



# Social Security (Working for Families— Transitional Supplement) Regulations 2004

Silvia Cartwright, Governor-General

## Order in Council

At Wellington this 30th day of August 2004

Present:

Her Excellency the Governor-General in Council

Pursuant to section 25 of the Social Security (Working for Families) Amendment Act 2004, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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## Regulations

### 1 Title

These regulations are the Social Security (Working for Families—Transitional Supplement) Regulations 2004.

### 2 Commencement

These regulations come into force on 1 October 2004.

### 3 Application

These regulations have effect on and after 1 October 2004.

### 4 Expiry

These regulations expire at the close of 30 June 2008.

### 5 Interpretation

- (1) In these regulations, unless the context otherwise requires,—  
**Act** means the Social Security (Working for Families) Amendment Act 2004

**applicant** means a person who has completed a form of application for a transitional supplement, and includes a person granted a transitional supplement

**income year** has the same meaning as in section OB 1 of the Income Tax Act 1994 or section OB 1 of the Income Tax Act 2004 (whichever is applicable)

**principal Act** means the Social Security Act 1964

**single** means being a sole parent or not having a spouse

**specified amendment** means—

- (a) any of the provisions of the Act or the Taxation (Working for Families) Act 2004, or any amendments made to any enactment by the Act or the Taxation (Working for Families) Act 2004; and
- (b) any related regulation or instrument or provision in such a regulation or an instrument (being a regulation or instrument or a provision for the time being listed in a notice published by the Minister in the *Gazette* that

identifies that regulation or instrument or provision as a specified amendment for the purposes of this regulation)

**specified date** means any of the following dates:

- (a) 1 October 2004:
- (b) 4 October 2004:
- (c) 1 April 2005:
- (d) 3 October 2005:
- (e) 1 April 2006:
- (f) 1 April 2007

**specified payment** means any of the following benefits or payments:

- (a) an income-tested benefit:
- (b) New Zealand superannuation or a veteran's pension (other than New Zealand superannuation or a veteran's pension that is an income-tested benefit):
- (c) an accommodation supplement under section 61EA of the principal Act:
- (d) childcare assistance under section 124(1)(d) or section 61GA (as inserted by section 11 of the Act) of the principal Act:
- (e) a disability allowance under section 69C of the principal Act:
- (f) a special benefit under section 61G of the principal Act or continued by section 23 of the Act:
- (g) temporary additional support under section 61G of the principal Act (as inserted by section 10 of the Act):
- (h) any special assistance of a continuing nature under any welfare programme established and approved under section 124(1)(d) of the principal Act:
- (i) any of the following credits of tax under subpart KD of the Income Tax Act 1994 or subpart KD of the Income Tax Act 2004 (whichever is applicable):
  - (i) a child tax credit:
  - (ii) family support:
  - (iii) a family tax credit:
  - (iv) a parental tax credit:
  - (v) an in-work payment:
- (j) an allowance under regulations made under section 303 of the Education Act 1989

**total combined increase** and **total combined reduction** have the meanings given to them by regulation 10(1)(b)

**total increase** and **total reduction** have the meanings given to them by regulation 6(1)(b)

**transitional supplement** or **supplement** means a payment in a lump sum or instalments under regulation 6 or regulation 10.

- (2) Terms otherwise defined in section 3(1) of the principal Act have the meanings so defined.

