

Reprint
as at 26 November 2018



Social Security (Overseas Pension Deduction) Regulations 2013

(SR 2013/463)

Social Security (Overseas Pension Deduction) Regulations 2013: revoked, on 26 November 2018, by regulation 295(15) of the Social Security Regulations 2018 (LI 2018/202).

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 25th day of November 2013

Present:

His Excellency the Governor-General in Council

Pursuant to section 132C 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.

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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.

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Schedule 1
Transitional, savings, and related provisions

Regulations

1 Title

These regulations are the Social Security (Overseas Pension Deduction) Regulations 2013.

2 Commencement

These regulations come into force on 16 December 2013.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Social Security Act 1964

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 in regulation 5

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 the chief executive

payment month, for an instalment of a benefit, means the calendar month in which the instalment is payable (under section 82 of the Act).

Regulation 3 **figure**: amended, on 16 September 2017, by regulation 4(1) of the Social Security (Overseas Pension Deduction) Amendment Regulations 2017 (LI 2017/227).

Regulation 3 **instalment period**: revoked, on 16 September 2017, by regulation 4(2) of the Social Security (Overseas Pension Deduction) Amendment Regulations 2017 (LI 2017/227).

Regulation 3 **payment month**: inserted, on 16 September 2017, by regulation 4(3) of the Social Security (Overseas Pension Deduction) Amendment Regulations 2017 (LI 2017/227).

3A Transitional, savings, and related provisions

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

Regulation 3A: inserted, on 16 September 2017, by regulation 5 of the Social Security (Overseas Pension Deduction) Amendment Regulations 2017 (LI 2017/227).

4 Reduction formula

- (1) If section 70(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, calculated by reference to the amount of that pension payable to the overseas pensioner during the calculation period; and
 - b is the calculation rate determined under regulation 5; and
 - c is the bank fee determined under regulation 6.
- (1A) 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.
- (2) Unless provided otherwise in any agreement or convention with an overseas country adopted under section 19 of the Social Welfare (Transitional Provisions) Act 1990, 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).

Regulation 4(1): replaced, on 16 September 2017, by regulation 6 of the Social Security (Overseas Pension Deduction) Amendment Regulations 2017 (LI 2017/227).

Regulation 4(1A): inserted, on 16 September 2017, by regulation 6 of the Social Security (Overseas Pension Deduction) Amendment Regulations 2017 (LI 2017/227).

5 Calculation rate

- (1) For the purposes of the formula set out in regulation 4(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 the chief executive; 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 the chief executive 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) For the purpose of subclause (2), a currency exchange rate must be notified to the chief executive or publicly before the notification deadline that is immediately before the payment month for which the calculation is made.
- (4) For the purpose of subclause (3), **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.

Regulation 5(2)(a): amended, on 16 September 2017, by regulation 7(1) of the Social Security (Overseas Pension Deduction) Amendment Regulations 2017 (LI 2017/227).

Regulation 5(2)(b): amended, on 16 September 2017, by regulation 7(2) of the Social Security (Overseas Pension Deduction) Amendment Regulations 2017 (LI 2017/227).

Regulation 5(2)(c): amended, on 16 September 2017, by regulation 7(3) of the Social Security (Overseas Pension Deduction) Amendment Regulations 2017 (LI 2017/227).

Regulation 5(3): inserted, on 16 September 2017, by regulation 7(4) of the Social Security (Overseas Pension Deduction) Amendment Regulations 2017 (LI 2017/227).

Regulation 5(4): inserted, on 16 September 2017, by regulation 7(4) of the Social Security (Overseas Pension Deduction) Amendment Regulations 2017 (LI 2017/227).

6 Bank fee

For the purposes of the formula set out in regulation 4(1)(b), the bank fee—

- (a) is the amount in New Zealand currency (not exceeding \$40) specified by the chief executive to compensate an overseas pensioner for any of the following fees that the chief executive 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.

7 Determination conclusive

Without limiting anything in section 81 of the Act, a determination made by the chief executive under section 70(1) of the Act in accordance with these regulations is conclusive.

8 Revocation

The Social Security (Overseas Pension Deduction) Regulations 1996 (SR 1996/259) are revoked.

Schedule 1
Transitional, savings, and related provisions

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Schedule 1: inserted, on 16 September 2017, by regulation 8 of the Social Security (Overseas Pension Deduction) Amendment Regulations 2017 (LI 2017/227).

Part 1
**Provisions relating to Social Security (Overseas Pension Deduction)
Amendment Regulations 2017**

The Social Security (Overseas Pension Deduction) Amendment Regulations 2017 apply to—

- (a) a calculation period that begins on the commencement of 16 September 2017 and subsequent calculation periods; and
- (b) an instalment of a benefit that is payable on or after 1 November 2017.

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 28 November 2013.

Reprints notes

1 *General*

This is a reprint of the Social Security (Overseas Pension Deduction) Regulations 2013 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 Regulations 2018 (LI 2018/202): regulation 295(15)

Social Security (Overseas Pension Deduction) Amendment Regulations 2017 (LI 2017/227)