

Reprint  
as at 1 April 2019



# Social Security (Long-term Residential Care) Regulations 2005

(SR 2005/183)

Social Security (Long-term Residential Care) Regulations 2005: revoked, on 1 April 2019, by regulation 20 of the Residential Care and Disability Support Services Regulations 2018 (LI 2018/203).

Silvia Cartwright, Governor-General

## Order in Council

At Wellington this 27th day of June 2005

Present:

Her Excellency the Governor-General in Council

Pursuant to section 155 of the Social Security Act 1964, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

### Contents

	Page
1 Title	2
2 Commencement	2
3 Interpretation	2
3A Status of examples <i>[Revoked]</i>	4
4 Entitlement of spouse or partner to veteran's pension <i>[Revoked]</i>	4
5 Classes of exempt persons	4

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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 and the Ministry of Health.**

6	Elderly victim of crime	5
7	Clothing allowance	6
8	Gifting period	6
9	Allowable gifts	6
9A	Gift in recognition of care	7
9B	Deprivation of property and income	8
9C	Value of land for purposes of means assessment to be assessed in accordance with regulations 9D and 9E	9
9D	Value of land is capital value or fair proportion of capital value	10
9E	Value of land if capital value unavailable or contested	10
10	Assets exempt from means assessment	11
11	Income exempt from means assessment	19
12	Personal allowance	20
	<b>Schedule</b>	21
	<b>Offences under Crimes Act 1961</b>	

## Regulations

### 1 Title

These regulations are the Social Security (Long-term Residential Care) Regulations 2005.

### 2 Commencement

These regulations come into force on 1 July 2005.

### 3 Interpretation

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

**Accident Compensation Corporation** means the corporation of that name continued by section 259 of the Injury Prevention, Rehabilitation, and Compensation Act 2001

**Act** means the Social Security Act 1964

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

**capital value**, in relation to land, means the capital value of that land appearing in the district valuation roll

**compulsory care order** has the meaning given to it by section 5 of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003

**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)

**DHB** has the meaning given to it by section 6(1) of the New Zealand Public Health and Disability Act 2000

**district valuation roll** has the same meaning as in section 2(1) of the Rating Valuations Act 1998

**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

**restricted patient** has the meaning given to it by section 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992

**special patient** has the meaning given to it by section 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992

**rating unit** has the same meaning as in section 2(1) of the Rating Valuations Act 1998

**registered valuer** has the same meaning as in section 2 of the Valuers Act 1948

**tribunal** means a tribunal exercising a power of decision conferred by or under any Act

**veteran's pension** has the meaning given to it by section 3 of the Act.

- (2) Terms used in these regulations that are defined in section 136 of the Act have the meanings given to them by that section.

Regulation 3(1) **Canterbury earthquake**: inserted, on 24 December 2010, by regulation 4 of the Social Security (Long-term Residential Care) Amendment Regulations (No 5) 2010 (SR 2010/485).

Regulation 3(1) **capital value**: inserted, on 1 April 2010, by regulation 4 of the Social Security (Long-term Residential Care—Value of Land) Amendment Regulations 2010 (SR 2010/23).

Regulation 3(1) **Crown**: inserted, on 1 October 2018, by regulation 4 of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2018 (LI 2018/177).

Regulation 3(1) **DHB**: inserted, on 1 October 2018, by regulation 4 of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2018 (LI 2018/177).

Regulation 3(1) **district valuation roll**: inserted, on 1 April 2010, by regulation 4 of the Social Security (Long-term Residential Care—Value of Land) Amendment Regulations 2010 (SR 2010/23).

Regulation 3(1) **predecessor in title**: inserted, on 1 October 2018, by regulation 4 of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2018 (LI 2018/177).

Regulation 3(1) **rating unit**: inserted, on 1 April 2010, by regulation 4 of the Social Security (Long-term Residential Care—Value of Land) Amendment Regulations 2010 (SR 2010/23).

Regulation 3(1) **registered valuer**: inserted, on 1 April 2010, by regulation 4 of the Social Security (Long-term Residential Care—Value of Land) Amendment Regulations 2010 (SR 2010/23).

Regulation 3(1) **tribunal**: inserted, on 1 April 2010, by regulation 4 of the Social Security (Long-term Residential Care—Value of Land) Amendment Regulations 2010 (SR 2010/23).

### 3A Status of examples

*[Revoked]*

Regulation 3A: revoked, on 15 July 2013, by section 66(a) of the Social Security (Benefit Categories and Work Focus) Amendment Act 2013 (2013 No 13).

### 4 Entitlement of spouse or partner to veteran's pension

*[Revoked]*

Regulation 4: revoked, on 1 July 2006, by section 10 of the War Pensions Amendment Act 2006 (2006 No 32).

