

Reprint
as at 1 July 2018



Social Security (Childcare Assistance) Regulations 2004 (SR 2004/268)

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 132AC 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.

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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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[Revoked]

Regulations

1 Title

These regulations are the Social Security (Childcare Assistance) Regulations 2004.

2 Commencement

These regulations come into force on 4 October 2004.

Part 1

Provisions applying generally

3 Interpretation

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

applicant means a person who has applied for childcare assistance under regulation 11, and includes a person to whom childcare assistance has been granted

approved activity—

(a) in Part 2, means an activity listed in regulation 15; and

(b) in Part 3, means an activity listed in regulation 21

approved early-childhood education programme means a programme of early-childhood education that—

(a) is provided by either of the following (within the meaning of section 309 of the Education Act 1989):

(i) a licensed early childhood service:

- (ii) a playgroup that is a certificated playgroup under the Education (Playgroups) Regulations 2008; and
- (iii) *[Revoked]*
- (b) charges a uniform monetary fee for the participation of children in the programme

childcare assistance means a childcare subsidy or an OSCAR subsidy

childcare subsidy means the subsidy of the kind provided for in Part 2

cohort entry policy, in relation to a school, means a cohort entry policy adopted by the school under section 5A of the Education Act 1989

eligible child—

- (a) in Part 2 means a child for whom a childcare subsidy may be paid by virtue of regulation 12; and
- (b) in Part 3 means a child for whom an OSCAR subsidy may be paid by virtue of regulation 20

household income, in relation to a child or the child's principal caregiver, means the sum of—

- (a) the total income of the child's principal caregiver; and
- (b) whether or not he or she is also the child's other caregiver, the total income of the spouse (if any) of the child's principal caregiver

OSCAR programme,—

- (a) means a programme for children's out-of-school care and recreation approved under regulation 25; and
- (b) subject to regulation 30, includes a programme for children's out-of-school care and recreation approved by the chief executive of the Department of Child, Youth, and Family Services before the commencement of these regulations for the purpose of the granting of the special assistance that before that commencement was known as the OSCAR subsidy

OSCAR subsidy (except in the definition in this subclause of OSCAR programme) means the out-of-school care and recreation subsidy provided for in Part 3

other caregiver, in relation to a child, means a person who—

- (a) lives together with the child's principal caregiver; and
- (b) is a parent, step-parent, or person having the responsibilities of a parent, of the child

principal Act means the Social Security Act 1964

serious disability or illness,—

- (a) in relation to deciding whether a person should be granted childcare assistance because he or she, or some other person has a serious disability or illness, means a physical, medical, psychological, or psychiatric condition that—
 - (i) reduces (as the case may be) his or her or the other person's independent function; and
 - (ii) is likely to continue for more than 6 months; but
- (b) in relation to deciding whether childcare assistance granted to a person because he or she, or some other person has a serious disability or illness should continue to be paid, means a physical, medical, psychological, or psychiatric condition that reduces (as the case may be) his or her or the other person's independent function

tertiary educational institution means an institution within the meaning of section 159(1) of the Education Act 1989

total income, in relation to a child's caregiver, means the sum of—

- (a) the caregiver's income; and
- (b) the amount of any benefit (other than childcare assistance, a child disability allowance, an orphan's benefit, a winter energy payment, or an unsupported child's benefit) received by the caregiver; and
- (c) the amount of any child support received under the Child Support Act 1991 by the caregiver

week means a period of 7 days commencing at midnight on a Sunday.

- (2) For the purposes of the definition of approved early-childhood education programme, the provider of the programme charges a uniform monetary fee for the participation of children in the programme even if, in the case of families with 2 or more children, it charges for a second or further child a uniform fee that is less than the uniform fee charged for a first or an only child.
- (3) In these regulations, terms defined in section 3(1) of the principal Act have the meanings so defined.

Regulation 3(1) **approved early-childhood care arranger**: revoked, on 20 August 2012, by regulation 4(2) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

Regulation 3(1) **approved early-childhood education programme**: inserted, on 20 August 2012, by regulation 4(1) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

Regulation 3(1) **approved early-childhood education programme** paragraph (a): amended, on 9 October 2017, by regulation 4(1)(a) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2017 (LI 2017/256).