## Part 1

### Transitional supplement for single persons

#### 6 Transitional supplement for single persons

- (1) This regulation applies to any single person who immediately before any specified date was receiving or entitled to receive 1 or more specified payments if,—
- (a) on or after that specified date, the rate or amount of 1 or more of the specified payments payable to that person is reduced as a consequence of a specified amendment that comes into force on or before that date; and
  - (b) the total reduction in the rates or amounts of the specified payments payable to the person on and after that specified date as a consequence of the specified amendments that come into force on or before that date (the **total reduction**) exceeds the total increase to the rates or amounts of the specified payments payable to the person on and after that date as a consequence of the specified amendments that come into force on or before that date (the **total increase**); and
  - (c) the chief executive is satisfied that the reason why the total reduction exceeds the total increase is not—
    - (i) a change in the circumstances of the person (being a change in circumstances that took place on or before the specified date); or
    - (ii) the ineligibility of that person to receive any specified payment or rate of specified payment (other than an ineligibility that arises from a specified amendment); or

- (iii) any failure or omission of the person that has led to the suspension or cancellation or reduction of a specified payment.
- (2) If this regulation applies to an applicant, the chief executive may—
  - (a) grant a transitional supplement, under section 25(2) of the Act, to an applicant to whom this regulation applies for any period that the chief executive specifies in accordance with subclause (3); and
  - (b) for the purposes of paragraph (a)—
    - (i) the chief executive must follow the rules and procedures and may exercise the powers set out in section 12 of the principal Act, as if that section applied to the granting of a transitional supplement; and
    - (ii) the applicant must comply with the duties on applicants set out in that section, as if he or she were applying for a benefit.
- (3) Subject to regulation 7(3), a transitional supplement—
  - (a) must be granted for a period of no longer than 12 months; but
  - (b) may be granted for a period ending with the next following specified date.
- (4) Nothing in subclause (3) prevents the chief executive granting, before the close of 30 June 2008, a further transitional supplement to an applicant to whom this regulation applies.
- (5) In this regulation **payable to the person**, in relation to a specified payment and a specified date, includes a specified payment to which a person is entitled and has made application for before the specified date even though the application is not granted or the payment made until after that date.

## 7 Entitlement of single person to transitional supplement if specified payment payable in arrears

- (1) This regulation applies if—
  - (a) an applicant who is single is not receiving by instalments a specified payment of a kind referred to in paragraph (i) of the definition of **specified payment** in regulation 5(1); but

- (b) the chief executive is satisfied that the applicant will, after the end of the income year concerned, apply for and is likely to be granted a specified payment of that kind for a period that includes any specified date and the day immediately before that specified date.
- (2) If this regulation applies, the chief executive may—
    - (a) calculate the amount of the applicant's total reduction and total increase under regulation 6(1)(b) based on the amounts of the specified payment the chief executive estimates the person would have received immediately before, on, or after the specified date if the person had applied to receive the specified payment by instalments during the period referred to in subclause (1)(b); and
    - (b) calculate and grant a transitional supplement under regulation 6(2) accordingly.
  - (3) A transitional supplement granted under regulation 6(2), in reliance on the rules set out in subclause (2) of this regulation, must be reviewed under regulation 17 not later than 6 months after the end of the income year to which it relates.

## **8 Entitlement of single person to transitional supplement where new or increased specified payment available but not sought**

- (1) If the chief executive is satisfied in respect of an applicant who is single that the applicant's total reduction exceeds the applicant's total increase because the applicant has not applied for, or supplied any information required to determine entitlement to, a specified payment or a rate of a specified payment that became available as a consequence of a specified amendment that came into force on a specified date, the chief executive may—
  - (a) refuse to grant a transitional supplement; or
  - (b) grant a transitional supplement under regulation 6(2) at a reduced rate; or
  - (c) reduce the rate of a transitional supplement already granted; or
  - (d) terminate any transitional supplement already granted.
- (2) Subclause (1) does not apply in respect of a specified payment referred to in regulation 7(1)(a).

**9 Rate of transitional supplement for single persons**

- (1) The amount of a transitional supplement payable to a single applicant is equal to the difference between the total reduction and the total increase.
- (2) If, as a result of a change of circumstances of the applicant the rate of 1 or more of the specified payments payable to the applicant decreases, the amount of the supplement must not be increased by reason of that change.
- (3) If, as a result of a change of circumstances of the applicant the rate of 1 or more of the specified payments payable to the applicant increases, the amount of the supplement must be reduced by \$1 for each \$1 increase in the sum of the rates of the person's specified payments.

