



# Coversheet

## **Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020**

**Hon Carmel Sepuloni, Minister for Social Development**

These documents have been proactively released.

*28 July 2020, Cabinet paper - Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020*

*28 July 2020, Cabinet Legislation Committee minute – LEG-20-MIN-0117, Cabinet Office.*

The Cabinet paper seeks authorisation for submission of the Social Security (COVID-19 Recovery–Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 to the Executive Council. The Amendment Regulations give effect to two of the measures (which were put in place in March 2020 in response to COVID-19) that Cabinet agreed to extend in July 2020 [CAB-20-MIN-0328 refers]:

- Temporary suspension of the 52-week reapplication requirement for Jobseeker Support and Sole Parent Support
- Temporary removal of the initial income stand-downs.

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it. The key to the redaction code used:

- Section 9(2)(h): Legal advice has been withheld to maintain legal professional privilege

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**Search Tags: COVID-19, coronavirus, main benefits, initial income stand-downs, Jobseeker Support, Sole Parent Support, reapplication.**

In Confidence

Office of the Minister for Social Development  
Chair, Cabinet Legislation Committee

## **Social Security (Covid-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020**

### **Proposal**

- 1 This paper seeks authorisation for submission of the Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 to the Executive Council.

### **Policy**

- 2 In March 2020, in response to increased demand for Ministry of Social Development (MSD) services and the impacts of COVID-19, Cabinet agreed to temporarily change some of the settings of the welfare system. This included:
  - 2.1 temporarily suspending the 52-week reapplication requirement for Jobseeker Support (JS) and Sole Parent Support (SPS) reapplications due between 30 March 2020 to 30 September 2020 [CAB-20-MIN-0130 refers]; and
  - 2.2 temporarily removing the initial income stand-down period from 23 March 2020 to 23 November 2020 [CAB-20-MIN-0086 refers].
- 3 MSD is anticipating that the higher than usual demand for their services will likely continue into at least mid-2021 based on current forecasts, peaking in early 2021. The number of people on a main benefit is expected to increase from 310,000 in early 2020, to around 500,000 in January 2021.
- 4 On 6 July 2020, Cabinet agreed to extend some of the temporary measures that were put in place in March 2020, to ensure MSD will have the operational capacity to manage the increased demand, including:
  - 4.1 a further six-month temporary suspension of the 52-week reapplication requirement for JS and SPS clients, meaning reapplications due between 1 October 2020 and 31 March 2021 would be deferred for another 52 weeks; and
  - 4.2 continuing the temporary removal of stand-downs from 24 November 2020 to 24 July 2021 [CAB-20-MIN-0328 refers].
- 5 The Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 (the Amendment Regulations) amend the Social Security Regulations 2018 to give effect to the above two extensions by:
  - 5.1 creating a time-based exemption for clients whose benefit will expire between 24 September 2020 and 29 March 2021, thereby deferring the 52-week reapplication requirement for those clients for a year; and
  - 5.2 creating a new time-limited exemption from initial income stand-downs from 24 November 2020 until 24 July 2021.

*Some changes were made to the extended temporary suspension of the 52-week reapplication requirement*

6 The proposed dates for the temporary suspension of the 52-week reapplication requirement in the Amendment Regulations are different to the dates agreed to by Cabinet (i.e., 1 October 2020 to 30 March 2020) [CAB-20-MIN-0328 refers].

7 s 9(2)(h) [REDACTED]  
[REDACTED]  
[REDACTED] These do not have any financial implications and will ensure the proposal is implemented as intended.

8 Firstly, the current temporary suspension of the 52-week reapplication requirement, which was put in place in March 2020, relies on there being an epidemic notice in force under section 5(1) of the Epidemic Preparedness Act 2006 or other exceptional circumstances<sup>1</sup>.  
s 9(2)(h) [REDACTED]  
[REDACTED]

9 s 9(2)(h) [REDACTED]  
[REDACTED]  
[REDACTED] I propose that the new time-based exemption in the Amendment Regulations begins on the earlier date of:

9.1 the day that the current epidemic notice expires or is revoked; or

9.2 24 September 2020.

10 Secondly, Cabinet agreed to extend the suspension of the 52-week reapplication requirement until 31 March 2020 [CAB-20-MIN-0328 refers]. However, the Amendment Regulations provide an end-date of 29 March 2021. As the current suspension of the 52-week reapplication requirement was implemented on 30 March 2020, officials have identified that if the end-date for the exemption remains as 31 March 2021, reapplications due on 30 March 2021 and 31 March 2021 will have the reapplication requirement cleared a second time<sup>3</sup>. To ensure that reapplications for JS and SPS clients only have the suspension of the reapplication requirement applied once, I propose that this new exemption ends on 29 March 2021.

