to 336 of the Act is,—
- (a) in the case of a beneficiary receiving sole parent support to which the beneficiary was transferred on 15 July 2013 under clause 2(6) to (8) or (9) and (11) of Schedule 32 of the Social Security Act 1964, the 12-month anniversary of the date on which the beneficiary's original benefit commenced or, as the case may be, last commenced; and
 - (b) in any other case, the 12-month anniversary of the date on which the beneficiary's sole parent support commenced or, as the case may be, last commenced.
- (2) For the purposes of subclause (1)(a), the **beneficiary's original benefit** means the benefit that the beneficiary was receiving immediately before 15 July 2013 that was either—
- (a) a domestic purposes benefit under section 27B of the Social Security Act 1964; or
 - (b) a widow's benefit under section 21 of the Social Security Act 1964.

Compare: SR 2013/251 r 5A

189 Exemptions from expiry

MSD may, under section 334 of the Act, consider an exemption from expiry under section 332 of the Act in any of following circumstances:

- (a) the beneficiary is a patient in hospital care within the meaning of section 4(1) of the Health and Disability Services (Safety) Act 2001:

- (b) the beneficiary is in residential disability care or rest home care within the meaning of that section:
- (c) the beneficiary resides in, or is present in and cannot reasonably leave, an area in respect of which a state of local emergency or state of national emergency is in force under Part 4 of the Civil Defence Emergency Management Act 2002.

Compare: SR 2013/251 r 6

190 Requirements for regrant of specified benefits

- (1) No specified benefit may be regranted under this regulation to a person to whom section 336 of the Act applies unless—
 - (a) MSD has received—
 - (i) a reapplication form (provided by MSD for the purpose) completed by or on behalf of the beneficiary and the beneficiary's spouse or partner (if any) to MSD's satisfaction; and
 - (ii) any supporting evidence reasonably required by MSD; and
 - (b) the beneficiary and the beneficiary's work-tested spouse or partner (if any) have participated, to the satisfaction of MSD, in a comprehensive work assessment of a kind specified by MSD.
- (2) Subclause (1)(b) is subject to subclause (8).
- (3) If, in relation to a person, the requirements of subclause (1) are completed on or before the expiry date (as defined in section 331(1) of the Act) for the person's specified benefit,—
 - (a) MSD must regrant the person's specified benefit if MSD is satisfied that the person meets or continues to meet the eligibility criteria for that benefit; and
 - (b) if regranted, that benefit commences on that expiry date.
- (4) If, in relation to each person, the requirements of subclause (1) are completed after, but within 20 working days after, the expiry date for the person's specified benefit, and MSD is satisfied that there were exceptional circumstances that prevented those requirements from being completed on or before that expiry date,—
 - (a) MSD must regrant the person's specified benefit if MSD is satisfied that—
 - (i) the person meets the eligibility criteria (for example, the requirements in section 20 or 29 of the Act) for that benefit set out in Part 2 of the Act; and
 - (ii) after that expiry date, and unless exceptional circumstances prevented the person from doing so, the person continued to meet the eligibility criteria for that benefit; and

- (b) if regranted, that benefit commences on that expiry date.
- (5) If a person intending to reapply for the specified benefit contacts MSD on or before the expiry date for the person's specified benefit,—
 - (a) MSD may set a time (being a time within 10 working days after that expiry date) before which the requirements of subclause (1) are to be completed; and
 - (b) if those requirements are completed before that time, MSD may regrant that benefit under subclause (4).
- (6) Subclauses (1) to (5) apply for the purposes of section 297 of the Act.
- (7) The specified benefit must not be regranted under this regulation to a person, and any reapplication form received from or on behalf of that person must be treated as an application form for the purposes of section 297(1) of the Act and regulation 166, if the requirements of subclause (1)—
 - (a) are not completed within 20 working days after the expiry date for the person's specified benefit; or
 - (b) were completed within that time but after that expiry date, and MSD is satisfied that there were no exceptional circumstances that prevented those requirements from being completed on or before that expiry date.
- (8) For the purposes of this regulation, a failure of a beneficiary's work-tested spouse or partner to participate in a comprehensive work assessment in accordance with subclause (1)(b)—
 - (a) must not be treated as a failure to complete the requirements of subclause (1); but
 - (b) must be treated as a failure by that spouse or partner to comply with that spouse's or partner's work-test obligations.

Compare: 1964 No 136 s 80BF

Subpart 4—Apportionment and payments on death of beneficiary

191 Apportionment

- (1) This regulation applies to, and enables MSD to apportion between a beneficiary and the beneficiary's spouse or partner, the following (other than benefits specified in section 442(3) of the Act):
 - (a) a benefit payable at a rate prescribed for a person who is in a relationship (a **couple rate**);
 - (b) any other benefit payable under the Act.
- (2) Benefits to which this regulation applies are payable as follows (unless they are apportioned differently by MSD under subclause (3)):
 - (a) 50% must be paid to the beneficiary; and

- (b) 50% must be paid to the spouse or partner who qualifies the beneficiary to be paid at the couple rate.
- (3) If MSD determines that it would not be appropriate for benefits to which this regulation applies to be paid under subclause (2), they are payable—
 - (a) wholly to the beneficiary (and so not at all to the spouse or partner who qualifies the beneficiary to be paid at the couple rate), if MSD determines that is appropriate; or
 - (b) in any other unequal proportions MSD determines are appropriate, to the beneficiary and to the spouse or partner who qualifies the beneficiary to be paid at the couple rate.
- (4) When a benefit is apportioned under this regulation, the proportion paid to a person is for the purposes of the Income Tax Act 2007 income of that person.

Compare: 1964 No 136 s 83(1), (2), (3)

192 Payment on death of beneficiary

- (1) This subclause applies if,—
 - (a) on the death of a beneficiary, an amount of the benefit concerned (which may include an instalment already due that has not been paid and remains payable) is unpaid; and
 - (b) the amount is not disposed of under section 346 of the Act (for example, to or for the benefit of the surviving spouse or partner, or a dependent child or children, of the beneficiary).
- (2) If subclause (1) applies,—
 - (a) if probate of the beneficiary's will has been granted, or letters of administration of the beneficiary's estate have been issued, the amount must be paid to the beneficiary's executor or administrator;
 - (b) in any other case, the amount must be paid in accordance with section 65(2) and (3) of the Administration Act 1969.

Compare: 1964 No 136 s 82(3A); SR 2007/229 r 6

Subpart 5—Money management

193 When money management applies

- (1) Regulation 194 applies to a young person (subject to subclause (2)) if—
 - (a) a specified payment (as defined in subclause (3)) is payable to a young person; and
 - (b) the young person has given to MSD or to the young person's contracted service provider the information required under all or any of section 162(1)(i) of the Act and regulations 166 and 173; and
 - (c) the young person has not opted out under regulation 196.

- (2) Until the information required under all or any of section 162(1)(i) of the Act and regulations 166 and 173 has been given, a payment referred to in subclause (1)(a) must be paid to or on account of the young person entitled to it in accordance with section 339(1) of the Act.
- (3) In this subpart, **specified payment**, in relation to a young person, means,—
 - (a) in accordance with section 341(3)(a) to (c) of the Act,—
 - (i) any youth support payment (including the in-hand allowance up to the maximum amount set out in clause 7 of Part 6 of Schedule 4 of the Act):
 - (ii) any WFF tax credit payable to a young person by MSD:
 - (iii) the amount of any child disability allowance or disability allowance to which a young person is entitled:
 - (b) for the purposes of section 341(3)(d) of the Act,—
 - (i) the amount of any accommodation supplement, temporary additional support, or childcare assistance to which the young person is entitled (other than a payment for childcare assistance made to a provider under subpart 6 (childcare assistance) of Part 2 (assistance) of these regulations):
 - (ii) the amount of any special assistance of an ongoing kind under section 101 of the Act to which the young person is entitled (other than a payment for childcare made to a provider under any such welfare programme):
 - (iii) the amount of any incentive payment (as defined in Schedule 2 of the Act) payable to the young person:
 - (iv) in relation to a young person to whom section 166(1) or 167(1) of the Act applies, the portion of the specified benefit payable to the young person under regulation 191 (apportionment):
 - (v) the amount of any winter energy payment payable to the young person.

Compare: SR 2012/207 rr 3, 7

194 How specified payment may be paid

- (1) MSD must pay each instalment of a specified payment payable to the young person in the following order and manner:
 - (a) first, by paying such amount as MSD thinks reasonable in the circumstances of the young person directly towards the young person's accommodation costs and service costs:
 - (b) secondly, by paying such amount as MSD thinks reasonable in the circumstances of the young person directly towards the young person's debts or other liabilities (including any reduction or deduction required or authorised under the Act):

- (c) thirdly, by paying to or on account of the young person the in-hand allowance up to the amount specified in clause 7 of Part 6 of Schedule 4 of the Act:
 - (d) fourthly, unless subclause (2) applies, by crediting such amount as MSD thinks reasonable in the circumstances of the young person to a payment card, voucher, or device that enables the young person to obtain goods or services from a participating supplier.
- (2) Subclause (1) is subject to section 282(3)(c) of the Act.
- (3) In the case of the supply of goods or services to a young person by a non-participating supplier, MSD may pay the amount that would have been paid under subclause (1)(d) either—
 - (a) directly to that supplier; or
 - (b) to or on account of the young person.
- (4) In this regulation, **participating supplier** means a supplier who has agreed with the department (as defined in section 3(1) of the Social Security Act 1964) or MSD to supply goods or services to young persons on presentation of a payment card, voucher, or other device, and **non-participating supplier** means a supplier who has not so agreed.

Compare: SR 2012/207 r 8

195 Other payments that may be paid to young person or on account of young person

- (1) MSD may pay all or part of the following payments to or on account of a young person to whom regulation 194 applies:
 - (a) any disability allowance or child disability allowance:
 - (b) any special assistance under section 101(1) of the Act that is not of an ongoing kind:
 - (c) any payments of training incentive allowance under the employment readiness and work assistance programme, payments under the course participation assistance programme, or payments under the sole parent study assistance programme, established under section 101(1) of the Act:
 - (d) any advance payment of all or part of 1 or more instalments of a benefit under section 347 of the Act.
- (2) Subclause (1) is subject to subclause (3).
- (3) MSD may only make a payment under subclause (1)(b) to (d) after first consulting the young person's contracted service provider, if there is one.

Compare: SR 2012/207 r 9

196 When young person may opt out of money management

- (1) A young person receiving a youth payment may opt out of money management if—

- (a) the young person is 18 years or older; and
 - (b) the payment is being continued under section 54(3) of the Act.
- (2) A young person receiving a young parent payment may opt out of money management if—
 - (a) the young person is 20 years or older; and
 - (b) the payment is being continued under section 61(3) of the Act.
- (3) A young person opts out of money management by giving MSD written notice that the young person opts out of money management.
- (4) Regulation 194 does not apply to a young person who has opted out of money management under this regulation.

Compare: SR 2012/207 r 10

197 Criteria for managing payments

The criteria referred to in section 342 of the Act for the management of a young person's own payments are as follows:

- (a) the young person has demonstrated continued compliance with the young person's obligations under sections 162 to 164 of the Act; and
- (b) the young person's contracted service provider has advised MSD that it considers the young person to be financially competent or, as the case requires, MSD considers the young person to be financially competent.

Compare: SR 2012/207 r 11

198 Young person who opts out of money management or meets criteria for managing own payments may request payments redirected

- (1) MSD, on the request of a young person who has opted out of money management under regulation 196 or has met the criteria set out in regulation 197 for managing the young person's own payments, may pay all or part of a specified payment payable to the young person directly towards—
 - (a) the young person's accommodation and service costs;
 - (b) the young person's lawful debts or other liabilities (including any reduction or deduction required or authorised under the Act).
- (2) A request under subclause (1)—
 - (a) must be in writing; and
 - (b) must specify the costs, debts, or other liabilities towards which MSD must pay the payment; and
 - (c) may be withdrawn or otherwise cancelled at any time.

Compare: SR 2012/207 r 12

199 Electing money management

A young person to whom section 166 or 167 of the Act applies for the time being may elect money management by giving MSD written notice that the young person elects money management.

Compare: SR 2012/207 r 13

200 Payment of specified payments if young person has elected money management

MSD must pay each instalment of a specified payment payable to a young person who has elected money management under regulation 199 in the following order and manner:

- (a) first, by paying such amount as MSD thinks reasonable in the circumstances of the young person directly towards the young person's accommodation costs and service costs:
- (b) secondly, by paying such amount as MSD thinks reasonable in the circumstances of the young person directly towards the young person's debts or other liabilities (including any reduction or deduction required or authorised under the Act):
- (c) thirdly, by paying the balance (if any, after payments under paragraphs (a) and (b)) to or on account of the young person.

Compare: SR 2012/207 r 14

Subpart 6—Advance payment of benefits**201 Interpretation**

In this subpart, unless the context otherwise requires,—

applicable payment means any of the following:

- (a) an advance payment of all or part of 1 or more instalments of a benefit under section 347 of the Act:
- (b) a payment under the Special Needs Grants Programme (excluding Parts 5, 6, and 6A) established and approved on 18 December 1998 (and continued under clause 21 of Schedule 1 of the Act):
- (c) a payment under the Recoverable Assistance Programme (excluding Part 3A) established and approved on 15 February 1999 (and continued under clause 21 of Schedule 1 of the Act)

applicant means—

- (a) a beneficiary who wishes to make an application:
- (b) a beneficiary by whom or on whose behalf an application is made

application means an application for an advance payment of all or part of 1 or more instalments of a benefit under section 347 of the Act

budgeting activity means a budgeting activity of a kind prescribed in regulation 204.

Compare: SR 2010/261 r 3

202 Requirements for application

- (1) An applicant and the applicant's spouse or partner (if any) must,—
 - (a) if required by MSD, complete an application form provided by MSD; and
 - (b) provide any information, or give an answer to any question, that MSD reasonably requires to determine the applicant's application.
- (2) MSD may require an applicant and the applicant's spouse or partner (if any) to comply with subclause (1)(b)—
 - (a) in the manner specified by MSD; and
 - (b) whether or not they are required to complete the application form referred to in subclause (1)(a).

Compare: SR 2010/261 r 4

203 Circumstances when budgeting activity may be required

- (1) For the purposes of section 348 of the Act, the circumstances in which an applicant or the applicant's spouse or partner (if any), or both, may be required to undertake a budgeting activity are as follows:
 - (a) if the applicant has received 3 or more applicable payments within—
 - (i) the period that starts on the date of commencement of these regulations and ends on the date on which the application is made, if that period is less than 12 months; or
 - (ii) the preceding period of 12 months that ends on the date on which the application is made, if that date is 12 months or more after the date of commencement of these regulations; or
 - (b) if paragraph (a) does not apply to the applicant, but MSD, after taking into account the following matters, considers that it would be beneficial for the applicant or the applicant's spouse or partner (if any), or both, to undertake a budgeting activity to better manage their finances:
 - (i) the applicant has received repeated applicable payments for the same cost (whether the payments were received before or after the date of commencement of these regulations);
 - (ii) the applicant's history of receiving multiple applicable payments (whether that history relates to a period before or after the date of commencement of these regulations);
 - (iii) the amount of the applicant's debts that are due to the Crown (within the meaning of section 353 of the Act) and whether that

amount is materially significant to the management of the applicant's finances.

- (2) If 1 or more applicable payments are made to the applicant on the same day, those payments are to be counted as 1 applicable payment under this regulation.

Compare: SR 2010/261 r 5

204 Kinds of budgeting activities

For the purposes of section 348 of the Act, the kinds of budgeting activities that MSD may require an applicant or the applicant's spouse or partner (if any), or both, to undertake are as follows:

- (a) completing a budgeting work sheet or a work sheet approved by MSD that sets out income against expenditure:
- (b) attending a budgeting course or seminar approved by MSD that teaches how to prepare a budget or to improve budgeting skills:
- (c) seeking assistance from a recognised budgeting advice service.

Compare: SR 2010/261 r 6

Subpart 7—Calculating weekly income

205 Appropriate number of weeks for calculating weekly income

- (1) For the purposes of the definition of appropriate number of weeks in clause 11 of Part 3 of Schedule 3 of the Act and a benefit, the number of weeks is the appropriate number of weeks specified for that benefit in Schedule 6 of these regulations.
- (2) Subclause (1) does not prevent MSD, with the agreement of a person whose income would otherwise be determined (under clause 13 of Part 3 of Schedule 3 of the Act) over 52 weeks, determining that person's income over the period of 1 week.
- (3) An agreement with a person under subclause (2) may be ended by the person or by MSD at any time by notice to the other.

Compare: SR 1996/128 r 2, Schedule

Subpart 8—Debts

206 Debts due to the Crown

The following sums are debts due to the Crown:

- (a) a penalty payable under the Act:

Examples

A penalty payable under section 354 of the Act (recovery of penalty from beneficiary who obtains by fraud amount in excess of entitlement).

A penalty payable under regulation 226 (payer penalty for late deductions).

- (b) a benefit paid conditionally or provisionally under the Act that a person has (by direction of MSD or otherwise) become liable to repay:
-

Examples

An amount directed to be repayable under section 228(2) of the Act (MSD's options in case of misconduct).

An amount the person granted a benefit is liable to repay under section 64 of the Act (emergency benefit: grant during epidemic in New Zealand) and to which this paragraph applies in accordance with section 64(3) of the Act.

An amount recoverable under section 186 of the Act (benefit may be subject to repayment of insurance payment).

An amount recoverable under regulation 184 (delayed redundancy and retirement payments).

An amount recoverable under regulation 185 (seasonal workers made redundant after benefit commences).

An amount the person participating in approved activities is liable to repay under section 324 of the Act (effect of participation in certain activities on non-entitlement period).

- (c) an advance payment of all or part of 1 or more instalments of a benefit made to a person under section 347 of the Act:
- (d) any money paid to or for the credit of a person as a grant of special assistance under a programme approved under section 101 of the Act that is—
- (i) paid as a recoverable grant of assistance; or
 - (ii) otherwise recoverable from that person under the terms and conditions of the programme:
- (e) any amount described by the Act or these regulations as a debt due to the Crown from the person:
-

Examples

An amount recoverable under section 186 of the Act (benefit may be subject to repayment of insurance payment).

An amount recoverable under section 197(4)(b) and (c) of the Act (effect of compensation or damages on application for benefit).

An amount recoverable under section 358 of the Act (recovery from spouse or partner who misleads MSD of excess amount beneficiary obtained).

- (f) a sum that is an overpayment, because the sum is paid or advanced under the Act, Part 6 of the Veterans' Support Act 2014, Part 1 of the New Zealand Superannuation and Retirement Income Act 2001, or the Residential Care and Disability Support Services Act 2018, to or for the credit of a person, and the sum is one—

- (i) that is in excess of the amount to which the person is entitled; or
- (ii) to which the person has no entitlement:

Examples

An amount recoverable under regulation 222 (deductions are held in trust).