### 5 Classes of exempt persons

For the purposes of Part 4 of the Act, a resident assessed as requiring care is an exempt person if that resident is a person who—

- (a) received long-stay geriatric care in a geriatric hospital before 1 July 1993; or
- (b) was receiving long-stay care in one of the following hospitals prior to the closure of the hospital:
  - (i) Kimberley Hospital (Levin):
  - (ii) Templeton Hospital (Christchurch):
  - (iii) Mangere Hospital (Manukau City):
  - (iv) Braemar Hospital (Nelson); or
- (c) has intellectual disabilities and was receiving long-stay care in a psychiatric hospital (not being a hospital specified in paragraph (b)) prior to the closure of the hospital; or
- (d) is subject to a compulsory treatment order made under section 30 of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
- (e) is declared a restricted patient under section 55 of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
- (f) is a special patient, whether or not that person has been granted leave of absence from a hospital—
  - (i) under section 50 of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
  - (ii) under section 52 of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
- (g) is subject to a compulsory care order; or

- (h) is residing in a hospital or other place of residence as a result of the making of a direction or an order under section 92I(4)(f), 92J(4)(f), 92K(3)(f), 92ZA(1)(a) or (b), or 92ZJ(2) of the Health Act 1956; or
- (i) is committed to any hospital or rest home under section 126 of the Health Act 1956; or
- (j) was receiving continuing hospital care in a rest home or hospital before 1 July 1993.

Regulation 5(h): replaced, on 4 January 2017, by section 21 of the Health (Protection) Amendment Act 2016 (2016 No 35).

## **6 Elderly victim of crime**

- (1) For the purposes of Part 4 of the Act, a person is an elderly victim of crime if that person—
  - (a) is a victim of an offence under the Crimes Act 1961 that—
    - (i) is specified in the Schedule; and
    - (ii) was committed after 1 May 1997; and
  - (b) has suffered personal injury as a result of the commission of that offence; and
  - (c) has had a claim in respect of the personal injury accepted by the Accident Compensation Corporation; and
  - (d) has within 12 months of the date of the personal injury been needs assessed as having an injury-related need for long-term residential care; and
  - (e) continues to have an injury-related need for long-term residential care.
- (2) For the purposes of Part 4 of the Act, every person who immediately before 1 July 2005 had been notified as being, or had been treated as having been, an elderly victim of crime, must, on and after the commencement date, be treated as a person assessed in accordance with subclause (1) as an elderly victim of crime.
- (3) For the purposes of Part 4 of the Act,—
  - (a) a person who is assessed as an elderly victim of crime under subclause (1) is no longer an elderly victim of crime on the date on which the person is needs assessed as having no injury-related need for long-term residential care; and
  - (b) a person who is treated as an elderly victim of crime under subclause (2) is no longer an elderly victim of crime on the date on which the person is needs assessed as having no injury-related need for long-term residential care.

## 7 Clothing allowance

- (1) A clothing allowance is payable on, or as soon as is practicable after, 1 April each year to both classes of persons specified in section 154(1) of the Act.
- (2) The clothing allowance is \$279.25.

Regulation 7(2): amended, on 1 April 2018, by regulation 4 of the Social Security (Long-term Residential Care) Amendment Regulations 2018 (LI 2018/22).

## 8 Gifting period

For the purpose of paragraph (b) of the definition of assets in clause 4 of Part 2 of Schedule 27 of the Act, the gifting period is the period that commences 5 years before the date of means assessment.

## 9 Allowable gifts

- (1) For the purpose of paragraph (b) of the definition of assets in clause 4 of Part 2 of Schedule 27 of the Act, allowable gifts are gifts of real or personal property (for example, money) gifted during the gifting period that—
  - (a) are gifted by any of the following persons:
    - (i) the person being means assessed;
    - (ii) the spouse or partner of the person being means assessed;
    - (iii) the person being means assessed and that person's spouse or partner jointly; and
  - (b) have a total value—
    - (i) not exceeding \$6,500 each year (the **gifting amount**); or
    - (ii) exceeding the gifting amount but which may be offset as prescribed in subclause (2).
- (2) If during any year of the gifting period the person being means assessed makes gifts of real or personal property that have a total value exceeding the gifting amount, then the difference in value between the total value of the gifts gifted in that year and the gifting amount may be offset against the balance of the gifting amount in each of the remaining subsequent years of the gifting period, if any.
- (3) For the purpose of subclause (2) **balance of the gifting amount in each of the remaining subsequent years of the gifting period** is the total of the gifting amounts for each of those years less the total value of allowable gifts gifted in those years.
- (4) If the person being means assessed and that person's spouse or partner are both in long-term residential care, then the value of any gift made jointly by that person and that person's spouse or partner is to be apportioned equally between that person and that person's spouse or partner.

