



Social Security (Income and Assets Exemption) Amendment Regulations 2021

Patsy Reddy, Governor-General

Order in Council

At Wellington this 8th day of June 2021

Present:

The Right Hon Jacinda Ardern presiding in Council

These regulations are made under sections 422(1), 423(1)(b), and 428(1) and (2)(d) and (f) of the Social Security Act 2018 on the advice and with the consent of the Executive Council.

Contents

		Page
1	Title	1
2	Commencement	2
3	Principal regulations	2
4	Schedule 8 amended	2

Schedule

2

New Part 32 inserted in Schedule 8

Regulations

1 Title

These regulations are the Social Security (Income and Assets Exemption) Amendment Regulations 2021.

2 Commencement

These regulations come into force on 11 June 2021.

3 Principal regulations

These regulations amend the Social Security Regulations 2018.

4 Schedule 8 amended

(1) In Schedule 8, clause 1, after item 20, insert:

21	A lump sum residential care subsidy refund to which clause 56 applies	Not cash assets of the person to whom the payment was made	Only for the first 12 months after the payment is made
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(2) In Schedule 8, clause 2, after item 21, insert:

22	A lump sum residential care subsidy refund to which clause 56 applies	Not cash assets of the person to whom the payment was made	Only for the first 12 months after the payment is made
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(3) In Schedule 8, clause 3, after item 8, insert:

10	A lump sum residential care subsidy refund and any income to which clause 56 applies	Not chargeable income for the person to whom the payment was made	Only for the first 12 months after the payment is made
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(4) In Schedule 8, clause 4, after item 26, insert:

27	A lump sum residential care subsidy refund and any income to which clause 56 applies	Not income for the person to whom the payment was made	Only for the first 12 months after the payment is made
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(5) In Schedule 8, after Part 31, insert the Part 32 set out in the Schedule of these regulations.

Schedule New Part 32 inserted in Schedule 8

r 4(5)

Part 32 Lump sum residential care subsidy refund

55 Interpretation

(1) In this Part, **lump sum residential care subsidy refund** means any lump sum payment of all or any of the following, made by MSD on or after 11 June 2021, and arising from a retrospective review of any means assessment (for example, any assessments of cash assets, chargeable income, or income) by MSD following the decision in *Chief Executive of the Ministry of Social Development v Broadbent* [2019] NZCA 201:

- (a) a benefit;
 - (b) a residential care subsidy refund;
 - (c) special assistance paid under a programme established under section 100 or 101 of the Act.
- (2) In this clause,—
- (a) a reference to a benefit, or to special assistance paid under a programme established under section 100 or 101 of the Act, includes a reference to a benefit, or to special assistance paid under a programme established, under the Social Security Act 1964;
 - (b) a reference to a residential care subsidy under the Residential Care and Disability Support Services Act 2018 includes a reference to a residential care subsidy under the Social Security Act 1964.

56 Payments and income

This clause applies to—

- (a) a lump sum residential care subsidy refund made to a person (A); and
- (b) any income derived (directly or indirectly) by A from payment of the refund referred to in paragraph (a).

Michael Webster,
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 11 June 2021, amend Schedule 8 of the Social Security Regulations 2018. The amendments relate to a lump sum residential care subsidy refund arising from a retrospective review of a financial means assessment by the Ministry of Social Development where the review finds that a person has paid more towards the cost of their care than they should have. The review may also result in a lump sum payment of a benefit because the person's income for the purposes of the Social Security Act 1964 or the Social Security Act 2018 (the **Act**) has been overestimated.

The amendments ensure that, for the first 12 months after the payment is made, the payment is not treated as cash assets or chargeable income for the purposes of determining the person's accommodation supplement or temporary additional support entitlements under the Act. They also ensure that, for the first 12 months after the payment is made, the payment and income derived from the payment are not the person's income for the purposes of the Act.

**Social Security (Income and Assets Exemption)
Amendment Regulations 2021**

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These regulations are administered by the Ministry of Social Development.

Wellington, New Zealand:

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