An amount recoverable under regulation 226 (payer penalty for late deductions).

- (g) a debt that, under section 260(2), 266(2), or 384(2) of the Act, section 128(a) of the Housing Restructuring and Tenancy Matters Act 1992, or any other enactment,—
 - (i) may be recovered by MSD under regulations made under section 444 of the Act as if it were a debt due to the Crown; or
 - (ii) is a debt due to the Crown for the purposes of, or must be treated as if it were a debt due to the Crown under, such regulations.

Compare: 1964 No 136 ss 85A, 85B

Subpart 9—Recovery of debt

207 Exceptions to duty to recover debts

- (1) MSD's duty under section 362 of the Act to recover debts is subject to—
 - (a) regulation 208 (debts caused wholly or partly by errors to which debtors did not intentionally contribute);
 - (b) subpart 11 (debt recovery suspension) of this Part, or any other regulations (providing for remittance or suspension of debt) made under section 444 of the Act;
 - (c) a determination (about debts that it is uneconomic to recover) made under subclause (2);
 - (d) an authorisation (about debts that are to be written off) of the kind specified in subclause (3).
- (2) MSD may, for the purposes of subclause (1)(c), make a written determination specifying any 1 or more debts, or any 1 or more classes, descriptions, or kinds of debts, that it is uneconomic to recover.
- (3) An authorisation referred to in subclause (1)(d) is a written authorisation (for example, a delegation)—
 - (a) given jointly by the Minister and by the Minister of Finance for public finance purposes generally; and
 - (b) that specifies any 1 or more classes, descriptions, or kinds of debts as debts that are to be written off.

Compare: 1964 No 136 s 86(1A)

208 Debts caused wholly or partly by errors to which debtors did not intentionally contribute

- (1) MSD cannot recover under the Act a sum comprising that part of a debt that was caused wholly or partly by an error to which the debtor did not intentionally contribute if—
 - (a) the debtor—
 - (i) received that sum in good faith; and
 - (ii) changed the debtor's position in the belief that the debtor was entitled to that sum and would not have to pay or repay that sum to MSD; and
 - (b) it would be inequitable in all the circumstances, including the debtor's financial circumstances, to permit recovery.
- (2) In this regulation, **error**—
 - (a) means—
 - (i) the provision of incorrect information by MSD;
 - (ii) any erroneous act or omission of MSD that occurs during an inquiry under section 298 of the Act;
 - (iii) any other erroneous act or omission of MSD; but
 - (b) does not include the simple act of making a payment to which the recipient is not entitled if that act is not caused, wholly or partly, by any erroneous act or omission of MSD.
- (3) In subclause (2), **MSD** includes a contracted service provider whose action or inaction is under section 377(c) of the Act treated as if it were action or inaction by MSD.

Compare: 1964 No 136 ss 86(9A), (9B), 125G(3)

209 MSD must determine rate and methods of debt recovery

- (1) MSD must, in performing its duty under section 362 of the Act to recover a debt, determine from time to time—
 - (a) the rate of recovery; and
 - (b) the method or methods of recovery to be used.
- (2) The methods of recovery that MSD may determine under subclause (1)(b) are to be used are any of the following:
 - (a) bring proceedings in the name of the chief executive;
 - (b) deduct all or part of that debt from any amount payable to that person by MSD as a benefit or a student allowance;
 - (c) for a debt referred to in regulation 206(d) (recoverable special assistance money under an approved welfare programme), deduct all or part of that

debt from any payment of a grant of special assistance under a programme approved under section 101 of the Act:

- (d) issue a deduction notice under regulation 217.
- (3) MSD must, in making the determinations required by subclause (1), have regard to—
 - (a) relevant considerations specified in debt recovery directions given under regulation 211; and
 - (b) all other relevant considerations.

Compare: 1964 No 136 s 86(1BA)(a), (1BB)

210 MSD may defer temporarily recovery of debt

- (1) This regulation applies to MSD when it is performing its duty under section 362 of the Act to recover a debt.
- (2) MSD may defer temporarily recovery of the debt if MSD is satisfied that, in the particular case, there exist circumstances of a kind specified by debt recovery directions given under regulation 211.

Compare: 1964 No 136 s 86(1BA)(b)

211 Debt recovery directions

- (1) The Minister must give to MSD, and ensure that there are in force (as from time to time amended or replaced) at all times on and after 26 November 2018, debt recovery directions for the purposes of regulations 209 and 210.
- (2) Debt recovery directions given under this regulation may, without limitation,—
 - (a) specify for regulation 209 considerations that differ, or that contemplate different rates of recovery, or methods of recovery, or both, for determinations in respect of different kinds of debts referred to in regulation 206;
 - (b) specify for regulation 210 different kinds of circumstances for different kinds of debts referred to in regulation 206.
- (3) Debt recovery directions given under this regulation must be published, notified, and presented to the House of Representatives, and are a disallowable instrument for the purposes of the Legislation Act 2012, in accordance with section 444(3) of the Act.

Compare: 1964 No 136 s 86(1BC), (1BD)

212 Recovery from estate of deceased beneficiary of excess amount beneficiary obtained

- (1) This regulation applies to the estate of a deceased beneficiary (A) if, on or after A's death, MSD finds A to have been disqualified for any reason from obtaining the benefit, or a benefit of the amount, granted to A.

Example

A is disqualified because A received income, possessed property, or both.

- (2) An amount, to be assessed by MSD, equal to the total amount paid to A in excess of the amount (if any) to which A was by law entitled is a debt due to the Crown from, and may be recovered in proceedings brought by or on behalf of the chief executive against, A's estate.
- (3) Recovery of the amount is subject to regulation 208 (but to nothing else in regulations 207 to 211).

Compare: 1964 No 136 s 86(4)

213 Recovery from estate of beneficiary's deceased spouse or partner of excess amount beneficiary obtained

- (1) This regulation applies to the estate of a deceased spouse or partner (**B**) of a beneficiary (**A**) if, on or after B's death, MSD finds A to have been granted for any reason a benefit, or a benefit of an amount, to which A was not by law entitled.

Example

A was granted a benefit, or a benefit of an amount, to which A was not entitled because B, during B's lifetime, received income, possessed property, or both.

- (2) An amount, to be assessed by MSD, equal to the total amount paid to A in excess of the amount (if any) to which A was by law entitled is a debt due to the Crown from, and may be recovered in proceedings brought by or on behalf of the chief executive against, B's estate.
- (3) Recovery of the amount is subject to regulation 208 (but to nothing else in regulations 207 to 211).

Compare: 1964 No 136 s 86(5)

214 Making and notice of assessment of amount

- (1) In determining under regulation 212 or 213 the total amount paid to A by way of benefit in excess of the amount (if any) to which A was by law entitled, any property that, when A or B died, was in A's or B's possession must be taken to have been in A's or B's possession on a date that MSD determines and that is, or is after, the date on which the benefit was first granted.
- (2) Subclause (1) is overridden to the extent that the contrary is—
 - (a) proved in proceedings for the recovery of that excess amount; or
 - (b) decided by the District Court on an application under regulation 215(1).
- (3) Written notice of an assessment under regulation 212 or 213 must be served on the executor or administrator of the estate.

Compare: 1964 No 136 s 86(6), (7)

215 Review of assessment of amount

- (1) An executor or administrator of an estate on whom a notice is served under regulation 214(3) may, within 1 month after the service, apply to the District Court to review 1 or both of the following:
 - (a) the assessment under regulation 212 or 213;
 - (b) any decision of MSD under regulation 214(1) in relation to the assessment.
- (2) The District Court has jurisdiction in respect of the application irrespective of the amount of the assessment.
- (3) The application must not be heard in open court.
- (4) The court may receive as evidence any statement, document, information, or matter that may in its opinion assist the court to deal effectively with the application, whether or not the same would be otherwise admissible in a court of law.
- (5) In determining the application, the court must accept a date determined under regulation 214(1) by MSD as the date on which any property was in the possession of the deceased, unless the court is satisfied from the evidence produced that some other date should be fixed.
- (6) In determining the application, the court may—
 - (a) confirm or cancel, or increase or reduce the amount of, the assessment; or
 - (b) make any order it considers just and equitable in the circumstances.

Compare: 1964 No 136 s 86(7), (8), (9)

Subpart 10—Deductions**216 Amount due, etc, defined**

In this subpart,—

amount due, for a person, means a debt—

- (a) that is an eligible debt due to the Crown, and that is subject to recovery or that may be recovered, from the person; and
- (b) notice of which is delivered or posted by MSD to (whether or not the notice is received by) the person; and
- (c) that is not paid by the end of the tenth day after the day on which MSD delivers or posts to the person the notice of the debt

debtor means the person (or person's estate) from whom the amount due may be recovered as a debt due to the Crown

debtor's payer has the meaning given to it by Schedule 2 of the Act

eligible debt due to the Crown, for a person, means a debt that—

- (a) is due to the Crown under regulation 206, and subject to recovery under section 362(1) of the Act, from the person; or
- (b) is recoverable, from the person's estate, under regulation 212(2) (recovery from estate of deceased beneficiary of excess amount beneficiary obtained); or
- (c) is recoverable, from the person's estate, under regulation 213(2) (recovery from estate of beneficiary's deceased spouse or partner of excess amount beneficiary obtained); or
- (d) may be recovered from the person as a debt due to the Crown under section 27X of the Social Security Act 1964 (as that section is saved by section 256(1) of the Child Support Act 1991); or
- (e) is an amount of maintenance debt within the meaning of section 61CA of the Social Security Act 1964 (as that section is saved by clause 49 of Schedule 1 of the Act) that may be recovered from the person

salary or wages includes commission, and any other remuneration from employment.

Compare: 1964 No 136 ss 3(1), 86A(1), (1C), 86B

217 Deduction notice requiring debtor's payer to deduct, and pay MSD, amount due

- (1) MSD may issue to a debtor's payer a written deduction notice that requires the debtor's payer to—
 - (a) deduct the amount due (as a lump sum, or by instalments) from a sum that is or becomes payable by the debtor's payer to the debtor; and
 - (b) pay to MSD by a time, or by any times, specified in the notice, the amount or amounts deducted.

Example

MSD may issue a written deduction notice to the Accident Compensation Corporation that requires the Corporation to—

- (a) deduct the amount due from any weekly compensation in respect of loss of earnings or loss of potential earning capacity that is payable, or becomes payable, to the debtor by the Corporation under the Accident Compensation Act 2001; and
 - (b) pay to MSD at a time, or at any times, specified in the notice the amount or amounts deducted.
- (2) MSD cannot issue a deduction notice unless MSD has first taken other reasonably practicable steps (but this subclause does not require MSD to take court or tribunal proceedings) to recover the debt.

- (3) Every deduction notice operates subject to regulations 224 (protected earnings), 225 (variation or discharge), and 226 (payer penalty for late deductions).

Compare: 1964 No 136 s 86A(1), (1B), (2), (7)

218 Contents, copies, and revocation of deduction notice

- (1) MSD 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 debtor's payer to whom the deduction notice is issued must pay to MSD the amounts deducted; and
 - (c) the date, on or after the date on which the deduction notice is issued, on which the deduction notice takes effect.
- (2) MSD must issue a copy of the deduction notice to the debtor at the debtor's last known place of residence or business.
- (3) MSD may at any time revoke a deduction notice issued to a debtor's payer by giving written notice, or by issuing a new deduction notice, to the debtor's payer.
- (4) MSD must revoke a deduction notice if satisfied, on a request for the purpose made by or on behalf of the debtor, that the amount due has been paid.

Compare: 1964 No 136 s 86A(3), (4), (5)

219 Debtor's payer must, if requested, issue debtor deductions statement

Every debtor's payer to whom a deduction notice is issued must, if requested by or on behalf of the debtor, issue to the debtor a written statement of—

- (a) each amount deducted; and
- (b) the purpose or purposes for which the debtor's payer deducted each amount.

Compare: 1964 No 136 s 86A(6)

220 Debtor is, so far as amounts are deducted, discharged from debt

- (1) This regulation applies if a debtor's payer to whom a deduction notice has been issued deducts, under the notice, any money payable to a debtor.
- (2) The debtor is, to the extent of the amount deducted, discharged from the debtor's debt due to the Crown.

Compare: 1964 No 136 s 86C

221 Deduction notices issued to banks

- (1) If the debtor's payer to whom the deduction notice is issued is a bank, any money held by the bank to the credit of the debtor is subject to regulation 217, and the amount required to be deducted under the deduction notice is, without prejudice to any other remedies against the debtor or any other person,—

- (a) deemed to be held in trust for the Crown; and
 - (b) recoverable from the bank under regulation 206(f) and section 362 of the Act as if it were money payable under a benefit to which the debtor was not entitled.
- (2) In this regulation, **bank** means any of the following:
 - (a) a registered bank (within the meaning of the Reserve Bank of New Zealand Act 1989);
 - (b) any other person carrying on in New Zealand the business of banking;
 - (c) a private savings bank;
 - (d) a credit union within the meaning of the Friendly Societies and Credit Unions Act 1982;
 - (e) a building society within the meaning of the Building Societies Act 1965;
 - (f) the Reserve Bank of New Zealand established under the Reserve Bank of New Zealand Act 1989, but only in relation to an account maintained by that bank for an employee of that bank.
- (3) In this regulation, **money held by the bank to the credit of the debtor** includes interest on any money that is on deposit or deposited with a bank to the credit of the debtor, 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 debtor has made any application to withdraw or uplift the money.
- (4) Money on deposit with a bank is, for the purposes of this regulation, taken to be held by the bank to the credit of the debtor if the money—
 - (a) is held in a joint bank account in the name of the debtor and 1 or more other persons; and
 - (b) can be withdrawn from the account by or on behalf of the debtor 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

222 Deductions are held in trust

- (1) A debtor's payer who makes a deduction under a deduction notice is taken to be acting—
 - (a) on the authority of the debtor and of any other person concerned; and
 - (b) on behalf of the Crown.

- (2) Neither the debtor, nor any other person concerned, has a claim against the debtor's payer making the deduction, or the Crown, in respect of that deduction.
- (3) Any amounts deducted must be held in trust for the Crown, and are debts due to the Crown under regulation 206(f), and subject to recovery under section 362 of the Act, from the debtor's payer who makes the deductions, as if the amounts were money payable under a benefit to which the debtor's payer who made the deduction was not entitled.
- (4) Any holding and recovery under subclause (3) is without prejudice to any other remedies against the debtor or any other person.

Compare: 1964 No 136 s 86E

223 Offences in relation to deduction notices

A person commits an offence, and is liable on conviction to a fine not exceeding \$2,000, if the person—

- (a) fails to make any deduction required by a deduction notice; or
- (b) fails, after making a deduction, to pay the amount deducted to MSD within the time specified in the notice; or
- (c) permits payment to or on behalf of any person, other than MSD, of any amount held in trust for the Crown under regulation 221 or 222.

Compare: 1964 No 136 s 86F

224 Protected earnings

- (1) If a deduction notice is issued to an employer of a debtor, the employer must not, in making deductions under the deduction notice, reduce the amount paid to the debtor 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 debtor's net ordinary weekly pay for a week.
- (2) The debtor's **net ordinary weekly pay for a week**, for the purposes of this regulation, is the balance left after deducting from the debtor'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 debtor by the employer in respect of a week.
- (3) This regulation overrides anything to the contrary in regulations 216 to 223, 225, and 226.

Compare: 1964 No 136 s 86G

225 Variation or discharge of deduction notice

- (1) This regulation applies to a debtor's payer to whom a deduction notice is issued, or a debtor, who thinks a deduction notice has been issued in error or contains an error.

- (2) The debtor's payer or debtor may bring the matter to the notice of MSD.
- (3) If the matter is not resolved to the debtor's payer's or debtor's satisfaction within 5 working days after the day on which the debtor's payer or debtor brings it to the notice of MSD, the debtor's payer or debtor may apply (without notice to MSD) to a Registrar of the District Court for the variation or discharge of the notice.
- (4) The Registrar may vary or discharge the notice if satisfied that an error has been made, and that the notice ought to be varied or discharged.
- (5) The variation or discharge takes effect when notice of it is given under regulation 238 to the debtor's payer or debtor.
- (6) The Registrar must immediately send MSD a copy of the variation or discharge of the notice.

Compare: 1964 No 136 s 86H

226 Penalty for late deductions

- (1) This regulation applies to a debtor's payer to whom a deduction notice has been issued if the debtor's payer fails wholly or in part to—
 - (a) make a deduction required to be made by the notice; or
 - (b) pay an amount deducted under the notice to MSD by the time specified in the notice.
- (2) The debtor's payer is liable to pay to MSD a penalty 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 during which the amount in default or a part of it has not been deducted or, as the case may be, has not been paid to MSD, a further penalty of 2% of the amount or part in default, or \$1, whichever is the greater.
- (3) MSD may remit all or part of the penalty payable, or may refund all or part of the penalty paid, to MSD under this regulation if satisfied—
 - (a) that the failure to make the deduction or make the payment was due to circumstances reasonably beyond the debtor's payer's control; or
 - (b) that the imposition of that penalty would in all circumstances be inequitable.
- (4) A penalty payable to MSD under this regulation is a debt due to the Crown for the purpose of regulation 206(f), and subject to recovery under section 362 of the Act, from the debtor's payer as if the penalty were money payable under a benefit to which the debtor's payer was not entitled.

Compare: 1964 No 136 s 86I

Subpart 11—Debt recovery suspension

227 Interpretation

In this subpart, unless the context otherwise requires,—

benefit debt means a debt due to the Crown, and subject to recovery, under section 362(1) (MSD’s duty to recover debts) of the Act

cash assets has the same meaning as in section 68(2) of the Act

deduction notice means a deduction notice issued under regulation 217

full-time course has the same meaning as in section 2(1) of the Student Allowances Regulations 1998

holiday employment means employment undertaken by a full-time student—

- (a) after the end of a full-time course in which the student was enrolled in one academic year and before the start of a full-time course in which the student is, or is to be, enrolled in the next academic year; or
- (b) after the end of a full-time course in which the student was enrolled in one academic year and before the start of another full-time course in which the student is, or is to be, enrolled in that year; or
- (c) after the end of a portion of a full-time course in which the student is enrolled in one academic year and before the resumption in that year of the rest of that course

notice revoking the deduction notice, in relation to a deduction notice, means a written notice—

- (a) given by MSD in accordance with regulation 218(3); and
- (b) revoking the deduction notice

period of suspension has the meaning given to it by regulation 233

permanent employment position means a position of employment that is—

- (a) full employment or full-time employment; but
- (b) not temporary employment

person eligible to request suspension has the meaning given to it by regulation 228

request for suspension has the meaning given to it in regulation 231

suspension deadline, in relation to a person eligible to request suspension, means the close of the day that is 3 months after the date on which the person commences employment in a permanent employment position

working-age benefit means a benefit that is—

- (a) jobseeker support; or
- (b) sole parent support; or

- (c) an emergency benefit (other than one payable under section 17(2)(c) of the New Zealand Superannuation and Retirement Income Act 2001); or
- (d) a youth payment; or
- (e) a young parent payment; or
- (f) a supported living payment.