Regulation 3(1) **approved early-childhood education programme** paragraph (a)(ii): amended, on 9 October 2017, by regulation 4(1)(b) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2017 (LI 2017/256).

Regulation 3(1) **approved early-childhood education programme** paragraph (a)(iii): revoked, on 9 October 2017, by regulation 4(1)(c) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2017 (LI 2017/256).

Regulation 3(1) **approved early-childhood education service**: revoked, on 20 August 2012, by regulation 4(2) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

Regulation 3(1) **approved early-childhood programme**: revoked, on 20 August 2012, by regulation 4(2) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

Regulation 3(1) **cohort entry policy**: inserted, on 9 October 2017, by regulation 4(2) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2017 (LI 2017/256).

Regulation 3(1) **job seeker agreement**: revoked, on 15 July 2013, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2013 (SR 2013/246).

Regulation 3(1) **total income** paragraph (b): amended, on 1 July 2018, by regulation 5 of the Social Security (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20).

Regulation 3(2): replaced, on 20 August 2012, by regulation 4(3) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

4 Child not eligible for both childcare subsidy and OSCAR subsidy

In relation to any period, payments may be made under a childcare subsidy granted for a child or an OSCAR subsidy granted for that child, but not under both.

5 Hours to be calculated weekly

The hours an eligible child participates in an approved early-childhood education programme or OSCAR programme must be calculated by the week.

Regulation 5: amended, on 20 August 2012, by regulation 5 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

5A Childcare assistance not payable in respect of certain hours

Childcare assistance is not payable in respect of any hour of a child's participation in an approved early-childhood education programme or OSCAR programme if, for that hour, payment other than childcare assistance is made towards the costs of the child's participation in the programme through a funding programme—

- (a) that is provided by the Government in order to purchase hours of childcare; and
- (b) under which the amount provided per hour for childcare exceeds the hourly rate of childcare assistance as calculated under regulation 6.

Regulation 5A: inserted, on 1 August 2005, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2005 (SR 2005/179).

Regulation 5A: amended, on 20 August 2012, by regulation 6 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

6 Assistance to be no more than hourly fee payable

- (1) The hourly rate of childcare assistance paid in respect of a child's participation in an approved early-childhood education programme or OSCAR programme must be—
- (a) no more than the actual hourly fee payable (or, if subclause (2) applies, the averaged hourly fee payable) for that participation; or
 - (b) where regulation 10 applies, the higher of the fee charged for keeping open the child's place in the programme and the hourly fee calculated under paragraph (a).
- (1A) For the purposes of subclause (1), the actual hourly fee payable for a child's participation in a programme does not include any payment made by a person other than the applicant towards the fee payable in respect of that child's participation in the programme.
- (2) If a periodic flat fee is payable for a child's participation in a programme, or for keeping open a child's place in a programme, the averaged hourly fee payable for the purposes of subclause (1) is the amount obtained by—
- (a) subtracting from that flat fee any payment made by a person other than the applicant towards the flat fee; and
 - (b) dividing the amount calculated under paragraph (a) by the number of hours during the period concerned for which the child is enrolled to participate in the programme.
- (3) This regulation is subject to regulation 5A.

Regulation 6(1): substituted, on 1 April 2006, by regulation 3 of the Social Security (Childcare Assistance) Amendment Regulations 2006 (SR 2006/45).

Regulation 6(1): amended, on 20 August 2012, by regulation 7 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

Regulation 6(1A): inserted, on 1 August 2005, by regulation 5(1) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2005 (SR 2005/179).

Regulation 6(2): substituted, on 1 August 2005, by regulation 5(2) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2005 (SR 2005/179).

Regulation 6(3): added, on 1 August 2005, by regulation 5(2) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2005 (SR 2005/179).

7 Assistance may continue if caregiver not working because of illness, injury, or disability

Childcare assistance may continue to be paid for up to 12 weeks of any period when the principal caregiver of the child concerned (or, where applicable, the child's other caregiver) is not working if—

- (a) the assistance would not otherwise be payable because the caregiver is not working; but
- (b) the caregiver is unable to work because of illness, injury, or disability.

8 Assistance may continue if caregiver changes employment

Childcare assistance may continue to be paid for up to 10 working days before the start of the new employment concerned if—

- (a) the assistance has been granted on the basis of the employment of the principal caregiver of the child concerned (or, where applicable, of the child's other caregiver); and
- (b) the employment has ended but the caregiver has arranged new employment.

