



Social Security (Debt Recovery Suspension) Regulations 2007

Anand Satyanand, Governor-General

Order in Council

At Wellington this 26th day of March 2007

Present:

His Excellency the Governor-General in Council

Pursuant to section 132G of the Social Security Act 1964, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and on the advice of the Minister for Social Development and Employment under section 132G(3) of that Act, makes the following regulations.

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Regulations

1 Title

These regulations are the Social Security (Debt Recovery Suspension) Regulations 2007.

2 Commencement

These regulations come into force on 30 April 2007.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Social Security Act 1964

benefit debt means a payment, sum, or other amount that—

- (a) is a debt due to the Crown under section 85A, and recoverable under section 86(1), of the Act; or
- (b) may be recovered as a debt due to the Crown, or by way of deduction, under section 86(3) of the Act; or
- (c) constitutes a debt owing to the Crown, and may be recovered, under section 86(4) or (5) of the Act

cash assets has the same meaning as in section 61E(1) of the Act

deduction notice means a deduction notice issued under section 86A of the Act

full-time course has the same meaning as in 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 the chief executive in accordance with section 86A(4) of the Act; and
- (b) revoking the deduction notice

period of suspension has the meaning given to it by regulation 9

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 4

request for suspension has the meaning given to it in regulation 7(1)(a)

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 commenced employment in the permanent employment position

working-age benefit means a benefit that is—

- (a) an unemployment benefit; or
- (b) a sickness benefit; or
- (c) a domestic purposes benefit; or
- (d) an emergency benefit (other than one payable under section 17(2)(c) of the New Zealand Superannuation and Retirement Income Act 2001); or
- (e) an independent youth benefit; or
- (f) an invalid's benefit; or
- (g) a widow's benefit.

*Eligibility to request debt recovery suspension***4 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 5 (which specifies work status and associated requirements); and
- (b) who complies with regulation 6 (which specifies cash assets, income, and associated requirements).

5 Work status and associated requirements

(1) A person complies with this regulation if—

- (a) the person is 18 years old or older; and
- (b) the chief executive 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 80 of the Act, is subject to a stand down and commences on a date calculated in accordance with section 80BA 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) his or her 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 the chief executive is satisfied is re-entering or has re-entered the workforce.
- (3) The chief executive 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) the chief executive considers there are special circumstances that warrant that treatment.

6 Cash assets, income, and associated requirements

A person complies with this regulation if the chief executive 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 his or her spouse or partner, if any) of less than,—
 - (i) for a single person, the amount in clause 1 of Schedule 31 of the Act; or
 - (ii) for a person who is married, in a civil union, in a de facto relationship, or is a sole parent, the amount in clause 2 of that schedule; and
- (b) the person has income (including the income of his or her spouse or partner, if any) of less than the appropriate amount set out in Part 2 of Schedule 31 of the Act; and
- (c) if the person has been granted a working-age benefit that, under section 80 of the Act, is subject to a stand down and commences on a date calculated in accordance with section 80BA 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 the grant of the benefit or, as the case may be, the benefit, is cancelled when he or she commenced or is to commence employment in the permanent employment position.

Debt recovery suspension

7 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 he or she made.
- (2) A request for suspension must be made, and a withdrawal of one must be communicated, to the department.
- (3) A request for suspension may be made orally or in writing but, if made orally, must as soon as practicable be confirmed in writing.
- (4) A withdrawal of a request for suspension must be communicated in writing.
- (5) A request for suspension, or withdrawal of one, must be treated as having been made or communicated when it is received by the department.
- (6) A person is not prevented from making or withdrawing, in accordance with this regulation, 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.

8 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 7, made a request for suspension; and
 - (c) has not, in accordance with regulation 7, withdrawn the request.
- (2) Benefit debts of a person to whom this regulation applies must not, during the period of suspension, be recovered in all or any of the following ways:
 - (a) by way of proceedings or deductions, and under section 86(1), (3), (4), or (5) of the Act;
 - (b) by way of the issuing of, or deductions pursuant to, a deduction notice.
- (3) As soon as practicable after this regulation starts to apply to a person because of a request for suspension made in accordance with regulation 7, the chief executive must, unless the request has been withdrawn in accordance with regulation 7, 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) The chief executive 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.

9 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 pursuant to a deduction notice at the time (determined in accordance with section 86J(2) of the Act) that the person to whom the deduction notice was issued received a notice revoking the deduction notice; and
- (c) ends on the suspension deadline.

How receipt of working-age benefit affects debt recovery suspension

10 Suspension starts only if benefit has been cancelled

- (1) This regulation applies to a person described in regulation 8(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 8 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 8.

11 Suspension ceases if person receives benefit

- (1) Suspension of the recovery of a person's benefit debts in accordance with regulation 8 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 8.

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

12 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, and only 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 these regulations as a person receiving a working-age benefit.
- (3) If person B changes his or her 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 set out in clause 2 of (as the case may be)—
- (a) Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001; or
 - (b) Schedule 11 of the War Pensions Act 1954.

13 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, and only 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 his or her own right.
- (2) Person A must, unless subclause (3) applies, be treated for the purposes of these regulations 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 these regulations as a person who was receiving a working-age benefit that has now been cancelled.

Diane Morcom,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which are made under the Social Security Act 1964, come into force on 30 April 2007. They require the suspension, after a request made by a person, of the recovery (under specified sections of that Act) of the person's benefit debts (as defined by *regulation 3*). A person eligible to request suspension (as defined by *regulation 4*) means a person—

- who has entered, or is to enter, into a permanent employment position, and complies with, or is treated as complying with, the other work status and associated requirements specified in *regulation 5*; and
- who complies with the cash assets, income, and associated requirements specified in *regulation 6*.

If a person eligible to do so makes, before the suspension deadline, a request for suspension, recovery is suspended for the period of suspension (as defined by *regulation 9*) unless the person, before that deadline, withdraws the request. (A person is not prevented

from making or withdrawing requests for suspension just because the person has earlier made, and withdrawn, requests of that kind.)

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These regulations are administered by the Ministry of Social Development.