Regulation 9(1)(b)(i): amended, on 1 July 2018, by regulation 4 of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2018 (LI 2018/79).

**9A Gift in recognition of care**

- (1) If all allowable gifts gifted during the gifting period have a total value less than \$32,500, a gift in recognition of care that meets the criteria in subclause (2) is to be treated as an allowable gift.
- (2) The criteria for a gift in recognition of care are that the gift—
  - (a) is a gift of real or personal property (for example, money) gifted by any of the following persons:
    - (i) the person being means assessed;
    - (ii) the spouse or partner of the person being means assessed;
    - (iii) the person being means assessed and the person's spouse or partner jointly; and
  - (b) is gifted within the period of 12 months immediately preceding the date of means assessment; and
  - (c) is gifted to a person who—
    - (i) for a continuous period of at least 12 months during the gifting period—
      - (A) lived in the same household as the person being means assessed; and
      - (B) provided to the person being means assessed a high level of care that enabled the person being means assessed to remain in the community without receipt of home-based disability support services (as defined in section 69FA of the Act); and
    - (ii) is not the spouse, partner, or dependent child of the person being means assessed; and
  - (d) is of an amount up to \$6,500 for each 12-month period of care provided; and
  - (e) is not of an amount that, together with the amounts of any other gifts in recognition of care, exceeds the difference between \$32,500 and the total value of all gifts allowable under regulation 9.
- (3) If the person being means assessed and that person's spouse or partner are both in long-term residential care, then the value of any gift in recognition of care gifted jointly by that person and that person's spouse or partner in respect of the care they both received from the same person may be apportioned equally between the person being means assessed and that person's spouse or partner.

Regulation 9A: inserted, on 19 September 2005, by regulation 4 of the Social Security (Long-term Residential Care) Amendment Regulations 2005 (SR 2005/265).

Regulation 9A(1): amended, on 1 July 2018, by regulation 5(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2018 (LI 2018/79).

Regulation 9A(2)(d): amended, on 1 July 2018, by regulation 5(2) of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2018 (LI 2018/79).

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Regulation 9A(2)(e): amended, on 1 July 2018, by regulation 5(3) of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2018 (LI 2018/79).

## 9B Deprivation of property and income

For the purposes of section 147A of the Act, instances of deprivation of property or income include, but are not limited to, the following:

- (a) gifts that are gifted in the 12-month period prior to the commencement of the gifting period, or in any 12-month period preceding that period, to the extent that the total value of the gifts in each such period exceeds \$27,000:

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### Example

In the year before the commencement of the gifting period the person being means assessed and that person's spouse jointly make gifts having a total value of \$100,000.

The person being means assessed and his or her spouse may be treated as having deprived themselves of \$73,000 in respect of the gifts.

- (b) a disposition of property at any time before the commencement of the gifting period for no consideration, or for a consideration less than the market value of the property at the time of disposition, may be treated as a gift for the purposes of paragraph (a):

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### Example

Two years before the commencement of the gifting period the person being means assessed and that person's partner transfer the \$300,000 house that they jointly own to a family member for \$100,000. One year before the commencement of the gifting period the person being means assessed and that person's partner gift \$50,000 to another family member.

The person being means assessed and his or her partner may be treated as having deprived themselves of \$196,000 in respect of the disposition and the gift (being the sum of \$200,000 less \$27,000 for the disposition of the house and \$50,000 less \$27,000 for the monetary gift).

- (c) a disposition of property during the gifting period for no consideration, or for a consideration less than the market value of the property at the time of disposition:

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### Example

During the gifting period the person being means assessed sells his or her car for \$10,000. The market value of the car at the time of sale was \$20,000.

The person being means assessed may be treated as having deprived himself or herself of property to the extent of \$10,000 in respect of the car sale.

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- (d) a failure at any time to exercise any right or entitlement to demand a payment:

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**Example**

The spouse of the person being means assessed makes a loan to another person with interest on the loan being payable on demand. The spouse of the person being means assessed never makes a demand for the interest.

The spouse of the person being means assessed may be treated as having deprived himself or herself of interest to the extent of the amount of interest that is payable on demand.

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- (e) a waiver of a right at any time to receive any entitlement or payment:

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**Example**

The person being means assessed and that person's partner jointly own a rental property. The tenants of that property fail to pay the rent payable under the tenancy agreement. The person being means assessed and that person's partner take no action to recover the unpaid rent.

The person being means assessed and his or her partner may be treated as having deprived themselves of income to the extent of the unpaid rent.

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- (f) an investment at any time in non-income-earning assets:

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**Example**

The person being means assessed deposits savings in a non-interest-bearing bank account.

The person being means assessed may be treated as having deprived himself or herself of income to the extent of income that could have been earned on the savings if the savings had been invested in an interest-bearing bank account.

