



WELFARE RIGHTS & ADVOCACY SERVICE

Social Security Payments for New Zealand citizens living in Australia

This factsheet explains how Australian Social Security rules apply to New Zealand citizens who are living in Australia and hold a Special Category Visa (SCV) subclass 444.

If you are a New Zealand citizen and entered Australia on a New Zealand passport you will usually have been issued a "Special Category Visa" (SCV). These visas are granted automatically when you enter Australia on a New Zealand passport. There will be no stamp in your passport indicating that you were issued with this type of visa.

The general rules outlined in this fact sheet will only apply to you if you are currently living in Australia on a SCV. If you now hold a different type of visa such as a **permanent residence visa** or a **temporary spouse visa** issued by the Australian Department of Immigration and Border Protection, different rules apply to you. You should refer instead to the factsheet, "Newly Arrived Residents and Social Security" for information about your entitlement to Social Security payments.

What is a "Special Category Visa"?

Special Category Visas (SCV) were introduced on 1 September 1994. If you have an SCV you can live and work in Australia indefinitely but it is not a "permanent residence visa".

Before 26 February 2001 New Zealand citizens entering Australia to live could access the full range of Australian Social Security payments as if they were permanent residents. If you were in Australia on 26 February 2001 you became a "protected" SCV holder and retained your rights to all Australian Social Security payments as long as you met any other qualifying criteria.

If you arrived in Australia to live after 26 February 2001 you will probably be a "non protected" SCV holder and can only be eligible for some Australian Social Security payments, as long as all other qualification criteria are met.

The rules about who is a "protected" SCV holder are complex and may also depend on when you began living (residing) in Australia and/or whether or not Centrelink accept that you were residing in Australia during specific periods of time.

Are you a "protected" SCV holder?

You may be a "protected" SCV holder if:

- You were in Australia on 26 February 2001, and had entered Australia on a New Zealand passport OR
- You were in Australia for periods totaling 12 months at any time between 26 February 1999 and 26 February 2001 while holding an SCV OR
- You commenced or re-commenced residing in Australia after 26 February 2001 but before 26 May 2001 AND you applied for a determination from Centrelink that you were "residing" in Australia at the relevant time by 26 February 2004* OR
- You were residing in Australia on 26 February 2001, receiving an Australian Social Security payment,

and were temporarily overseas on that date.

If you were receiving an Australian Social Security payment during that absence you must have returned to Australia during the period your Australian Social Security payment remained payable.

If you were not receiving an Australian Social Security payment during that absence you must have applied to Centrelink for a determination that you were "residing" in Australia at the relevant time by 26 February 2002*

** If you applied to Centrelink for a "determination" that you were living in Australia at a particular time, you should have received a letter from Centrelink confirming your residence in Australia. That letter is effectively a "Certificate of Australian Residence".*

You can phone Centrelink International Services on 13 16 73 for more information about these rules.

You can also contact your local Welfare Rights Centre for more information

<http://www.welfarerights.org.au/>

Australian Social Security Payments Available for "non protected" SCV Holders

If you are not a "protected" SCV holder you are a "non-protected" SCV holder and may only be able to qualify for some Social Security Payments if all of the other qualification criteria are met. Those payments include:

- certain income support payments covered by the current International Social Security Agreement between Australia and New Zealand which came into effect on 1 July 2002;
- payments for dependent children payable under the Family Assistance Act;
- Youth Allowance, Newstart Allowance or Sickness Allowance, for a one off period of up to six months if you have resided in Australia for a continuous period of at least 10 years since 26th February 2001;
- a Low Income Health Care Card after you have resided in Australia for at least 104 weeks;
- a Commonwealth Seniors Health Card after you have resided in Australia for at least 104 weeks.

Payments covered by the International Social Security Agreement between Australia and New Zealand

Under the International Social Security Agreement between Australia and New Zealand that came into force on 1 July 2002, "non-protected SCV holders who are residing in Australia may be able to be paid Age Pension, Disability Support Pension (if "severely disabled") or Carer Payment (if caring for a partner who is on Disability Support Pension).

To be eligible for one of these payments under the Agreement a person must meet the eligibility criteria for the payment as well as specific requirements set out in the Agreement.

Any SCV holder living in Australia may claim a payment under this Agreement, whatever date they entered Australia.

Note: The current Agreement replaced an earlier Agreement which had different rules. Anyone still being paid an Australian pension under the previous Agreement will continue to be paid under the previous Agreement unless they return to New Zealand permanently or cease to be eligible for some other reason.

Age Pension

For an Australian Age Pension to be paid under the Agreement you must be

- aged at least 65 years AND
- have resided in Australia and New Zealand for a total of 10 years.

Periods of residence in Australia at any age can count towards the 10 years residency but only periods of residence in New Zealand when you were between the ages of 20 and 64 (working age) can count towards the total 10 years residency.

Disability Support Pension

To qualify for the Australian Disability Support Pension under the Agreement, you must

- be assessed as being “severely disabled” AND
- have a total of at least **ten years residence** in Australia and/or New Zealand AND
- have become “severely disabled” while living in Australia or New Zealand AND
- have resided in New Zealand for at least one year.

