

Aide-mémoire



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

Cabinet paper

Date: 21 May 2020 **Security Level:** Cabinet Sensitive

For: Hon Carmel Sepuloni, Minister for Social Development

File Reference: REP/20/5/551

Social Security (COVID-19 Income Relief Payment to be Income) Amendment Bill: Approval for Introduction

Cabinet Committee Cabinet

Date of meeting Monday 25 May 2020

Proposal You are seeking agreement from Cabinet to:

- introduce the Social Security (COVID-19 Income Relief Payment to be Income) Amendment Bill (the Bill)
- authorise the submission of Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) (COVID-19 Income Relief Payment to be Income) Amendment Regulations 2020 (the Amendment Regulations) to the Executive Council.

The Bill and Amendment Regulations amend the definition of income in the Social Security Act 2018 and the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018 respectively to include the COVID-19 Income Relief Payment (the relief payment) as income for benefit and public and community housing purposes.

Key issues *Technical changes to primary and secondary legislation are required before 8 June 2020*

Joint Ministers agreed to establish the relief payment and that it will be treated as income for supplementary and hardship assistance in the benefit system [REP/20/5/481, T2020/1335 refers]. This includes (though is not limited to) the Disability Allowance, Accommodation Supplement and Income Related Rent, but excludes Student Allowances, Child Support and tax credits.

To treat the relief payment as income in the benefit system, legislation must be amended before the commencement of the relief payment on 8 June 2020.

To meet the 8 June deadline the Bill will need to pass under urgency

Your Office has been working with the Office of the Leader of the House on the timing of this legislation. The only way to pass this legislation before 8 June 2020 is to introduce the Bill in the week beginning 25 May 2020 and go through all stages under urgency between 26 and 28 May.

This means there is no time for a Select Committee process.

The 8 June deadline is required to avoid implementation delays or MSD acting unlawfully

MSD officials are working at pace to implement the relief payment on 8 June 2020.

Working to this implementation date has required MSD to build systems to the requirements agreed to by joint Ministers. This means the relief payment will be considered income operationally.

If changes to legislation are not made by 8 June 2020 it could jeopardise the implementation date, potentially delaying access to the relief payment, as otherwise MSD would be charging the relief payment as income from 8 June 2020 unlawfully until legislation is passed.

Agency, Ministerial and cross-Party consultation showed support for the paper, draft Bill and Amendment Regulations

There was no feedback from Ministerial and cross-Party consultation on the Cabinet paper, draft Bill and Amendment Regulations.

Agencies were supportive of the proposals in the paper. There were minor changes to the paper as a result of agency consultation.

The change of most note was the inclusion of a footnote which outlines that the relief payment being considered as income for Income Related Rent (IRR) will not result in a rent increase for Public Housing tenants while the rent freeze provisions are in place.

MSD have operationalised the rent freeze to mean that there should be no increases to IRR during this time. The only changes to IRR while the rent freeze is in effect will be when a tenant has reduced income and their rent needs to be decreased accordingly.

Talking points

- Joint Ministers with your authority recently agreed to establish the COVID-19 Income Relief Payment to provide short-term, time-limited support to help soften the income shock from unemployment and reduce disruption for people as they seek new employment.
- We agreed that the relief payment would be paid as an alternative to a main benefit and would be considered income for supplementary and hardship assistance from MSD.
- The relief payment itself will be established in a Ministerial Welfare Programme. Charging the payment as income requires a Bill to amend the Social Security Act 2018 as well as Amendment Regulations.
- I am seeking Cabinet agreement to introduce the Social Security (COVID-19 Income Relief Payment to be Income) Amendment Bill to the House.
- I am also seeking agreement to submit the associated Amendment Regulations to the Executive Council.

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- The Bill amends the definition of income in the Social Security Act 2018 to include the relief payment as income for benefit purposes.
 - The Amendment Regulations will amend the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018 to enable the relief payment to be treated as income for public and community housing purposes such as Income Related Rent Subsidies.
 - These amendments are technical and narrow in scope.
 - The amendments are also temporary, so will automatically be repealed once the COVID-19 Income Relief Payment Programme is revoked and not replaced. The eventual repeal of this provision will not affect nor make previous decisions made under it unlawful.
 - These amendments ensure that those receiving the income relief payment do not have a greater entitlement to supplementary assistance from MSD than those who earn an equivalent amount through paid employment.
 - The legislation must be passed before 8 June 2020 to ensure that there is no delay in implementation and that MSD systems are lawfully treating this payment as income from the day the relief payment goes live.
 - Being able to implement this payment by 8 June ensures support for those who have lost their employment due to the impact of COVID-19 as quickly as possible.
 - Ensuring the relief payment can go live on 8 June means the legislation must be passed under urgency.
 - If the Bill is not passed in time, MSD cannot change its IT systems to not treat the payment as income, which means the implementation date will be delayed, as otherwise MSD will be acting unlawfully.

**Back
pocket
talking
points**

Why is the payment going to be income for benefit and housing purposes but not tax purposes?

- Given the relief payment is paid as an alternative to a main benefit, and as a form of earnings replacement, it would ideally be taxable and considered income for payments made through the tax system to ensure equity with working people. This was not possible in the implementation timeframe.
- While I realise this will cause some inequities, meeting this implementation timeframe also means providing this income support to those who need it as soon as possible.

What is the rate of the relief payment?

- The relief payment is \$490 a week for people who, prior to their loss of work, normally worked 30 hours a week or more. Or, \$250 a week for people who, prior to their loss of work, normally worked between 15 and 29 hours a week.

Have you already approved the Welfare Programme establishing the relief payment?

- No, I am expecting to see the first draft of the Welfare Programme this week.
- This, like the Bill and Amendment Regulations will come into force on 8 June 2020.

Can students access the relief payment?...

- Students can continue to receive the Student Allowance and the living costs component of a Student Loan alongside the payment.
- If students are simultaneously receiving a Student Allowance, they (or their partner) can only receive the part-time rate of \$250 per week.
- However, if they lost full-time employment, they can choose to opt out of their Student Allowance and receive the full-time rate of the relief payment (\$490 per week).

... will the relief payment be considered income for students?

- As it is non-taxable it will not be considered income for those receiving a Student Allowance, the parental income test for Student Allowance or those making Student Loan repayments.

Can superannuitants access the payment?

- Yes, subject to meeting other eligibility criteria, people receiving New Zealand Superannuation or the Veteran's Pension (who are over 65 years of age), will be able to receive this payment on top of their New Zealand Superannuation or Veteran's Pension.
- However, people receiving the Veteran's Pension or New Zealand Superannuation as a non-qualified partner cannot receive both payments but can choose the relief payment instead if they are eligible.

How does treating the relief payment as income affect the rent of Public Housing tenants?

- While the relief payment will be considered as income for Income Related Rent it will not result in a rent increase for Public Housing tenants while the rent freeze provisions are in place.
- The only change to Income Related Rent during the rent freeze will be when a tenant has reduced income and their rent needs to be decreased accordingly.
- It is still important to consider the relief payment income while the rent freeze is in place to ensure no one is calculated as having nil income while receiving the relief payment.

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