Compare: SR 2007/86 r 3

Eligibility to request debt recovery suspension

228 Person eligible to request suspension defined

A **person eligible to request suspension** means a person—

- (a) who is, or is treated as, a person who complies with regulation 229 (which specifies work status and associated requirements); and
- (b) who complies with regulation 230 (which specifies cash assets, income, and associated requirements).

Compare: SR 2007/86 r 4

229 Work status and associated requirements

- (1) A person complies with this regulation if—
 - (a) the person is 18 years old or older; and
 - (b) MSD is satisfied that the person has entered, or is to enter, into a permanent employment position; and
 - (c) the person complies with subclause (2).
- (2) A person complies with this subclause if—
 - (a) the person is, or is treated as, a person receiving a working-age benefit; or
 - (b) the person has been granted a working-age benefit that, under section 313 of the Act, is subject to a stand down and commences on a date calculated in accordance with section 316 of the Act; or
 - (c) the person is a full-time student who is not undertaking holiday employment; or
 - (d) the person—
 - (i) is not, and is not treated as, a person receiving a working-age benefit; and
 - (ii) has moved or is moving from a permanent employment position or position of employment of some other kind (the **first position**) to a permanent employment position (the **second position**); and
 - (iii) has commenced or is to commence employment in the second position after (but not more than 4 weeks after) the person's employment in the first position terminated or is to terminate; or

- (e) the person—
 - (i) is not, and is not treated as, a person receiving a working-age benefit; and
 - (ii) is a person who MSD is satisfied is re-entering or has re-entered the workforce.
- (3) MSD may for the purposes of these regulations treat a person younger than 18 years as a person who complies with this regulation if—
 - (a) the person complies with subclause (1)(b) and (c); and
 - (b) MSD considers there are special circumstances that warrant that treatment.

Compare: SR 2007/86 r 5

230 Cash assets, income, and associated requirements

A person complies with this regulation if MSD is satisfied that the person has entered, or is to enter, into a permanent employment position and—

- (a) the person has cash assets (including the cash assets of the person's spouse or partner, if any) of less than,—
 - (i) for a single person, the amount in clause 1 of Schedule 5 of the Act; or
 - (ii) for a person who is in a relationship (with or without dependent children), or is a sole parent (with 1 or more dependent children), the amount in clause 2 of Schedule 5 of the Act; and
- (b) the person has income (including the income of the person's spouse or partner, if any) of less than the appropriate amount set out in Part 2 of Schedule 5 of the Act; and
- (c) if the person has been granted a working-age benefit that, under section 313 of the Act, is subject to a stand down and commences on a date calculated in accordance with section 316 of the Act, or is, or is treated as, a person receiving a working-age benefit, the person has taken all practicable steps to ensure that the grant of the benefit or, as the case may be, the benefit, is cancelled when the person commenced or is to commence employment in the permanent employment position.

Compare: SR 2007/86 r 6

231 Making and withdrawing requests for suspension

- (1) A person eligible to request suspension may, at any time before the suspension deadline,—
 - (a) make a request that recovery of the person's benefit debts be suspended (a **request for suspension**); or
 - (b) withdraw a request for suspension the person made.

- (2) A request for suspension may be made orally or in writing to MSD but, if made orally, must as soon as practicable be confirmed in writing.
- (3) A withdrawal of a request for suspension must be made in writing to MSD.
- (4) A request for suspension, or withdrawal of one, must be treated as having been made when it is received by MSD.
- (5) A person is not prevented from making or withdrawing a request for suspension just because the person has, in accordance with this regulation,—
 - (a) made 1 or more earlier requests for suspension; and
 - (b) withdrawn those 1 or more earlier requests.

Compare: SR 2007/86 r 7

232 Suspension of recovery of benefit debts

- (1) This regulation applies to a person who—
 - (a) is a person eligible to request suspension; and
 - (b) has, in accordance with regulation 231, made a request for suspension; and
 - (c) has not, in accordance with regulation 231, withdrawn the request.
- (2) Benefit debts of a person to whom this regulation applies must not, during the period of suspension, be recovered in any of the following ways:
 - (a) by way of proceedings or deductions, and under subpart 10;
 - (b) by way of the issuing of, or deductions under, a deduction notice.
- (3) As soon as practicable after this regulation starts to apply to a person, MSD must give a notice revoking the deduction notice in respect of every deduction notice that—
 - (a) relates to benefit debts of the person; and
 - (b) has not already been revoked or otherwise ceased to have effect.
- (4) MSD must take all practicable steps to ensure that a notice given in accordance with subclause (3) is received—
 - (a) as soon as practicable, if the person has commenced employment in the permanent employment position when the request for suspension is made; and
 - (b) as soon as practicable after the person commences employment in the permanent employment position, if the person has not commenced employment in that position when the request for suspension is made.

Compare: SR 2007/86 r 8

233 Period of suspension defined

The **period of suspension** means the period that—

- (a) starts (for amounts other than those referred to in paragraph (b)) at the later of the following times:
 - (i) the time the relevant request to suspend recovery was made; and
 - (ii) the time the person commenced employment in the permanent employment position; and
- (b) starts for amounts to be recovered by way of deductions under a deduction notice at the time (determined in accordance with subpart 10) that the person to whom the deduction notice was issued received a notice revoking the deduction notice; and
- (c) ends on the suspension deadline.

Compare: SR 2007/86 r 9

How receipt of working-age benefit affects debt recovery suspension

234 Suspension starts only if benefit has been cancelled

- (1) This regulation applies to a person described in regulation 232(1) who is, or is treated as, a person who is receiving, or has been granted, a working-age benefit.
- (2) Recovery of the person's benefit debts must not be suspended in accordance with regulation 232 unless—
 - (a) the working-age benefit or, as the case may be, the grant of that benefit, has been cancelled; or
 - (b) the person is treated as a person who was receiving a working-age benefit that has now been cancelled.
- (3) This regulation overrides regulation 232.

Compare: SR 2007/86 r 10

235 Suspension ceases if person receives benefit

- (1) Suspension of the recovery of a person's benefit debts in accordance with regulation 232 ceases if the person—
 - (a) receives a working-age benefit; or
 - (b) is treated as a person receiving a working-age benefit.
- (2) This regulation overrides regulation 232.

Compare: SR 2007/86 r 11

*Certain spouses or partners treated as persons who are or were receiving
working-age benefits*

**236 Non-qualifying spouses or partners of recipients of New Zealand
superannuation or veteran's pension**

- (1) This regulation applies to a person (**person A**) who is the spouse or partner of another person (**person B**) if person B—
 - (a) is receiving New Zealand superannuation or a veteran's pension; and
 - (b) has elected to receive the specified rate.
- (2) Person A must, unless subclause (3) applies, be treated for the purposes of this subpart as a person receiving a working-age benefit.
- (3) If person B changes person B's election by electing to receive a rate of New Zealand superannuation or veteran's pension other than the specified rate, person A must instead be treated for the purposes of these regulations as a person who was receiving a working-age benefit that has now been cancelled.
- (4) In this regulation, **specified rate** means the appropriate rate—
 - (a) set out in clause 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001; or
 - (b) specified in section 169(2) of the Veterans' Support Act 2014.

Compare: SR 2007/86 r 12

**237 Spouses or partners of persons granted working-age benefits payable at
certain rates**

- (1) This regulation applies to a person (**person A**) who is the spouse or partner of another person (**person B**) if person B has been granted a working-age benefit payable at the rate for a person whose spouse or partner has not been granted a benefit in the spouse's or partner's own right.
- (2) Person A must, unless subclause (3) applies, be treated for the purposes of this subpart as a person receiving a working-age benefit.
- (3) If person A commences employment in a permanent employment position and the rate of benefit payable is abated, on account of the income from the employment, to half, or less than half, of the rate referred to in subclause (1), person A must instead be treated for the purposes of this subpart as a person who was receiving a working-age benefit that has now been cancelled.

Compare: SR 2007/86 r 13

Subpart 12—Requirements to give notice or other document

238 How MSD or person can meet requirement to give written notice or other document

- (1) This regulation specifies ways in which MSD or a person can meet a requirement in the Act or these regulations to give to another person or MSD a written notice or other document.
- (2) The written notice or other document may be given to an individual (other than an officer or employee in the service of the Crown in that person's official capacity)—
 - (a) personally in hard copy form; or
 - (b) by leaving it in hard copy form 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
 - (c) by posting it in hard copy form in a letter addressed to that person at that place of residence or business or at that address; or
 - (d) by an electronic means (with the individual's express or inferred consent) in accordance with Part 4 of the Contract and Commercial Law Act 2017.
- (3) The written notice or other document may be given to any other person, including an officer or employee in the service of the Crown in that person's official capacity,—
 - (a) if applicable, personally in hard copy form; or
 - (b) by leaving it in hard copy form at that person's place of business; or
 - (c) by posting it in hard copy form in a letter addressed to that person at that place of business; or
 - (d) by an electronic means (with the person's express or inferred consent) in accordance with Part 4 of the Contract and Commercial Law Act 2017.
- (4) Written notices or other documents given by post are, in the absence of evidence to the contrary, taken to have been received by the person on the fourth day after the date on which the letter was posted (and, in proving postal delivery, it is enough to prove the letter was properly addressed and posted).
- (5) This regulation—
 - (a) is subject to section 254 of the Act (how notice of sanction may be given); and
 - (b) operates under sections 392(2), 400(2), and 412(2) of the Act.

Compare: 1964 No 136 s 86J; 2011 No 62 s 211; 2015 No 35 s 4

Subpart 13—Medical services

239 Rates and conditions of employment and payment: prescribed health practitioners

A health practitioner who is any of the following, acting within their scope of practice, is prescribed for the purposes of section 379 of the Act:

- (a) a medical practitioner:
- (b) a psychologist:
- (c) a dentist:
- (d) a midwife:
- (e) a nurse practitioner.

Compare: 1964 No 136 s 132; SR 2007/229 r 8

Subpart 14—Reciprocity agreements: requirements and process

240 Requirements for agreements with mutual assistance provisions

- (1) A reciprocity agreement may contain and include mutual assistance provisions of 1 or both of the following kinds:
 - (a) provisions for the Government of New Zealand and the Government of another country to provide each other with assistance in the recovery of social security debts:
 - (b) provisions for those Governments to supply each other with information for social security purposes.
- (2) No mutual assistance provision of the kind referred to in subclause (1)(a) may be contained and included in a reciprocity agreement unless the agreement is subject to—
 - (a) the terms and conditions set out in regulation 241; or
 - (b) terms and conditions that are to an equivalent effect.
- (3) No mutual assistance provision of the kind referred to in subclause (1)(b) may be contained and included in a reciprocity agreement unless the agreement is subject to—
 - (a) the terms and conditions set out in regulation 242; or
 - (b) terms and conditions that are to an equivalent effect.

Compare: 1990 No 26 s 19A(2), (3), (4), (5)

241 Agreement terms and conditions for debt recovery

- (1) The terms and conditions referred to in regulation 240(2)(a) are as follows:
 - (a) assistance to recover any social security debt of a party may be provided by the other party only in respect of a debt—

- (i) that has been found or determined to be owing in the country concerned by a court or tribunal having jurisdiction in the matter, or by a person, a body, or an organisation in that country acting administratively within the terms of a lawful authorisation; and
 - (ii) in respect of which any right of review of or appeal against the determination of the debt, under the law under which the debt was determined (other than a right of judicial review or complaint under laws relating to administrative decisions generally, or under human rights laws),—
 - (A) has been exhausted or has expired; or
 - (B) if there is no time limit for the exercise of any such right, has not been exercised, or has been exercised and the review or appeal has been finally determined; and
 - (iii) that may be lawfully recovered under the laws of that country; and
 - (iv) that was first found or determined to be owing less than 5 years before the date that the request for assistance is made, except as provided in subclause (3):
- (b) when providing assistance to recover any social security debt of a party, the party giving the assistance is not required to—
 - (i) give priority to the recovery of social security debts of the other party; and
 - (ii) take any measures for recovery not provided for under the laws relating to the recovery of debts of that party:
- (c) a party cannot seek to recover a social security debt by imprisonment of the individual by whom it is owed or of any other individual:
- (d) any recovery of a social security debt of a deceased individual is limited to the value of that individual's estate:
- (e) any institution, court, or tribunal involved in the recovery of a social security debt may defer recovery of the debt, or may order or arrange for the debt to be paid in instalments, if—
 - (i) the institution, court, or tribunal has the power to do so; and
 - (ii) it is its normal practice to do so:
- (f) a party may give assistance only in respect of a social security debt that the requesting institution has certified is of a kind described in paragraph (a)(i) to (iv):
- (g) if a party gives assistance in respect of a social security debt for which there is no time limit for exercising a right of review of or appeal against the determination of the debt under the law under which the debt was determined, or for which there is a time limit but a right of review or appeal may be exercised after its expiry in the discretion of the court or

- tribunal or body or person concerned, or in the discretion of any other person,—
- (i) the requesting institution must immediately advise the requested institution if a right of that kind is exercised; and
 - (ii) the requested institution must defer recovery of the debt until notified by the requesting institution that the review or appeal is finally determined:
- (h) the party requesting assistance to recover a social security debt must pay the costs of the other party of recovering the debt, including court costs or other fees payable under the laws of that party.
- (2) For the purposes of subclause (1)(a)(ii), a right of review or appeal under the law under which a debt was determined **has expired**—
- (a) if the right has not been exercised within the time limit provided for its exercise; and
 - (b) irrespective of whether the court or tribunal or body or person that would have jurisdiction in respect of the review or appeal, or any other person, retains a discretion (however expressed in that law) to allow the right of review or appeal to be exercised after that time.
- (3) If an institution, a court, or a tribunal defers the recovery of a social security debt, or orders or arranges for a social security debt to be paid by instalments, the 5-year period referred to in subclause (1)(a)(iv) is extended by the period of deferral or, as the case requires, the period over which the debt is to be paid by instalments.

Compare: 1990 No 26 s 19B

242 Agreement terms and conditions for information exchange

- (1) The terms and conditions referred to in regulation 240(3)(a) are as follows:
- (a) a request for information relating to an individual may be made only for social security purposes:
 - (b) the requested institution of a party may supply to the requesting institution any information about the person to whom the request relates that it holds or is lawfully able to obtain:
 - (c) the requesting institution of a party (the **requesting party**) to whom information is supplied by the requested institution of the other party may supply that information to the taxation authorities of the requesting party for either or both of the following purposes:
 - (i) making an assessment of the tax due by any person under the laws of the requesting party relating to taxation:
 - (ii) detecting tax fraud or tax evasion under the laws of the requesting party:

- (d) every request for and supply of information made by and to the competent institutions of the parties must be made in terms of an agreement between the competent institutions of the parties that—
 - (i) specifies the types of information that the competent institutions may supply to each other; and
 - (ii) limits the supply of information to the types of information specified; and
 - (iii) in relation to New Zealand, contains, with all necessary modifications, the safeguards (subject to subparagraph (iv)) required to be set out in an information matching agreement within the meaning of section 99 of the Privacy Act 1993; and
 - (iv) in relation to New Zealand, requires the information matching rules set out in clause 4 of Schedule 4 of the Privacy Act 1993, with all necessary modifications, to be applied; and
 - (v) in relation to New Zealand, has been agreed to by the Privacy Commissioner under the Privacy Act 1993, the Commissioner having had regard to the information matching guidelines in section 98 of that Act:
 - (e) any information supplied by a party to the other party must be subject to the same privacy protections (subject to paragraphs (b) and (c)) as any other personal information obtained under the social security laws of the other party:
 - (f) no party that receives, under the agreement, personal information about any individual from the competent institution of the other party may supply that information to any other country without the prior written consent of that competent institution or the individual concerned:
 - (g) a party must supply the competent institution of the other party with any information required by that institution to answer any questions or to make any report or return required by a person or body authorised to monitor compliance with that party's privacy laws.
- (2) In relation to New Zealand, section 99(4) of the Privacy Act 1993 applies, with any necessary modifications, to an agreement under subclause (1)(d) between the competent institutions of the parties.

Compare: 1990 No 26 s 19C

Adverse action arising from discrepancy

243 Adverse action against individual if discrepancy shown by information from other country

- (1) This regulation applies if information received by MSD from the competent institution of another country under a mutual assistance provision of the kind

referred to in regulation 240(1)(b) has produced a discrepancy, and as a result MSD proposes to take an adverse action against an individual.

- (2) MSD must give that individual written notice—
 - (a) specifying particulars of the discrepancy and of the adverse action MSD proposes to take; and
 - (b) stating that the individual has 5 working days from the receipt of the notice in which to show cause why that action should not be taken.
- (3) MSD cannot take an adverse action against an individual to whom a notice has been sent until the expiry of the 5 working days referred to in subclause (2)(b).
- (4) Subclauses (2) and (3) do not prevent MSD from taking adverse action against an individual if compliance with the requirements of subclause (2) would prejudice an investigation into the commission, or the possible commission, of an offence.
- (5) A written notice to be given under subclause (2) may be given as specified in section 103(3), and is subject to the postal presumption in section 103(4), of the Privacy Act 1993.
- (6) A failure by MSD to comply, in relation to an individual, with subclause (2) is taken, for the purposes of Part 8 of the Privacy Act 1993, to constitute a failure to comply with the provisions of Part 10 of that Act.
- (7) In this regulation and regulation 244, expressions defined in section 97 of the Privacy Act 1993 have the meanings so defined, with any necessary modifications.

Compare: 1990 No 26 s 19D(3)(c), (d), (4), (5), (6), (7)

244 Exception if specified information exchange provision produces unique identifier discrepancy

- (1) This regulation applies if information received by MSD from the competent institution of another country under an information exchange provision to which subclause (4) applies—
 - (a) contains identifying information about an individual (including the unique identifier assigned to that individual by that institution) who has applied for a benefit payable under the agreement in either country; and
 - (b) produces a discrepancy with information already held by MSD about that person.
- (2) MSD must give that individual written notice (unless MSD has previously given notice under this subclause to that individual, whether for the discrepancy or another discrepancy)—
 - (a) specifying particulars of the discrepancy and of the action MSD proposes to take as a result of that discrepancy; and
 - (b) specifying the unique identifiers assigned to that individual by the competent institutions of both countries; and

- (c) informing that individual that information received from the other country about that individual will be matched with information in MSD's possession using those unique identifiers; and
 - (d) specifying the kinds of information about the individual that MSD is likely to receive from the other country under the agreement; and
 - (e) specifying the kinds of actions that MSD may take as a result of information about that individual received at any later time from the other country under the agreement; and
 - (f) specifying the likely consequences of those actions for any benefit payable to that individual under the agreement or otherwise; and
 - (g) stating that the individual has 5 working days from the receipt of the notice to show cause why MSD should not take the action referred to in paragraph (a) or actions of the kinds referred to in paragraph (e).
- (3) After the 5 working days referred to in subclause (2)(g), MSD need not comply with regulation 243(2) and (3) in respect of any information that is—
 - (a) later received from the other country under the provision; and
 - (b) received for a purpose set out in subclause (4); and
 - (c) matched against information held by MSD using the unique identifiers assigned to the individual concerned by the competent institutions of both countries.
- (4) This subclause applies to a provision that is contained in a reciprocity agreement, and that is a provision of the kind referred to in regulation 240(1)(b), but only if the social security purposes concerned are wholly or principally the administration of the agreement itself, and the parties to the agreement are likely often to exchange information about individuals for all or any of the following purposes:
 - (a) granting or paying benefits under the agreement;
 - (b) calculating the rates of benefits payable under the agreement;
 - (c) calculating the rates of other benefits that are affected by the rates of benefits payable under the agreement.