9 Absence of child to be notified

Within a reasonable time after a child for whom childcare assistance is payable is absent from the early-childhood education programme or OSCAR programme concerned, the applicant must notify an officer of the department of the child's absence.

Regulation 9: amended, on 20 August 2012, by regulation 8 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

10 Payment of assistance during child's absence

- (1) Childcare assistance may continue to be paid for the period set out in subclauses (2) and (3) during a child's absence from an early-childhood education programme or OSCAR programme if the programme charges a fee for holding open the places of children who are absent.
- (2) The period is calculated as—
 - (a) commencing on the first day of the child's absence from the programme; and
 - (b) including only the time during the absence when the programme is available.
- (3) The period must not exceed—
 - (a) 6 weeks, if the absence is due to the child's medical condition; or
 - (b) 3 weeks, if the absence is due to any other reason.

Regulation 10: substituted, on 1 April 2006, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2006 (SR 2006/45).

Regulation 10(1): amended, on 20 August 2012, by regulation 9 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

11 Applications and evidence

No person can be granted a childcare subsidy or an OSCAR subsidy unless he or she—

- (a) has applied for it on a form required by the chief executive; and
- (b) has given the chief executive the evidence the chief executive requires to satisfy the chief executive that the person is eligible for the subsidy.

Part 2 Childcare subsidy

12 Eligibility of child for payment of childcare subsidy

- (1) A childcare subsidy may be paid for a child only if he or she is a dependent child—
- (a) *[Revoked]*
 - (b) who is no older than 5 years and 28 days, and is not yet attending school; or
 - (ba) who is 5, whose parent, principal caregiver, or guardian intends to enrol the child in a school that has a cohort entry policy in place, and who (under section 5B(2) of the Education Act 1989) may not be enrolled in that school until the term start date of the next term; or
 - (c) who is under 6, and for whom a child disability allowance is payable.
- (2) Eligibility under subclause (1)(ba) ends on the term start date of that term.

Regulation 12(1)(a): revoked, on 9 October 2017, by regulation 5(1)(a) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2017 (LI 2017/256).

Regulation 12(1)(ba): inserted, on 9 October 2017, by regulation 5(1)(b) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2017 (LI 2017/256).

Regulation 12(2): inserted, on 9 October 2017, by regulation 5(2) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2017 (LI 2017/256).

13 Childcare subsidy available only if payable under regulation 14, 16, or 17

A childcare subsidy for an eligible child's participation in approved early-childhood education programmes is payable only if regulation 14 or regulation 16 or regulation 17 provides that it is payable.

Regulation 13: amended, on 20 August 2012, by regulation 10 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

14 Payment of childcare subsidy if principal caregiver engaged in approved activity

- (1) A childcare subsidy for an eligible child's participation in approved early-childhood education programmes is payable for periods of a total of up to 50 hours a week if the child is participating in (or will participate in) one or more approved early-childhood education programmes for a total of 3 or more hours a week, and—
- (a) subclause (2) applies to the child, and either subclause (3) or subclause (4) applies to each of those periods; or
 - (b) a child disability allowance is payable for the child; or
 - (c) the child's principal caregiver is also the principal caregiver of some other child, who is either in hospital or is a child for whom a child disability allowance is payable.

- (2) This subclause applies to a child if at least one of the following applies:
- (a) the child has no other caregiver:
 - (b) the child's other caregiver is engaged in an approved activity:
 - (c) the child's other caregiver is not engaged in an approved activity, but the chief executive is satisfied that for some good reason the other caregiver cannot care for the child.
- (3) This subclause applies to a period if, during that period,—
- (a) the child is participating in an approved early-childhood education programme; and
 - (b) his or her principal caregiver is engaged in an approved activity or travelling between the place where the programme is provided and the place where the activity is engaged in.
- (4) This subclause applies to a period if the child's principal caregiver is engaged in shift employment and (whether the child is participating in an approved early-childhood education programme then, or participates in such a programme at other times when the caregiver usually sleeps), during that period, the child's principal caregiver—
- (a) is undertaking that employment; or
 - (b) travelling between the place where that employment is engaged in and—
 - (i) an approved early-childhood education programme that the child is participating in; or
 - (ii) the caregiver's home.

