

**Reprint
as at 22 September 2011**



**Social Security (Income and Cash
Assets Exemptions: Ex Gratia and
Compensation Payments Made by
the Crown) Regulations 2008**

(SR 2008/347)

Social Security (Income and Cash Assets Exemptions: Ex Gratia and Compensation Payments Made by the Crown) Regulations 2008: revoked, on 22 September 2011, by regulation 47 of the Social Security (Income and Cash Assets Exemptions) Regulations 2011 (SR 2011/287).

Anand Satyanand, Governor-General

Order in Council

At Wellington this 29th day of September 2008

Present:

His Excellency the Governor-General in Council

Pursuant to section 132 of the Social Security Act 1964, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry of Social Development.

Contents

		Page
1	Title	2
2	Commencement	2
3	Interpretation	2
4	Application	3
5	Specified item and income declared not to be income	3
6	Specified item declared not to be cash assets	3

Regulations

1 Title

These regulations are the Social Security (Income and Cash Assets Exemptions: Ex Gratia and Compensation Payments Made by the Crown) Regulations 2008.

2 Commencement

These regulations come into force on 3 November 2008.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Social Security Act 1964

compensation—

(a) means a payment made—

(i) in satisfaction of a judgment or order of any court or an award of any tribunal, but not including 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 pursuant to—

(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

ex gratia payment means a payment made without an acknowledgment of legal liability

harm—

- (a) means illness, 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 loss of office

property has the meaning given to it by section 4 of the Property Law Act 2007.

4 Application

The exemptions in regulations 5 and 6 apply only for the first 12 months after the payment is made.

5 Specified item and income declared not to be income

The following are declared not to be the income of a person for the purpose of paragraph (f)(xvii) of the definition of income in section 3 of the Act:

- (a) any compensation or *ex gratia* payment—
 - (i) made by the Crown to the person; and
 - (ii) made in recognition of harm, or in respect of a claim of harm; and
- (b) any amount of income derived by the person from a payment referred to in paragraph (a).

6 Specified item declared not to be cash assets

- (1) The item of cash assets specified in subclause (2) is not a person's cash assets for the purpose of paragraph (b) of the definition of cash asset in section 61E of the Act.
- (2) The item of cash assets is any compensation or *ex gratia* payment—
 - (a) made by the Crown to the person; and

- (b) made in recognition of harm, or in respect of a claim of harm.

Rebecca Kitteridge,
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 come into force on 3 November 2008, are made under the Social Security Act 1964 (the **Act**). They declare certain items of income or cash assets not to be a person's income or cash assets for the purposes of the Act.

The exempted income and cash assets are compensation or *ex gratia* payments made to a person by the Crown in recognition of harm, or in respect of a claim of harm. Income derived from such payments is also exempted.

Harm is defined as illness, injury, or both, and as including physical harm, mental harm, humiliation, and injury to feelings. Harm does not, however, include economic loss, loss of property, loss of future benefits, or loss of employment.

The exemptions apply only in respect of the first 12 months after the payment is made.

Such payments are also—

- assets exempt from means assessment under Part 4 of the Act, because of the related exemption in regulation 10(1)(k) of the Social Security (Long-term Residential Care) Regulations 2005; and
- excluded from cash assets used in determining eligibility for temporary additional support, because of the related exclusion in regulation 8(3)(j) of the Social Security (Temporary Additional Support) Regulations 2005.

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Date of notification in *Gazette*: 2 October 2008.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes

1 *General*

This is a reprint of the Social Security (Income and Cash Assets Exemptions: Ex Gratia and Compensation Payments Made by the Crown) Regulations 2008. The reprint incorporates all the amendments to the regulations as at 22 September 2011, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)

- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint (most recent first)*

Social Security (Income and Cash Assets Exemptions) Regulations 2011 (SR 2011/287): regulation 47