Compare: 1990 No 26 s 19D(4A), (4B), (4C)

Part 7

Reviews and appeals

245 Guide to Part 7

Part 7 deals with the following topics:

- (a) reviews by a benefits review committee:
- (b) appeals to an appeal authority:

- (c) appeals to the High Court by way of case stated:
- (d) appeals to the medical board.

Reviews by benefits review committee

246 Application under section 391 of Act to be made in writing

An application for review under section 391 of the Act must be made in writing.

Compare: 1964 No 136 s 10A(1A)

247 Procedure on review

- (1) The committee must, as soon as practicable after it receives an application for review, review the decision.
- (2) In reviewing the decision, the committee may, in accordance with the Act, decide to confirm, vary, or revoke the decision.
- (3) The committee must give written notice of its decision on the review to the applicant for review.
- (4) The written notice must include the reasons for the decision, and advice that the applicant has, under sections 395 to 399 of the Act, a right to appeal to the appeal authority against the decision if the committee has, under this regulation, confirmed or varied MSD's decision.

Compare: 1964 No 136 s 10A(8), (9)

Appeals to appeal authority

248 Appeal is begun by written notice of appeal lodged within 3 months of notification or further allowed period

- (1) An appeal under section 397, 398, or 399 of the Act is begun by a written notice of appeal.
- (2) The notice of appeal must state with particularity the grounds of appeal and the relief sought.
- (3) The notice of appeal must be lodged with the Secretary of the appeal authority within the period allowed by section 400 of the Act.
- (4) The parties to an appeal to the appeal authority are—
 - (a) the person to whom section 397, 398, or 399 of the Act gives the right to appeal against the decision (the **appellant**); and
 - (b) MSD.
- (5) Before or immediately after the notice of appeal is lodged, the appellant must provide a copy of it to MSD.

Compare: 1964 No 136 s 12K(1), (1A), (1C), (2), (3)

249 Material that MSD must send to authority

- (1) MSD must, as soon as possible after receiving the copy of the notice of appeal, send to the Secretary of the appeal authority copies of the following:
 - (a) any application, documents, written submissions, statements, reports, and other papers lodged with, received by, or prepared for, MSD and relating to the decision appealed against:
 - (b) a copy of any notes made by or by direction of MSD of the evidence given at the hearing (if any) before MSD:
 - (c) any exhibits in the custody of MSD:
 - (d) a copy of the decision appealed against:
 - (e) a report setting out the matters considered in making the decision.
- (2) The authority may direct that MSD send a further report to the Secretary of the appeal authority (as well as the report sent under subclause (1)(e)).
- (3) MSD must give or send promptly to each other party to the appeal a copy of every report or further report sent under subclause (1)(e) or (2).
- (4) Each other party to the appeal is entitled to be heard and to offer evidence on a matter referred to in a report or further report sent under subclause (1)(e) or (2).
- (5) Subclause (4) is subject to regulation 250(3).

Compare: 1964 No 136 s 12K(4)–(6)

250 Fixing time and place for hearing of appeal

- (1) The appeal authority must, as soon as convenient after receiving a notice of appeal,—
 - (a) fix a time and place for the hearing of the appeal; and
 - (b) give the appellant and MSD a reasonable period of notice of the hearing.
- (2) The reasonable period of notice must be at least 10 days (excluding both the day of giving the notice and the day of the hearing).
- (3) Subclause (1) does not apply if the authority considers that the appeal can be properly determined without a hearing.

Compare: 1964 No 136 s 12K(7)

251 Expenses payable to appellants

- (1) This regulation applies to an appellant whom the appeal authority requests to appear before it if the appellant does so.
- (2) MSD must, out of money appropriated by Parliament for the purpose, pay the actual and reasonable travelling and accommodation expenses (if any) incurred by the appellant.

Compare: 1964 No 136 s 12L

252 Hearing of appeal: representation

At the hearing of any appeal,—

- (a) MSD may be represented by counsel or by an MSD employee; and
- (b) any other party may appear and act personally or by counsel or any duly authorised representative.

Compare: 1964 No 136 s 12K(8)

253 Hearing of appeal: evidence

- (1) Every appeal to the appeal authority against a decision of MSD must be by way of rehearing; but if any question of fact is involved in any appeal, the relevant evidence taken before or received by MSD must, subject to any special order, be brought before the authority as follows:
 - (a) in respect of any evidence given orally, by the production of a copy of the notes of MSD or of any other material the authority thinks expedient;
 - (b) in respect of any evidence taken by affidavit and any exhibits, by the production of the affidavits and any exhibits that may have been sent to the authority by MSD, and by the production by the parties to the appeal of any exhibits in their custody.
- (2) Subclause (1) is subject to regulation 250(3).
- (3) On an appeal against a decision of MSD, despite subclause (1), the authority—
 - (a) may rehear all or any part of the evidence; and
 - (b) must rehear the evidence of a witness if the authority has reason to believe that any note made by MSD of the evidence of that witness is or may be incomplete in a material particular.
- (4) The authority has full discretionary power to hear and receive evidence or further evidence on questions of fact, whether by oral evidence, by affidavit, or by evidence given by other written means or by electronic means.
- (5) The authority must also have regard to any report lodged by MSD under regulation 249 and to any matters referred to in it and to any evidence offered on it, whether or not those matters would be otherwise admissible in evidence.
- (6) In the exercise of its powers under this regulation, the authority may receive as evidence any statement, document, information, or matter that, in the authority's opinion, may assist it to deal with the matters before it, whether or not the same would be admissible in a court of law.

Compare: 1964 No 136 ss 12K(6), 12M(1)–(5)

254 Determination of appeal

- (1) The authority may confirm, modify, or reverse the decision appealed against.
- (2) Subclause (1) enables the authority to exercise or perform only powers, duties, functions, and discretions that MSD had in respect of the same matter.

- (3) Despite subclause (1), the authority may refer to MSD for further consideration all or a part of the matter to which an appeal relates.
- (4) The authority must advise MSD of its reasons for the referral and give any directions it thinks just in respect of the rehearing or reconsideration or otherwise of all or a part of the matter referred.

Compare: 1964 No 136 ss 12I(2), 12M(7), (8)

255 Costs award or order in favour of, or against, appellant

- (1) If an appeal is allowed in whole or in part, or all or a part of the matter is referred back to MSD, the authority may allow the appellant the costs of bringing all or a part of the appeal.
- (2) If an appeal is not allowed, no award of costs can be made against the appellant unless, in the authority's opinion, the appeal was frivolous or vexatious or ought not to have been brought.
- (3) The amount of costs awarded must be stated in the order.
- (4) If an award of costs is made under this regulation and any sum remains unpaid, the person in whose favour the award or order was made may obtain from the Secretary of the authority a certificate under seal of the sum awarded. If the certificate is filed in the District Court, it may be enforced in respect of the amount specified in it (if any) that is still owing as if it were a judgment of that court.

Compare: 1964 No 136 s 12O

256 MSD may be required to pay authority's costs

- (1) This regulation applies if an appeal is allowed in whole or in part and the authority has incurred costs in hearing and determining the appeal.
- (2) The authority may, if it considers it appropriate, require MSD to pay a sum fixed by the authority to cover all or part of those costs.

Compare: 1964 No 136 s 12OA

Appeals to High Court by way of case stated

257 Appeal is begun by notice of appeal lodged within period required by section 406 of Act

- (1) An appellant begins an appeal under section 405 of the Act by lodging a written notice of appeal with the Secretary of the authority within the period allowed by section 406 of the Act.
- (2) The appellant must promptly deliver or post a copy of the lodged notice of appeal to every other party to the proceedings.

Compare: 1964 No 136 s 12Q(3)

258 Appellant must state, and lodge with authority, case stated

- (1) The appellant must state in writing, and lodge with the Secretary of the authority, a case stated for the court's opinion on a question of law only.
- (2) The appellant's written case stated must be lodged within the period allowed by section 406(2) or (3) of the Act.
- (3) The appellant's written case stated must set out the facts and the grounds of the determination, and must specify the question of law on which the appeal is made.
- (4) The appellant must promptly deliver or post a copy of the lodged written case stated to every other party to the proceedings.
- (5) If the appellant does not lodge a case stated under section 406(2), (3), or (4) of the Act, the authority's chairperson may certify that the appeal has not been prosecuted.

Compare: 1964 No 136 s 12Q(1), (3), (4), (8)

259 Statement by authority of case stated lodged by appellant

- (1) The Secretary of the authority must, as soon as practicable after the lodging of the appellant's written case stated, submit it to the authority's chairperson.
- (2) The chairperson must, as soon as practicable, settle the case stated, sign it, send it to the Registrar of the High Court at Wellington, and make a copy available to each party.
- (3) The chairperson may, if the chairperson considers it necessary to do so, hear the parties on how the written case stated should be settled by the chairperson.
- (4) The authority states the case stated for the court's opinion when the authority's chairperson settles and signs the written case stated lodged by the appellant.

Compare: 1964 No 136 s 12Q(5), (6), (7)

260 Appeal must be dealt with and determined as provided in rules of court

The appeal must be dealt with and determined (in particular, the High Court must hear and determine the question of law in the case stated) in accordance with the rules of court that are applicable and not inconsistent with Schedule 8 of, or with any other provision of, the Act.

Compare: 1908 No 89 Schedule 2 r 21.14; 1964 No 136 s 12Q(10)

Appeals to medical board

261 Appeal is begun by notice of appeal lodged within 3 months of notification or further allowed period

- (1) An applicant or a beneficiary begins an appeal under section 411 of the Act to the medical board by lodging a written notice of appeal with the board within the period allowed by section 412 of the Act.

- (2) The notice of appeal must state with particularity the grounds of appeal and the relief sought.
- (3) Before or immediately after the lodging of the notice of appeal, a copy of it must be provided to MSD.

Compare: 1964 No 136 s 10B(2)

262 Travelling expenses and allowances related to medical board

If any applicant or beneficiary has to be absent from that person's regular place of residence to appear before a medical board, travelling expenses and allowances may be available to that person under regulation 175.

Compare: SR 2007/229 r 7

Part 8 Other provisions

263 Guide to Part 8

Part 8 of these regulations deals with various topics as follows:

- (a) subpart 1 (regulations 264 to 272) deals with contracts for services:
- (b) subpart 2 (regulation 273) deals with authorised agencies:
- (c) subpart 3 (regulations 274 to 281) deals with information sharing:
- (d) subpart 4 (regulations 282 to 293) deals with the SuperGold Card:
- (e) subpart 5 (regulation 294) deals with income exemptions:
- (f) subpart 6 (regulation 295) deals with revocations.

Subpart 1—Contracts for services

Interpretation

264 Interpretation

In this subpart, unless the context otherwise requires,—

personal information means personal information about a person or persons to whom a section 373 services contract applies and that is held by the contracted service provider concerned or MSD.

section 373 services contract means a contract entered into under section 373 of the Act for the provision of services of the kind referred to in all or any of section 373(1)(a)(i)(A), (a)(i)(B), and (b) of the Act.

Compare: SR 2012/210 r 3

Contracts for services for young people

265 Services to encourage and help young people to move into or remain in education, training, and employment

The following services, which are services of the kind referred to in sections 365(1)(a) and 373(1)(a)(i)(A) of the Act, are stated for the purposes of section 373(1)(a)(ii) of the Act (and so are services for a section 373 services contract):

- (a) services relating to the enrolment of young people in the contracted youth service, including obtaining their agreement to participate in the service and their consent to disclosure of information:
- (b) services relating to assessing the needs of young people participating in the contracted youth service:
- (c) services relating to producing, maintaining, and monitoring plans about the educational, training, and employment goals for young people participating in the contracted youth service:
- (d) services relating to providing ongoing support, guidance, and mentoring to young people participating in the contracted youth service:
- (e) services relating to referring young people participating in the contracted youth service to education, training, work placement, and other developmental opportunities:
- (f) services relating to facilitating access to other services to address barriers that prevent young people from successfully moving back into education, training, or employment:
- (g) services relating to young people who are parents to help them access approved early childhood education (ECE) and make them aware of the benefits of ECE or other suitable childcare while participating in education, training, or employment.

Compare: SR 2012/210 r 4

266 Services in relation to financial support for young people

The following services, which are services of the kind referred to in section 373(1)(a)(i)(B) of the Act, are stated for the purposes of section 373(1)(a)(ii) of the Act (and so are services for a section 373 services contract):

- (a) services relating to assisting young people to apply for any benefit or financial assistance under the Act and, as the case requires, providing recommendations to MSD in respect of any application for any benefit or financial assistance under the Act:
- (b) services relating to conducting assessments to inform decisions as to a young person's eligibility for youth support payments:

- (c) services relating to identifying and quantifying a young person's accommodation costs, service costs, and lawful debts and liabilities, and recommending that the young person's payments be paid in a money management manner of payment under section 341(3)(d) of the Act and regulation 194(1)(a) and (b):
- (d) services relating to recommending to MSD amounts for the purposes of regulation 194(1)(c) and (d):
- (e) services relating to assisting young people to develop money management skills and the monitoring of a young person's expenditure and reporting to MSD:
- (f) services relating to assessing the needs of young people and, where applicable, the needs of their dependent children for services or interventions:
- (g) services relating to assisting, monitoring, and reporting to MSD on compliance by young people with their obligations under Part 3 of the Act (including obligations under section 164(1) of the Act relating to dependent children), and recommending to MSD whether they have failed to comply with any obligation without good and sufficient reason or are eligible to receive an incentive payment:
- (h) services relating to producing, maintaining, and monitoring plans about the educational, training, and employment goals for young people:
- (i) services relating to delivering or purchasing budgeting programmes or parenting education programmes for young people to undertake in compliance with their obligations under section 162(1)(b) or 164(1)(a) of the Act:
- (j) services relating to providing young people with, or facilitating their access to, appropriate services and other assistance in connection with their circumstances (for example, drug or alcohol addiction, health issues (including mental health issues)):
- (k) services relating to assessing whether young people are paying reasonable accommodation costs, and providing advice about, and assistance in, reducing those costs where possible:
- (l) services relating to young people who are parents to help them access approved early childhood education (ECE) and make them aware of the benefits of ECE or other suitable childcare while they are in education, training, work-based learning, or part-time employment:
- (m) services relating to monitoring a young person's participation in part-time work:

- (n) services relating to acting as MSD's agent to receive notifications of a young person's change of circumstances affecting eligibility for, or the rate of, any benefit.

Compare: SR 2012/210 r 5

Contracts for services for people other than young people

267 Services in relation to work-preparation obligations

- (1) The services set out in subclause (2), which are services in relation to all or any of Parts 1 to 6 of the Act, are stated for the purposes of section 373(1)(b) of the Act (and so are services for a section 373 services contract) if—
 - (a) the contract is for the provision of services to beneficiaries for the purposes of subpart 2 of Part 2, sections 120 to 126, 138 to 161, and 170(2)(c)(ii), and Part 5 of the Act; and
 - (b) those beneficiaries are in receipt of a main benefit or are the spouse or partner of a person granted a main benefit; and
 - (c) those beneficiaries are required to comply with sections 124 and 125 of the Act or section 125 only.
- (2) The services are—
 - (a) services for the active case management of beneficiaries who have work-preparation obligations under section 125 of the Act:
 - (b) services for carrying out an individualised needs assessment for each beneficiary:
 - (c) services for planning for the preparation of a beneficiary for employment:
 - (d) services for assisting a beneficiary to arrange and attend an interview for employment:
 - (e) services for maintaining relationships between a beneficiary and the beneficiary's health and social service providers, prospective employers, and training or education providers:
 - (f) services for assisting, monitoring, or reporting on a beneficiary's compliance with the beneficiary's work-preparation obligations under section 125 of the Act:
 - (g) services that facilitate access to other services that will assist the beneficiary to prepare for employment (such as transport and childcare services):
 - (h) services for identifying, and helping with, arrangements for overcoming factors that impede a beneficiary's entering or continuing in employment, or both, including (but not limited to) domestic and social circum-

stances, health or disability conditions, drug or alcohol use, transport, childcare, and workplace facilities.

Compare: SR 2012/210 r 5A

268 Services in relation to social obligations

- (1) The services set out in subclause (2), which are services to beneficiaries in relation to sections 131 to 135 and 170(2)(c)(iii) of the Act, are stated for the purposes of section 373(1)(b) of the Act (and so are services for a section 373 services contract).
- (2) The services are—
 - (a) services for assisting a beneficiary to understand, or to take all reasonable steps to comply with, the following obligations:
 - (i) enrolling a dependent child in an approved early childhood education programme and ensuring that the child attends that programme;
 - (ii) enrolling a dependent child at a registered school and ensuring that the child attends that school;
 - (iii) enrolling a dependent child with a primary health care provider;
 - (iv) ensuring that a dependent child completes a Well Child check or similar programme;
 - (b) services for assisting a beneficiary to prepare for and to attend an interview with MSD under section 135(a) of the Act;
 - (c) services for educating a beneficiary on how to report on the beneficiary's compliance with the beneficiary's social obligations under section 135(b) of the Act;
 - (d) services for assisting, monitoring, or reporting on a beneficiary's compliance with the beneficiary's social obligations under sections 131 to 135 of the Act.

