

Reprint  
as at 30 March 2021



## Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018

(LI 2018/173)

Regulations name: replaced, on 1 October 2019, by section 34(4) of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Patsy Reddy, Governor-General

### Order in Council

At Wellington this 24th day of September 2018

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 114 of the Housing Restructuring and Tenancy Matters Act 1992 on the advice and with the consent of the Executive Council.

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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.**

**Public and Community Housing Management  
(Prescribed Elements of Calculation Mechanism)  
Regulations 2018**

Reprinted as at  
30 March 2021

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## Regulations

### 1 Title

These regulations are the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018.

Regulation 1: replaced, on 1 October 2019, by section 34(4) of the Kāinga Ora—Homes and Communities Act 2019 (2019 No 50).

### 2 Commencement

These regulations come into force on 1 October 2018.

### 3 Interpretation

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

**Act** means the Public and Community Housing Management Act 1992

**cash assets** has the same meaning as in section 68(2) of the Social Security Act 2018

**Crown** means all or any of the following:

- (a) the Sovereign in right of New Zealand;
- (b) all Ministers of the Crown, and all public service agencies as defined in section 5 of the Public Service Act 2020;
- (c) Crown entities as defined in section 7(1) of the Crown Entities Act 2004 (for example, DHBs):

- (d) every other instrument of the Crown in respect of the Government of New Zealand, whether the instrument is or was an agency, corporation, department, division, enterprise, service, or otherwise (for example, every predecessor in title of a DHB)

**dependent child**,—

- (a) in regulation 9, has the same meaning as in section YA 1 of the Income Tax Act 2007; and
- (b) in any other provision of these regulations, has the same meaning as in Schedule 2 of the Social Security Act 2018

**DHB** has the same meaning as in section 6(1) of the New Zealand Public Health and Disability Act 2000

**disability support services** has the same meaning as in section 6(1) of the New Zealand Public Health and Disability Act 2000

**main benefit** has the same meaning as in section 349 of the Social Security Act 2018

**predecessor in title**, in relation to a DHB, has the same meaning as in section 2(1) of the Health Sector (Transfers) Act 1993

**section** means a section of the Act.

- (2) A term or expression defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

Regulation 3(1) **Act**: amended, on 1 October 2019, by section 33 of the Kāinga Ora—Homes and Communities Act 2019 (2019 No 50).

Regulation 3(1) **cash assets**: amended, on 30 November 2018, by regulation 4(1) of the Housing Restructuring and Tenancy Matters (Prescribed Elements of Calculation Mechanism) Amendment Regulations 2018 (LI 2018/237).

Regulation 3(1) **COVID-19 income relief payment**: revoked, on 11 February 2021, by clause 2(2) of the Schedule.

Regulation 3(1) **COVID-19 Income Relief Payment Programme**: revoked, on 11 February 2021, by clause 2(2) of the Schedule.

Regulation 3(1) **Crown** paragraph (b): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Regulation 3(1) **dependent child** paragraph (b): amended, on 30 November 2018, by regulation 4(2) of the Housing Restructuring and Tenancy Matters (Prescribed Elements of Calculation Mechanism) Amendment Regulations 2018 (LI 2018/237).

Regulation 3(1) **income-tested benefit**: revoked, on 30 March 2021, by section 142 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Regulation 3(1) **main benefit**: inserted, on 30 March 2021, by section 142 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

#### **4 Transitional, savings, and related provisions**

The transitional, savings, and related provisions (if any) set out in the Schedule have effect according to their terms.

*Prescribed proportions, thresholds, and amounts*

**5 Proportion of income up to threshold**

For the purpose of section 107(2)(a), the proportion of 25% is prescribed.

**6 Thresholds**

For the purposes of section 107(2)(a) and (b), the following thresholds are prescribed:

- (a) for a sole tenant who has no spouse or partner and no dependent children, the rate stated in clause 1(a) of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001, after deduction of standard tax; and
- (b) in every other case, the rate stated in clause 1(c) of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001, after deduction of standard tax and multiplied by 2.

**7 Proportion of income above threshold**

For the purpose of section 107(2)(b), the proportion of 50% is prescribed.

**8 Proportion of family tax credit**

For the purposes of sections 107(2)(c) and 107(3)(b), the proportion of 25% is prescribed.

**9 Prescribed amount of family tax credit**

For the purposes of sections 107(2)(c)(ii) and 107(3)(b)(ii), the maximum rate of family tax credit payable under subparts MA to MF and MZ of the Income Tax Act 2007 in respect of an eldest dependent child who is under 16 years is prescribed.

**10 Proportion of benefit**

For the purpose of section 107(3)(a), the proportion of 25% is prescribed.

*Contributions by additional residents*

**11 Application**

This regulation applies to social housing if, and only if, in the agency's opinion, the applicable persons' principal source of income is contributions from additional residents.

**12 Extent to which contributions included in income**

For the purpose of section 109(2),—

- (a) if regulation 11 applies to social housing, the weekly income of the applicable persons includes all contributions from additional residents:

- (b) if regulation 11 does not apply to social housing and the applicable persons receive contributions from fewer than 3 additional residents, their weekly income does not include any contributions from additional residents:
- (c) if regulation 11 does not apply to social housing and the applicable persons receive contributions from 3 or more additional residents, their weekly income—
  - (i) does not include any contributions from the 2 additional residents making the greatest contributions; and
  - (ii) includes only 62% of the sum of the contributions from the other additional resident or residents.

*Payments included in or excluded from income*

**13 Certain payments to be income**

For the purpose of section 110(1)(a), a person's weekly income includes—

- (a) the appropriate weekly proportion of every amount or payment received as—
  - (i) a main benefit other than an orphan's benefit or an unsupported child's benefit; or
  - (ia) *[Revoked]*
  - (ii) New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001 or a veteran's pension under Part 6 of the Veterans' Support Act 2014; or
  - (iii) a study grant; and
- (b) amounts received under the Accident Compensation Act 2001 as weekly compensation for loss of earnings or potential earning capacity; and
- (c) any minimum family tax credit that the person is eligible for under subparts MA to MF and MZ of the Income Tax Act 2007.

Regulation 13(a)(i): amended, on 30 March 2021, by section 142 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Regulation 13(a)(ia): revoked, on 11 February 2021, by clause 2(3) of the Schedule.

**14 Certain payments not to be income**

For the purpose of section 110(1)(b), a person's weekly income does not include—

- (a) an amount or a payment—
  - (i) received as a benefit, an allowance, or other payment under the Social Security Act 2018 not referred to in regulation 13(a); or

- (ii) received as a parental tax credit, child tax credit, in-work tax credit, or Best Start tax credit under subparts MA to MG and MZ of the Income Tax Act 2007; or
  - (iii) of a kind stated in any of clause 8(b) to (j) and (m) to (p) of Schedule 3 of the Social Security Act 2018; or
  - (iv) of a kind stated in clause 4 of Schedule 8 of the Social Security Regulations 2018; or
- (b) for a person with a disability (A),—
- (i) the value of any regular disability support services supplied to A;
  - (ii) any direct payment of disability support made by or on behalf of the Crown to A, or a person on A's behalf, for the purposes of purchasing or obtaining disability support services for A; or
- (c) the value of any regular disability support services supplied to any dependent child of the person who—
- (i) is residing in the social housing concerned; and
  - (ii) is a person with a disability.

Regulation 14(a)(i): amended, on 30 November 2018, by regulation 5(1) of the Housing Restructuring and Tenancy Matters (Prescribed Elements of Calculation Mechanism) Amendment Regulations 2018 (LI 2018/237).

Regulation 14(a)(iii): amended, on 30 November 2018, by regulation 5(2) of the Housing Restructuring and Tenancy Matters (Prescribed Elements of Calculation Mechanism) Amendment Regulations 2018 (LI 2018/237).

Regulation 14(a)(iv): inserted, on 30 November 2018, by regulation 5(3) of the Housing Restructuring and Tenancy Matters (Prescribed Elements of Calculation Mechanism) Amendment Regulations 2018 (LI 2018/237).

## 15 Assessable assets

- (1) For the purpose of section 111(2), **assessable assets**,—
- (a) for a person with a spouse or partner or a single person with a dependent child or children, means any cash assets in excess of \$5,400;
  - (b) in any other case, means any cash assets in excess of \$2,700.
- (2) If, on or after the date on which this subclause comes into force, a person receives an impairment lump sum under Schedule 1 of the Accident Compensation Act 2001 or a lump sum payment of an independence allowance under Part 13 of the Accident Insurance Act 1998 or Part 4 of Schedule 1 of that Act, then for the period of 12 months following the receipt of that lump sum payment, the applicable amount in subclause (1)(a) or (b) is considered to be increased by the amount of that payment.

### *Period for estimating income*

## 16 Period for estimating income

For the purpose of section 113, the period of 52 weeks is prescribed.

## **Schedule Transitional, savings, and related provisions**

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### **Part 1 Provisions relating to these regulations as made**

Schedule Part 1: replaced, on 8 June 2020, by regulation 6 of the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) (COVID-19 Income Relief Payment to be Income) Amendment Regulations 2020 (LI 2020/98).

#### **1 No transitional, savings, or related provisions**

There are no transitional, savings, or related provisions relating to these regulations as made.

Schedule clause 1: replaced, on 8 June 2020, by regulation 6 of the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) (COVID-19 Income Relief Payment to be Income) Amendment Regulations 2020 (LI 2020/98).

### **Part 2 Provisions relating to Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) (COVID-19 Income Relief Payment to be Income) Amendment Regulations 2020**

Schedule Part 2: inserted, on 8 June 2020, by regulation 6 of the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) (COVID-19 Income Relief Payment to be Income) Amendment Regulations 2020 (LI 2020/98).

#### **2 Revocations**

- (1) This clause takes effect when the COVID-19 Income Relief Payment Programme is revoked and not replaced.
- (2) In regulation 3(1), revoke the definitions of **COVID-19 income relief payment** and **COVID-19 Income Relief Payment Programme**.
- (3) Revoke regulation 13(a)(ia).
- (4) In this clause, **COVID-19 Income Relief Payment Programme** has the meaning in regulation 4 of the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) (COVID-19 Income Relief Payment to be Income) Amendment Regulations 2020.

Schedule clause 2: inserted, on 8 June 2020, by regulation 6 of the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) (COVID-19 Income Relief Payment to be Income) Amendment Regulations 2020 (LI 2020/98).

#### **3 Effect of revocation of provision ensuring COVID-19 income relief payment is income**

The revocation of regulation 13(a)(ia) does not affect its operation—

- (a) on or after 8 June 2020; and
- (b) before it is revoked by clause 2.

Schedule clause 3: inserted, on 8 June 2020, by regulation 6 of the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) (COVID-19 Income Relief Payment to be Income) Amendment Regulations 2020 (LI 2020/98).

Michael Webster,  
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 27 September 2018.



## **Reprints notes**

### **1 *General***

This is a reprint of the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018 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***

Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8): section 142

Public Service Act 2020 (2020 No 40): section 135

Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) (COVID-19 Income Relief Payment to be Income) Amendment Regulations 2020 (LI 2020/98)

Kāinga Ora—Homes and Communities Act 2019 (2019 No 50): sections 33, 34(4)

Housing Restructuring and Tenancy Matters (Prescribed Elements of Calculation Mechanism) Amendment Regulations 2018 (LI 2018/237)

Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018 (LI 2018/173): Schedule clause 2