**Part 2**

**Transitional supplement for persons with spouses**

**10 Transitional supplement for persons with spouses**

- (1) This regulation applies to any person with a spouse who immediately before any specified date was receiving or entitled to receive 1 or more specified payments if,—
  - (a) on or after that specified date, the rate or amount of 1 or more of the specified payments payable to that person or to the person's spouse is reduced as a consequence of a specified amendment that comes into force on or before that date; and
  - (b) the total combined reduction in the rates or amounts of the specified payments payable to the person and the person's spouse on and after that specified date as a consequence of the specified amendments that come into force on or before that date (**the total combined reduction**) exceeds the total combined increase to the rates or amounts of the specified payments payable to the person and the person's spouse on and after that date as a consequence of the specified amendments that come into force on or before that date (**the total combined increase**); and
  - (c) the chief executive is satisfied that the reason why the total combined reduction exceeds the total combined increase is not—

- (i) a change in the circumstances of the person or his or her spouse (being a change in circumstances that took place on or before the specified date); or
  - (ii) the ineligibility of that person or his or her spouse to receive any specified payment or rate of specified payment (other than an ineligibility that arises from a specified amendment); or
  - (iii) any failure or omission of the person or his or her spouse that has led to the suspension or cancellation or reduction of a specified payment.
- (2) If this regulation applies to an applicant the chief executive may—
  - (a) if the chief executive is satisfied that the applicant and his or her spouse are each entitled to a transitional supplement, grant to each, under section 25(2) of the Act, a transitional supplement that is half of the total combined amount to which both are entitled under regulation 13; or
  - (b) grant a transitional supplement, under section 25(2) of the Act, to either the applicant or his or her spouse or to each of them in an amount that reflects the respective proportion of the total combined amount to which both are entitled under regulation 13 that in the opinion of the chief executive should be paid to either or both of them; or
  - (c) grant a transitional supplement, under section 25(2) of the Act, to either the applicant or his or her spouse or to each of them in an amount specified by the chief executive (being the total combined amount to which both are entitled under regulation 13 apportioned in accordance with the rules set out in section 82(3) of the principal Act that apply in relation to the apportionment of benefits).
- (3) For the purposes of subclause (2)—
  - (a) the chief executive must follow the rules and procedures and may exercise the powers set out in section 12 of the principal Act, as if that section applied to the granting of a transitional supplement; and

- (b) the applicant must comply with the duties on applicants set out in that section, as if he or she were applying for a benefit.
- (4) Subject to regulation 11(3), a transitional supplement—
  - (a) must be granted by the chief executive for a specified period of no longer than 12 months; but
  - (b) may be granted by the chief executive for a period ending with the next following specified date.
- (5) Nothing in subclause (4) prevents the chief executive granting, before the close of 30 June 2008, a further transitional supplement to an applicant to whom this regulation applies or to his or her spouse or to both.
- (6) In this regulation, every reference to a payment payable to a person, or to a person or his or her spouse, or to a person and his or her spouse, in relation to a specified payment and a specified date includes a specified payment to which a person or his or her spouse is entitled and has made application for before the specified date even though the application is not granted or the payment made until after that date.

**11 Entitlement of person with spouse to transitional supplement if specified payment payable in arrears**

- (1) This regulation applies if—
  - (a) an applicant or his or her spouse is not receiving by instalments a specified payment of a kind referred to in paragraph (i) of the definition of **specified payment** in regulation 5(1); but
  - (b) the chief executive is satisfied that the applicant or his or her spouse will, after the end of the income year concerned, apply for and is likely to be granted a specified payment of that kind for a period that includes any specified date and the day immediately before that specified date.
- (2) If this regulation applies, the chief executive may—
  - (a) calculate the amount of the total combined reduction and total combined increase under regulation 10(1)(b) of the applicant and his or her spouse based on the amounts of the specified payment the chief executive estimates the applicant and his or her spouse would

- have received immediately before, on, or after the specified date if the person or his or her spouse had applied to receive the specified payment by instalments during the period referred to in subclause (1)(b); and
- (b) calculate and grant a transitional supplement under regulation 10(2) accordingly.
- (3) A transitional supplement granted under regulation 10(2), in reliance on the rules set out in subclause (2) of this regulation, must be reviewed under regulation 17 not later than 6 months after the end of the income year to which it relates.