Regulation 14(1): amended, on 20 August 2012, by regulation 11(1) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

Regulation 14(3)(a): amended, on 20 August 2012, by regulation 11(2) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

Regulation 14(4): amended, on 20 August 2012, by regulation 11(3) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

Regulation 14(4)(b)(i): amended, on 20 August 2012, by regulation 11(3) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

15 Activities in respect of which childcare subsidy available under regulation 14

A childcare subsidy for a child is available under regulation 14 only to enable the child's principal caregiver or other caregiver to undertake one of the following:

- (a) employment (whether full-time or part-time, and whether permanent, temporary, or casual):
- (b) a rehabilitation programme approved by the chief executive:
- (c) *[Revoked]*

- (ca) any activity specified in section 102A(1)(f) of the principal Act that the caregiver is required to undertake under that section or is undertaking under section 123B of the principal Act;
- (d) an employment-related training course offered by a course-provider accredited by the New Zealand Qualifications Authority;
- (e) any other employment-related training course approved by the chief executive;
- (f) a course of study at a secondary school (within the meaning of section 145(1) of the Education Act 1989) or a tertiary educational institution.

Regulation 15(c): revoked, on 15 July 2013, by regulation 5 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2013 (SR 2013/246).

Regulation 15(ca): inserted, on 27 September 2010, by section 35(2) of the Social Security (New Work Tests, Incentives, and Obligations) Amendment Act 2010 (2010 No 105).

16 Payment of childcare subsidy if principal caregiver not engaged in approved activity but has serious disability or illness

A childcare subsidy for a child's participation in approved early-childhood education programmes is payable for up to 50 hours a week if—

- (a) the child is participating in (or will participate in) one or more approved early-childhood education programmes for a total of 3 or more hours a week; and
- (b) the chief executive is satisfied, in the light of a certificate from a medical practitioner, that the child's principal caregiver—
 - (i) has a serious disability or illness; and
 - (ii) needs childcare for the child for more than 9 hours a week; and
- (c) at least 1 of the following applies:
 - (i) the child has no other caregiver;
 - (ii) the child's other caregiver is engaged in an approved activity;
 - (iii) the child's other caregiver is not engaged in an approved activity, but the chief executive is satisfied that for some good reason the other caregiver cannot care for the child;
 - (iv) a child disability allowance is payable for the child.

Regulation 16: amended, on 20 August 2012, by regulation 12 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

Regulation 16(a): amended, on 20 August 2012, by regulation 12 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

17 Payment of childcare subsidy if principal caregiver neither engaged in approved activity nor has serious disability or illness

A childcare subsidy for an eligible child's participation in approved early-childhood education programmes is payable for up to 9 hours a week if—

- (a) the child is participating in (or will participate in) one or more approved early-childhood education programmes for a total of 3 or more hours a week; and
- (b) the child's principal caregiver is not engaged in an approved activity; and
- (c) regulation 16 does not apply.

Regulation 17: amended, on 20 August 2012, by regulation 13 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

Regulation 17(a): amended, on 20 August 2012, by regulation 13 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

18 Rate of childcare subsidy

- (1) A childcare subsidy is payable to a person at the appropriate rate stated in Schedule 1.
- (1A) *[Revoked]*
- (2) Subclause (1) is subject to regulation 6 (which provides that the hourly rate of childcare assistance paid in respect of a child's participation in an approved early-childhood education programme must be no more than the actual hourly fee payable).

Regulation 18(1): replaced, on 8 February 2014, by regulation 4(1) of the Social Security (Childcare Assistance) Amendment Regulations 2014 (LI 2014/7).

Regulation 18(1A): revoked, on 1 April 2015, by regulation 4(1) of the Social Security (Childcare Assistance) Amendment Regulations 2015 (LI 2015/30).

Regulation 18(2): amended, on 1 April 2015, by regulation 4(2) of the Social Security (Childcare Assistance) Amendment Regulations 2015 (LI 2015/30).

