

Reprint
as at 26 November 2018



Social Security (Temporary Additional Support) Amendment Regulations (No 2) 2008 (SR 2008/70)

Social Security (Temporary Additional Support) Amendment Regulations (No 2) 2008: revoked, on 26 November 2018, pursuant to regulation 295(22) of the Social Security Regulations 2018 (LI 2018/202).

Anand Satyanand, Governor-General

Order in Council

At Wellington this 17th day of March 2008

Present:

Right Hon Helen Clark presiding in Council

Pursuant to section 132AB 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 (Temporary Additional Support) Amendment Regulations (No 2) 2008.

2 Commencement

These regulations come into force on 1 May 2008.

3 Principal regulations amended

These regulations amend the Social Security (Temporary Additional Support) Regulations 2005.

4 Cash assets defined

Regulation 8(3) is amended by adding “; or” and also by adding the following paragraph:

(h) any interest to which regulation 8B applies.

5 New regulation 8B inserted

The following regulation is inserted after regulation 8A:

8B Certain interests in KiwiSaver schemes and specified non-KiwiSaver schemes declared not to be cash assets by regulation 8(3)(h)

- (1) This regulation applies to a person’s member’s interest, on or after 1 May 2008, in a KiwiSaver scheme or a specified non-KiwiSaver scheme.
- (2) However, subclause (1) applies only while a qualifying lock-in clause prevents the person from making or receiving a withdrawal from the scheme.
- (3) Subclause (4) applies to a person who, as a member of a KiwiSaver scheme or specified non-KiwiSaver scheme, has exercised a right under the provisions of the scheme to elect to defer receipt of any benefit that he or she is eligible to receive under the scheme.
- (4) A qualifying lock-in clause must for the purposes of subclause (2) be treated as not preventing the person, as a member of the scheme, from making or receiving a withdrawal from the scheme.
- (5) In this regulation, unless the context otherwise requires,—

contribution means any contribution to a scheme (for example—

- (a) an employer contribution (for example, a compulsory employer contribution); or
- (b) any Crown contribution)

Crown contribution,—

- (a) in relation to a KiwiSaver scheme, has the same meaning as in section 4(1) of the KiwiSaver Act 2006; and
- (b) in relation to a specified non-KiwiSaver scheme, means any Crown contribution

expected time of retirement, in relation to a member of a non-KiwiSaver scheme, means the member's expected age or date of retirement as defined in the provisions of the scheme

fee subsidy,—

- (a) in relation to a KiwiSaver scheme, has the same meaning as in section 4(1) of the KiwiSaver Act 2006; and
- (b) in relation to a specified non-KiwiSaver scheme, means any fee subsidy

KiwiSaver scheme and **KiwiSaver scheme rules** have the same meanings as in section 4(1) of the KiwiSaver Act 2006

member's interest, in relation to a member of a scheme, means the total of—

- (a) the member's contributions; and
- (b) any employer contributions (vested or unvested) in respect of the member; and
- (c) any fee subsidies paid in respect of the member; and
- (d) any Crown contribution paid in respect of the member

net value, in relation to a member's interest, means the value of the member's interest once any other appropriate debits and credits have been made to account for things like fees, permitted withdrawals or permitted proposed withdrawals, and positive and negative returns

non-KiwiSaver scheme means a scheme that is not a KiwiSaver scheme, but is registered under the Superannuation Schemes Act 1989

permitted, in relation to a withdrawal or proposed withdrawal, means that the withdrawal is, or the proposed withdrawal if it were provided would be, permitted under the provisions of the scheme

proposed withdrawal means a withdrawal that has been applied for, but has not yet been provided

provision, in relation to a scheme, means a provision (express or implied) of either or both of the following:

- (a) the deed that established the relevant trust or (as the case may be) Act of the Parliament of New Zealand that constituted the relevant arrangement;
- (b) any rules of the scheme

qualifying lock-in clause, in relation to a KiwiSaver scheme means the provision of the scheme implied in its trust deed under section 126 and clause 4 (lock-in of funds to KiwiSaver end payment date) of Schedule 1 of the KiwiSaver Act 2006 and, in relation to a non-KiwiSaver scheme, means a provision of the scheme that—

- (a) prevents a member of the scheme from making or receiving a withdrawal from the scheme until either or both of the following apply to the member:
 - (i) he or she reaches an expected time of retirement;
 - (ii) he or she leaves, before reaching the expected time of retirement,—
 - (A) the employment in respect of which the scheme was constituted or established; or
 - (B) any employment covered by the scheme; and
- (b) may, but need not, be, or be accompanied by another provision of the scheme that is, a standard withdrawals or transfer clause

scheme means a superannuation scheme (for example, a KiwiSaver scheme or a non-KiwiSaver scheme)

specified non-KiwiSaver scheme means a non-KiwiSaver scheme the provisions of which include a qualifying lock-in clause

standard withdrawals clause, in relation to a scheme, means a provision of the scheme that permits a member of the scheme to make or receive a withdrawal from the scheme in circumstances that are, or are essentially, the same as those specified in all or any of the following clauses of Schedule 1 of the KiwiSaver Act 2006:

- (a) clause 8 (purchase of a first home):
- (b) clause 10 (significant financial hardship):
- (c) clause 12 (serious illness)

withdrawal, in relation to a member and a KiwiSaver scheme or a non-KiwiSaver scheme,—

- (a) includes any benefit provided from, and debited against the member's interest in, the scheme; but

- (b) does not include a permitted withdrawal or permitted proposed withdrawal that is a transfer (with or without the member's consent) from the scheme to another KiwiSaver scheme or non-KiwiSaver scheme; and
- (c) for the purposes of subclause (2), does not include a withdrawal made or received in accordance with a standard withdrawals clause.

Diane Morcom,
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 1 May 2008, amend the Social Security (Temporary Additional Support) Regulations 2005.

The amendments affect the assessment of a person's eligibility for assistance by excluding certain interests in KiwiSaver schemes and specified non-KiwiSaver schemes from the definition of cash assets. A specified non-KiwiSaver scheme is one that is registered under the Superannuation Schemes Act 1989 and that limits withdrawals from the scheme by a qualifying lock-in clause.

The interest excluded from a person's cash assets is the net value of the person's member's interest, on or after 1 May 2008, in a KiwiSaver scheme or a specified non-KiwiSaver scheme.

A member's interest, for a member of a scheme, means the total of the following:

- the member's contributions; and
- any employer contributions (vested or unvested) in respect of the member; and
- any fee subsidies paid in respect of the member; and
- any Crown contribution paid in respect of the member.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 20 March 2008.

Reprints notes

1 *General*

This is a reprint of the Social Security (Temporary Additional Support) Amendment Regulations (No 2) 2008 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(22)