Compare: SR 2012/210 r 5B

269 Services in relation to work-test obligations

- (1) The services set out in subclause (2), which are services in relation to all or any of Parts 1 to 6 of the Act, are stated for the purposes of section 373(1)(b) of the Act (and so are services for a section 373 services contract) if—
 - (a) the contract is for the provision of services to beneficiaries for the purposes of all or any of Parts 1 to 6 and section 170(2)(c)(iv) of the Act; and
 - (b) those beneficiaries are work-tested beneficiaries in receipt of a work-tested benefit.
- (2) The services are—

- (a) services for the active case management of beneficiaries who have work-test-obligations under section 146 of the Act:
- (b) services for carrying out an individualised needs assessment for each beneficiary:
- (c) services for developing a plan for a beneficiary to achieve an employment outcome:
- (d) services for assisting a beneficiary to arrange and attend an interview for employment:
- (e) services for assisting a beneficiary to access activities or services that contribute to the beneficiary's plan to achieve an employment outcome:
- (f) services for maintaining relationships between a beneficiary and the beneficiary's health and social service providers, prospective employers, and training or education providers:
- (g) services that facilitate access to other services that will assist a beneficiary to obtain employment (such as transport and childcare services):
- (h) services for identifying, and helping with, arrangements for overcoming factors that impede a beneficiary's entering or continuing in employment, or both, including (but not limited to) domestic and social circumstances, health or disability conditions, drug or alcohol use, transport, childcare, and workplace facilities.

Compare: SR 2012/210 r 5C

270 Non-compulsory services accepted on voluntary basis

- (1) The services set out in subclause (2), which are services in relation to all or any of Parts 1 to 6 of the Act and which are provided to the following people who are not subject to the obligations set out in section 170(2) of the Act but who voluntarily accept the provision of services relating to those obligations, are stated for the purposes of section 373(1)(b) of the Act (and so are services for a section 373 services contract):
 - (a) beneficiaries in receipt of a main benefit:
 - (b) the spouse or partner of a beneficiary in receipt of a main benefit:
 - (c) other persons who are likely to apply for a main benefit if they cannot financially support themselves.
- (2) The services are—
 - (a) services for identifying, and helping with, arrangements for overcoming factors that impede a beneficiary's entering or continuing in employment, or both, including (but not limited to) domestic and social circumstances, health or disability conditions, drug or alcohol use, transport, childcare, and workplace facilities:

- (b) services for assessing whether a person is competent in money management or should be referred to budget services.

Compare: SR 2012/210 r 5D

271 Services relating to assessment

- (1) The services set out in subclause (2), which are services in relation to all or any of Parts 1 to 6 of the Act, are stated for the purposes of section 373(1)(b) of the Act (and so are services for a section 373 services contract) if—
 - (a) the contract is for the provision of services for the purposes of all or any of Parts 1 to 6 of the Act; and
 - (b) the services are provided in relation to applicants for benefits or persons receiving a benefit described in any of those Parts of the Act.
- (2) The services are—
 - (a) services for assessing a person's eligibility for a benefit or other allowances or subsidies under the Act;
 - (b) services for assessing what services, activities, or employment are suitable for a beneficiary;
 - (c) services for making a work ability assessment or reassessment for the purposes of sections 116 to 118 of the Act.

Compare: SR 2012/210 r 5E

272 Services for provision of activities, pre-benefit activities, and budgeting advice

- (1) The services set out in subclause (2), which are services in relation to all or any of Parts 1 to 6 of the Act, are stated for the purposes of section 373(1)(b) of the Act (and so are services for a section 373 services contract) if—
 - (a) the contract is for the provision of services for the purposes of all or any of Parts 1 to 6 of the Act; and
 - (b) the services are provided in relation to applicants for benefits or persons receiving a benefit described in all or any of Parts 1 to 6 of the Act.
- (2) The services are—
 - (a) services for the provision of pre-benefit activities for the purpose of section 184 of the Act and of subpart 1 of Part 4 of these regulations;
 - (b) services for the provision of activities for the purpose of section 125, 146(1)(d), or 324 of the Act;
 - (c) services for the provision of budgeting advice.

Compare: SR 2012/210 r 5F

Subpart 2—Authorised agencies

273 Authorised agencies

- (1) The agencies listed in Schedule 7 of these regulations are authorised for the purposes of clause 18 of Schedule 6 of the Act.
- (2) A reference in Schedule 7 to a programme or framework is a reference to the programme or framework with that name as it was immediately before 26 November 2018.
- (3) In this regulation and Schedule 7,—

agency has the meaning given by section 2(1) of the Privacy Act 1993

health practitioner means a person who is, or is deemed to be, registered with an authority established or continued by section 114 of the Health Practitioners Competence Assurance Act 2003 as a practitioner of a particular health profession

health service has the meaning given by section 5(1) of the Health Practitioners Competence Assurance Act 2003

primary health organisation means an organisation funded under the National Primary Health Organisation Service Agreement to provide primary health services to people enrolled with that organisation

registered school has the meaning given by section 2(1) of the Education Act 1989

social worker means a person employed in the speciality of social work by an agency other than the department for the time being responsible for administering the Oranga Tamariki Act 1989

youth worker means a person with a qualification or training in youth work who is employed in that speciality.

Compare: SR 2012/209 rr 3, 4

Subpart 3—Information sharing for purposes of encouraging young people to move into education, employment, and training

274 Purpose of information sharing under this subpart

The information sharing permitted by regulations 276 and 277—

- (a) is for the purpose set out in clause 19 of Schedule 6 of the Act in relation to a section 373 services contract (as defined in regulation 264); and
- (b) is subject to regulation 281.

Compare: SR 2012/210 r 6

275 Interpretation

In this subpart, unless the context otherwise requires, **personal information** means personal information to which clause 20 of Schedule 6 of the Act applies.

Compare: SR 2012/210 r 3

276 Education, employment, and training: circumstances in which contracted service provider may release or disclose to MSD personal information

A contracted service provider and its employees may release or disclose to MSD and MSD employees personal information in the following circumstances:

- (a) when any of the following occurs, for which a report by the contracted service provider to MSD is required in a section 373 services contract (as defined in regulation 264):
 - (i) the enrolment of a young person in the contracted youth service;
 - (ii) the progress of a young person against the young person's milestones;
 - (iii) the payment of a success fee under a section 373 services contract (as so defined);
- (b) when a young person transfers from the contracted service provider in question to another, so that MSD may disclose relevant information to the new provider;
- (c) when a section 373 services contract (as so defined) terminates, so that MSD may disclose relevant information to a new contracted service provider or use the information in the provision of services of the kind referred to in section 365(1)(a) of the Act.

Compare: SR 2012/210 r 7

277 Education, employment, and training: circumstances in which MSD may release or disclose to contracted service provider personal information

MSD and MSD employees may release or disclose to a contracted service provider personal information in the following circumstances:

- (a) when a young person is identified as not being in education, employment, or training, or as at risk of not being in education, employment, or training, so that the contracted service provider may contact the young person to offer services of the kind referred to in section 365(1)(a) of the Act;
- (b) when a young person consents to participate in the contracted youth service, provided that—
 - (i) the information is requested by the contracted service provider; and

- (ii) the information is relevant to the young person's involvement in the contracted youth service; for example, information about the young person's education, involvement with the department responsible for administering the Oranga Tamariki Act 1989, and involvement with Work and Income (which means that part of MSD responsible for administering the Act).

Compare: SR 2012/210 r 8

Information sharing for purposes of section 373 services contract

278 Purpose of information sharing under this subpart

The information sharing permitted by regulations 279 and 280 is—

- (a) for the purpose set out in clause 19 of Schedule 6 of the Act in relation to a section 373 services contract (as defined in regulation 264); and
- (b) is subject to regulation 281.

Compare: SR 2012/210 r 9

279 Functions and powers under section 365 of Act: circumstances in which contracted service provider may release or disclose to MSD personal information

- (1) A contracted service provider and its employees may release or disclose to MSD and MSD employees personal information necessary for MSD to perform any function or exercise any power under section 365 of the Act.
- (2) The personal information includes (but is not limited to) the following:
 - (a) information about a young person that is required when applying for any benefit or financial assistance under the Act;
 - (b) information about a young person's accommodation costs, service costs, and lawful debts and liabilities;
 - (c) information about a young person's compliance with the Act or these regulations (including information relating to reasons for non-compliance);
 - (d) information about a young person's ability to manage the young person's money;
 - (e) information about changes in the circumstances of a young person that affect the young person's eligibility for, or the rate of, any benefit.
- (3) The information includes information contained in a report by the contracted service provider to MSD, as specified in a section 373 services contract (as defined in regulation 264), relating to—
 - (a) the progress of a young person against the young person's milestones;
 - (b) the progress of a young person entitling the contracted service provider to a success fee;

- (c) other services to which a young person has been referred:
- (d) the relevant circumstances of a young person on leaving the contracted youth service (including whether the young person or the young person's partner has given birth to a child).

Compare: SR 2012/210 r 10

280 Section 373 services contract: circumstances in which MSD may release or disclose personal information to contracted service provider

- (1) MSD and MSD employees may release or disclose to a contracted service provider and its employees personal information necessary for the contracted service provider to provide a young person assigned to it with a contracted youth service.
- (2) The personal information may include (but is not limited to) the following:
 - (a) contact details:
 - (b) relevant information about the young person's involvement with the department responsible for administering the Oranga Tamariki Act 1989:
 - (c) relevant information about the young person's involvement with Work and Income (which means that part of MSD responsible for administering the Act).

Compare: SR 2012/210 r 11

Conditions of information sharing

281 Conditions of information sharing

Personal information may be released or disclosed under clause 20 of Schedule 6 of the Act if the following conditions are met:

- (a) the party releasing or disclosing the information and the party receiving it comply with their obligations under the Privacy Act 1993 and any other applicable legislation; and
- (b) the contract—
 - (i) describes the information or type of information that one party may disclose to the other party; and
 - (ii) states the purposes for which the information may be disclosed; and
 - (iii) states the use that the contracted service provider may make of the information disclosed to it; and
 - (iv) states the use that MSD may make of the information disclosed to it; and
 - (v) states that the contracted service provider must not disclose the information disclosed to it to any other agency, body, or person unless first authorised by MSD; and

- (vi) in the case of a section 373 services contract (as defined in regulation 264), states that the contracted service provider must not disclose the information disclosed to it to any other agency, body, or person unless first authorised by the young person to whom the information relates; and
- (vii) states the form in which the information may be disclosed; and
- (viii) states the method by which the information may be disclosed; and
- (ix) states when the contracted service provider must destroy the information; and
- (x) includes safeguards regarding the security of the information; and
- (xi) includes a process to facilitate the fair, simple, speedy, and efficient resolution of a complaint that a young person's personal information has been released or disclosed in circumstances not authorised by regulation 277 or 279 or has been dealt with in a way not authorised by this regulation; and
- (xii) includes a process for dealing with any breach of the contract.

Compare: SR 2012/210 r 12

Subpart 4—SuperGold Card

282 Interpretation

In this subpart, unless the context otherwise requires,—

cardholder means a person who holds a valid SuperGold Card issued to that person

community services card means—

- (a) a card issued under regulation 4 of the Health Entitlement Cards Regulations 1993; or
- (b) a corresponding card issued under corresponding regulations made or deemed to have been made under either or both of section 92(3) of the New Zealand Public Health and Disability Act 2000 and section 437 of the Social Security Act 2018

dependent child has the meaning given to it by Schedule 2 of the Act, but does not include a child for whom an orphan's benefit or an unsupported child's benefit is paid under the Act

pharmacist means a health practitioner who is, or is deemed to be, registered with the Pharmacy Council established by section 114(5) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of pharmacy

provider means a provider of services funded under the New Zealand Public Health and Disability Act 2000

SuperGold Card means an entitlement card issued under regulation 283(1) **valid**, in relation to a SuperGold Card, means signed by the person to whom it was issued.

Compare: SR 2007/209 r 3

283 Issue and recall of cards

- (1) MSD—
 - (a) may issue an entitlement card to any eligible person; and
 - (b) must issue an entitlement card to an eligible person who applies for one.
- (2) MSD may—
 - (a) recall any SuperGold Card;
 - (b) reissue a recalled SuperGold Card to the person to whom it was issued;
 - (c) issue a replacement SuperGold Card to a person whose SuperGold Card has been recalled;
 - (d) issue a new SuperGold Card to any eligible person whose SuperGold Card has expired or is about to expire;
 - (e) issue a new SuperGold Card bearing a photograph of the cardholder in place of a SuperGold Card not bearing a photograph.
- (3) If satisfied that a person's SuperGold Card has been stolen, damaged, destroyed, or lost, MSD may issue a replacement SuperGold Card to that person.

Compare: SR 2007/209 r 4

284 Commencement and expiry of cards

- (1) A SuperGold Card may state a date on which it expires, and if it does so, it is not valid after that date.
- (2) A SuperGold Card may state the date on which it commences, and if it does so, it is not valid before that date.

Compare: SR 2007/209 r 5

285 Form of SuperGold Cards

- (1) A SuperGold Card—
 - (a) must bear the word “SuperGold”; and
 - (b) must have at least 1 side whose background colour is gold or a dull yellow; and
 - (c) must bear the name of the cardholder; and
 - (d) must have imprinted or contained on it a signature panel indicating that the signature written or endorsed on it is the signature of the cardholder; and

- (e) if issued to a person who is known to meet the service requirement stated in section 161(1)(a) of the Veterans' Support Act 2014, may bear distinctive marks indicating that fact.
- (2) So long as it complies with subclause (1), a SuperGold Card—
 - (a) may be issued in any form that MSD decides; and
 - (b) may have imprinted or contained on it any information or wording that MSD decides.
- (3) A SuperGold Card—
 - (a) may bear a number or code indicating the cardholder's class of eligibility for the card:
 - (b) may bear a code indicating the cardholder's entitlement—
 - (i) to New Zealand superannuation, a veteran's pension, a community services card, or any other entitlement; or
 - (ii) to 2 or more of those things:
 - (c) may have on it a magnetic stripe containing any or all of the following information:
 - (i) the cardholder's name;
 - (ii) an identifying number assigned by MSD to the cardholder;
 - (iii) a number or code indicating the cardholder's class of eligibility for the card;
 - (iv) an identifying number assigned to the card;
 - (v) the commencement and expiry dates of the card;
 - (vi) a code number for mailing purposes;
 - (d) may have imprinted on it a barcode containing any or all of the information referred to in paragraph (c):
 - (e) at the election (in accordance with regulation 286) of the cardholder, may have a photograph of the cardholder affixed to or imaged onto it.
- (4) Subclause (3) does not limit the generality of subclause (2).

Compare: SR 2007/209 r 6

286 Cardholders may elect to have photograph on card

- (1) A person may elect to have a photograph of that person affixed to or imaged onto a SuperGold Card to be issued to that person.
- (2) A person makes an election by completing and signing a written application form provided by MSD for the purpose, and—
 - (a) having an authorised agent of MSD take a photograph or photographic image of the person, verifying the person's identity to the satisfaction of the agent, and giving the completed and signed form to the agent; or

- (b) if MSD allows that person to do so, either—
 - (i) giving to MSD a photograph of that person (the authenticity of which must be verified to MSD's satisfaction) and the completed and signed form; or
 - (ii) having a photograph of that person (the authenticity of which must be verified to MSD's satisfaction) and the completed and signed form given to MSD by some other person.

Compare: SR 2007/209 r 7

287 Eligibility for SuperGold Card

A person is eligible for a SuperGold Card if (and only if) the person—

- (a) is of or over the age of 65 years, and is residentially qualified for it; or
- (b) is under the age of 65 years, and is receiving New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001 under an election made by the person's spouse or partner under section 12(2) of that Act; or
- (c) is under the age of 65 years, and is receiving veteran's pension payments payable under Part 6 of the Veterans' Support Act 2014 under an election made by the person's spouse or partner under section 172(2) of that Act; or
- (d) is under the age of 65 years, and is receiving a veteran's pension under section 164 of the Veterans' Support Act 2014.

Compare: SR 2007/209 r 8

288 Residential qualification for SuperGold Card

For the purposes of regulation 287(a), a person is **residentially qualified** for a SuperGold Card if (and only if) that person is ordinarily resident in New Zealand, and—

- (a) is a New Zealand citizen; or
- (b) is the holder of a residence class visa granted under the Immigration Act 2009.

Compare: SR 2007/209 r 9

289 Obligations of cardholders

- (1) As soon as a cardholder receives the cardholder's SuperGold Card, the cardholder must sign it on the panel provided.
- (2) As soon as is reasonably practicable after receiving a written demand for its return signed by or on behalf of MSD, a cardholder must return the cardholder's SuperGold Card to MSD.

- (3) A cardholder must immediately destroy a SuperGold Card on written demand for its destruction made by notice signed by or on behalf of MSD and provided to the cardholder in accordance with regulation 292.
- (4) A cardholder must make all reasonable efforts to keep the cardholder's SuperGold Card safe and secure.
- (5) Nothing in this regulation prevents a cardholder from returning the cardholder's SuperGold Card to MSD and asking for it to be cancelled.

Compare: SR 2007/209 r 10

290 Authorised uses of SuperGold Cards

- (1) A cardholder may use the cardholder's SuperGold Card for any or all of the following purposes:
 - (a) to provide evidence that the cardholder is eligible for a SuperGold Card:
 - (b) to provide evidence to MSD that the cardholder has been issued with it and has been assigned the identifying number endorsed on it:
 - (c) to provide evidence of the cardholder's class of eligibility for it:
 - (d) if it bears a code indicating the cardholder is eligible for a community services card, to provide evidence to a pharmacist that the cardholder is entitled to a community services card and has been assigned the identifying number the SuperGold Card bears:
 - (e) if the card bears a code indicating the cardholder is eligible for a community services card, to provide evidence to any of the persons referred to in subclause (2) that the cardholder is eligible for a community services card, and that the cardholder and the cardholder's dependent children (if any) are eligible for—
 - (i) any services provided under a service agreement funded under the New Zealand Public Health and Disability Act 2000, other than treatment paid for (in whole or in part) by the Accident Compensation Corporation or an insurer under the Accident Insurance Act 1998; or
 - (ii) any exemption from a charge or part of a charge for any such service; or
 - (iii) any prescribed maximum amount of charge applicable to people of the class or classes of which the cardholder, or the cardholder's dependent children, form part, in relation to any such service:
 - (f) to obtain a service, discount, or concession available to cardholders (or to cardholders of a particular kind or description).
- (2) The persons referred to in subclause (1)(e) are—
 - (a) the chief executive of the Ministry of Health:
 - (b) Health Benefits Limited:

- (c) a medical practitioner, specialist, or pharmacist:
- (d) a district health board or provider:
- (e) a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001:
- (f) an employee of a person described in any of paragraphs (a) to (e).