Regulation 18(2): amended, on 20 August 2012, by regulation 14 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

19 Childcare subsidy usually payable to service

- (1) A childcare subsidy must be paid (as the case may be) to—
 - (a) the service providing the programme in respect of which it is payable; or
 - (b) the service that arranged the scheme under which the programme in respect of which it is payable is provided.
- (2) Subclause (1) does not prevent the chief executive from paying a lump sum of childcare subsidy directly to a child's principal caregiver if—
 - (a) the sum represents an underpayment of the amounts that should have been paid to a provider of a licensed home-based education and care service in respect of the child's participation in that service; and
 - (b) the caregiver has already paid to the service or arranger the amount of the underpayment.

Regulation 19(2)(a): replaced, on 20 August 2012, by regulation 15 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

Part 3 Out-of-school care and recreation subsidy

OSCAR subsidy

20 Eligibility of child for payment of OSCAR subsidy

An OSCAR subsidy may be paid for a child only if he or she—

- (a) is a dependent child; and
- (b) is participating in (or will participate in) one or more OSCAR programmes for a total of 3 or more hours a week; and
- (c) is—
 - (i) at least 5, and under 14; or
 - (ia) at least 4, and enrolled in and attending a school that has a cohort entry policy in place; or
 - (ii) 14 or older, and is a child for whom a child disability allowance is payable.

Regulation 20: substituted, on 1 April 2006, by regulation 3 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2006 (SR 2006/70).

Regulation 20(c)(ia): inserted, on 9 October 2017, by regulation 6(1) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2017 (LI 2017/256).

Regulation 20(c)(ii): amended, on 9 October 2017, by regulation 6(2) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2017 (LI 2017/256).

20A OSCAR subsidy available only if payable under regulation 22 or regulation 22A

An OSCAR subsidy for an eligible child's participation in an OSCAR programme is payable only if regulation 22 or regulation 22A provides that it is payable.

Regulation 20A: inserted, on 1 April 2006, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2006 (SR 2006/70).

21 Activities in respect of which OSCAR subsidy available under regulation 22

An OSCAR subsidy for a child is available under regulation 22 only to enable the child's principal caregiver to undertake one of the following:

- (a) employment (whether full-time or part-time, and whether permanent, temporary, or casual);
- (b) *[Revoked]*
- (ba) any activity specified in section 102A(1)(f) of the principal Act that the caregiver is required to undertake under that section or is undertaking under section 123B of the principal Act:

- (c) an employment-related training course offered by a course-provider accredited by the New Zealand Qualifications Authority;
- (d) a course of study at a secondary school (within the meaning of section 145(1) of the Education Act 1989) or a tertiary educational institution.

Regulation 21 heading: amended, on 1 April 2006, by regulation 5(1) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2006 (SR 2006/70).

Regulation 21: amended, on 1 April 2006, by regulation 5(2) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2006 (SR 2006/70).

Regulation 21(b): revoked, on 15 July 2013, by regulation 6 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2013 (SR 2013/246).

Regulation 21(ba): inserted, on 27 September 2010, by section 35(2) of the Social Security (New Work Tests, Incentives, and Obligations) Amendment Act 2010 (2010 No 105).

22 Payment of OSCAR subsidy if principal caregiver engaged in approved activity

- (1) An OSCAR subsidy for an eligible child's participation in OSCAR programmes is payable for periods of a total of up to 20 hours a week during the school term, or up to 50 hours a week during the school holidays, if, and only if,—
 - (a) subclause (2) applies to the child, and either subclause (3) or subclause (4) applies to each of those periods; or
 - (b) a child disability allowance is payable for the child; or
 - (c) the child's principal caregiver is also the principal caregiver of some other child who is either in hospital or is a child for whom a child disability allowance is payable.
- (2) This subclause applies to a child if at least 1 of the following applies:
 - (a) the child has no other caregiver;
 - (b) the child's other caregiver is engaged in an approved activity;
 - (c) the child's other caregiver is not engaged in an approved activity, but the chief executive is satisfied that for some good reason the other caregiver cannot care for the child.
- (3) This subclause applies to a period if, during that period,—
 - (a) the child is participating in an OSCAR programme; and
 - (b) his or her principal caregiver is engaged in an approved activity or travelling between the place where the programme is participated in and the place where the activity is engaged in.
- (4) This subclause applies to a period if the child's principal caregiver is engaged in shift employment and (whether the child is participating in an OSCAR programme then, or participates in such a programme at other times when the caregiver usually sleeps), during that period, the child's principal caregiver—
 - (a) is undertaking that employment; or

- (b) travelling between the place where that employment is engaged in and—
 - (i) a place where the child is participating in an OSCAR programme;
or
 - (ii) the caregiver's home.

