

How to claim your day

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Background On 3 June 1998 the law was written to say that a person's benefit started on the day their standdown finished, this is in section 80BA(4) of the Social Security Act. However benefits didn't get calculated this way instead they were paid from the day after the standdown finished, so each benefit was started a day late. It seems nobody was aware that the law was not being administered correctly, until in 2014 the Social Security Appeal Authority noticed in a decision in May, later in 2014 a second decision came also saying that the person's benefit had been granted a day late. When this mistake was discovered, rather than pay people what they are owed under current law, there is an attempt by the government to change the law and remove this legal entitlement dating back to 1998 using retrospective legislation.

Am I owed a day? If you were granted a benefit subject to a standdown period at least once since 3 June 1998, you are probably owed a day under the current law.

Can I be Paid this Day? You can apply for a review to test if you are owed a day, and if you are MSD must pay you the arrears, however if parliament passes the retrospective legislation W&I may try to get the day back as a debt.

How do I apply? You can use the letter that comes with this sheet, or you can use W&I's review of decision form, or you can fill out the review of decision form and attach this letter.

Keep a copy of the documents you send to W&I, and note the date.

What will happen? W&I are setting up a centralised processing unit to process these applications, this should mean timely and consistent decisions. Within a week of sending your review, either by post fax or email (addresses on top of letter) or dropping it into your local office, you should get a letter acknowledging the review and telling you their process.

If they pay me out can they ask for the money back? Apparently they will be able to if they pass the retrospective legislation they have planned, but I think threatening to take the money back is a bullying tactic designed to scare people out of asking for their entitlement. At worst you might get some money now, and pay it back slowly later, but if everyone lobbies their local politician and they do not pass the retrospective law there will be no debt.

Why should I ask for review? There is a matter of principle at stake MSD doesn't forgive people who owe them money, they don't let you off what you owe because you made a mistake and misinterpreted something, if you have a debt to them you must pay. When the shoe is on the other foot and MSD owes you money then the same principle must apply, they must pay their debt and give full entitlement under law. You can follow these links to see the decisions this is based on

<http://www.nzlii.org/nz/cases/NZSSAA/2014/39.html> &

<http://www.nzlii.org/nz/cases/NZSSAA/2014/106.html>