

Reprint
as at 26 November 2018



Social Security (Effect of Absence of Beneficiary from New Zealand) Regulations 2013

(SR 2013/248)

Social Security (Effect of Absence of Beneficiary from New Zealand) Regulations 2013: revoked, on 26 November 2018, by regulation 295(8) of the Social Security Regulations 2018 (LI 2018/202).

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 10th day of June 2013

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.

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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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Regulations

1 Title

These regulations are the Social Security (Effect of Absence of Beneficiary from New Zealand) Regulations 2013.

2 Commencement

These regulations come into force on 15 July 2013.

3 Interpretation

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

Act means the Social Security Act 1964

family member, in relation to a beneficiary, includes a person who is treated by the beneficiary as, and acknowledged by the beneficiary to be, a member of the beneficiary's family

natural disaster or adverse event means a fire, flood, drought, or other emergency involving damage or danger to life or property

part-time work-tested beneficiary has the meaning set out in paragraph (a) of the definition of that term in section 3(1) of the Act.

- (2) In these regulations, a **significant event**, in relation to a beneficiary's family member, includes the following events:

- (a) serious illness or serious injury or imminent death:
- (b) any of the following connected to the family member's death:
 - (i) a funeral (however called) or unveiling:
 - (ii) if the beneficiary has missed the family member's funeral, a visit to pay respects to a family member of the deceased:

- (iii) attending to legal matters in relation to the deceased's affairs:
 - (c) a wedding or civil union:
 - (d) a birth of a child:
 - (e) a court case in which a family member is a party or witness.
- (3) Any term or expression that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

Regulation 3(1) **part-time work-tested beneficiary**: inserted, on 1 April 2016, by regulation 4 of the Social Security (Effect of Absence of Beneficiary from New Zealand) Amendment Regulations 2016 (LI 2016/51).

Absences of up to 4 weeks in 52-week period

4 Criteria for discretionary payment of certain benefits in respect of absences of up to 4 weeks in 52-week period

For the purposes of section 77(3) of the Act, the applicable criteria are—

- (a) that the chief executive is satisfied that the absence is solely for a reason permitted by regulation 5; or
- (ab) that, in the case of a part-time work-tested beneficiary with a youngest dependent child aged 3 or over, but under 5 years, the chief executive is satisfied the absence is for the purpose of travel from New Zealand that—
 - (i) was booked before 1 April 2016; and
 - (ii) commences before 1 April 2017; or
- (ac) that, in the case of a person referred to in regulation 6(b)(i) or (ii), the chief executive is satisfied that—
 - (i) the person's absence is for the purpose of travel from New Zealand that was booked before 1 April 2016 and commences before 1 April 2017; and
 - (ii) when that travel was booked, the person was undertaking employment required to satisfy the work test (**pre-1 April 2016 work test obligations**); and
 - (iii) since that travel was booked, the person has continued to satisfy the pre-1 April 2016 work test obligations (whether or not the person is satisfying his or her current work test obligations); or
- (b) that the chief executive is satisfied that the absence does not prevent the beneficiary from meeting all his or her obligations specified in regulation 6 because the absence is during a time when the beneficiary is not required to attend the employment, education, training, or work-based learning referred to in that regulation (for example, during a period of leave or a semester break or during the period between the end of one academic year and the start of the next, as the case may require).

Regulation 4(ab): inserted, on 1 April 2016, by regulation 5 of the Social Security (Effect of Absence of Beneficiary from New Zealand) Amendment Regulations 2016 (LI 2016/51).

Regulation 4(ac): inserted, on 1 April 2016, by regulation 5 of the Social Security (Effect of Absence of Beneficiary from New Zealand) Amendment Regulations 2016 (LI 2016/51).

5 Permitted reasons for absence

The permitted reasons for absence for the purposes of regulation 4(a) are 1 or more of the following:

- (a) to attend a job interview or follow up on a job prospect:
- (b) to attend a significant event relating to a family member that a person with the beneficiary's relationship to the family member would reasonably be expected to attend:
- (c) to attend a court case that the beneficiary is required to attend as a party or a witness:
- (d) to receive, in the case of a beneficiary with a disability, vocational training, or disability assistance dog training, that is not available in New Zealand at the time of the absence:
- (e) to compete, in the case of a beneficiary with a disability to whom section 77(3A) of the Act does not apply, in any overseas multinational or international Special Olympic or Paralympic Games competition:
- (f) to provide aid or assistance to a family member immediately following a natural disaster or adverse event.

6 Absences that do not prevent beneficiary meeting obligations

The obligations that the beneficiary must continue to meet for the purposes of regulation 4(b) are as follows:

Obligation to participate in employment-related training

- (a) the obligations under section 60Q of the Act, if the beneficiary has been required under section 60Q(3)(b)(iv) to participate in or undertake, and is participating in or undertaking, employment-related training, and if the beneficiary is—
 - (i) a beneficiary receiving sole parent support; or
 - (ii) a spouse or partner of a person who is receiving—
 - (A) a benefit under section 40B of the Act (supported living payment on the ground of sickness, injury, disability, or total blindness); or
 - (B) jobseeker support:

Obligation to undertake employment

- (b) the obligation to undertake employment of the kind required to satisfy the work test for that person, if the beneficiary is a person to whom the

work test does not apply under section 102(2) of the Act because he or she is undertaking employment and if the beneficiary is—

- (i) a work-tested beneficiary receiving sole parent support; or
- (ii) a work-tested spouse or partner (other than a spouse or partner receiving an emergency benefit):

Youth support payment obligations

- (c) in the case of a young person receiving a youth support payment under the Act, the obligations in section 170 of the Act.