Regulation 22 heading: substituted, on 1 April 2006, by regulation 6(1) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2006 (SR 2006/70).

Regulation 22(1)(a): substituted, on 1 April 2006, by regulation 6(2) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2006 (SR 2006/70).

Regulation 22(1)(b): substituted, on 1 April 2006, by regulation 6(2) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2006 (SR 2006/70).

Regulation 22(1)(c): added, on 1 April 2006, by regulation 6(2) of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2006 (SR 2006/70).

22A Payment of OSCAR subsidy if principal caregiver has serious disability or illness

An OSCAR subsidy for a child's participation in an OSCAR programme is payable for up to 20 hours a week during the school term, or up to 50 hours a week during the school holidays, if—

- (a) the child is participating in (or will participate in) 1 or more OSCAR programmes for a total of 3 or more hours a week; and
- (b) the chief executive is satisfied, in the light of a certificate from a medical practitioner, that the child's principal caregiver—
 - (i) has a serious disability or illness; and
 - (ii) needs an OSCAR programme for the child for more than 3 hours a week; and
- (c) at least 1 of the following applies:
 - (i) the child has no other caregiver;
 - (ii) the child's other caregiver is engaged in an approved activity;
 - (iii) the child's other caregiver is not engaged in an approved activity, but the chief executive is satisfied that for some good reason the other caregiver cannot care for the child;
 - (iv) a child disability allowance is payable for the child.

Regulation 22A: inserted, on 1 April 2006, by regulation 7 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2006 (SR 2006/70).

23 OSCAR subsidy payable to provider or principal caregiver

An OSCAR subsidy may be paid to the provider of the OSCAR programme concerned, or to the principal caregiver of the child concerned.

24 Rate of OSCAR subsidy

- (1) An OSCAR subsidy is payable to a person at the appropriate rate stated in Schedule 1.

(2) *[Revoked]*

Regulation 24: replaced, on 8 February 2014, by regulation 5 of the Social Security (Childcare Assistance) Amendment Regulations 2014 (LI 2014/7).

Regulation 24(2): revoked, on 1 April 2015, by regulation 5 of the Social Security (Childcare Assistance) Amendment Regulations 2015 (LI 2015/30).

*Approval of OSCAR programmes***25 Approval of programmes**

(1) The chief executive, if satisfied, in the light of the matters stated in regulation 27, that an out-of-school programme or proposed out-of-school programme is or will be properly run, may, by written notice to the provider, approve it for the purposes of this Part.

(2) An approval—

(a) may be unconditional or subject to conditions stated in the notice; and

(b) may be for an indefinite period or for a period stated in the notice.

Regulation 25(1): replaced, on 1 April 2017, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2017 (LI 2017/31).

26 Suspension and revocation of approvals

The chief executive may, by written notice to its provider, suspend or revoke the approval of a programme under regulation 25,—

(a) if the chief executive is satisfied, in the light of the matters stated in regulation 27, that it is not properly run; or

(b) if, after making reasonable efforts to do so, the chief executive has been unable to obtain enough information to be satisfied, in the light of the matters stated in regulation 27, that it is properly run; or

(c) if the chief executive is satisfied that there has been a breach of a condition subject to which the approval was given.

Regulation 26: replaced, on 1 April 2017, by regulation 5 of the Social Security (Childcare Assistance) Amendment Regulations 2017 (LI 2017/31).

27 Matters to be considered before programmes approved or approvals suspended or revoked

The following matters must be considered in deciding whether an out-of-school programme is properly run (or a proposed out-of-school programme will be properly run):

(a) the adequacy with which the programme provides for—

(i) the health and safety of the children participating;

(ii) the care and recreation of the children participating;

(iii) the health and safety of the staff and volunteers involved;

- (b) the competence, training, and suitability of the staff and volunteers involved in the programme:
- (c) the competence of the programme's supervision:
- (d) the suitability and safety of the environment in which the programme is operating:
- (e) the competence of the provider's management (including its financial management):
- (f) the extent of the programme's compliance with relevant enactments and bylaws:
- (g) the programme's responsiveness to applicable cultural issues.

