

# Direction on Special Benefit Amendment (No 2) 2021

This instrument is made under section 7(1) of the Social Security Act 2018 by the Minister for Social Development and Employment.

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## Instrument

### 1 Title

This instrument is the Direction in relation to the Special Benefit Amendment (No 2) 2021.

### 2 Commencement

This instrument comes into force on 11 June 2021.

### 3 Principal programme

This instrument amends the Direction in relation to Special Benefit given on 10 February 1999<sup>1</sup> (the **principal direction**).

### 4 Clause 2 amended (Definitions)

In clause 2, insert in its appropriate alphabetical order;

**lump sum residential care subsidy refund** means any lump sum payment of all or any of the following, made by MSD on or after 11 June 2021, and arising from a retrospective review of any means assessment (for example, any assessments of cash assets, chargeable income, or income) by MSD following the decision in *Chief Executive of the Ministry of Social Development v Broadbent* [2019] NZCA 201:

(a) a benefit;

(b) a residential care subsidy refund;

(c) special assistance paid under a programme established under section 100 or 101 of the Act.

(2) In this clause, —

(a) a reference to a benefit, or to special assistance paid under a programme established under section 100 or 101 of the Act,

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<sup>1</sup> New Zealand Gazette, 16 December 1999, page 4599, notice 9385

includes a reference to a benefit, or to special assistance paid under a programme established, under the Social Security Act 1964:

(b) a reference to a residential care subsidy under the Residential Care and Disability Support Services Act 2018 includes a reference to a residential care subsidy under the Social Security Act 1964.

In clause 2.1A, after subparagraph (al), insert:

(am) the amount of any payment made to a person as a lump sum residential care subsidy refund

(an) any income derived by the person from a payment referred to in paragraph (am).

Dated at Wellington this \_\_\_\_\_ day of \_\_\_\_\_ 2021

\_\_\_\_\_  
Minister for Social Development and Employment

### **Explanatory note**

*This note is not part of the instrument, but is intended to indicate its general effect.*

This instrument, which comes into force on 11 June 2021, amends the Direction in relation to Special Benefit to exclude as a person's chargeable income for a period of 12 months—

- any lump sum residential care subsidy refund made to a person on or after 11 June 2021, and arising from a retrospective review of any means assessment (for example, any assessments of cash assets, chargeable income, or income) by MSD following the decision in *Chief Executive of the Ministry of Social Development v Broadbent* [2019] NZCA 201:
  - (a) a benefit:
  - (b) a residential care subsidy refund:
  - (c) special assistance paid under a programme established under section 100 or 101 of the Act.
- (2) In this clause, —
  - (a) a reference to a benefit, or to special assistance paid under a programme established under section 100 or 101 of the Act, includes a reference to a benefit, or to special assistance paid under a programme established, under the Social Security Act 1964:
  - (b) a reference to a residential care subsidy under the Residential Care and Disability Support Services Act 2018 includes a reference to a residential care subsidy under the Social Security Act 1964.
- any income derived from such a payment.