Compare: SR 2007/209 r 11

291 Unauthorised use of SuperGold Cards

- (1) A cardholder must not—
 - (a) assign, bail, give, lend, mortgage, pledge, rent, transfer, or sell the cardholder's SuperGold Card to any other person; or
 - (b) deal with the cardholder's SuperGold Card in a way that allows any other person to use it without authority; or
 - (c) use the cardholder's SuperGold Card after having been served with a notice under regulation 292 demanding its return.
- (2) A cardholder must not—
 - (a) accept any SuperGold Card by way of assignment, bailment, gift, loan, mortgage, pledge, rental, transfer, or sale; or
 - (b) make use of another person's SuperGold Card except as provided for in subclause (7) or (8).
- (3) Only an employee of MSD or a person described in regulation 290(2) is entitled to demand or request a SuperGold Card as a form of identification of the cardholder.
- (4) Only an employee of MSD is entitled to demand or request a SuperGold Card as evidence that the cardholder is eligible for it.
- (5) Only a person described in regulation 290(2) is entitled to demand or request a SuperGold Card as evidence that the cardholder is eligible for a community services card.
- (6) A person (C) required or requested to produce C's SuperGold Card by a person entitled to require or request its production may be treated as if C does not hold a SuperGold Card (or, as the case requires, is not eligible for a community services card) if C does not produce it within a reasonable time.
- (7) If a SuperGold Card bears a code indicating that the cardholder is entitled to a community services card, it is not a breach of subclause (1) or (2) for the cardholder—
 - (a) to lend it temporarily to a dependent child of the cardholder, or any other person who is for the time being looking after that dependent child, for the purpose only of obtaining for that dependent child services funded under the New Zealand Public Health and Disability Act 2000; or

- (b) to lend it temporarily to any other person for the purpose only of obtaining for the cardholder, or a dependent child of the cardholder, services funded under the New Zealand Public Health and Disability Act 2000.
- (8) It is not a breach of subclause (1) or (2) for a cardholder to lend the cardholder's SuperGold Card temporarily to another person for the purpose only of obtaining a service, discount, or concession for the cardholder.

Compare: SR 2007/209 r 12

292 Applications and notices

- (1) An application for the issue of a SuperGold Card must be in a form provided by MSD for the purpose.
- (2) MSD may require an applicant for a SuperGold Card, or the applicant's spouse or partner, or both, to supply any information MSD reasonably considers necessary to determine the applicant's eligibility for the card.
- (3) MSD may require any SuperGold Card holder, or the cardholder's spouse or partner, or both, to supply any relevant information, or answer any relevant questions, that MSD reasonably considers necessary to determine—
 - (a) whether the cardholder was eligible for the card when it was issued; or
 - (b) the cardholder's continued eligibility for the card.
- (4) Subclause (5) applies to—
 - (a) an applicant for a SuperGold Card and the applicant's spouse or partner; or
 - (b) a SuperGold Card holder and the cardholder's spouse or partner.
- (5) If a person to whom this subclause applies fails to comply with a requirement under subclause (2) or (3) within a reasonable period specified by MSD, MSD—
 - (a) may refuse to issue a SuperGold Card to the applicant or (as the case requires) the applicant's spouse or partner;
 - (b) may—
 - (i) refuse to reissue a SuperGold Card to the cardholder or (as the case requires) the cardholder's spouse or partner; or
 - (ii) recall any SuperGold Card issued to the cardholder or (as the case requires) the cardholder's spouse or partner.
- (6) Every notice required by this subpart must be in writing and must be given to or served on the person to whom it is addressed either personally or—
 - (a) by leaving it at that person's place of residence or business; or
 - (b) by sending it by prepaid letter addressed to that person at one of those places.

- (7) In the absence of proof to the contrary, a notice sent by prepaid letter is deemed to have been served when it would have been delivered in the ordinary course of the post and, in proving service, it is enough to prove that the letter was properly addressed and posted.

Compare: SR 2007/209 r 13

293 Offences

- (1) The holder of a SuperGold Card who fails or refuses to do anything required by regulation 289 commits an offence against this regulation.
- (2) A person who does anything prohibited by regulation 291 commits an offence against this regulation.
- (3) A person who commits an offence against this regulation is liable on conviction to a fine not exceeding \$1,000.

Compare: SR 2007/209 r 14

Subpart 5—Income exemptions

294 Income exemptions

A person's income, for the purposes of the Act, and under clause 9 of Schedule 3 of the Act, excludes any amount, item, payment, or income from a specified source that is declared by Schedule 8 of these regulations not to be income.

Compare: 1964 No 136 s 3(1), definition of income, paragraph (f)(xvii)

Subpart 6—Revocations

295 Revocations

The following regulations are revoked:

- (1) Social Security (Advance Payment of Benefit) Regulations 2010 (SR 2010/261):
- (2) Social Security (Alternative Arrangement for Overseas Pensions) Regulations 1996 (SR 1996/317):
- (3) Social Security (Application of Work Test Obligations) Regulations 2007 (SR 2007/230):
- (4) Social Security (Childcare Assistance) Regulations 2004 (SR 2004/268):
- (5) Social Security (Contracts and Information Sharing with Service Providers) Regulations 2012 (SR 2012/210):
- (6) Social Security (Criteria for Incentive Payments and Money Management) Regulations 2012 (SR 2012/207):
- (7) Social Security (Debt Recovery Suspension) Regulations 2007 (SR 2007/86):
- (8) Social Security (Effect of Absence of Beneficiary from New Zealand) Regulations 2013 (SR 2013/248):

- (9) Social Security (Effect on Benefit of Warrant to Arrest—Excluded Beneficiaries) Regulations 2013 (SR 2013/249):
- (10) Social Security (Exemptions under Section 105) Regulations 1998 (SR 1998/270):
- (11) Social Security (Expiry and Re-grant of Specified Benefits) Regulations 2013 (SR 2013/251):
- (12) Social Security (Income and Cash Assets Exemptions) Regulations 2011 (SR 2011/287):
- (13) Social Security (Jobseeker Support—Medical Examinations) Regulations 2010 (SR 2010/259):
- (14) Social Security (Monetary Benefits) Regulations 2007 (SR 2007/229):
- (15) Social Security (Overseas Pension Deduction) Regulations 2013 (SR 2013/463):
- (16) Social Security (Participation Allowance) Regulations 1998 (SR 1998/268):
- (17) Social Security (Period of Income Assessment) Regulations 1996 (SR 1996/128):
- (18) Social Security (Pre-benefit Activities) Regulations 2012 (SR 2012/269):
- (19) Social Security (Social Obligations—Attendance at Recognised Early Childhood Education Programme) Regulations 2013 (SR 2013/252):
- (20) Social Security (SuperGold Card) Regulations 2007 (SR 2007/209):
- (21) Social Security (Supported Living Payments Benefit) Regulations 1998 (SR 1998/241):
- (22) Social Security (Temporary Additional Support) Regulations 2005 (SR 2005/334):
- (23) Social Security (Work Test Obligations—Drug Testing Obligations) Regulations 2013 (SR 2013/253):
- (24) Social Security (Youth Support—Authorised Agencies) Order 2012 (SR 2012/209).

Schedule 1
Transitional, savings, and related provisions

r 4

Part 1
Provision relating to these regulations as made

Transitional provision

- 1 Childcare assistance: approvals of out-of-school programme or proposed out-of-school programme**
- (1) This clause applies to an approval of an out-of-school programme or proposed out-of-school programme—
- (a) given by the chief executive before 26 November 2018 under regulation 25 of the Social Security (Childcare Assistance) Regulations 2004 (or required under regulation 30 of those regulations to be taken to have been so given); and
 - (b) in force immediately before 26 November 2018.
- (2) The approval continues, and may be suspended or revoked under regulation 46, as if it had been given under regulation 45.

Compare: SR 2004/268 r 30

Schedule 2

Rates of childcare and OSCAR subsidies

rr 36, 44

Item	Caregiver	Rate
1	For a principal caregiver with 1 dependent child where household income before the deduction of income tax is—	
	(a) less than \$800 a week	\$5.22 per hour
	(b) \$800 or more but less than \$1,200 a week	\$4.16 per hour
	(c) \$1,200 or more but less than \$1,300 a week	\$2.91 per hour
	(d) \$1,300 or more but less than \$1,400 a week	\$1.62 per hour
	(e) \$1,400 or more a week	Nil
2	For a principal caregiver with 2 dependent children where household income before the deduction of income tax is—	
	(a) less than \$920 a week	\$5.22 per hour
	(b) \$920 or more but less than \$1,380 a week	\$4.16 per hour
	(c) \$1,380 or more but less than \$1,490 a week	\$2.91 per hour
	(d) \$1,490 or more but less than \$1,600 a week	\$1.62 per hour
	(e) \$1,600 or more a week	Nil
3	For a principal caregiver with 3 or more dependent children where household income before the deduction of income tax is—	
	(a) less than \$1,030 a week	\$5.22 per hour
	(b) \$1,030 or more but less than \$1,540 a week	\$4.16 per hour
	(c) \$1,540 or more but less than \$1,670 a week	\$2.91 per hour
	(d) \$1,670 or more but less than \$1,800 a week	\$1.62 per hour
	(e) \$1,800 or more a week	Nil
Schedule 2 item 1(a): amended, on 1 April 2019, by regulation 6(1) of the Social Security Amendment Regulations 2019 (LI 2019/28).		
Schedule 2 item 1(b): amended, on 1 April 2019, by regulation 6(2) of the Social Security Amendment Regulations 2019 (LI 2019/28).		
Schedule 2 item 1(c): amended, on 1 April 2019, by regulation 6(3) of the Social Security Amendment Regulations 2019 (LI 2019/28).		
Schedule 2 item 1(d): amended, on 1 April 2019, by regulation 6(4) of the Social Security Amendment Regulations 2019 (LI 2019/28).		
Schedule 2 item 2(a): amended, on 1 April 2019, by regulation 6(1) of the Social Security Amendment Regulations 2019 (LI 2019/28).		
Schedule 2 item 2(b): amended, on 1 April 2019, by regulation 6(2) of the Social Security Amendment Regulations 2019 (LI 2019/28).		
Schedule 2 item 2(c): amended, on 1 April 2019, by regulation 6(3) of the Social Security Amendment Regulations 2019 (LI 2019/28).		
Schedule 2 item 2(d): amended, on 1 April 2019, by regulation 6(4) of the Social Security Amendment Regulations 2019 (LI 2019/28).		
Schedule 2 item 3(a): amended, on 1 April 2019, by regulation 6(1) of the Social Security Amendment Regulations 2019 (LI 2019/28).		
Schedule 2 item 3(b): amended, on 1 April 2019, by regulation 6(2) of the Social Security Amendment Regulations 2019 (LI 2019/28).		

Schedule 2 item 3(c): amended, on 1 April 2019, by regulation 6(3) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Schedule 2 item 3(d): amended, on 1 April 2019, by regulation 6(4) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Schedule 3

Temporary additional support: standard costs

r 57

Part 1

Standard costs if Part 2 does not apply

Item	Applicant	Standard costs
1	Person who is a beneficiary	70% of the total before any abatement on account of income or other deduction of the amount per week of— (a) the net rate of the 1 or more specified benefits payable to the person and the person's spouse or partner (if any); and (b) any family tax credit payable to the person or the person's spouse or partner under subparts MA to MF and MZ of the Income Tax Act 2007
2	Person who is a non-beneficiary	The amount in item 1, calculated as if jobseeker support were payable to the person and to the person's spouse or partner (if any)

Part 2

Standard costs if spouse or partner unlawfully in New Zealand

Applicant	Standard costs
Person who is in a relationship and whose spouse or partner is unlawfully in New Zealand	The standard costs that would otherwise apply to the applicant if the applicant were single

Schedule 4

Maximum reimbursement amounts

		rr 84, 88
Item	Drug test	Amount (\$)
1	Screening drug test—	
	(a) provided by a suitably qualified employee of the employer	30
	(b) provided by a suitably qualified person other than an employee of the employer	70
2	Evidential drug test	120

Schedule 5

Rates of participation allowance

r 95

Activity	Amount of allowance
An activity in the community (as defined in the Act).	<p>(a) An amount calculated in accordance with the following formula:</p> $(\$21 \div a) \times b$ <p>where—</p> <p>a is the number of days in the week that the beneficiary had undertaken to attend at the activity; and</p> <p>b is the number of days in the week that the beneficiary actually attended at the activity:</p> <p>(b) Where the amount in paragraph (a) is insufficient to reimburse the beneficiary for the travel and other costs of participating in the activity, a further amount towards those costs up to a maximum of \$20.</p>

Schedule 6

Number of weeks for calculating weekly income

r 205

Item	Benefit	Weeks over which income to be determined
1	Supported living payment Sole parent support Jobseeker support paid at the rate in clause 1(c), (e), or (f) of Part 1 of Schedule 4 of the Act New Zealand superannuation (in respect of any rate set out in clause 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001) or veteran's pension (in respect of any rate specified in section 169(2) of the Veterans' Support Act 2014 that is subject to abatement under section 171 of that Act)	in each case, 52 weeks
2	Any other benefit	1 week

Schedule 7

Authorised agencies

r 273

Department of Corrections

New Zealand Qualifications Authority

New Zealand Police

Every agency that employs or contracts health practitioners to provide health services to students in secondary schools

Every agency that employs or contracts social workers to provide services to students in registered schools

Every agency that employs or contracts youth workers to provide services to students in secondary schools

Every agency that provides a programme of alternative education for young persons that is funded by the Ministry of Education or approved by the New Zealand Qualifications Authority

Every agency that provides health services under the WellChild programme

Every agency that provides mental health services to young persons (including services provided in relation to drug or alcohol abuse)

Every agency that provides services to young persons under a Youth One Stop Shop framework

Every agency that provides services under the Family Start or Early Start programme

Every agency that provides training and placements under the Youth Guarantee programme

Every health practitioner who provides health services to young persons and who is not employed or contracted by a primary health organisation

Every health practitioner who provides health services to young persons under an Integrated Family Health Centre framework

Every organisation (within the meaning of section 159B of the Education Act 1989)

Every primary health organisation

Every private training establishment (within the meaning of section 159(1) of the Education Act 1989)

Every registered school

Every service provider (within the meaning of section 309 of the Education Act 1989) that operates a licensed early childhood service.

Schedule 8

Cash assets and income exemptions

rr 16, 60(3)(e), 68(3), 70, 294

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Part 1
Cash assets exemptions (Accommodation supplement)

1 Cash assets exemptions (for accommodation supplement)

The following are exemptions for the purposes of sections 68(2)(c) and 423(1)(b) of the Act (*see* regulation 16):

Item	What is exempted	Exemption	Limit (if any)
1	An accommodation supplement arrears lump sum payment to which clause 6 applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
1A	An accommodation supplement arrears lump sum payment to which clause 6A applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
2	A lump sum payment of arrears of temporary additional support (as defined in regulation 68(3)) made to a person on or after 18 August 2017	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
3	Canterbury earthquake payment to which clause 8(1), (3), or (5) applies	Not cash assets for the person to whom the payment was made	Only until specified time (as defined in clause 9)
4	Employment and Work Readiness Assistance Programme lump sum payment to which clause 10 applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
5	EVSA (Neville Wallace Memorial) Children's & Grandchildren's Trust payments and income to which clause 12 applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
6	<i>Ex gratia</i> and compensation payments made by the Crown and to which clause 14(a) applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
7	Health services and disability support services funded or provided by the Crown item or payment to which clause 16(1) or (2) applies	Not cash assets for A or, as the case requires, B (referred to in clause 16(1) or (2))	

Item	What is exempted	Exemption	Limit (if any)
8	Lake Alice compensation or <i>ex gratia</i> payments to which clause 19(a) applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
9	Personal injury from hepatitis C infection contracted through New Zealand blood supply payments to which clause 23(a) applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
10	Superannuation scheme items to which clause 25(1) applies	Not cash assets for the member of the scheme	Only while clause 25(1) applies under clause 25(2)
11	Victims of crime payments and income to which clause 29 applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
12	Viet Nam veterans <i>ex gratia</i> payments to which clause 31(a) applies	Not cash assets for the person to whom the payment was made	
13	Viet Nam Veterans and Their Families Trust payments to which clause 33(a) applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
14	Payments under the Sleepover Wages (Settlement) Act 2011 to which clause 35 applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
15	Best Start tax credit lump sum payments and income to which clause 37(a) and (b) applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
16	Direct disability support payments to which clause 41 applies	Not cash assets of A (<i>see</i> clause 40)	
17	Housing New Zealand Corporation lump sum payment to which clause 48 applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
18	Christchurch mosques attack support payment and income to which clause 50 applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made

Schedule 8 clause 1 item 1A: inserted, on 1 April 2019, by regulation 7(1) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Schedule 8 clause 1 item 17: inserted, on 30 November 2018, by regulation 4(1) of the Social Security (Cash Assets and Income Exemptions) Amendment Regulations 2018 (LI 2018/236).

Schedule 8 clause 1 item 18: inserted, on 2 April 2019, by regulation 4(1) of the Social Security (Cash Assets and Income Exemptions—Christchurch Mosques Attack Support Payments) Amendment Regulations 2019 (LI 2019/68).

Part 2

Cash assets exemptions (Temporary additional support)

2 Cash assets exemptions (for temporary additional support)

The following are exemptions for the purposes of subpart 16 of Part 2 of the Act and subpart 10 of Part 2 of these regulations (*see* regulation 60(3)(e)):

Item	What is exempted	Exemption	Limit (if any)
1	An accommodation supplement arrears lump sum payment to which clause 6 applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
1A	An accommodation supplement arrears lump sum payment to which clause 6A applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
2	A lump sum payment of arrears of temporary additional support (as defined in regulation 68(3)) made to a person on or after 18 August 2017	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
3	Viet Nam veterans <i>ex gratia</i> payments to which clause 31(a) applies	Not cash assets for the person to whom the payment was made	
4	Personal injury from hepatitis C infection contracted through New Zealand blood supply payments to which clause 23(a) applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
5	Lake Alice compensation or <i>ex gratia</i> payments to which clause 19(a) applies, but only if made to the person on or after 26 October 2007	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
6	Superannuation scheme items to which clause 25(1) applies	Not cash assets for the member of the scheme	Only while clause 25(1) applies under clause 25(2)
7	Payments under the Sleepover Wages (Settlement) Act 2011 to which clause 35 applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
8	Viet Nam Veterans and Their Families Trust payments to which clause 33(a) applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
9	Income from Viet Nam veterans and Their Families Trust payments to which clause 33(a) and (b) applies	Not cash assets for the person to whom the payment was made	
10	<i>Ex gratia</i> and compensation payments made by the Crown and to which clause 14(a) applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made

Item	What is exempted	Exemption	Limit (if any)
11	EVSA (Neville Wallace Memorial) Children's & Grandchildren's Trust payments and income to which clause 12 applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
12	Canterbury earthquake payment to which clause 8(1) applies	Not cash assets for the person to whom the payment was made	Only until specified time (as defined in clause 9)
13	Canterbury earthquake payment to which clause 8(3) applies	Not cash assets for the person to whom the payment was made	Only until specified time (as defined in clause 9)
14	Canterbury earthquake payment to which clause 8(5) applies, if MSD is satisfied that the person intends to use the payment to repair or rebuild any existing residential premises or to purchase any replacement residential premises	Not cash assets for the person to whom the payment was made	Only until specified time (as defined in clause 9)
15	Victims of crime payments and income to which clause 29 applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
16	Best Start tax credit lump sum payments and income to which clause 37(a) and (b) applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
17	Direct disability support payments to which clause 41 applies	Not cash assets of A (<i>see</i> clause 40)	
18	Housing New Zealand Corporation lump sum payment to which clause 48 applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made
19	Christchurch mosques attack support payment and income to which clause 50 applies	Not cash assets for the person to whom the payment was made	Only for the first 12 months after the payment is made

Schedule 8 clause 2 item 1A: inserted, on 1 April 2019, by regulation 7(2) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Schedule 8 clause 2 item 18: inserted, on 30 November 2018, by regulation 4(2) of the Social Security (Cash Assets and Income Exemptions) Amendment Regulations 2018 (LI 2018/236).