### Timing and 28-day rule

11 I propose that the Amendment Regulations come into force as soon as practicable s 9(2)(h) [REDACTED]  
[REDACTED]

12 Therefore, I seek a waiver to the 28-day rule on the grounds that early commencement of the Amendment Regulations confers only benefits on the public s 9(2)(h) [REDACTED]

<sup>1</sup> Regulations 189(d) and (e), Social Security Regulations 2018

<sup>2</sup> <https://gazette.govt.nz/notice/id/2020-go2681>

<sup>3</sup> This means that reapplications due on 30 March and 31 March will not require another reapplication until 2022

- 13 The Amendment Regulations, if authorised, will be submitted to the Executive Council for consideration on 3 August 2020, published in the New Zealand Gazette on 6 August 2020 and come into force on 10 August 2020.

## **Compliance**

- 14 The Amendment Regulations comply, where applicable, with the following:
  - 14.1 the principles of the Treaty of Waitangi;
  - 14.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - 14.3 the principles and guidelines set out in the Privacy Act 1993;
  - 14.4 relevant international standards and obligations; and
  - 14.5 the Legislation Guidelines (2018 Edition), which are maintained by the Legislation Design and Advisory Committee.
- 15 Under section 440(5) of the Social Security Act 2018, the Minister must, before making a recommendation that exemption regulations be made in relation to initial income stand-downs, have regard to the purpose and principles in sections 3 and 4 of the Act and the purpose of the stand-down concerned, and be satisfied that the exemption is not broader than is reasonably necessary to address the matters that give rise to the regulations.
- 16 I am satisfied that the exemption from initial income stand-downs as set out in the Amendment Regulations is not broader than reasonably necessary as it is a time-limited exemption and it would be inappropriate to subject individuals coming on to benefit to a stand-down, given the impacts of COVID-19.

## **Regulations Review Committee**

- 17 There are no grounds for the Regulations Review Committee to draw the Amendment Regulations to the attention of the House of Representatives under Standing Order 319.

## **Certification by Parliamentary Counsel**

- 18 The Amendment Regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

## **Human rights implications**

- 19 This paper has no human rights implications.

## **Regulatory impact and compliance cost statement**

- 20 The Treasury has determined that the regulatory proposals in this paper are exempt from the requirement to provide a Regulatory Impact Statement because they are intended to alleviate the short-term impacts of the COVID-19 outbreak, a declared emergency event. These

proposals are required urgently to be effective, making a complete, robust and timely impact analysis unfeasible.

## Communications

- 21 As part of the legislative requirements, the Amendment Regulations will be notified in the New Zealand Gazette on the next available date.
- 22 The Ministry of Social Development is developing a communications strategy for communicating the changes.

## Proactive release

- 23 I intend to proactively release this Cabinet paper within standard timeframes.

## Consultation

- 24 The Treasury have been consulted and the Department of the Prime Minister and Cabinet (Policy Advice Group) have been informed.

## Recommendations

It is recommended that the Committee:

- 1 **note** that on 6 July 2020, Cabinet agreed to extend some of the temporary measures put in place in March 2020 in response to the impacts of COVID-19 [CAB-20-MIN-0328 refers] including:
  - 1.1. suspending the 52-week reapplication requirement for all clients on Jobseeker Support and Sole Parent Support with reapplications due between 1 October 2020 and 31 March 2021; and
  - 1.2. temporarily removing initial income stand-downs for main benefits for eight months from 24 November 2020 to 24 July 2021;
- 2 **note** that the Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 gives effect to the above two extensions by:
  - 2.1. creating a time-based exemption from the 52-week reapplication requirement, exempting clients whose benefit will expire between 24 September 2020 and 29 March 2021, thereby suspending the 52-week reapplication requirement for those clients for a further year; and
  - 2.2. creating a new time-limited exemption from initial income stand-downs for all clients from 24 November 2020 until 24 July 2021;
- 3 **note** that section 440(5) of the Social Security Act 2018 requires the Minister for Social Development, before making a recommendation that particular exemption regulations be made under section 440, to have regard to the purpose and principles in sections 3 and 4 of the Social Security Act 2018 and the purpose of the stand-down concerned, and be satisfied that the exemption is not broader than is reasonably necessary to address the matters that gave rise to the regulations;