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Regulation 9B: inserted, on 19 September 2005, by regulation 4 of the Social Security (Long-term Residential Care) Amendment Regulations 2005 (SR 2005/265).

Regulation 9B: amended, on 22 November 2006, by section 21 of the Social Security (Long-term Residential Care) Amendment Act 2006 (2006 No 67).

## **9C Value of land for purposes of means assessment to be assessed in accordance with regulations 9D and 9E**

For the purposes of a means assessment as to assets conducted under section 146 and Part 2 of Schedule 27 of the Act, or a review of a means assessment as to assets conducted under section 150 of the Act, the chief executive must assess the value of a person's land in accordance with regulations 9D and 9E if the land is—

- (a) a house, a piece of land, or any other asset that comes within the definition of land in section 2(1) of the Rating Valuations Act 1998; and
- (b) a non-exempt asset of the person being means assessed.

Regulation 9C: inserted, on 1 April 2010, by regulation 5 of the Social Security (Long-term Residential Care—Value of Land) Amendment Regulations 2010 (SR 2010/23).

**9D Value of land is capital value or fair proportion of capital value**

- (1) For the purposes of a means assessment as to assets or a review of a means assessment as to assets, the value of a person's land is,—
  - (a) if the person's land is equivalent to a rating unit, the capital value of the rating unit on the date of the means assessment; or
  - (b) if the person's land is in the form of an estate or interest in a rating unit, the value that is the same proportion of the capital value of the rating unit on the date of the means assessment as the proportion that fairly represents the nature and extent of the person's estate or interest in the rating unit, with the proportion being determined by the chief executive.
- (2) When determining the proportion for the purposes of subclause (1)(b), the chief executive must have regard to—
  - (a) the nature and extent of any other person's estate or interest in the rating unit; and
  - (b) the nature and extent of any other estate or interest in the rating unit for which a value can be determined under regulation 9E; and
  - (c) any other factors the chief executive considers relevant.
- (3) Subclause (1) is subject to regulation 9E.

Regulation 9D: inserted, on 1 April 2010, by regulation 5 of the Social Security (Long-term Residential Care—Value of Land) Amendment Regulations 2010 (SR 2010/23).

**9E Value of land if capital value unavailable or contested**

- (1) For the purpose of a means assessment as to assets or a review of a means assessment as to assets, the chief executive may consider any evidence of the value of a person's land other than a capital value if—
  - (a) a capital value required for determining the value of the land under regulation 9D does not appear on the district valuation roll; or
  - (b) either the chief executive or the person being means assessed considers that the value of the land determined under regulation 9D is not the true value of the land.
- (2) If the chief executive receives evidence under subclause (1), the value of a person's land is—
  - (a) the value according to evidence that the chief executive considers to be the best evidence of the value of the land on the date of the means assessment; or
  - (b) if the person's land is in the form of an estate or interest in other land, the value that is the same proportion of the value of the other land as the proportion that fairly represents the nature and extent of the person's estate or interest in the other land, with—
    - (i) the value of the other land being determined according to paragraph (a); and

- (ii) the proportion being determined by the chief executive.
- (3) When determining the proportion for the purposes of subclause (2)(b)(ii), the chief executive must have regard to the matters specified in regulation 9D(2).
- (4) For the purposes of this regulation, **evidence**, in relation to the value of land, includes evidence in any of the following forms:
  - (a) a valuation report that is prepared and signed by a registered valuer;
  - (b) a decision of a court or tribunal;
  - (c) the district valuation roll.

Regulation 9E: inserted, on 1 April 2010, by regulation 5 of the Social Security (Long-term Residential Care—Value of Land) Amendment Regulations 2010 (SR 2010/23).

## 10 Assets exempt from means assessment

- (1) For the purpose of paragraph (f) of the definition of exempt assets in clause 4 of Part 2 of Schedule 27 of the Act, the following assets are exempt assets:
  - (a) household furniture and effects;
  - (b) personal belongings such as clothing and jewellery;
  - (c) personal collectables or family treasures or taonga such as artworks, books, stamps, and antiques;
  - (d) any interest in one car or similar vehicle that is for the personal use of the person's dependent child; but this exemption does not apply—
    - (i) where an election has been made under clause 2 of Part 1 of Schedule 27 of the Act; or
    - (ii) where the exemption in paragraph (b) of the definition of exempt assets in clause 4 of Part 2 of Schedule 27 of the Act applies;
  - (e) the value of any compensation or *ex gratia* payment made by the Government of any country to the person or his or her spouse or partner because the person or his or her spouse or partner—
    - (i) was a prisoner of war, civilian internee, or victim of persecution of any country during the Second World War; or
    - (ii) was a dependant child of a person who was a prisoner of war, civilian internee, or victim of persecution of any country during the Second World War;
  - (f) any *ex gratia* payment made to the person, on or after 15 December 2006, by or on behalf of the Crown, and made because the person suffered a personal injury that is, or was caused by, hepatitis C infection contracted through the New Zealand blood supply;
  - (g) any *ex gratia* payment—
    - (i) made to the person, on or after 27 April 2007, by the Crown; and