Part 4 **Miscellaneous**

Overpayments

28 Recovery of overpayments

- (1) A payment of childcare assistance that is an overpayment (within the meaning of section 85A(f) of the principal Act) is—
 - (a) a debt due to the Crown under section 85A(f) of the principal Act from the applicant; and
 - (b) subject to recovery under section 86(1) (chief executive's duty to recover debt referred to in section 85A) of the principal Act from the applicant.
- (2) If, because a child has ceased to be enrolled or has been absent from an approved early-childhood education programme or an OSCAR programme, childcare assistance has been paid to a service in excess of the amount that the service was entitled to be paid, the chief executive may recover the amount of the excess by making 1 or more deductions from any other amount or amounts payable to the service under these regulations.

Regulation 28(1): replaced, on 7 July 2014, by section 33 of the Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014 (2014 No 21).

Regulation 28(2): amended, on 20 August 2012, by regulation 16 of the Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206).

Transitional provisions

29 Subsidies granted before commencement of regulations

- (1) This regulation applies to a person who, immediately before the commencement of these regulations, was in receipt of a childcare subsidy or an OSCAR subsidy in respect of a dependent child under the welfare programme for childcare assistance approved under section 124(1)(d) of the principal Act.

- (2) A person to whom this regulation applies is entitled to receive childcare assistance under these regulations without application if the chief executive is satisfied that the person's circumstances have not altered so as to affect the entitlement to, or the rate of, the assistance.
- (3) This subclause applies to a person if, on account of an increase in the rate of an accommodation supplement payable to the person or the person's spouse arising solely as a consequence of an amendment to Schedule 18 of the principal Act made by the Social Security (Working for Families) Amendment Act 2004 (being an amendment that comes into force on 1 April 2005),—
 - (a) the person would not be entitled to childcare assistance; or
 - (b) the amount of a person's childcare assistance would be reduced.
- (4) When calculating for the purposes of these regulations the household income of a person to whom subclause (3) applies, the chief executive must disregard so much of the increase as would produce the result referred to in subclause (3) until,—
 - (a) the person's household income otherwise increases by any amount; or
 - (b) the person receives childcare assistance in respect of an additional dependant; or
 - (c) the total amount of childcare assistance the person is entitled to receive decreases because the person is no longer entitled to receive childcare assistance in respect of 1 or more dependent children; or
 - (d) the person has a decrease in household income that entitles the person to receive a higher rate of childcare assistance.
- (5) Subclauses (3) and (4) override subclause (2).
- (6) Nothing in this regulation limits the application of section 81 of the principal Act to these regulations.

30 Approvals given before commencement of regulations

The approval of an out-of-school programme or proposed out of school programme by the chief executive of the Department of Child, Youth, and Family Services given before the commencement of these regulations may be suspended or revoked under regulation 26 as if it had been given under regulation 25.

Schedule 1 Rates of childcare and OSCAR subsidies

rr 18, 24

Schedule 1: substituted, on 27 September 2010, by section 43 of the Social Security (New Work Tests, Incentives, and Obligations) Amendment Act 2010 (2010 No 105).

- 1 For a principal caregiver with 1 dependent child where household income before the deduction of income tax is—
- | | | |
|------|--|-----------------|
| (a) | less than \$800 a week | \$5.13 per hour |
| (ab) | \$800 or more but less than \$1,200 a week | \$4.09 per hour |
| (b) | \$1,200 or more but less than \$1,300 a week | \$2.86 per hour |
| (c) | \$1,300 or more but less than \$1,400 a week | \$1.59 per hour |
| (d) | \$1,400 or more a week | Nil |
- 2 For a principal caregiver with 2 dependent children where household income before the deduction of income tax is—
- | | | |
|------|--|-----------------|
| (a) | less than \$920 a week | \$5.13 per hour |
| (ab) | \$920 or more but less than \$1,380 a week | \$4.09 per hour |
| (b) | \$1,380 or more but less than \$1,490 a week | \$2.86 per hour |
| (c) | \$1,490 or more but less than \$1,600 a week | \$1.59 per hour |
| (d) | \$1,600 or more a week | Nil |
- 3 For a principal caregiver with 3 or more dependent children where household income before the deduction of income tax is—
- | | | |
|------|--|-----------------|
| (a) | less than \$1,030 a week | \$5.13 per hour |
| (ab) | \$1,030 or more but less than \$1,540 a week | \$4.09 per hour |
| (b) | \$1,540 or more but less than \$1,670 a week | \$2.86 per hour |
| (c) | \$1,670 or more but less than \$1,800 a week | \$1.59 per hour |
| (d) | \$1,800 or more a week | Nil |
- 4 *[Revoked]*

Schedule 1 clause 1(a): replaced, on 4 April 2016, by regulation 4(1) of the Social Security (Childcare Assistance) Amendment Regulations 2016 (LI 2016/47).

