

In confidence

Chair
Cabinet Legislation Committee

ANNUAL GENERAL ADJUSTMENT 2020 AND RELATED REGULATORY CHANGES

Proposal

- 1 This paper seeks Cabinet approval to submit to the Executive Council the following Orders and Amendment Regulations, to give effect to the 2020 Annual General Adjustment and related regulatory matters arising from the Budget 2019 Income Support Package:
 - Social Security (Rates of Benefits and Allowances) Order 2020
 - Social Security (Definition of Income Test 1, Income Test 2, Income Test 3, and Income Test 4) Order 2020
 - Social Security Amendment Regulations 2020
 - Residential Care and Disability Support Services Amendment Regulations 2020
 - Student Allowances Amendment Regulations 2020
 - Health Entitlement Cards Amendment Regulations 2020
 - Oranga Tamariki (Minimum Rates of Payment for Board and Lodgings) Order 2020.

Previous decisions

Annual General Adjustment

- 2 There is a statutory requirement to adjust rates of main social security benefits, Student Allowances, Foster Care Allowances and New Zealand Superannuation from 1 April each year in a process known as the Annual General Adjustment. Other adjustments are made in this process under the authority of a Cabinet decision or convention.
- 3 In March 2002 Cabinet delegated authority to the Minister of Finance and the Ministers responsible for New Zealand Superannuation, social security benefits and allowances, the Community Services Card, Student Allowances, and War Pensions and Allowances to jointly approve adjustments to rates and thresholds [CAB Min (02) 7/1A refers].
- 4 In 2016, Cabinet agreed that if an adjustment is linked to the Consumers Price Index, the All Groups Consumers Price Index, excluding cigarettes and other tobacco products index, must be used. This is the final year that this decision applies [CAB-16-MIN-0189 refers].
- 5 In late 2005, through a Confidence and Supply Agreement, it was agreed that the net married couple rate of New Zealand Superannuation for the 2006 Annual General Adjustment should be set at a minimum of 66 percent of the net average wage. The same decision was made for the Annual General Adjustments of 2007 and 2008. In April 2009, Cabinet agreed to set the

net married couple rate of New Zealand Superannuation at a minimum of 66 percent of the net average wage on an on-going basis [CAB Min (09) 13/8 (56) refers].

- 6 As part of the Budget 2019 Income Support Package, Cabinet agreed to change the way main benefits are adjusted in the Annual General Adjustment, so that they reflect any increase in the net average wage [CAB-19-MIN-0174.36 refers]. This decision was given effect by amendments to the Social Security Act 2018. This is the first year that this decision applies.
- 7 The Minister of Finance, Minister of Housing, Minister of Education, Minister for Social Development, Minister of Health, Minister for Veterans and Minister for Children approved the new rates and thresholds, consistent with their delegated authority, on 12 February 2020.

Related regulatory changes arising from the Budget 2019 Income Support Package

- 8 As part of the Budget 2019 Income Support Package, Cabinet agreed that income abatement thresholds will be increased for main benefits as well as for New Zealand Superannuation and Veteran's Pension recipients where a non-qualifying partner is included [CAB-19-MIN-0174.36 refers]. The changes are limited to the four years until 2023 only and are in line with the commitment to increase the minimum wage to \$20 per hour in 2021, as well as more modest increases in 2022 and 2023.
- 9 In December 2019, Cabinet agreed to implement a Transitional Assistance Payment for those who, due to the combined effects of the Annual General Adjustment and implementation of the Budget 2019 Income Support Package on 1 April 2020, experience a reduction in their Childcare Assistance or Temporary Additional Support and their overall assistance is less than what it would have been prior [CAB-19-MIN-0672 refers]. Cabinet also agreed to amend the Social Security Regulations 2018 to exempt the Transitional Assistance Payments as income for the purposes of Temporary Additional Support. Without these amendments, there would be an unintended circular flow between the payments.

Orders and Amendment Regulations to give effect to the decisions

- 10 The Orders and Amendment Regulations to give effect to the decisions described above will come into force on 1 April 2020. They will:
 - increase the rates of main benefits to comply with the statutory requirement to adjust the rates to reflect the 3.09 percent increase in the net average wage over the previous year¹
 - increase the rates of Student Allowance, Foster Care Allowance and New Zealand Superannuation to comply with the statutory requirement to adjust the rates to reflect the 1.66 percent increase in the Consumers Price Index over the previous year
 - further increase the rates of New Zealand Superannuation in line with the commitment to keep the net married rate at a minimum 66 percent of the net average wage

¹ This is the rounded percentage movement in the net average wage, however the calculations of the increases will be based on the unrounded percentage figure of 3.08541 percent.

- increase rates and thresholds of allowances and various forms of supplementary assistance in line with the 1.66 percent increase in the Consumers Price Index over the previous year²
 - increase income thresholds for Disability Allowance and superannuitant-specific income thresholds for the Community Services Card by the greater dollar impact from: applying the annual percentage increase in the All Groups Consumers Price Index excluding cigarettes and other tobacco products; or applying the annual increase amount of New Zealand Superannuation
 - amend the definitions of Income Test 1, Income Test 2, Income Test 3, and Income Test 4 in Schedule 2 of the Social Security Act 2018 to increase the abatement threshold for main beneficiaries and non-qualified spouses and partners of superannuitants
 - amend the definition of income in the Social Security Regulations 2018 to exempt payments made under the Income Support Package (Transitional Assistance) Programme from the definition of income for Temporary Additional Support.
- 11 The Minister for Veterans has prepared separate papers for the Cabinet Legislation Committee, seeking approval to submit to the Executive Council the:
- Veterans' Support Amendment Regulations 2020 required to increase the rate of Veteran's Pension under the Veteran's Support Act 2014 from 1 April 2020
 - Veterans' Support (Abatement Thresholds) Amendment Regulations 2020 which specifies the increased Veteran's Pension abatement thresholds that come into effect on 1 April 2020.