**12 Entitlement of person with spouse to transitional supplement where new or increased specified payment available but not sought**

- (1) If the chief executive is satisfied that the total combined reduction for the applicant and his or her spouse exceeds the total combined increase for those persons because the applicant or his or her spouse has not applied for, or supplied any information required to determine entitlement to, a specified payment or a rate of a specified payment that became available as a consequence of a specified amendment that came into force on a specified date, the chief executive may—
- (a) refuse to grant a transitional supplement; or
  - (b) grant a transitional supplement under regulation 10(2) at a reduced rate; or
  - (c) reduce the rate of a transitional supplement already granted; or
  - (d) terminate any transitional supplement already granted.
- (2) Subclause (1) does not apply in respect of a specified payment referred to in regulation 11(1)(a).

**13 Rate of transitional supplement for person with spouse**

- (1) The amount of a transitional supplement payable in respect of an applicant and his or her spouse is equal to the difference between the total combined reduction and the total combined increase.
- (2) If, as a result of a change of circumstances of the applicant or his or her spouse the rate of 1 or more of the specified payments payable to the applicant or his or her spouse decreases,

the amount of the supplement must not be increased by reason of that change.

- (3) If, as a result of a change of circumstances of the applicant or his or her spouse the rate of 1 or more of the specified payments payable to the applicant or his or her spouse increases, the amount of the supplement must be reduced by \$1 for each \$1 increase in the sum of the rates of the specified payments.

### **Part 3 General**

#### **14 Commencement and ending of supplements**

- (1) A transitional supplement commences on the later of—
- (a) the date on which the applicant became entitled to receive it; or
  - (b) if the application was made more than 28 days after the date in paragraph (a), the date on which the application for it was received.
- (2) In the event that an applicant dies, a supplement ends—
- (a) on the date of the death; or
  - (b) on a date set by the chief executive (being a date not later than 4 weeks after the date of the death).

#### **15 Duty to advise of change of circumstances affecting entitlement to transitional supplement**

An applicant must immediately advise an employee of the department of any change of circumstances that affects the right of an applicant to receive a transitional supplement or that affects the rate of supplement.

#### **16 Method of payment of transitional supplements**

- (1) The chief executive must follow the rules and procedures and may exercise the powers, set out in section 82(1) to (5) of the principal Act, in relation to the payment of a transitional supplement, as if the transitional supplement were a benefit.
- (2) An applicant must comply with the duties on applicants set out in section 82(1) to (5) and (7) of the principal Act, as if a transitional supplement were a benefit.

- (3) The condition set out in section 82(7) of the principal Act that applies in relation to a benefit applies also in relation to a transitional supplement.

**17 Review of transitional supplements**

- (1) The chief executive must follow the rules and procedures set out in section 81 of the principal Act, in relation to the review of a transitional supplement, as if the transitional supplement were a benefit.
- (2) The applicant must carry out the duties on applicants set out in section 81 of the principal Act, as if the applicant were an applicant for a benefit.

Diane Morcom,  
Clerk of the Executive Council.

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**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 1 October 2004 and expire at the close of 30 June 2008, provide for the payment of a transitional supplement to persons who would otherwise be disadvantaged by the net effect of the amendments made by the Social Security (Working for Families) Act 2004 and the Taxation (Working for Families) Act 2004.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 2 September 2004.

These regulations are administered in the Ministry of Social Development.

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