

In Confidence

Office of the Minister for Social Development and Employment

Chair, Cabinet Legislation Committee

## **Amendments to the Approved Information Sharing Agreement between Inland Revenue and the Ministry of Social Development to facilitate Child Support Pass-on**

### **Proposal**

- 1 In order to facilitate the implementation of Child Support Pass-on, which is currently before the House as the Child Support (Pass On) Acts Amendment Bill, I propose that the Cabinet Legislation Committee authorises the submission of the Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Amendment Order 2023 (the Order) to Cabinet and the Executive Council.

### **Policy**

#### *Previous Cabinet and Ministerial decisions*

- 2 On 28 March 2022, Cabinet agreed to pass on child support payments paid via Inland Revenue to sole parent beneficiaries, and to treat these payments as income for determining the amount of financial assistance payable by MSD from 1 July 2023 [CAB-22-MIN-0091 refers].
- 3 Passing on child support will mean 41,550 sole parent families will receive on average \$65 per week of child support income, with a median of \$24 per week. After the abatement of income-tested financial assistance, these families will benefit overall by an average of \$47 per week, and a median of \$20 per week. Further, this change is expected to reduce child poverty by an estimated 10,000 (+/-4,000) according to the moving-line BHC50 (before-housing-costs) measure, and 6,000 (+/-3,000) using the fixed-line AHC50 (after-housing-costs) measure [CAB-23-MIN-0097 refers].
- 4 In July 2022, Cabinet agreed in principle to amend the AISA between MSD and IR to remove the 10 working days' notice period for adverse actions when MSD automatically charges child support as income as a result of an information share from IR [CAB-22-MIN-0251 refers].
- 5 Cabinet also agreed to release the draft amendment to the AISA between MSD and IR, and the associated guidance document, for public consultation [CAB-22-MIN-0251 refers].
- 6 Amendments to the AISA between MSD and IR are necessary to facilitate Child Support Pass-on. Without these changes, MSD would be required under section 152 of the Privacy Act 2020 to give the client 10 working days' notice

after receiving the information shared from IR before charging the child support as income.

- 7 Removing this requirement will mean MSD can automate the charging of child support payments as income as close as possible to when it is received, which will avoid overpayments being made and reduce the likelihood of client debt.
- 8 The attached Order will amend the existing Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Order 2017, to allow changes to be made to the Approved Information Sharing Agreement (AISA) between the Ministry of Social Development (MSD) and Inland Revenue (IR) to remove the 10 working days' notice period for adverse actions when MSD automatically charges child support as income as a result of an information share from IR.
- 9 The Order also updates the existing Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Order 2017 to reflect minor changes agreed between the agencies from September 2021.

#### *Consultation on amendments to the AISA*

- 10 Public consultation was generally supportive of amending the AISA to remove the 10 working days' notice period. Of 18 survey responses and six written submissions, 83 percent were supportive of waiving the notice period.
- 11 Most concerns raised during the consultation period related to safeguards such as communication to clients, staff training, and processes to query income charges, not the removal of the notice period itself. MSD will use feedback received on these safeguards to improve relevant processes.
- 12 No substantive changes have been made to the proposed AISA amendments based on public consultation. However, minor changes have been made from the version previously approved for public consultation by Cabinet to improve the clarity of drafting.

#### **Timing and the 28-day rule**

- 13 Subject to agreement, the Order will be gazetted on 18 May 2023 and will come into effect on 1 July 2023. This is in line with the 28-day rule.

#### **Compliance**

- 14 The Order complies, where applicable, with the following:
  - a) the principles of the Treaty of Waitangi;
  - b) the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - c) the principles and requirements set out in the Privacy Act 2020;

- d) relevant international standards and obligations.
- 15 I also confirm that under section 149 of the Privacy Act 2020 I am satisfied that:
- a) the AISA will facilitate the provision of public services;
  - b) the type and quantity of personal information to be shared under the agreement are no more than is necessary to facilitate the provision of those public services;
  - c) the agreement does not unreasonably impinge on the privacy of individuals and contains adequate safeguards to protect their privacy;
  - d) the benefits of sharing personal information under the agreement are likely to outweigh the financial and other costs of sharing;
  - e) the public submissions made in respect of the AISA have been considered;
  - f) any potential conflicts or inconsistencies between the sharing of personal information under the AISA and any other enactment have been identified and appropriately addressed.

### **Regulations Review Committee**

- 16 There are no recognised grounds for the Regulations Review Committee to draw the Order to the attention of the House of Representatives as a Standing Order requirement.

### **Certification by Parliamentary Counsel**

- 17 The Parliamentary Counsel Office has certified that the attached Order is correct.

### **Impact Analysis**

#### **Regulatory Impact Statement**

- 18 The Minister for Social Development and Employment and the Minister of Revenue have delegated authority to approve policy for this Order in Council, therefore Cabinet's impact analysis requirements do not apply to this paper.
- 19 A Regulatory Impact Statement was produced for the wider Child Support Pass-on project. This was considered by Cabinet when agreement was sought to the project and commitments were made against Budget 2022 [CAB-22-MIN-0091]. An addendum to this Regulatory Impact Statement was later prepared following further policy decisions [CAB-22-MIN-0535 refers].

### Climate Implications of Policy Assessment

- 20 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

### Publicity

- 21 The Order will be notified in the New Zealand Gazette before it takes effect.
- 22 Following enactment, a copy of the amended AISA will be available on MSD and IR's websites at <https://www.msd.govt.nz/> and <https://www.ird.govt.nz/>.

### Proactive release

- 23 I propose to release this Cabinet paper proactively (as required by CO (18) 4).

### Consultation

- 24 MSD and IR have worked together to develop amendments to facilitate Child Support Pass-on, in consultation with the Office of the Privacy Commissioner.
- 25 The Office of the Privacy Commissioner has evaluated the privacy implications of the changes and has agreed to allow MSD to dispense with the requirement to give notice of adverse action in these cases.
- 26 The Department of the Prime Minister and Cabinet (Policy Advice Group) has been informed.
- 27 Public consultation was conducted on proposed amendments to the AISA. This involved six meetings with a total of 10 stakeholders engaging, 18 survey responses, and six written submissions.
- 28 83 percent of survey respondents and written submissions supported waiving the notice period, eleven percent of survey responses did not support waiving the notice period, and 6 percent were not sure.

### Recommendations

It is recommended that the Cabinet Legislation Committee:

- 1 **note** that on 4 July 2022, Cabinet agreed in principle, subject to consultation feedback, to amend the existing Approved Information Sharing Agreement between the Ministry of Social Development and Inland Revenue to remove the 10 working days' notice period for adverse actions when the Ministry of Social Development automatically charges child support as income as a result of an information share from Inland Revenue
- 2 **note** that no further amendments were recommended to the Approved Information Sharing Agreement as a result of the public consultation, but that minor changes have been made to improve the clarity of drafting

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- 3 **agree** that the *Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Order 2017* be amended to remove the 10 working days' notice period for adverse actions when the Ministry of Social Development automatically charges child support as income as a result of an information share from Inland Revenue
- 4 **authorise** the submission of the *Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Amendment Order 2023*, which gives effect to recommendation 3, to the Executive Council
- 5 **note** that, subject to agreement, the *Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Amendment Order 2023* will be gazetted on 18 May 2023 and will come into effect on 1 July 2023.

Authorised for lodgement

Hon Carmel Sepuloni

Minister for Social Development and Employment