Timing and 28-day rule

- 12 The Orders and Amendment Regulations, if approved, will be submitted to the Executive Council for consideration on 24 February 2020. They will be published in the New Zealand Gazette by 2 March 2020 and will come into force on 1 April 2020. This timing is consistent with Rule 7.96 – 7.99 of the Cabinet Manual (the '28-day rule').

Compliance

- 13 The Orders and Amendment Regulations comply, where applicable, with the following:
- the principles of the Treaty of Waitangi;
 - the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - the principles and guidelines set out in the Privacy Act 1993;
 - relevant international standards and obligations; and
 - *Legislation Guidelines: 2018 Edition*, published by the Legislation Advisory Committee.

² This is the rounded percentage in the Consumers Price Index, however the calculations of the increases will be based on the unrounded percentage figure of 1.66178 percent.

Regulations Review Committee

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

Certification by Parliamentary Counsel

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

Impact analysis

- 16 The Treasury agrees that no Regulatory Impact Analysis is required for any of the proposals in this paper.
- 17 The Annual General Adjustment changes are exempt on the basis that they have been approved by joint Ministers in accordance with the policy agreed by Cabinet in March 2002.
- 18 The Budget 2019 Income Support Package, in which the increases to income abatement thresholds were agreed, is exempt on the basis that it would substantively duplicate other government policy development, reporting and publication requirements or commitments. The condition of this exemption is that previous analysis of the proposed policy is released publicly and in an accessible way and this has been met as the material is available on the Ministry of Social Development's website.
- 19 The regulatory change to exempt Transitional Assistance Payments as income for the purposes of Temporary Additional Support is exempt on the basis that it is expected to have only minor impacts on businesses, individuals or not-for-profit entities.

Publicity

- 20 The Ministry of Social Development will work with relevant Ministers' Offices to advise the public of the changes to rates and thresholds after they are confirmed by Cabinet on 24 February 2020.

Proactive release

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

Consultation

- 22 The Treasury, Ministry of Housing and Urban Development, Ministry of Education, Ministry of Health, Inland Revenue, Veterans' Affairs and Oranga Tamariki–Ministry for Children have been consulted and agree with the recommendations in this paper. The Department of the Prime Minister and Cabinet (Policy Advice Group) has been informed of this paper.

Recommendations

It is recommended that the Committee:

- 1 **note** that, acting with Cabinet's delegated authority [CAB Min (02) 7/1A refers], the Ministers responsible for the Finance, Housing, Education, Social Development, Health, Veterans and Children portfolios have approved new rates of New Zealand Superannuation, benefits, Student Allowance, Foster Care Allowance and new rates and thresholds for allowances and supplementary assistance.

- 2 **note** that the proposed Orders in Council and Amendment Regulations will come into effect on 1 April 2020 and will:
- 2.1 increase the rates of main benefits to comply with the statutory requirement to adjust the rates to reflect the 3.09 percent increase in the net average wage over the previous year
 - 2.2 increase the rates of Student Allowance, Foster Care Allowance, Orphan's Benefit, Unsupported Child's Benefit and New Zealand Superannuation to comply with the statutory requirement to adjust the rates to reflect the 1.66 percent increase in the Consumers Price Index over the previous year
 - 2.3 further increase the rates of New Zealand Superannuation in line with the commitment to keep the net married rate at a minimum 66 percent of the net average wage
 - 2.4 increase rates and thresholds of allowances and various forms of supplementary assistance in line with the 1.66 percent increase in the Consumers Price Index over the previous year
 - 2.5 increase income thresholds for Disability Allowance and superannuitant-specific income thresholds for the Community Services Card by the greater dollar impact from: applying the annual percentage increase in the All Groups Consumers Price Index excluding cigarettes and other tobacco products; or applying the annual increase amount of New Zealand Superannuation
 - 2.6 amend the definitions of Income Test 1, Income Test 2, Income Test 3, and Income Test 4 in Schedule 2 of the Social Security Act 2018 in line with the commitment to increase the abatement threshold for main beneficiaries and non-qualified spouses and partners of superannuitants
 - 2.7 amend the definition of income in the Social Security Regulations 2018 to exempt payments made under the Income Support Package (Transitional Assistance) Programme from the definition of income for Temporary Additional Support.
- 3 **authorise** the submission to the Executive Council of the following Orders and Amendment Regulations:
- 3.1 Social Security (Rates of Benefits and Allowances) Order 2020
 - 3.2 Social Security (Definition of Income Test 1, Income Test 2, Income Test 3, and Income Test 4) Order 2020
 - 3.3 Social Security Amendment Regulations 2020
 - 3.4 Residential Care and Disability Support Services Amendment Regulations 2020
 - 3.5 Student Allowances Amendment Regulations 2020
 - 3.6 Health Entitlement Cards Amendment Regulations 2020
 - 3.7 Oranga Tamariki (Minimum Rates of Payment for Board and Lodgings) Order 2020.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Social Development