social security act 2018

Commonly used references from the rewritten Social Security Act 2018

A quick reference guide

**Social security legislation has been rewritten**

The Social Security Act 2018 and Social Security Regulations 2018 commenced on 26 November 2018. They replaced the Social Security Act 1964 and 24 individual sets of regulations.

Some of the provisions in the 1964 Act have been moved into the new regulations.

**This guide provides you with the new legislation references for commonly used provisions**

It lists common provisions and both the 1964 Act and new legislation references.

**Useful links**

* [Social Security Act 1964](http://www.legislation.govt.nz/act/public/1964/0136/latest/DLM359107.html)
* [Social Security Act 2018](http://www.legislation.govt.nz/act/public/2018/0032/latest/DLM6783115.html?src=qs)
* [Social Security Regulations 2018](http://www.legislation.govt.nz/regulation/public/2018/0202/latest/LMS96767.html)
* [Links to previous regulations](https://www.workandincome.govt.nz/map/legislation/regulations/index.html)

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| Benefits - eligibility | | |
| Benefit type | **1964 reference** | **2018 reference** |
| Emergency Benefit (including Emergency Maintenance Allowance) | s61 Chief executive may grant emergency benefit in cases of hardship | s63 Emergency benefit: discretionary grant on ground of hardship |
| Jobseeker Support | s88B Jobseeker support: standard eligibility requirements | s20-24 |
| Jobseeker Support – health condition, injury or disability | s88E Jobseeker support: on ground of sickness, injury, or disability: medical examination | s27-28 |
| Orphans Benefit | s28 Orphans’ benefits | s43-44 |
| Sole Parent Support | s20D Sole parent support: standard eligibility requirements | s29 Sole parent support: requirements |
| Supported Living Payment – health | s40B Supported living payment: on ground of sickness, injury, disability, or total blindness: eligibility and ineligibility | s34-36 |
| Supported Living Payment – carer | s40D Supported living payment: on ground of caring for patient requiring care: eligibility | s40 Supported living payment: on ground of caring for another person: requirements |
| Unsupported Child’s Benefit | s29 Unsupported child’s benefit | s46-47 |
| Youth Payment | s158 Youth payment: basic criteria | s49-50 |
| Young Parent Payment | s164 Young parent payment: basic criteria | s56-57 |

| Most common extra help – eligibility | | |
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| Extra help type | 1964 reference | 2018 reference |
| Accommodation Supplement | s61EA Accommodation supplement | s65-67 |
| Advance payment of benefit | s82(6) Payment of benefits | s347 Advance payment of instalments of benefit |
| Child Disability Allowance | s39A Child disability allowance | s78-79 |
| Childcare Assistance | Social Security (Childcare Assistance) Regulations 2004 | Part 2, Subpart 6 – Childcare assistance, Social Security Regulations 2018 |
| Disability Allowance | s69C Disability allowance | s84-89 |
| Funeral Grant | s61D-61DE | s90-94 |
| Recoverable Assistance Payment | Recoverable Assistance Programme | No change |
| Special Benefit | s61G “Special benefit” | No change |
| Temporary Additional Support | s61G Temporary Additional Support | s95-98 |

| Factors affecting benefits and administration | | |
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| Provision | 1964 reference | 2018 reference |
| Applications | s11D Application process for benefits | Part 6, Subpart 1 - application process for benefits, including applicant’s or beneficiary’s travelling expenses and allowances, Social Security Regulations 2018 |
| Starting benefits | s80 Commencement of benefits | s311, 313-315 |
| Ending benefits | s80BD Ending of benefits | s325-330 |
| Reviewing benefits | s81 Review of benefits | s304-310 |
| Overseas Pension offset | s70 Rate of benefits if overseas pension payable | s187-191 |
| Child Support reduction | s70A Rates of benefits for sole parents may be reduced | s192-194 |
| Shared care | s70B Entitlement to benefits in cases of shared custody | s195-196 |
| Residency | s74AA Residential requirements for certain benefits | s16 Residential requirement |
| Overseas absence | s77 Effect of absence of beneficiary from New Zealand: provisions | s219 General rule: benefit not payable while beneficiary absent from New Zealand |
| Debt write-off (error) | s86(9A) Recovery of payments made in excess of authorised rates | r208, Debts caused wholly or partly by errors to which debtors did not intentionally contribute, Social Security Regulations 2018 |
| Deprivation of income | s74(1)(d) Limitation in certain other cases | Schedule 3, clause 16 Effect of deprivation on income or property |

| Obligations, sanctions, offences - general | | |
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| Provision | 1964 reference | 2018 reference |
| Duty to advise | s80A Duty to advise change of circumstances affecting entitlement to benefit | s113 Beneficiary must notify change of circumstances |
| Pre-benefit activities | s11E Pre-benefit activities: requirements | Part 4, Subpart 1 – Factors affecting benefits: pre-benefit activities, Social Security Regulations 2018 |
| Work obligations | s102A Work test obligations | s144, 146-147 |
| Drug testing obligations | s102B Work test obligations: drug testing obligations | s147-149 |
| Work preparation obligations | s60Q Certain obligations may be placed on beneficiaries and their spouses and partners | s121 Persons subject to work-preparation obligations |
| Youth obligations | s170 Youth support payments: obligations | s162-164 |
| Social obligations | s60RA Social obligations of certain beneficiaries with dependent children | s128-135 |
| Voluntary unemployment, misconduct | s60H Voluntary unemployment or loss of employment through misconduct, etc | s225-229 |
| Exemptions from obligations | s105 Exemption from obligations | s157-161 |
| Sanctions | s117 Sanctions that may be imposed for failures | s236-239 |
| Youth Payment sanctions | s173 Sanctions for failure by young person receiving youth payment to comply with obligations under section 170 | s270-271 |
| Young Parent Payment sanctions | s174 Sanctions for failure by young person receiving young parent payment to comply with obligations under section 170 | s280-281 |
| Offences | s127 Offences: false statements, misleading, or attempting to mislead, to receive or continue to receive benefits | s290 Offences: false statements, misleading, or attempting to mislead, to receive or continue to receive benefits |

| Reviews and appeals | | |
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| Provision | 1964 reference | 2018 reference |
| Investigate a claim | s12 Investigation of claims and grant of benefit | s298 MSD must inquire into claim for benefit |
| Review of Decisions | s10A Review of decisions of chief executive made under delegation by other decision makers | s391 Right to seek review of specified decision of MSD made under delegation |
| Right to appeal – general | s12J (1) Rights of appeal | s397 Decision under specified social assistance enactments |
| Right to appeal – New Zealand Superannuation | s12J (1)(d) Rights of appeal | s397(1)(f) Decision under specified social assistance enactments |
| Right to appeal – Veteran’s Pension | s12J (1)(cb) Rights of appeal | s397(e) Decision under specified social assistance enactments |
| Social Security Appeal Authority | s12A Social Security Appeal Authority | s401 Social security appeal authority, Schedule 8, cl1 |
| High Court | s12Q Appeals to High Court on questions of law only | s405-408 |
| Court of Appeal | s12R Appeals to Court of Appeal | s409 Appeal, with Court of Appeal’s leave, against High Court’s determination |
| Supreme Court | s12S Appeals to Supreme Court | s410 Appeal, with Supreme Court’s leave, against High Court’s or Court of Appeal’s determination |