

**Reprint
as at 26 November 2018**



**Social Security (Exemptions under Section 105)
Amendment Regulations 2013**
(SR 2013/250)

Social Security (Exemptions under Section 105) Amendment Regulations 2013: revoked, on 26 November 2018, pursuant to regulation 295(10) of the Social Security Regulations 2018 (LI 2018/202).

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 10th day of June 2013

Present:
His Excellency the Governor-General in Council

Pursuant to sections 123D and 132 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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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 (Exemptions under Section 105) Amendment Regulations 2013.

2 Commencement

- (1) These regulations, except regulation 8(3) and (5), come into force on 15 July 2013.
- (2) Regulation 8(3) comes into force immediately after the commencement, on 15 July 2013, of section 97 and Part 2 of Schedule 4 of the Social Security (Benefit Categories and Work Focus) Amendment Act 2013.
- (3) Regulation 8(5) comes into force immediately after the commencement, on 15 July 2013, of section 114 and Part 2 of Schedule 5 of the Social Security (Benefit Categories and Work Focus) Amendment Act 2013.

3 Principal regulations

These regulations amend the Social Security (Exemptions under Section 105) Regulations 1998 (the **principal regulations**) at the same time as or, as the case may be, immediately after, the principal regulations are amended, on 15 July 2013, by the following provisions of the Social Security (Benefit Categories and Work Focus) Amendment Act 2013:

- (a) section 86 and Part 2 of Schedule 3;
- (b) section 97 and Part 2 of Schedule 4;
- (c) section 98(9);

(d) section 114 and Part 2 of Schedule 5.

4 Regulation 2 amended (Interpretation)

In regulation 2(1), definition of **special needs**, after paragraph (d), insert:

(e) a need to adjust to a new placement as a foster child.

5 Regulation 3A amended (Exemption from obligations under section 60Q)

(1) After regulation 3A(1), insert:

(1A) A person receiving a supported living payment under section 40B or 40D of the Act to whom section 60Q(3) of the Act applies by virtue of section 40F or 40H of the Act may apply for an exemption from his or her obligations under section 60Q(3) of the Act on any ground listed in subclause (2).

(2) In regulation 3A(2), after “subclause (1)”, insert “or (1A)”.

(3) In regulation 3A(2)(b), replace “section 60Q(1)(a) or (b),” with “section 60Q(1)(a), (ba), (bb), or (bc),”.

(4) In regulation 3A(2)(b)(iii), replace “ended” with “ended; or”.

(5) After regulation 3A(2)(b), insert:

(c) the person is caring full-time for another person whose sickness, injury, or disability requires full-time care; or

(d) the person has a sickness, injury, or disability that prevents the person from meeting his or her obligations; or

(e) the person is the principal caregiver of a dependent child or foster child with special needs (as defined in regulation 2(1))—

(i) whose welfare would be unduly harmed if the person met his or her obligations; and

(ii) for whom satisfactory alternative care arrangements are not available, or are unable to be made, by the caregiver; or

(f) the person’s capacity to meet his or her obligations is limited because that person is subject to—

(i) a sentence of supervision under the Sentencing Act 2002; or

(ii) release conditions (as that term is defined in section 4(1) of the Parole Act 2002); or

(iii) conditions of release on bail under any enactment; or

(iv) any other sentence or order imposed by a court.

(6) After regulation 3A(2), insert:

(3) Nothing in this regulation limits or affects clause 12 of Schedule 32 of the Act (which, for the period that must end before 15 July 2015 and is specified in clause 12(5) of Schedule 32 of the Act, deems a full-time student to whom clause 12(1) or (2) of Schedule 32 of the Act applies to have been exempted

under section 105 from all his or her work preparation obligations under section 60Q).

(7) Regulation 3A(3) (as inserted by subclause (6)) is revoked on 15 July 2015.

6 Regulation 4 amended (Exemption from work test obligations: all work-tested beneficiaries)

(1) Revoke regulation 4(2)(cb).

(2) After regulation 4(3), insert:

(4) Nothing in this regulation limits or affects clause 12 of Schedule 32 of the Act (which, for the period that must end before 15 July 2015 and is specified in clause 12(5) of Schedule 32 of the Act, deems a full-time student to whom clause 12(1) or (2) of Schedule 32 of the Act applies to have been exempted under section 105 from all his or her work test obligations).

(3) Regulation 4(4) (as inserted by subclause (2)) is revoked on 15 July 2015.

7 Regulation 5 amended (Exemption from work test obligations: work-tested spouses or partners)

Before regulation 5(2)(c), insert:

(caa) the person is engaged in full-time study of a kind approved by the chief executive; or

8 Regulation 6 amended (Exemption from work test obligations: work-tested sole parents and widows)

(1) In the heading to regulation 6, replace “**and widows**” with “**receiving jobseeker support**”.

(2) Replace regulation 6(1) and (1A) with:

(1) A work-tested beneficiary who is a sole parent in receipt of jobseeker support may apply under section 105 of the Act to be exempted from some or all of that beneficiary’s work test obligations on any of the following grounds:

(a) any ground specified in regulation 4;
(b) any ground specified in subclause (2).

(3) Replace regulation 6(2)(a) with:

(a) it would be unreasonable to expect the person to undertake employment because the person is the principal caregiver of a dependent child or foster child with special needs whose welfare would be unduly harmed if the person attended employment or training, and for whom satisfactory alternative care arrangements are not available, or unable to be made, by the caregiver; or

(4) Replace regulation 6(2)(d) with:

(d) the person has primary responsibility for the day-to-day care of a child, other than on a temporary basis, and the child—

- (i) is aged less than 5 years; and
- (ii) is not a dependent child of that person.

(5) Revoke regulation 6(2)(e).

(6) After regulation 6(3), insert:

(4) The replacement or revocation of subclause (2)(d) and (e) on or, as the case may be, immediately after, the beginning of 15 July 2013 (by regulation 8(4) and (5) of the Social Security (Exemptions under Section 105) Amendment Regulations 2013) does not limit or affect a deemed work test obligations deferral under section 88I, and either of the following clauses of Schedule 32, of the Act:

- (a) clause 2(15) (transfer from DPBs for solo parents and widows' benefits to sole parent support or jobseeker support on 15 July 2013);
- (b) clause 10(11) (transfer from DPBs for women alone to jobseeker support on 15 July 2013).

(7) Regulation 6(4) (as inserted by subclause (6)) is revoked on 15 July 2014.

9 Regulation 7 amended (Exemption from work test obligations: work-tested domestic purposes beneficiaries)

(1) Before regulation 7(2)(a), insert:

- (aaa) it would be unreasonable to expect the person to undertake employment because the person would qualify for a supported living payment on the ground of sickness, injury, disability, or total blindness under section 40B of the Act; or
- (aab) the person is—
 - (i) at least 27 weeks pregnant; or
 - (ii) less than 27 weeks pregnant, if the chief executive is satisfied that the person is suffering from complications arising from the pregnancy; or
- (aac) the person meets the criteria for jobseeker support on the sickness, injury, or disability ground in section 88B(1)(c) or (d) of the Act; or

(2) After regulation 7(2)(b), insert:

- (ba) the person is engaged in full-time study of a kind approved by the chief executive; or

10 Regulation 8 revoked (Exemption from work test obligations: work-tested sickness beneficiaries)

Revoke regulation 8.

11 Regulation 8A amended (Exemption from obligations under section 170 or 171: youth support payment recipients and spouses and partners of specified beneficiaries)

(1) In regulation 8A(2)(b), replace “an invalid’s benefit under” with “a supported living payment on the ground of sickness, injury, disability, or total blindness under section 40B of”.

(2) Replace regulation 8A(2)(c) with:

(c) the person would meet the criteria (except for his or her age) for jobseeker support on the sickness, injury, or disability ground in section 88B(1)(c) or (d) of the Act; or

Rebecca Kitteridge,
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, most of which come into force on 15 July 2013, amend the Social Security (Exemptions under Section 105) Regulations 1998. The amendments alter exemptions in the light of the commencement, on that date, of most of the Social Security (Benefit Categories and Work Focus) Amendment Act 2013 (the **Amendment Act**). Some of the amendments, for example, adjust existing exemptions to cater for beneficiaries who—

- receive new categories of benefits on and after 15 July 2013 because of the Amendment Act; and
- have work preparation obligations or work test obligations under section 60Q or 102A of the Social Security Act 1964.

Other amendments are consequential on, and add to or adjust consequential amendments made by, the Amendment Act. The rest of the amendments otherwise alter exemptions. The regulation 4(2)(cb) full-time study exemption for all work-tested beneficiaries, for example, is revoked (and is therefore unavailable, for example, to recipients of jobseeker support). But a corresponding full-time study exemption is continued (in *new regulations 5(2)(caa) and 7(2)(ba)*) for work-tested spouses or partners, and for work-tested sole parent support beneficiaries.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 13 June 2013.

Reprints notes

1 *General*

This is a reprint of the Social Security (Exemptions under Section 105) Amendment Regulations 2013 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(10)