- (ii) made in accordance with the MoU on measures related to veterans:
- (h) any compensation payment or *ex gratia* payment—
  - (i) made to the person, on or after 26 October 2007, by or on behalf of the Crown; and
  - (ii) made because the person is a former patient of the Lake Alice Psychiatric Hospital:
- (i) where the person or the person's spouse or partner is a member of a specified non-KiwiSaver scheme,—
  - (i) any contributions made to that scheme on or after 1 May 2008 by, or in respect of, the member; and
  - (ii) any interest that the member has in that scheme on or after 1 May 2008 except—
    - (A) a withdrawal that the member has received from the scheme:
    - (B) a withdrawal that the member is entitled to receive from the scheme on reaching the expected time of retirement:
    - (C) a withdrawal that the member is entitled to receive from the scheme on leaving the employment in respect of which the scheme was constituted or established, or any employment covered by the scheme, before reaching the expected time of retirement:
    - (D) a withdrawal that the member has applied to receive from the scheme that the member is permitted to receive under the provisions of the scheme:
- (j) any payment made to the person by the trust established under the trust deed dated 16 August 2007 and known, on that date, as the Viet Nam Veterans and Their Families Trust, other than a payment of the kind referred to in any of paragraphs (a) to (d) of clause 14.2 of that trust deed:
- (ja) any amount of income derived by the person from a payment of the kind referred to in paragraph (j):
- (k) any compensation or *ex gratia* payment of the kind described in regulation 15 of the Social Security (Income and Cash Assets Exemptions) Regulations 2011:
- (l) any payment made to the person on or after 17 August 2007 by the trust established under the trust deed dated 4 December 1993 and known, on that date, as the EVSA Youth Development Trust, but known immediately before the commencement of this paragraph as the EVSA (Neville Wallace Memorial) Children's & Grandchildren's Trust:

- (la) for the first specified period after the payment concerned is made, any payment in relation to the effects of the Canterbury earthquake of 4 September 2010 made to a person on or after 13 September 2010 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) 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):
- (lab) for the first 48 months after the payment concerned is made, any payment made on or after 23 June 2011 by or on behalf of 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, if the chief executive 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:
- (lb) for the specified period after the payment concerned is made, any money paid to a person by the Earthquake Commission continued in existence by section 4(1) of the Earthquake Commission Act 1993, or by an insurance company,—
  - (i) in respect of the destruction of or any damage to any property caused by the Canterbury earthquake; or
  - (ii) for or towards the costs of renting accommodation in place of residential premises destroyed or made uninhabitable by the Canterbury earthquake:
- (lc) for the first 12 months after the payment concerned is made, every payment—
  - (i) of back wages for a sleepover that began to be performed on or after 1 June 2004; and
  - (ii) made by a specified employer, made on or after 18 October 2011, and made to any of the following who is entitled to the payment under any of sections 14 to 16 of the Sleepover Act:
    - (A) a current employee:
    - (B) a recent employee:
    - (C) a historic employee:
- (m) any amount of income derived by the person from a payment of a kind referred to in paragraph (l):
- (n) any payment made by or on behalf of the Crown to the person because the person is a victim:

- (o) any amount of income derived by the person from a payment of the kind referred to in paragraph (n):
  - (p) for the first 12 months after the payment concerned is made, any lump sum payment of arrears of accommodation supplement made to the person, on or after 1 November 2016, and as a result of the department correcting a specified processing error (as defined in subclause (1F)):
  - (q) any amount of income derived by the person from a payment of a kind referred to in paragraph (p):
  - (r) for the first 12 months after the payment concerned is made, a lump sum payment of arrears of temporary additional support made to the person on or after 18 August 2017:
  - (s) for a person with a disability (**A**), 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.
- (1A) The exemptions in subclause (1)(f), (h), and (j) to (r) (other than paragraphs (1a), (1ab), and (1b)) apply only in respect of the first 12 months after the payment concerned is made.
- (1B) In subclause (1)(f), **New Zealand blood supply** and **personal injury** have the same meanings as in regulation 28 of the Social Security (Income and Cash Assets Exemptions) Regulations 2011.
- (1C) In subclause (1)(g), **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; 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 Vietnam veterans and other veterans.
- (1D) In this subclause and in subclause (1)(i),—
- benefit** means any lump sum, annuity, pension, allowance, refund, or other payment arising from membership of a superannuation scheme
- expected time of retirement** means the member's expected age or date of retirement as defined in the provisions of the scheme
- permitted**, in relation to a withdrawal or proposed withdrawal, 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 approved