- 4 **note** that having regard to the purpose and principles in sections 3 and 4 of the Social Security Act 2018 and the purpose of the stand-down concerned, the Minister for Social Development is satisfied that the exemption from initial income stand-downs set out in the Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 is not broader than is reasonably necessary to address the matters that give rise to the regulations;
- 5 **note** that the dates outlined in the Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 for the new time-based exemption from the 52-week reapplication requirement are different to the dates agreed to by Cabinet:
- 5.1. the start date of the suspension of the 52-week reapplication requirement has changed from 1 October 2020 to either the day the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked, or 24 September 2020 (whichever comes earlier) s 9(2)(h) [REDACTED]
- 5.2. the end date of the suspension of the 52-week reapplication requirement has changed from 31 March 2021 to 29 March 2021 to ensure that reapplications for Jobseeker Support and Sole Parent Support clients only have the suspension of the reapplication requirement applied once;
- 6 **authorise** the submission to the Executive Council of the Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020;
- 7 **note** that a waiver to the 28-day rule is sought on the grounds that early commencement of the Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 confers only benefits on the public s 9(2)(h) [REDACTED]
- 8 **agree** to waive the 28-day rule so that the Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 can come into force on 10 August 2020.

Authorised for lodgement

Hon Carmel Sepuloni

Minister for Social Development



# Cabinet Legislation Committee

## Minute of Decision

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*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

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### Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020

Portfolio                      Social Development

On 28 July 2020, the Cabinet Legislation Committee:

- 1        **noted** that on 6 July 2020, Cabinet agreed to extend some of the temporary measures put in place in March 2020 in response to the impacts of COVID-19, including:
  - 1.1        suspending the 52-week reapplication requirement for all clients on Jobseeker Support and Sole Parent Support with reapplications due between 1 October 2020 and 31 March 2021;
  - 1.2        temporarily removing initial income stand-downs for main benefits for eight months from 24 November 2020 to 24 July 2021;

[CAB-20-MIN-0328]
- 2        **noted** that the Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 gives effect to the above two extensions by:
  - 2.1        creating a time-based exemption from the 52-week reapplication requirement, exempting clients whose benefit will expire between 24 September 2020 and 29 March 2021, thereby suspending the 52-week reapplication requirement for those clients for a further year;
  - 2.2        creating a new time-limited exemption from initial income stand-downs for all clients from 24 November 2020 until 24 July 2021;
- 3        **noted** that section 440(5) of the Social Security Act 2018 requires the Minister for Social Development, before making a recommendation that particular exemption regulations be made under section 440, to have regard to the purpose and principles in sections 3 and 4 of the Social Security Act 2018 and the purpose of the stand-down concerned, and be satisfied that the exemption is not broader than is reasonably necessary to address the matters that gave rise to the regulations;
- 4        **noted** that having regard to the purpose and principles in sections 3 and 4 of the Social Security Act 2018 and the purpose of the stand-down concerned, the Minister for Social Development is satisfied that the exemption from initial income stand-downs set out in the Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 is not broader than is reasonably necessary to address the matters that give rise to the regulations;

- 5 **noted** that the dates outlined in the Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 for the new time-based exemption from the 52-week reapplication requirement are different to the dates agreed to by Cabinet:
- 5.1 the start date of the suspension of the 52-week reapplication requirement has changed from 1 October 2020 to either the day the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked, or 24 September 2020 (whichever comes earlier) s 9(2)(h) [REDACTED]
- 5.2 the end date of the suspension of the 52-week reapplication requirement has changed from 31 March 2021 to 29 March 2021 to ensure that reapplications for Jobseeker Support and Sole Parent Support clients only have the suspension of the reapplication requirement applied once;
- 6 **authorised** the submission to the Executive Council of the Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 [PCO 23084/7.0];
- 7 **noted** that a waiver to the 28-day rule is sought on the grounds that early commencement of the Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 confers only benefits on the public s 9(2)(h) [REDACTED]
- 8 **agreed** to a waiver of the 28-day rule so that the Social Security (COVID-19 Recovery: Exemption from Stand Down, and Expiry and Regrant of Benefits) Amendment Regulations 2020 come into force on 10 August 2020.

Gerrard Carter  
Committee Secretary

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**Present:**

Hon Chris Hipkins (Chair)  
Hon Andrew Little  
Hon David Parker  
Hon Stuart Nash  
Hon Damien O'Connor  
Hon Ron Mark  
Hon Tracey Martin  
Hon Poto Williams  
Hon James Shaw  
Hon Julie Ann Genter  
Hon Eugenie Sage  
Michael Wood MP (Senior Government Whip)

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG