

Reprint
as at 1 April 2019



Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2008 (SR 2008/69)

Social Security (Long-term Residential Care) Amendment Regulations (No 2) 2008: revoked, on 1 April 2019, pursuant to regulation 20 of the Residential Care and Disability Support Services Regulations 2018 (LI 2018/203).

Anand Satyanand, Governor-General

Order in Council

At Wellington this 17th day of March 2008

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 155 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.

Contents

		Page
1	Title	2
2	Commencement	2
3	Principal regulations amended	2
4	Assets exempt from means assessment	2

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.

Regulations

1 Title

These regulations are the Social Security (Long-term Residential Care) 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 (Long-term Residential Care) Regulations 2005.

4 Assets exempt from means assessment

(1) Regulation 10(1) is amended by adding the following paragraph:

- (i) where the person or the person's spouse or partner is a member of a specified non-KiwiSaver scheme,—
 - (i) any contributions made to that scheme on or after 1 May 2008 by, or in respect of, the member; and
 - (ii) any interest that the member has in that scheme on or after 1 May 2008 except—
 - (A) a withdrawal that the member has received from the scheme:
 - (B) a withdrawal that the member is entitled to receive from the scheme on reaching the expected time of retirement:
 - (C) a withdrawal that the member is entitled to receive from the scheme on leaving the employment in respect of which the scheme was constituted or established, or any employment covered by the scheme, before reaching the expected time of retirement:
 - (D) a withdrawal that the member has applied to receive from the scheme that the member is permitted to receive under the provisions of the scheme.

(2) Regulation 10 is amended by inserting the following subclause after subclause (1C):

(1D) In subclause (1)(i),—

expected time of retirement means the member's expected age or date of retirement as defined in the provisions of the scheme

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 approved

provision 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) the Act of the Parliament of New Zealand that constituted the relevant arrangement;
- (b) any rules of the scheme

qualifying lock-in clause 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 the 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 clause

specified non-KiwiSaver scheme or **scheme** means a scheme that is not a KiwiSaver scheme, but—

- (a) is registered under the Superannuation Schemes Act 1989; and
- (b) whose provisions include a qualifying lock-in clause

standard withdrawals clause 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,—

- (a) includes any benefit (as defined in section 2(1) of the Superannuation Schemes Act 1989) 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 a KiwiSaver scheme or to another non-KiwiSaver scheme.

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, are made under the Social Security Act 1964 (the **Act**). They extend the categories, prescribed by regulation 10 of the Social Security (Long-term Residential Care) Regulations 2005, of assets that are exempt from means assessment under Part 4 of the Act.

The new category of exempt assets, which is prescribed by *new regulation 10(1)(i)* is—

- any contribution made to a specified non-KiwiSaver scheme by, or in respect of, the person or his or her spouse or partner as a member of that scheme; and
- any interest the person or his or her spouse or partner has in a specified non-KiwiSaver scheme, but excluding—
 - any withdrawals received by the person or his or her spouse or partner from the scheme; and
 - any withdrawals that the person or his or her spouse or partner is entitled to receive from the scheme; and
 - any permitted withdrawals that the person or his or her spouse or partner has applied to receive from the scheme.

A specified non-KiwiSaver scheme is defined as a scheme that is registered under the Superannuation Schemes Act 1989 and includes in its provisions a qualifying lock-in clause. A qualifying lock-in clause is a clause in a scheme that prevents a member of the scheme from making or receiving a withdrawal from the scheme until specified events occur.

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 (Long-term Residential Care) 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*

Residential Care and Disability Support Services Regulations 2018 (LI 2018/203): regulation 20