**provision** 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** means a provision of the scheme that—

- (a) prevents a member of the scheme from making or receiving a withdrawal from the scheme until either or both of the following apply to the member:
  - (i) he or she reaches the expected time of retirement;
  - (ii) he or she leaves before reaching the expected time of retirement—
    - (A) the employment in respect of which the scheme was constituted or established; or
    - (B) any employment covered by the scheme; and
- (b) may, but need not, be, or be accompanied by another provision of the scheme that is, a standard withdrawals clause

**specified non-KiwiSaver scheme or scheme** means a scheme that is not a KiwiSaver scheme, but—

- (a) is registered as a superannuation scheme under subpart 2 of Part 4 of the Financial Markets Conduct Act 2013; and
- (b) whose provisions include a qualifying lock-in clause

**standard withdrawals clause** 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,—

- (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 a KiwiSaver scheme or to another non-KiwiSaver scheme.

(1DA) In subclause (1)(lc),—

**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 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 because of an order made under section 24(1)(a) of the Sleepover Act.
- (1DB) A term that is defined in section 4 or 23 of the Sleepover Act and that is used but not defined in subclause (1)(lc) or (1DA) of this regulation has the same meaning as in section 4 or 23 of the Sleepover Act.
- (1DC) For the purposes of subclause (1)(la) and (lb), **specified period** means—
- (a) 48 months if the chief executive 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; or
  - (b) 12 months in any other case.
- (1DD) If any payments to which subclause (1)(lab) or (lb) applies are paid in instalments, or 1 or more payments are made under subclause (1)(lab) or (lb), the date that the payments are made is the date on which the final instalment is paid or the last payment is made.
- (1E) In subclause (1)(n), **victim** has the meaning given to it by regulation 36 of the Social Security (Income and Cash Assets Exemptions) Regulations 2011.
- (1F) For the purposes of subclause (1)(p) and (q) of this regulation and regulation 11(d), a **specified processing error**, for 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 Act) being entered—
- (a) into a computer system operated by or on behalf of the department; and
  - (b) as a result of a system error; and
  - (c) at any time in the years 1993 to 2014 (inclusive).
- (1G) For the purpose of this subclause and subclause (1)(r) and regulation 11(e),—
- 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 that A could apply for temporary additional support (**lump sum eligibility period**); and



- (c) in response to advice by the department 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 80AA of the Act (Minister may allow back-dating of benefit where earlier failure to grant it based on error); 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 section 83 of the Act, 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

**temporary additional support** means the benefit described in section 61G of the Act.

- (1H) In subclause (1)(s), **disability support services** has the same meaning as in section 6(1) of the New Zealand Public Health and Disability Act 2000.
- (2) For the purpose of paragraph (f) of the definition of exempt assets in clause 4 of Part 2 of Schedule 27 of the Act, exempt assets include an amount of assets that represents the total increase in value of the non-exempt assets since the date of the last means assessment.
- (3) For the purpose of subclause (2), **non-exempt assets** means the non-exempt assets that have earlier been determined, by a means assessment as to assets, to be equal to or less than the applicable asset threshold.
- (4) Subclause (2) does not apply in respect of a review of a means assessment under section 150(1)(b) or section 150(1)(c) of the Act.

Regulation 10(1)(e): added, on 24 November 2006, by regulation 4 of the Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2006 (SR 2006/349).

Regulation 10(1)(f): added, on 15 December 2006, by regulation 4(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2006 (SR 2006/378).

Regulation 10(1)(g): added, on 27 April 2007, by regulation 4(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2007 (SR 2007/97).

Regulation 10(1)(h): added, on 26 October 2007, by regulation 4(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2007 (SR 2007/323).

Regulation 10(1)(i): added, on 1 May 2008, by regulation 4(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2008 (SR 2008/69).