Schedule 8 clause 2 item 19: inserted, on 2 April 2019, by regulation 4(2) of the Social Security (Cash Assets and Income Exemptions—Christchurch Mosques Attack Support Payments) Amendment Regulations 2019 (LI 2019/68).

Part 3

Chargeable income exemptions (Temporary additional support)

3 Chargeable income exemptions (for temporary additional support)

The following are exemptions for the purposes of regulation 70:

Item	What is exempted	Exemption	Limit (if any)
1	An accommodation supplement arrears lump sum payment to which clause 6 applies made to a person, and any income derived by the person from that payment	Not chargeable income for the person to whom the payment was made	Only for the first 12 months after the payment is made
1A	An accommodation supplement arrears lump sum payment to which clause 6A applies, and any income derived by the person from that payment	Not chargeable income for the person to whom the payment was made	Only for the first 12 months after the payment is made
2	Canterbury earthquake payment to which clause 8(1) applies	Not chargeable income for the person to whom the payment was made	Only for the first 12 months after the payment is made
3	A lump sum payment of arrears of temporary additional support (as defined in regulation 68(3)) made to a person on or after 18 August 2017	Not chargeable income for the person to whom the payment was made	Only for the first 12 months after the payment is made
4	Best Start tax credit lump sum payments and income to which clause 37(a) and (b) applies	Not chargeable income for the person to whom the payment was made	Only for the first 12 months after the payment is made
5	Housing New Zealand Corporation lump sum payment to which clause 48 applies	Not chargeable income for the person to whom the payment was made	Only for the first 12 months after the payment is made
6	Christchurch mosques attack support payment and income to which clause 50 applies	Not chargeable income for the person to whom the payment was made	Only for the first 12 months after the payment is made

Schedule 8 clause 3 item 1A: inserted, on 1 April 2019, by regulation 7(3) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Schedule 8 clause 3 item 5: inserted, on 30 November 2018, by regulation 4(3) of the Social Security (Cash Assets and Income Exemptions) Amendment Regulations 2018 (LI 2018/236).

Schedule 8 clause 3 item 6: inserted, on 2 April 2019, by regulation 4(3) of the Social Security (Cash Assets and Income Exemptions—Christchurch Mosques Attack Support Payments) Amendment Regulations 2019 (LI 2019/68).

Part 4

Income exemptions (for purposes of Act)

4 Income exemptions (for purposes of Act)

The following are exemptions for the purposes of the Act (*see* clause 9 of Schedule 3 of the Act and regulation 294):

Item	What is exempted	Exemption	Limit (if any)
1	An accommodation supplement arrears lump sum payment to which clause 6 applies	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made
1A	An accommodation supplement arrears lump sum payment to which clause 6A applies	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made

Item	What is exempted	Exemption	Limit (if any)
2	A lump sum payment of arrears of temporary additional support (as defined in regulation 68(3)) made to a person on or after 18 August 2017	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made
3	Canterbury earthquake payment or amount to which clause 8(1), (2), (3), (4), or (6) applies	Not income for the person to whom the payment was made or by whom the amount was acquired	
4	EVSA (Neville Wallace Memorial) Children's & Grandchildren's Trust payments and income to which clause 12 applies	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made
5	<i>Ex gratia</i> and compensation payments made by the Crown and income to which clause 14(a) and (b) applies	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made
6	Health services and disability support services funded or provided by the Crown item or payment to which clause 16(1) or (2) applies	Not income for A or, as the case requires, B (referred to in clause 16(1) or (2))	
7	Home-based care payments to which clause 18 applies	Not income for the educator to whom the payment was made	
8	Lake Alice compensation or <i>ex gratia</i> payments and income to which clause 19(a) and (b) applies	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made
9	Operational allowance payments paid to a member and to which clause 21 applies	Not income for the member to whom the payment was made	
10	Personal injury from hepatitis C infection contracted through New Zealand blood supply payments and income to which clause 23(a) and (b) applies	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made
11	Superannuation scheme items to which clause 26(1) applies	Not income for the member of the scheme	Only while clause 26(1) applies under clause 26(2)
12	Victims of crime payments and income to which clause 29 applies	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made
13	Viet Nam veterans <i>ex gratia</i> payments and interests to which clause 31(a) and (b) applies	Not income for the person to whom the payment was made	
14	Viet Nam Veterans and Their Families Trust payments and income to which clause 33(a) and (b) applies	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made
15	Payments under the Sleepover Wages (Settlement) Act 2011 to which clause 35 applies	Not income for the person to whom the payment was made	

Item	What is exempted	Exemption	Limit (if any)
16	Best Start tax credit lump sum payments and income to which clause 37(a) and (b) applies	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made
17	An energy trust dividend to which clause 39 applies	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made
18	Direct disability support payments to which clause 41 applies	Not income of A (<i>see</i> clause 40)	
19	Sick or like benefit received by A or A's spouse or partner to which clause 43 applies	Not income of A to the extent specified in clause 43	
20	Income derived from personal effort by a severely disabled person (A) to which clause 44 applies	Not income of A to the extent disregarded by MSD under clause 44	
21	Redundancy and retirement payments received by a person (A) to which clause 45 applies	Not income of A	
22	Income derived by a person (A) from letting or sale of home to which clause 47 applies	Not income of A to the extent set off by MSD under clause 47	
23	Housing New Zealand Corporation lump sum payment to which clause 48 applies	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made
24	Christchurch mosques attack support payment and income to which clause 50 applies	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made

Schedule 8 clause 4 item 1A: inserted, on 1 April 2019, by regulation 7(4) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Schedule 8 clause 4 item 23: inserted, on 30 November 2018, by regulation 4(4) of the Social Security (Cash Assets and Income Exemptions) Amendment Regulations 2018 (LI 2018/236).

Schedule 8 clause 4 item 24: inserted, on 2 April 2019, by regulation 4(4) of the Social Security (Cash Assets and Income Exemptions—Christchurch Mosques Attack Support Payments) Amendment Regulations 2019 (LI 2019/68).

Part 5 Interpretation

5 Interpretation

In this schedule, unless the context otherwise requires,—

Crown means all or any of the following:

- (a) the Sovereign in right of New Zealand;
- (b) all Ministers of the Crown, and all departments of the Public Service specified in Schedule 1 of the State Sector Act 1988;
- (c) Crown entities as defined in section 7(1) of the Crown Entities Act 2004 (for example, DHBs):

- (d) every other instrument of the Crown in respect of the Government of New Zealand, whether the instrument is or was an agency, corporation, department, division, enterprise, service, or otherwise (for example, every predecessor in title of a DHB)

disability support services has the same meaning as in section 6(1) of the New Zealand Public Health and Disability Act 2000

DHB has the meaning given to it by section 6(1) of the New Zealand Public Health and Disability Act 2000

ex gratia payment means a payment made without an acknowledgement of legal liability

health services has the same meaning as in section 6(1) of the New Zealand Public Health and Disability Act 2000

predecessor in title, in relation to a DHB, has the meaning given to it by section 2(1) of the Health Sector (Transfers) Act 1993.

Compare: SR 2011/287 r 3

Part 6

Accommodation supplement arrears lump sum payment

6 Payments for specified processing error

- (1) This clause applies to a lump sum payment of arrears of accommodation supplement made to a person, on or after 1 November 2016, as a result of the department (as defined in section 3(1) of the Social Security Act 1964) correcting a specified processing error.
- (2) For the purposes of this clause, a **specified processing error**, in relation to a person, means incorrect data relating to either or both of the type of the person's premises and the person's accommodation costs (within the meaning of section 61E of the Social Security Act 1964) being entered—
- (a) into a computer system operated by or on behalf of the department (as so defined); and
 - (b) as a result of a system error; and
 - (c) at any time in the years 1993 to 2014 (inclusive).

Schedule 8 clause 6 heading: replaced, on 1 April 2019, by regulation 7(5) of the Social Security Amendment Regulations 2019 (LI 2019/28).

6A Payments for specified area boundary error

- (1) This clause applies to a lump sum payment of arrears of accommodation supplement made to a person, on or after 1 April 2019, as a result of the responsible department (as defined in Schedule 2 of the Act) correcting a specified area boundary error.

- (2) For the purposes of this clause, **specified area boundary error**, in relation to a person, means incorrect data relating to the person's accommodation costs (within the meaning of section 61E of the Social Security Act 1964) being entered—
- (a) into a computer system operated by or on behalf of the responsible department; and
 - (b) as a result of a failure to update the applicable parts of New Zealand in accordance with the definitions of Area 1, Area 2, Area 3, or Area 4 contained in Schedule 18 of the Social Security Act 1964; and
 - (c) at any time in the period of 1 April 2005 to the close of 31 March 2018 (inclusive).

Schedule 8 clause 6A: inserted, on 1 April 2019, by regulation 7(6) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Part 7

Canterbury earthquake payments or amounts

7 Interpretation

In this Part, unless the context otherwise requires,—

Canterbury earthquake means the earthquake that occurred on 4 September 2010 in Canterbury, and includes all of its aftershocks

Government offer means an offer by or on behalf of the Government of New Zealand in respect of any residential premises in the red zone either—

- (a) to purchase the whole of the premises and to subrogate the owner's claims for damage to the premises from the earthquake to the Earthquake Commission continued by section 4(1) of the Earthquake Commission Act 1993 and the owner's insurance company; or
- (b) to purchase only the land of the premises, without subrogation of the owner's claim for damage to the premises from the earthquake to the owner's insurance company

red zone or **red zone land** means the area designated in the Prime Minister's public announcement of 23 June 2011 as the red zone, and any other area included in that zone or designated as red zone land by any subsequent announcement of the New Zealand Government

related interest on a payment to which clause 8(1), (3), or (5) applies means any interest that is—

- (a) derived from that payment; or
- (b) derived from related interest.

8 Payments and amounts

- (1) This subclause applies to every payment made on or after 13 September 2010—
 - (a) by the Canterbury Earthquake Commission (a body set up by the National Board of New Zealand Red Cross Incorporated in consultation with the Mayors of Christchurch City, the Waimakariri District, and the Selwyn District, and proposed to be incorporated as a charitable trust under the Charitable Trusts Act 1957); and
 - (b) in relation to the effects of the Canterbury earthquake; and
 - (c) out of the fund created by donations made to the Canterbury Earthquake Appeal of New Zealand Red Cross Incorporated (and by money from other sources).
- (2) This subclause applies to every amount that—
 - (a) is an amount of related interest on a payment to which subclause (1) applies; and
 - (b) is acquired on or after 13 September 2010 but before,—
 - (i) if the person intends to use the payment to repair or rebuild any existing premises or to purchase any replacement residential premises, the expiry of 48 months starting from the day when that payment was made; or
 - (ii) in any other case, the expiry of 12 months starting on the day the payment was made.
- (3) This subclause applies to every payment made on or after 24 December 2010—
 - (a) by the Earthquake Commission continued by section 4(1) of the Earthquake Commission Act 1993, or by an insurance company; and
 - (b) either in respect of the destruction of or any damage to any property caused by the Canterbury earthquake, or for or towards the costs of renting accommodation in place of residential premises destroyed or made uninhabitable by the Canterbury earthquake.
- (4) This subclause applies to every amount that—
 - (a) is an amount of related interest on a payment to which subclause (3) applies; and
 - (b) is acquired on or after 24 December 2010 but before,—
 - (i) if the person intends to use the payment to repair or rebuild any existing premises or to purchase any replacement residential premises, the expiry of 48 months starting from the day when that payment was made; or
 - (ii) in any other case, the close of 31 March 2012.

- (5) This subclause applies to every payment made on or after 23 June 2011 by the Crown as a payment or part payment of the purchase price for any property or land in the red zone under a Government offer that has been accepted by the person to whom it was made.
- (6) This subclause applies to every amount that—
 - (a) is an amount of related interest on a payment to which subclause (5) applies; and
 - (b) is acquired on or after 23 June 2011 but before,—
 - (i) if the person intends to use the payment to repair or rebuild any existing premises or to purchase any replacement residential premises, the expiry of 48 months starting from the day when that payment was made; or
 - (ii) in any other case, the expiry of 12 months starting on the day the payment was made.
- (7) For the purposes of subclauses (4)(b) and (6)(b) and clauses 1, 2, and 4,—
 - (a) if any payments to which subclause (3) or (5) applies are paid in instalments, or 1 or more payments are made under subclause (3) or (5), the date that the payments are made is the date on which the final instalment is paid or the last payment was made:
 - (b) if any payments to which subclause (3) or (5) applies are paid in instalments for different purposes, or 1 or more payments are made under subclause (3) or (5) for different purposes, but in either case are part of a single compensation package, the date that the payments are made is the date on which the final instalment is paid or the last payment was made.

9 Specified time defined for payments

For a payment to which clause 8(1), (3), or (5) applies, the **specified time** (as referred to in clauses 1 and 2), in relation to a person and a payment, means,—

- (a) if the person intends to use the payment to repair or rebuild any existing premises or to purchase any replacement residential premises, 48 months after the payment was made; or
- (b) in any other case, 12 months after the payment was made.

Part 8

Employment and Work Readiness Assistance Programme payments

10 Lump sum payments made under Programme

This clause applies to a lump sum payment made under the Employment and Work Readiness Assistance Programme—

- (a) established and approved by the Minister for Social Development under section 124(1)(d) of the Social Security Act 1964 on 6 March 2014; and

- (b) saved under clause 21 of Schedule 1 of the Act.

Part 9

EVSA (Neville Wallace Memorial) Children's & Grandchildren's Trust payments

11 Interpretation

In this Part, unless the context otherwise requires, **Trust** means the trust that, immediately before the commencement of this Part, was called the EVSA (Neville Wallace Memorial) Children's & Grandchildren's Trust and—

- (a) that was established as the EVSA Youth Development Trust by a trust deed signed on 4 December 1993; and
- (b) whose trustees are incorporated as a charitable trust board under the Charitable Trusts Act 1957.

12 Payments and income

This clause applies to—

- (a) any payment made on or after 17 August 2007 to a person by the Trust; and
- (b) any income derived by the person from that payment.

Part 10

Ex gratia and compensation payments made by the Crown

13 Interpretation

In this Part, unless the context otherwise requires,—

compensation—

- (a) means a payment made—
- (i) in satisfaction of a judgment or an order of any court or an award of any tribunal, other than an award of costs; or
- (ii) in settlement of a claim against the Crown (whether or not that claim has been formally filed in a court or tribunal); and
- (b) does not include a payment made under—
- (i) an employment relationship; or
- (ii) a contract to provide goods or services

economic loss means loss that is of a pecuniary nature, for example, lost wages

harm—

- (a) means illness or injury, or both; and
- (b) includes—

- (i) physical harm; and
 - (ii) mental harm; and
 - (iii) humiliation, loss of dignity, and injury to the feelings of the aggrieved person; but
- (c) does not include—
 - (i) economic loss; or
 - (ii) loss or reduction of property; or
 - (iii) loss of any benefit, whether or not of a monetary kind, that the aggrieved person might reasonably have been expected to obtain; or
 - (iv) loss of employment or office

property has the meaning given to it by section 4 of the Property Law Act 2007.

14 Payments and income

This clause applies to—

- (a) any compensation or *ex gratia* payment made—
 - (i) by the Crown to a person; and
 - (ii) in recognition of harm or in respect of a claim of harm; and
- (b) any income derived by the person from a payment referred to in paragraph (a).

Part 11

Health services and disability support services funded or provided by the Crown

15 Interpretation

In this Part, unless the context otherwise requires, **health or disability dependant**, in relation to any person (A), means any other person who—

- (a) is not a dependent child of A; but
- (b) has an illness or a sickness, an injury, or a disability; and
- (c) is a person for whose care A has the primary responsibility, other than on a temporary basis.

16 Items and payments

- (1) This subclause applies, at any time after the person receives the item or payment concerned, to the value of any health services or disability support services (or both)—
 - (a) provided on or after 18 August 2017 to all or any of the following:

- (i) a person (**A**):
 - (ii) a dependent child of A:
 - (iii) a health or disability dependant of A; and
 - (b) provided or funded (in whole or in part) by or on behalf of the Crown.
- (2) This subclause applies, at any time after A receives the item or payment concerned, to any payment—
- (a) made on or after 18 August 2017 to a person (**B**) and used by A for purchasing health services or disability support services (or both) for all or any of the following:
 - (i) B:
 - (ii) a dependent child of B:
 - (iii) a health or disability dependant of B; and
 - (b) made (in whole or in part) by or on behalf of the Crown.
- (3) Nothing in subclause (1) or (2) applies to—
- (a) services provided, or payments made, because of an employment relationship to which A or B is or was a party as the employee; or
 - (b) any payment received by a person (C) from B in the course of an employment relationship, if B has purchased the services by employing C to provide them; or
 - (c) any part of any payment used by B to meet B's ordinary living expenses.

Part 12

Home-based care payments

17 Interpretation

In this Part, unless the context otherwise requires,—

educator has the meaning given to it by regulation 3 of the Education (Early Childhood Services) Regulations 2008

home-based education and care service has the meaning given to it by section 309 of the Education Act 1989

service provider has the meaning given to it by section 309 of the Education Act 1989.

18 Payments

- (1) This clause applies to any payment to an educator, received by an educator on or after 18 November 2004, for providing a home-based education and care service for a child that is arranged by a service provider in accordance with the code of practice.

- (2) For the purposes of subclause (1), the payment in respect of each child is the greater of whichever of the following amounts applies:
- (a) in respect of—
 - (i) payments received on or after 18 November 2004 but before the close of 31 March 2011, \$3.15 per hour:
 - (ii) payments received on or after 1 April 2011 but before the close of 31 March 2012, \$3.27 per hour:
 - (iii) payments received on or after 1 April 2012 but before the close of 31 March 2013, \$3.33 per hour:
 - (iv) payments received on or after 1 April 2013 but before the close of 31 March 2014, \$3.35 per hour:
 - (v) payments received on or after 1 April 2014 but before the close of 31 March 2015, \$3.40 per hour:
 - (vi) payments received on or after 1 April 2015 but before the close of 31 March 2017, \$3.42 per hour:
 - (vii) payments received on or after 1 April 2017 but before the close of 31 March 2018, \$3.46 per hour:
 - (viii) payments received on or after 1 April 2018 but before the close of 31 March 2019, \$3.51 per hour; and
 - (ix) payments received on or after 1 April 2019 but before the close of 31 March 2020, \$3.57 per hour; and
 - (b) the educator's actual expenses per hour of providing a home-based education and care service to that child in accordance with the Education (Early Childhood Services) Regulations 2008, verified by receipts and supporting documents that are needed to calculate those expenses and that are provided by the educator in a form acceptable to MSD.