Schedule 1 clause 1(a): amended, on 1 April 2018, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20).

Schedule 1 clause 1(ab): inserted, on 4 April 2016, by regulation 4(1) of the Social Security (Childcare Assistance) Amendment Regulations 2016 (LI 2016/47).

Schedule 1 clause 1(ab): amended, on 1 April 2018, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20).

Schedule 1 clause 1(b): amended, on 1 April 2018, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20).

Schedule 1 clause 1(c): amended, on 1 April 2018, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20).

Schedule 1 clause 2(a): replaced, on 4 April 2016, by regulation 4(2) of the Social Security (Childcare Assistance) Amendment Regulations 2016 (LI 2016/47).

Schedule 1 clause 2(a): amended, on 1 April 2018, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20).

Schedule 1 clause 2(ab): inserted, on 4 April 2016, by regulation 4(2) of the Social Security (Childcare Assistance) Amendment Regulations 2016 (LI 2016/47).

Schedule 1 clause 2(ab): amended, on 1 April 2018, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20).

Schedule 1 clause 2(b): amended, on 1 April 2018, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20).

Schedule 1 clause 2(c): amended, on 1 April 2018, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20).

Schedule 1 clause 3(a): replaced, on 4 April 2016, by regulation 4(3) of the Social Security (Childcare Assistance) Amendment Regulations 2016 (LI 2016/47).

Schedule 1 clause 3(a): amended, on 1 April 2018, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20).

Schedule 1 clause 3(ab): inserted, on 4 April 2016, by regulation 4(3) of the Social Security (Childcare Assistance) Amendment Regulations 2016 (LI 2016/47).

Schedule 1 clause 3(ab): amended, on 1 April 2018, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20).

Schedule 1 clause 3(b): amended, on 1 April 2018, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20).

Schedule 1 clause 3(c): amended, on 1 April 2018, by regulation 4 of the Social Security (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20).

Schedule 1 clause 4: revoked, on 4 April 2016, by regulation 4(4) of the Social Security (Childcare Assistance) Amendment Regulations 2016 (LI 2016/47).

Schedule 2

Grandparented rates of childcare and OSCAR subsidies under regulations 18(1A) and 24(2)

[Revoked]

rr 18, 24

Schedule 2: revoked, on 1 April 2015, by regulation 7 of the Social Security (Childcare Assistance) Amendment Regulations 2015 (LI 2015/30).

Diane Morcom,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Social Security (Childcare Assistance) Regulations 2004 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 (Childcare Assistance) Amendment Regulations 2018 (LI 2018/20)
Social Security (Childcare Assistance) Amendment Regulations (No 2) 2017 (LI 2017/256)
Social Security (Childcare Assistance) Amendment Regulations 2017 (LI 2017/31)
Social Security (Childcare Assistance) Amendment Regulations 2016 (LI 2016/47)
Social Security (Childcare Assistance) Amendment Regulations 2015 (LI 2015/30)
Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014 (2014 No 21): section 33
Social Security (Childcare Assistance) Amendment Regulations 2014 (LI 2014/7)
Social Security (Childcare Assistance) Amendment Regulations (No 2) 2013 (SR 2013/246)
Social Security (Childcare Assistance) Amendment Regulations (No 2) 2012 (SR 2012/206)
Social Security (New Work Tests, Incentives, and Obligations) Amendment Act 2010 (2010 No 105): sections 35(2), 41–43
Social Security (Childcare Assistance) Amendment Regulations (No 2) 2006 (SR 2006/70)
Social Security (Childcare Assistance) Amendment Regulations 2006 (SR 2006/45)
Social Security (Childcare Assistance) Amendment Regulations (No 2) 2005 (SR 2005/179)