- Regulation 10(1)(j): added, on 3 November 2008, by regulation 4(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2008 (SR 2008/349).
- Regulation 10(1)(ja): inserted, on 1 January 2010, by regulation 4(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2009 (SR 2009/403).
- Regulation 10(1)(k): added, on 3 November 2008, by regulation 4(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2008 (SR 2008/349).
- Regulation 10(1)(k): amended, on 17 February 2012, by regulation 4(1) of the Social Security (Long-term Residential Care) Amendment Regulations 2012 (SR 2012/5).
- Regulation 10(1)(l): added, on 1 January 2010, by regulation 4(2) of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2009 (SR 2009/403).
- Regulation 10(1)(la): inserted, on 16 September 2010, by regulation 4 of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2010 (SR 2010/321).
- Regulation 10(1)(la): amended, on 30 March 2012, by regulation 4(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2012 (SR 2012/44).
- Regulation 10(1)(lab): inserted, on 30 March 2012, by regulation 4(2) of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2012 (SR 2012/44).
- Regulation 10(1)(lab): amended, on 9 December 2014, by regulation 4 of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2014 (LI 2014/384).
- Regulation 10(1)(lb): inserted, on 24 December 2010, by regulation 5 of the Social Security (Long-term Residential Care) Amendment Regulations (No 5) 2010 (SR 2010/485).
- Regulation 10(1)(lb): amended, on 30 March 2012, by regulation 4(3) of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2012 (SR 2012/44).
- Regulation 10(1)(lc): inserted, on 17 February 2012, by regulation 4(2) of the Social Security (Long-term Residential Care) Amendment Regulations 2012 (SR 2012/5).
- Regulation 10(1)(m): added, on 1 January 2010, by regulation 4(2) of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2009 (SR 2009/403).
- Regulation 10(1)(n): added, on 1 January 2010, by regulation 4(2) of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2009 (SR 2009/403).
- Regulation 10(1)(o): added, on 1 January 2010, by regulation 4(2) of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2009 (SR 2009/403).
- Regulation 10(1)(p): inserted, on 31 October 2016, by regulation 4(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2016 (LI 2016/234).
- Regulation 10(1)(q): inserted, on 31 October 2016, by regulation 4(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2016 (LI 2016/234).
- Regulation 10(1)(r): inserted, on 18 August 2017, by regulation 4(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2017 (LI 2017/226).
- Regulation 10(1)(s): inserted, on 1 October 2018, by regulation 5(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2018 (LI 2018/177).
- Regulation 10(1A): substituted, on 1 January 2010, by regulation 4(3) of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2009 (SR 2009/403).
- Regulation 10(1A): amended, on 18 August 2017, by regulation 4(2) of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2017 (LI 2017/226).
- Regulation 10(1A): amended, on 30 March 2012, by regulation 4(4) of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2012 (SR 2012/44).
- Regulation 10(1B): replaced, on 1 October 2018, by regulation 5(2) of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2018 (LI 2018/177).
- Regulation 10(1C): inserted, on 27 April 2007, by regulation 4(2) of the Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2007 (SR 2007/97).

Regulation 10(1D): inserted, on 1 May 2008, by regulation 4(2) of the Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2008 (SR 2008/69).

Regulation 10(1D): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Regulation 10(1D) **benefit**: inserted, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Regulation 10(1D) **specified non-KiwiSaver scheme** or **scheme** paragraph (a): replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Regulation 10(1D) **withdrawal** paragraph (a): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Regulation 10(1DA): inserted, on 17 February 2012, by regulation 4(3) of the Social Security (Long-term Residential Care) Amendment Regulations 2012 (SR 2012/5).

Regulation 10(1DB): inserted, on 17 February 2012, by regulation 4(3) of the Social Security (Long-term Residential Care) Amendment Regulations 2012 (SR 2012/5).

Regulation 10(1DC): inserted, on 30 March 2012, by regulation 4(5) of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2012 (SR 2012/44).

Regulation 10(1DC)(a): amended, on 9 December 2014, by regulation 4 of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2014 (LI 2014/384).

Regulation 10(1DD): inserted, on 30 March 2012, by regulation 4(5) of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2012 (SR 2012/44).

Regulation 10(1E): inserted, on 1 January 2010, by regulation 4(4) of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2009 (SR 2009/403).

Regulation 10(1E): amended, on 17 February 2012, by regulation 4(4) of the Social Security (Long-term Residential Care) Amendment Regulations 2012 (SR 2012/5).

Regulation 10(1F): inserted, on 31 October 2016, by regulation 4(3) of the Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2016 (LI 2016/234).

Regulation 10(1G): inserted, on 18 August 2017, by regulation 4(3) of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2017 (LI 2017/226).

Regulation 10(1H): inserted, on 1 October 2018, by regulation 5(3) of the Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2018 (LI 2018/177).

## **11 Income exempt from means assessment**

For the purpose of paragraph (k) of the definition of income in clause 5 of Part 3 of Schedule 27 of the Act, the following types of income are not to be included in a means assessment as to income:

- (a) any compensation or *ex gratia* payment made by the Government of any country to the person or his or her spouse or partner because the person or his or her spouse or partner—
  - (i) was a prisoner of war, civilian internee, or victim of persecution of any country during the Second World War; or
  - (ii) was a dependant child of a person who was a prisoner of war, civilian internee, or victim of persecution of any country during the Second World War:
- (b) any interest derived from compensation or an *ex gratia* payment referred to in paragraph (a):

- (c) any interest derived from any pre-paid funeral of the person or of the person's spouse or partner that is referred to in paragraph (d) of the definition of exempt assets in clause 4 of Part 2 of Schedule 27 of the Act:
- (d) for the first 12 months after the payment concerned is made, any interest derived by a person from any lump sum payment of arrears of accommodation supplement made to the person, on or after 1 November 2016, and as a result of the department correcting a specified processing error (as defined in regulation 10(1F)):
- (e) for the first 12 months after the payment concerned is made, any income derived from a lump sum payment of arrears of temporary additional support (as defined in regulation 10(1G)) made to the person on or after 18 August 2017.