The term "severely disabled" is defined as a physical, psychiatric, or intellectual impairment that makes a person unable to work more than eight hours per week or benefit from a rehabilitation program, in the next two years.

Carer Payment

To be eligible for Carer Payment under the Agreement, you must

- be caring for a partner who receives Disability Support Pension AND
- have lived in Australia and/or New Zealand for at least two years.

Note: The care must be provided for a partner and cannot be paid to someone who is caring for disabled child, parent or any other person.

How do I claim a Payment under the Agreement?

If you wish to claim an income support payment under the Agreement do this at any Centrelink office. You should clearly explain that you are claiming under the International Social Security Agreement between Australia and New Zealand. Your eligibility for payment under the agreement will usually be assessed by Centrelink International Services

If you have problems with Centrelink accepting a claim or if payment is refused, contact your local Welfare Rights Centre <http://www.welfarerights.org.au/> . You can also phone Centrelink International Services on 13 16 73.

Payments for Children

Most of these payments are covered by the Family Assistance Act and are payable to principal carers of dependent children. They include:

Family Tax Benefit parts A and B

Single income Family Supplement

Health Care Card

Child Care Benefit

If getting max rate FTB A

Rent Assistance

Child Care Rebate If getting max rate FTB A

Double Orphan pension

For information about these payments refer to our **family assistance** factsheet

Special Rules for Youth Allowance, Newstart Allowance and Sickness Allowance.

New Zealand citizens who are “non protected” SCV holders may be exempt from the residence requirements and able to qualify for Youth Allowance, Newstart Allowance or Sickness Allowance, for a **one off period of up to six months** if immediately before claiming the payment they have resided in Australia continuously for at least 10 years and the 10 years started on or after 26 February 2001. Short term temporary absences from Australia (such as a holiday) may not affect the calculation of the 10 year continuous period. The first possible date for grant under this provision was 26 February 2011.

If you are granted one of these payments it is not possible to be transferred to another of these payments because you lost eligibility for the first payment. For example if you are granted Youth Allowance just before you reach the maximum age you can be paid Youth Allowance (currently 22 years) you cannot be transferred on to Newstart Allowance for the remainder of the 6 month period when you turn 22.

If you are paid one of these payments for a period of less than 6 months you will not be able to be paid the same payment or another payment to make up the balance of the 6 months at a later date. For example, if you are paid Newstart Allowance for 2 months while you are unemployed you will not have a “credit” of 4 months that you can rely on at a later date.

This provision is only available to “non protected” SCV holders. If you are granted an Australian Permanent resident visa you may become subject to the 2 year Migrant Waiting Period which means that you may not be able to be paid one of these payments for two years after the date the visa was granted - see our fact sheet about **2 Year Migrant Waiting periods**.

Do you have a Dependent child in your care who is an Australian citizen?

If you are a New Zealand citizen with a child in your care who is an Australian citizen, the child may be eligible for an income support payment called Special Benefit. There are complex rules regarding the issuing of Australian citizenship to children born in Australia and/or who have acquired citizenship because they have a parent who is an Australian citizen. If you are unsure whether your child is an Australian citizen you should contact the Australian Department of Immigration and Border Protection for advice.

There are no age limits for Special Benefit, so a newborn baby may qualify. You would need to claim Special Benefit on the child’s behalf. If the child is granted Special Benefit it would be paid to you as the principal carer of the child.

You cannot be paid Family Tax Benefit (FTB) for that child if they are paid Special Benefit. You should seek advice from a Welfare Rights Centre (<http://www.welfarerights.org.au/>) as to whether or not you will be better off claiming Special Benefit on behalf of the child instead of FTB.

It is important to get advice because the rate of any Special Benefit payable for the child may be reduced if you are getting other support from family and friends (such as free accommodation and board).

You can only be paid Child Care Benefit for that child if you are receiving FTB A for that child (which you cannot receive if the child is receiving Special Benefit).

Many Centrelink counter staff are not familiar with accepting claims for Special Benefit lodged on behalf of children, so you may need to ask for a Centrelink Social Worker to help you claim. If the claim is refused, contact your local Welfare Rights Centre/Advocate for further advice
<http://www.welfarerights.org.au/>.

Other entitlements for New Zealand citizens in Australia

New Zealand citizens living in Australia without a permanent visa may qualify for the following payments, whatever their date of arrival as long as all other qualification criteria are met:

- Paid Parental Leave
- Dad and Partner Payments.

Appeal rights

If you think a Centrelink decision is wrong you have the right to ask for a review. See our factsheet **about appealing Centrelink decisions**

Please note: This information contains general information only and is accurate at June 2015. It does not constitute legal advice. If you need legal advice about social security entitlements, please contact your local Welfare Rights Centre/Advocate. Welfare Rights Centres are community legal centres, which specialise in social security law, administration and policy. They are entirely independent of Centrelink. All assistance is free. Contact Welfare Rights & Advocacy Service on (08) 93281751 or by email at welfare@wraswa.org.au