Schedule 8 clause 18(2)(a)(ix): inserted, on 1 April 2019, by regulation 7(7) of the Social Security Amendment Regulations 2019 (LI 2019/28).

Part 13

Lake Alice compensation or *ex gratia* payments

19 Payments and income

This clause applies to—

- (a) any compensation payment or *ex gratia* payment—
 - (i) made to a person on or after 1 September 2001 by or on behalf of the Crown; and
 - (ii) made because the person is a former patient of the Lake Alice Psychiatric Hospital; and

- (b) any income derived (directly or indirectly) by the person from the payment referred to in paragraph (a).

Part 14

Operational allowance payments

20 Interpretation

In this Part, unless the context otherwise requires,—

member has the meaning given to it by section CW 23(1) of the Income Tax Act 2007

operational allowance has the meaning given to it by section CW 23(4) of the Income Tax Act 2007.

21 Operational allowances declared not to be income

This clause applies to a payment of an operational allowance made to a member on or after 18 March 2007.

Part 15

Personal injury from hepatitis C infection contracted through New Zealand blood supply payments and income

22 Interpretation

In this Part, unless the context otherwise requires,—

New Zealand blood supply means either or both of the following:

- (a) blood collected in New Zealand (whether or not that blood was donated, or otherwise collected, with assistance provided or funded by or on behalf of the Crown);
- (b) any blood product derived from blood of that kind

personal injury has the meaning set out in section 26 of the Accident Compensation Act 2001.

23 Payments and income

This clause applies to—

- (a) any *ex gratia* payment—
 - (i) made to a person, on or after 15 December 2006, by or on behalf of the Crown; and
 - (ii) made because the person suffered a personal injury that is, or was caused by, hepatitis C infection contracted through the New Zealand blood supply; and

- (b) any income derived (directly or indirectly) by the person from the payment referred to in paragraph (a).

Part 16

Superannuation schemes

24 Interpretation

In this Part, unless the context otherwise requires,—

contribution means any contribution to a scheme, for example,—

- (a) an employer contribution (for example, a compulsory employer contribution); or
- (b) any Crown contribution

Crown contribution,—

- (a) in relation to a KiwiSaver scheme, has the same meaning as in section 4(1) of the KiwiSaver Act 2006; and
- (b) in relation to a specified non-KiwiSaver scheme, means any Crown contribution

expected time of retirement, in relation to a member of a non-KiwiSaver scheme, means the member's expected age or date of retirement as defined in the provisions of the scheme

fee subsidy,—

- (a) in relation to a KiwiSaver scheme, has the same meaning as in the definition of member's contribution in section 4(1) of the KiwiSaver Act 2006; and
- (b) in relation to a specified non-KiwiSaver scheme, means any fee subsidy

KiwiSaver scheme and **KiwiSaver scheme rules** have the same meanings as in section 4(1) of the KiwiSaver Act 2006

member's interest, in relation to a member of a specified non-KiwiSaver scheme, means the total of—

- (a) the member's contributions; and
- (b) any employer contributions (vested or unvested) in respect of the member; and
- (c) any fee subsidies paid in respect of the member; and
- (d) any Crown contribution paid in respect of the member

net value, in relation to a member's interest, means the value of the member's interest once any other appropriate debits and credits have been made to account for things like fees, permitted withdrawals or permitted proposed withdrawals, and positive and negative returns

non-KiwiSaver scheme means a scheme that is registered as a superannuation scheme under subpart 2 of Part 4 of the Financial Markets Conduct Act 2013

permitted, in relation to a withdrawal or proposed withdrawal from a scheme, means that the withdrawal is, or the proposed withdrawal if it were provided would be, permitted under the provisions of the scheme

proposed withdrawal means a withdrawal that has been applied for, but has not yet been provided

provision, in relation to a scheme, means a provision (express or implied) of either or both of the following:

- (a) the deed that established the relevant trust or (as the case may be) the Act of the Parliament of New Zealand that constituted the relevant arrangement:
- (b) any rules of the scheme

qualifying lock-in clause, in relation to a KiwiSaver scheme, means a provision of the scheme implied in its trust deed under section 116 and clause 4 (lock-in of funds to KiwiSaver end payment date) of Schedule 1 of the Kiwi-Saver Act 2006 and, in relation to a non-KiwiSaver scheme, means a provision of the scheme that—

- (a) prevents a member of the scheme from making or receiving a withdrawal from the scheme until all or any of the following apply to the member:
 - (i) the member reaches the expected time of retirement:
 - (ii) before reaching the expected time of retirement, the member leaves the employment in respect of which the scheme was constituted or established:
 - (iii) before reaching the expected time of retirement, the member leaves any employment covered by the scheme; and
- (b) may—
 - (i) be a standard withdrawals clause; or
 - (ii) be accompanied by another provision of the scheme that is a standard withdrawals clause

scheme means a retirement scheme within the meaning of section 6(1) of the Financial Markets Conduct Act 2013 (for example, a KiwiSaver scheme or a non-KiwiSaver scheme)

specified non-KiwiSaver scheme means a non-KiwiSaver scheme that contains the provisions of which include a qualifying lock-in clause

standard withdrawals clause, in relation to a scheme, means a provision of the scheme that permits a member of the scheme to make or receive a withdrawal from the scheme in circumstances that are, or are essentially, the same

as those specified in all or any of the following clauses of Schedule 1 of the KiwiSaver Act 2006:

- (a) clause 8 (purchase of a first home):
- (b) clause 10 (significant financial hardship):
- (c) clause 12 (serious illness)

withdrawal, in relation to a member of a KiwiSaver scheme or a non-Kiwi-Saver scheme,—

- (a) includes any benefit provided from, and debited against the member's interest in, the scheme; but
- (b) does not include a permitted withdrawal or permitted proposed withdrawal that is a transfer (with or without the member's consent) from the scheme to another KiwiSaver scheme or non-KiwiSaver scheme; and
- (c) for the purposes of clauses 25(2) and 26(2), does not include a withdrawal made or received in accordance with a standard withdrawals clause.

25 Superannuation scheme items

- (1) This subclause applies to the net value of a person's member's interest, on or after 1 May 2008, in a specified non-KiwiSaver scheme.
- (2) However, subclause (1) applies in respect of a specified non-KiwiSaver scheme only while a qualifying lock-in clause prevents the person, as a member of the scheme, from making or receiving a withdrawal from the scheme.
- (3) *See also* section 68(2)(b) of the Act (under which cash assets, for the purposes of subpart 10 of Part 2 and Part 7 of Schedule 4 (accommodation supplement) of the Act, does not include any contributions to, or any member's interest in, any KiwiSaver scheme that is registered under subpart 2 of Part 4 of the Financial Markets Conduct Act 2013).

26 Other superannuation scheme items

- (1) This subclause applies to the following items if paid or made on or after 1 May 2008 in respect of a person as a member of a KiwiSaver scheme or specified non-KiwiSaver scheme:
 - (a) employer contributions and any Crown contribution; and
 - (b) fee subsidies; and
 - (c) credits for positive returns.
- (2) However, subclause (1) applies in respect of a KiwiSaver scheme or specified non-KiwiSaver scheme only while a qualifying lock-in clause prevents the person, as a member of the scheme, from making or receiving a withdrawal from the scheme.

27 Effect of election to defer receipt of benefits

- (1) This regulation applies to a person who, as a member of a KiwiSaver scheme or specified non-KiwiSaver scheme, has exercised a right under the provisions of the scheme to elect to defer receipt of any benefit that the person is eligible to receive under the scheme.
- (2) A qualifying lock-in clause must, for the purposes of clauses 25(2) and 26(2), be treated as not preventing the person, as a member of the scheme, from making or receiving a withdrawal from the scheme.

Part 17**Victims of crime payments and income****28 Interpretation**

In this Part, unless the context otherwise requires,—

crime means an offence for which the offender—

- (a) is liable on conviction to imprisonment for life or to imprisonment for more than 3 months; or
- (b) would have been liable on conviction to imprisonment for life or to imprisonment for more than 3 months but for circumstances (for example, the offender has died)

immediate family, in relation to a person,—

- (a) means a member of the person's family, whānau, or other culturally recognised family group, who is in a close relationship with the person at the time of the crime; and
- (b) to avoid doubt, includes—
 - (i) a spouse, civil union partner, or de facto partner:
 - (ii) a child or stepchild:
 - (iii) a brother, sister, stepbrother, or stepsister:
 - (iv) a parent or step-parent:
 - (v) a grandparent

victim means—

- (a) a person against whom a crime has been committed by another person; and
- (b) a person who, through (or by means of) a crime committed by another person, has suffered physical or emotional harm, or loss of, or damage to, property; and
- (c) a parent or legal guardian of a child, or of a young person, who falls within paragraph (a) or (b), unless that parent or guardian is charged

with the commission of, is convicted or found guilty of, or pleads guilty to the crime concerned; and

- (d) a member of the immediate family of a person who, as a result of a crime committed by another person, has died, unless that member is charged with the commission of, is convicted or found guilty of, or pleads guilty to the crime concerned.

29 Payments and income

This clause applies to—

- (a) any payment made by or on behalf of the Crown to a person because the person is a victim; and
- (b) any income derived by the person from that payment.

Part 18

Viet Nam veterans *ex gratia* payments

30 Interpretation

In this Part, unless the context otherwise requires, **MOU on measures related to veterans** means the memorandum of understanding—

- (a) signed on 6 December 2006 for and on behalf of the following (the **parties**):
 - (i) the Ex-Vietnam Services Association; and
 - (ii) the Royal New Zealand Returned and Services' Association Incorporated; and
 - (iii) the Crown; and
- (b) not intended to be legally binding on the parties, but recording their intentions on a package of measures related to Viet Nam veterans and other veterans.

31 Payments and interest

This clause applies to—

- (a) any *ex gratia* payment—
 - (i) made to a person, on or after 27 April 2007, by the Crown; and
 - (ii) made in accordance with the MOU on measures related to veterans; and
- (b) any interest derived (directly or indirectly) by the person from the payment referred to in paragraph (a).

Part 19

Viet Nam Veterans and Their Families Trust payments

32 Interpretation

In this Part, unless the context otherwise requires,—

MOU on measures related to veterans has the meaning given to it in clause 30

Trust means the trust established by the trust deed and that was, immediately before 26 November 2018, called the Viet Nam Veterans and Their Families Trust

trust deed means the deed signed on 16 August 2007 in accordance with clause 18 of the MOU on measures related to veterans.

33 Payments and income

This clause applies to—

- (a) any payment made on or after 17 August 2007 to a person under the Trust, other than a payment of the kind referred to in any of paragraphs (a) to (d) of clause 14.2 of the trust deed; and
- (b) any income derived by the person from a payment referred to in paragraph (a).

Part 20

Payments under Sleepover Wages (Settlement) Act 2011

34 Interpretation

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

Sleepover Act means the Sleepover Wages (Settlement) Act 2011

specified employer means—

- (a) Idea Services; or
 - (b) Timata Hou; or
 - (c) any other employer in the health and disability sector to whom subpart 2 of Part 2 of the Sleepover Act applies (with or without modifications) because of an order made under section 24(1)(b) of the Sleepover Act; or
 - (d) any other employer to whom subparts 1 and 2 of Part 2 of the Sleepover Act apply (with or without modifications) because of an order made under section 24(1)(a) of the Sleepover Act.
- (2) A term that is defined in section 4 or 23 of the Sleepover Act and that is used but not defined in this Part has the same meaning as in section 4 or 23 of the Sleepover Act.

35 Payments

This clause applies, on and after the date on which the performance of the sleepover concerned ended, to every payment—

- (a) of back wages that are for a sleepover that began to be performed on or after 1 June 2004; and
- (b) made by a specified employer, made on or after 18 October 2011, and made to any of the following persons who are entitled to the payment under any of sections 14 to 16 of the Sleepover Act:
 - (i) a current employee:
 - (ii) a recent employee:
 - (iii) a historic employee.

Part 21

Best Start tax credit lump sum payments and income

36 Interpretation

In this Part, unless the context otherwise requires,—

Best Start tax credit means a tax credit under section MG 1 of the Income Tax Act 2007

lump sum payment of arrears of Best Start tax credit means a lump sum payment of a Best Start tax credit made to a person entitled to the credit for an entitlement period for a dependent child if (and only if)—

- (a) the entitlement period ends before 1 July 2018; and
- (b) the dependent child is born before 1 July 2018, but the expected due date for the child is on or after 1 July 2018.

37 Payments and income

This clause applies to—

- (a) a lump sum payment of arrears of a Best Start tax credit made to a person on or after 3 July 2018; and
- (b) any income derived by the person from that payment.

Part 22

Payments of energy trust dividends

38 Interpretation

In this Part, unless the context otherwise requires, **energy trust dividend** means a payment that—

- (a) is received by a person as a discount on a power bill, or as a distribution, from a lines company or an energy trust; but
- (b) is not made because the person has bought or owns shares in the company or the trust.

39 Payments

This clause applies to an energy trust dividend received on or after 18 August 2017.

Part 23

Direct disability support payments

40 Interpretation

In this Part, unless the context otherwise requires, **direct disability support payment**, for a person with a disability (A), means any direct payment of disability support made by or on behalf of the Crown to A or a person on A's behalf, for the purpose of purchasing or obtaining disability support services for A.

41 Payments

This clause applies to a direct disability support payment made on or after 1 October 2018.

Part 24

Sick benefit from friendly or like society

42 Interpretation

In this Part, unless the context otherwise requires,—

A means an applicant for a benefit

benefit means New Zealand superannuation, sole parent support, a supported living payment on the ground of restricted work capacity or total blindness, or jobseeker support on the ground of a health condition, an injury, or a disability

friendly society means a friendly society registered under the Friendly Societies and Credit Unions Act 1982

sick or like benefit means a sick benefit received from a friendly society or a like benefit received from any other source.

43 Disregard of sick or like benefit as income

- (1) For the purpose of calculating the rate of A's benefit, no account is to be taken of a sick or like benefit received by A or A's spouse or partner up to a maximum of—

- (a) \$2 a week, if the benefit is jobseeker support on the ground of a health condition, an injury, or a disability; or
 - (b) \$104 a year, if the benefit is New Zealand superannuation, a supported living payment on the ground of restricted work capacity, total blindness, or sole parent support.
- (2) MSD must determine any question as to whether any income received or receivable is of a like nature to a sick benefit payable by a friendly society.

Part 25

Income of severely disabled person

44 Special exemption for severe disablement

MSD may, in MSD's discretion, as an incentive to personal effort, disregard all or part of the income of a severely disabled person derived from personal effort.

Part 26

Redundancy payments and retirement payments

45 Interpretation

In this Part, **redundancy payment** and **retirement payment** have the same meanings as in regulation 182.

46 Redundancy payments and retirement payments not income

- (1) In computing the income of a person (A) for the purpose of determining the rate of any benefit, MSD must not take into account any redundancy payment or retirement payment received by A.
- (2) Nothing in subclause (1) applies to the calculation of A's cash assets.

Part 27

Income from former home property

47 Exemption of income from former home property

- (1) This clause applies to a person (A) who—
 - (a) has let A's home; or
 - (b) sold A's home on terms providing for the payment of the whole or any part of the purchase money—
 - (i) by instalments; or
 - (ii) secured by a mortgage over the home.

- (2) When computing A's income, MSD may, in MSD's discretion, set off against the rent or interest derived or received by A in respect of that letting or sale the whole or any part of—
- (a) any rent payable by A in respect of the tenancy of another home:
 - (b) any interest payable by A or unpaid purchase money owing by A in respect of the purchase of another home:
 - (c) any interest payable by A on money advanced to A for the purchase of another home:
 - (d) any money payable by A in respect of A's board, lodging, or maintenance, whether in a private home or in any public or private institution.

Part 28

Housing New Zealand Corporation payments for alleged methamphetamine contamination

Schedule 8 Part 28: inserted, on 30 November 2018, by regulation 4(5) of the Social Security (Cash Assets and Income Exemptions) Amendment Regulations 2018 (LI 2018/236).

48 Payments and interest

This clause applies to—

- (a) any lump sum payment made to a person on or after 30 November 2018 by Housing New Zealand Corporation to reimburse the costs arising from the termination of a person's tenancy with the Corporation due to alleged methamphetamine contamination of the property to which the tenancy relates; and
- (b) any interest derived (directly or indirectly) by the person from the payment referred to in paragraph (a).

Part 29

Christchurch mosques attack support payments

Schedule 8 Part 29: inserted, on 2 April 2019, by regulation 4(5) of the Social Security (Cash Assets and Income Exemptions—Christchurch Mosques Attack Support Payments) Amendment Regulations 2019 (LI 2019/68).

49 Interpretation

In this Part, unless the context otherwise requires, **Christchurch mosques attack support payment**—

- (a) means a payment made to a person because they are a person affected by an attack on 15 March 2019 on a Christchurch mosque; and
- (b) includes, without limitation, a payment specified in paragraph (a) made from donations collected or made by all or any of the following:

- (i) an organisation that has collected donations, for example, by means that are or include any of the following crowdfunding websites:
 - (A) www.everydayhero.co.nz:
 - (B) www.givealittle.co.nz:
 - (C) www.launchgood.com:
- (ii) businesses:
- (iii) employers:
- (iv) individuals:
- (v) overseas governments.

Schedule 8 clause 49: inserted, on 2 April 2019, by regulation 4(5) of the Social Security (Cash Assets and Income Exemptions—Christchurch Mosques Attack Support Payments) Amendment Regulations 2019 (LI 2019/68).

50 Payments and income

This clause applies to—

- (a) a Christchurch mosques attack support payment made to a person on or after 15 March 2019 (or, for the purposes only of the temporary additional support chargeable income exemption (*see* item 6 of clause 3), made to a person on or after 2 April 2019); and
- (b) any income derived (directly or indirectly) by the person from the payment referred to in paragraph (a).

Schedule 8 clause 50: inserted, on 2 April 2019, by regulation 4(5) of the Social Security (Cash Assets and Income Exemptions—Christchurch Mosques Attack Support Payments) Amendment Regulations 2019 (LI 2019/68).

Michael Webster,
Clerk of the Executive Council.

Reprints notes**1 *General***

This is a reprint of the Social Security Regulations 2018 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

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 (Cash Assets and Income Exemptions—Christchurch Mosques Attack Support Payments) Amendment Regulations 2019 (LI 2019/68)

Social Security Amendment Regulations 2019 (LI 2019/28)

Social Security (Cash Assets and Income Exemptions) Amendment Regulations 2018 (LI 2018/236)