Other obligations of young persons

- (d) in the case of a young person who is the spouse or partner of a specified beneficiary (within the meaning of section 157 of the Act), the obligations in section 171 of the Act:
- (e) in the case of a young person who is required, under section 171A of the Act, to receive youth services, the obligations in that section.

Regulation 6(d): inserted, on 25 October 2016, by section 37(2) of the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016 (2016 No 36).

Regulation 6(e): inserted, on 25 October 2016, by section 37(2) of the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016 (2016 No 36).

Absences of longer than 4 weeks in 52-week period

7 Qualifying circumstances for discretionary payment of certain benefits in respect of absences of longer than 4 weeks in 52-week period

- (1) For the purposes of section 77(3AA) of the Act, **relevant qualifying circumstances**, in respect of an absence from New Zealand, are the circumstances in any of subclauses (2), (3), (4), and (5).
- (2) The first circumstances are as follows:

1 or more absences totalling more than 4 weeks that are necessitated by 1 or more specified reasons

- (a) the absence from New Zealand must be solely for 1 or more reasons permitted by regulation 5; and
- (b) the chief executive must be satisfied that the length of the total absence is not longer than is necessitated by those reasons; and
- (c) if the absence is not the first in respect of which a benefit is or was payable under section 77 of the Act in any 52-week period, the chief executive must be satisfied—
 - (i) either that the beneficiary could not reasonably have foreseen an absence of longer than 4 weeks in a 52-week period or that the beneficiary could not reasonably have rearranged his or her affairs to avoid an absence of longer than 4 weeks in a 52-week period; and

- (ii) that it would be unreasonable for the benefit not to be paid.
- (3) The second circumstances are as follows:
- Return to New Zealand prevented by reasons outside beneficiary's control*
- (a) the beneficiary's return to New Zealand from an absence in respect of which a benefit is paid under section 77 of the Act must be prevented by new circumstances that—
- (i) were not reasonably foreseeable at the time when the beneficiary last left New Zealand; and
- (ii) are outside of the beneficiary's control; and
- (b) the chief executive must be satisfied that the extension of the absence is not longer than is necessitated by the new circumstances.
- (4) The third circumstances are as follows:
- Combination of 1 or more absences totalling up to 4 weeks that are necessitated by 1 or more specified reasons plus family support absence of up to 4 weeks*
- (a) the beneficiary must be a young person receiving a youth support payment under the Act or a young person referred to in section 171 of the Act; and
- (b) the beneficiary must be absent from New Zealand for the purpose of obtaining support from a family member residing overseas (being support that he or she could not reasonably obtain in New Zealand); and
- (c) the chief executive must be satisfied that the absence does not prevent the beneficiary from meeting all his or her obligations in section 170 or 171 of the Act because the absence is during a time when the beneficiary is not required to attend the work-based learning or education or training referred to in those sections (for example, during a period of leave or a semester break or during the period between the end of one academic year and the start of the next, as the case may require); and
- (d) in the case of a young person receiving a youth support payment under the Act, the total period of absence from New Zealand in respect of which a benefit is paid under section 77(3) and (3AA) of the Act on the grounds that the absence does not prevent the beneficiary from meeting all of his or her obligations in section 170 of the Act must not exceed 4 weeks in any 52-week period; and
- (e) in the case of a young person referred to in section 171 of the Act, the absence in any 52-week period must not exceed by longer than 4 weeks the total period of absence from New Zealand that was solely for 1 or more reasons permitted by regulation 5.
- (5) The fourth circumstances are as follows:

Absence to attend approved disability forum

- (a) the beneficiary has a long-term physical, mental, intellectual, or sensory impairment that, in interaction with various barriers, may hinder the beneficiary's full and effective participation in society on an equal basis with others; and
- (b) the absence from New Zealand must be for the purpose of attending a disability forum approved by the chief executive; and
- (c) the chief executive must, before approving a disability forum, be satisfied that the forum is—
 - (i) a disability programme or event associated with the United Nations or an international disability organisation; or
 - (ii) another type of programme or event that the beneficiary is attending to contribute a disability perspective; and
- (d) the total period of absence from New Zealand in respect of which a benefit is paid on the grounds that the beneficiary is attending an approved disability forum must not exceed 12 weeks in any 52-week period.

Regulation 7(1): amended, on 9 December 2016, by regulation 4(1) of the Social Security (Effect of Absence of Beneficiary from New Zealand) Amendment Regulations (No 2) 2016 (LI 2016/294).

Regulation 7(5): inserted, on 9 December 2016, by regulation 4(2) of the Social Security (Effect of Absence of Beneficiary from New Zealand) Amendment Regulations (No 2) 2016 (LI 2016/294).

*Absences in respect of which payment of benefit can commence on or after
departure but before notification of absence*

8 Definition of humanitarian reasons

In section 77(8)(a) of the Act, **humanitarian reasons** means any of the following:

- (a) a need or desire to provide aid or assistance to a family member immediately following a natural disaster or adverse event:
- (b) a need or desire to be with a family member who is facing sudden imminent death or who has suddenly been taken seriously ill or seriously injured:
- (c) a need or desire to attend the sudden funeral (however called) of a family member.

Rebecca Kitteridge,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Social Security (Effect of Absence of Beneficiary from New Zealand) 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(8)

Social Security (Effect of Absence of Beneficiary from New Zealand) Amendment Regulations (No 2) 2016 (LI 2016/294)

Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016 (2016 No 36): section 37(2)

Social Security (Effect of Absence of Beneficiary from New Zealand) Amendment Regulations 2016 (LI 2016/51)