Regulation 11(a): substituted, on 24 November 2006, by regulation 6(1) of the Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2006 (SR 2006/349).

Regulation 11(b): amended, on 24 November 2006, by regulation 6(2) of the Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2006 (SR 2006/349).

Regulation 11(d): inserted, on 31 October 2016, by regulation 5 of the Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2016 (LI 2016/234).

Regulation 11(e): inserted, on 18 August 2017, by regulation 5 of the Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2017 (LI 2017/226).

## 12 Personal allowance

The personal allowance defined in section 136 of the Social Security Act 1964 is \$44.53 per week.

Regulation 12: substituted, on 1 April 2007, by regulation 5 of the Social Security (Long-term Residential Care) Amendment Regulations 2007 (SR 2007/56).

Regulation 12: amended, on 1 April 2018, by regulation 5 of the Social Security (Long-term Residential Care) Amendment Regulations 2018 (LI 2018/22).

**Schedule  
Offences under Crimes Act 1961**

r 6(1)

<b>Sections of the Crimes Act 1961</b>	<b>Offences</b>
87	Riot
128B	Sexual violation
129	Attempted sexual violation and assault with intent to commit sexual violation
129A	Sexual conduct with consent induced by certain threats
135	Indecent assault
138	Sexual exploitation of person with significant impairment
141	Indecent assault on man or boy
142	Anal intercourse
142A	Compelling indecent act with animal
145	Criminal nuisance
156	Duty of persons in charge of dangerous things
157	Duty to avoid omissions dangerous to life
173	Attempt to murder
188	Wounding with intent
189	Injuring with intent
190	Injuring by unlawful act
191	Aggravating wounding or injury
192	Aggravated assault
193	Assault with intent to injure
196	Common assault
197	Disabling
198	Discharging firearm or doing dangerous act with intent
199	Acid throwing
200	Poisoning with intent
201	Infecting with disease
202C	Assault with weapon
204A	Female genital mutilation
208	Abduction for purposes of marriage or sexual connection
209	Kidnapping
232	Aggravated burglary
234	Robbery
235	Aggravated robbery
236	Assault with intent to rob
267	Arson
269	Intentional damage

Diane Morcom,  
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 30 June 2005.

## **Reprints notes**

### **1 *General***

This is a reprint of the Social Security (Long-term Residential Care) Regulations 2005 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***

Residential Care and Disability Support Services Regulations 2018 (LI 2018/203): regulation 20  
Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2018 (LI 2018/177)  
Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2018 (LI 2018/79)  
Social Security (Long-term Residential Care) Amendment Regulations 2018 (LI 2018/22)  
Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2017 (LI 2017/226)  
Health (Protection) Amendment Act 2016 (2016 No 35): section 21  
Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2016 (LI 2016/234)  
Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2014 (LI 2014/384)  
Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150  
Social Security (Benefit Categories and Work Focus) Amendment Act 2013 (2013 No 13): section 66(a)  
Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2012 (SR 2012/44)  
Social Security (Long-term Residential Care) Amendment Regulations 2012 (SR 2012/5)  
Social Security (Long-term Residential Care) Amendment Regulations (No 5) 2010 (SR 2010/485)  
Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2010 (SR 2010/321)  
Social Security (Long-term Residential Care—Value of Land) Amendment Regulations 2010 (SR 2010/23)  
Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2009 (SR 2009/403)  
Social Security (Long-term Residential Care) Amendment Regulations 2009 (SR 2009/24)  
Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2008 (SR 2008/349)  
Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2008 (SR 2008/69)  
Social Security (Long-term Residential Care) Amendment Regulations (No 4) 2007 (SR 2007/323)

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Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2007 (SR 2007/97)  
Social Security (Long-term Residential Care) Amendment Regulations 2007 (SR 2007/56)  
Social Security (Long-term Residential Care) Amendment Regulations (No 3) 2006 (SR 2006/378)  
Social Security (Long-term Residential Care) Amendment Act 2006 (2006 No 67): section 21  
Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2006 (SR 2006/349)  
War Pensions Amendment Act 2006 (2006 No 32): section 10  
Social Security (Long-term Residential Care) Amendment Regulations 2005 (SR 2005/265)