

Report to the House in anticipation of concession of claim in the Human Rights Review Tribunal

Issue

- 1 The Government has become aware of an issue regarding the interface between the social welfare and accident compensation systems. This relates to how weekly accident compensation is treated, compared to other forms of income, in the welfare system.
- 2 Under existing legislation, there are limitations on receiving both weekly accident compensation and an income-tested benefit. These limitations are contained in the Social Security Act 2018 (previously the Social Security Act 1964) and the Accident Compensation Act 2001. In particular they are that:
 - any weekly compensation is directly deducted from an income-tested benefit on a dollar for dollar basis
 - any benefit paid for a period for which a claim is later established is regarded as having been paid in respect of that entitlement and is payable from the Accident Compensation Corporation to the Ministry of Social Development (MSD).

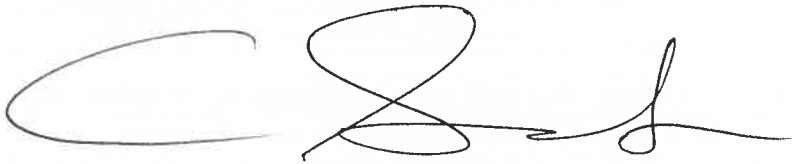
Other forms of income, such as from employment, are subject to an abatement regime under the welfare system.

- 3 The policy rationale for the direct deduction of weekly compensation from benefit is the 'one benefit' principle. This principle proposes that people should only receive one form of Government-mandated income-replacement at any one time.
- 4 There has been a complaint to the Human Rights Review Tribunal (HRRT) regarding the treatment of accident compensation. MSD will be conceding the complaint because of the potential discriminatory effect of how weekly compensation is treated as opposed to other forms of income. MSD will be filing a memorandum in the HRRT to this effect on 20 December 2018. The Government considers that the one-benefit principle and the treatment of accident compensation for benefit purposes is worth examining further under a human rights framework.
- 5 MSD anticipate that, following its memorandum, the HRRT will issue a declaration under s 92J of the Human Rights Act 1992 (HRA). The advice below on the Government's Response is provided under s 92K of the HRA in anticipation of any such declaration.

Government's Response

- 6 The Government is committed to overhauling the welfare system to ensure it is accessible and fair for all New Zealanders. In May 2018, the Government established the Welfare Expert Advisory Group (the WEAG) to undertake a broad-ranging review of the welfare system.
- 7 The WEAG's Terms of Reference state that it will provide the Government with recommendations for areas where the interface between the welfare system and other systems needs to be improved either because they are not functioning well, or in light of the Group's work. One of the areas that is noted as an example is the interface with the accident compensation system.

- 8 The Government has made the WEAG aware of the issue relating to the treatment of accident compensation. The WEAG will report back in February 2019 and the Government will consider the WEAG's recommendations, including on any interface issues. Subsequently, the Government will direct officials to provide advice on potential changes to legislation to address the interface issue identified above between the accident compensation and welfare systems.

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a series of loops and a long horizontal stroke ending in a small hook.

Hon Carmel Sepuloni
Minister for Social Development