

Social Security (Exemption for Ex Gratia and Compensation Payments) Amendment Bill

Member's Bill

Explanatory note

General policy statement

Some people who have been subject to abuse while in the care of the State have received ex gratia payments. Others have received compensatory payments for the consequences of incorrect State action. Under current Social Security legislation, that ex gratia payment or compensation payment must be spent within 1 year, or it will be counted as income and cash assets for the purpose of receiving a primary or supplementary benefit. This is not the intention of the income and asset testing regime and therefore this bill seeks to correct this unintended consequence.

Clause by clause analysis

Clause 1 is the title clause.

Clause 2 is the commencement clause. It provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Social Security Act 1964 (the **principal Act**)

Clause 4 inserts a new *section 68B* that provides for ex gratia or compensation payments paid to a person by the Crown in recognition of harm suffered by them to be exempt from calculation as income or cash assets for the purposes of the Act.

Clause 5 revokes Part 3 of the Social Security (Income and Cash Assets Exemptions) Regulations 2011.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Social Security (Exemption for Ex Gratia and Compensation Payments) Amendment Act **2019**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Social Security Act 1964 (the **principal Act**).

4 New section 68B inserted (Special provisions applying to ex gratia and compensation payments made by the Crown)

After section 68A, insert:

68B Special provisions applying to ex gratia and compensation payments made by the Crown	5
(1) This section applies to —	
(a) any compensation or ex gratia payment made by the Crown to a person in recognition of harm or in respect of a claim of harm; and	
(b) any income derived by the person from a payment referred to in paragraph (a) .	10
(2) Any payment or income referred to in paragraph (a) or (b) of subsection (1) is not income for the purposes of the Act.	
(3) Any payment or income referred to in paragraph (a) or (b) of subsection (1) is not cash assets for the purposes of the Act.	
(4) In this section, —	15
compensation —	
(a) means a payment made—	
(i) in satisfaction of a judgment or an order of any court or an award of any tribunal, other than an award of costs; or	
(ii) in settlement of a claim against the Crown (whether or not that claim has been formally filed in a court or tribunal); but	20
(b) does not include a payment made pursuant to—	
(i) an employment relationship; or	
(ii) a contract to provide goods or services	
economic loss means loss that is of a pecuniary nature; for example, lost wages	25
harm —	
(a) means illness or injury, or both; and	
(b) includes –	
(i) physical harm:	
(ii) mental harm:	30
(iii) humiliation, loss of dignity, and injury to the feelings of the aggrieved person; but	
(c) does not include –	
(i) economic loss:	
(ii) loss or reduction of property	35
(iii) loss of any benefit, whether or not of a monetary kind, that the aggrieved person might reasonably have been expected to obtain:	

(iv) loss of employment or office

property has the same meaning as **section 4** of the Property Law Act 2007.

5 Consequential amendment to Social Security (Income and Cash Assets Exemptions) Regulations 2011

- (1) This section amends the Social Security (Income and Cash Assets Exemptions) Regulations 2011 (SR 2011/287). 5
- (2) Part 3 is revoked.