

Budget Sensitive

Chair
Cabinet Legislation Committee

ANNUAL GENERAL ADJUSTMENT 2023 AND RELATED REGULATORY CHANGES

Proposal

- 1 This paper seeks Cabinet approval to submit to the Executive Council the following Orders and Amendment Regulations. These instruments will give effect to the 2023 Annual General Adjustment and related regulatory matters arising from Cabinet decisions relating to the indexation of hardship assistance income limits through Budget 2022 and Budget 2023 pre-commitments to increase main benefit rates and Childcare Assistance income thresholds.
 - Social Security (Rates of Benefits and Allowances) Order 2023
 - Social Security Amendment Regulations 2023
 - Student Allowances Amendment Regulations 2023
 - Oranga Tamariki (Minimum Rates of Payment for Board and Lodgings) Order 2023
 - Health Entitlement Cards Amendment Regulations 2023
 - Residential Care and Disability Support Services Amendment Regulations 2023.

Previous decisions

The Annual General Adjustment is the process to adjust rates of social assistance on 1 April each year to reflect statutory requirements, Cabinet decision or convention

- 2 There is a statutory requirement to adjust rates of main social security benefits, Student Allowances, Orphan's Benefit, Unsupported Child's Benefit (OB/UCB), Foster Care Allowance Minimum Rates of Payment for Board and Lodgings, rates of main benefits payable to long-term hospital patients, and New Zealand Superannuation from 1 April each year, in a process known as the Annual General Adjustment (AGA). Other adjustments are made in this process under the authority of a Cabinet decision or convention. This includes adjustments to rates and thresholds of allowances and various other forms of supplementary assistance, such as Childcare Assistance, Disability Allowance and Child Disability Allowance.
- 3 There is a statutory requirement to adjust the net weekly rates of New Zealand Superannuation by percentage increases in the Consumers Price Index (CPI), and then further adjust the amount payable to a couple who both qualify to ensure it is not less than 66 percent, or more than 72.5 percent, of the net average wage.

This further adjustment will not be required in the 2023 AGA, as the CPI adjustment by 7.22 percent will see this amount exceed the 66 percent minimum requirement.

- 4 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].
- 5 In 2016, Cabinet agreed that if an adjustment is linked to the CPI, the All Groups CPI, excluding cigarettes and other tobacco products index, must be used. 2021 was the final year that this decision applied [CAB-16-MIN-0189 refers], and adjustments made using the CPI now use the CPI (All Groups).
- 6 As part of the Budget 2019 Income Support Package, Cabinet agreed to change the way main benefits are adjusted in the AGA, 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 fourth year that this decision applies.
- 7 The Ministers of Finance, Housing, Education, Health, Veterans, Children and I approved the new rates and thresholds, consistent with our delegated authority [REP/23/2/057 refers].

On 1 April 2023, there will be changes to main benefit rates, the income thresholds for hardship assistance and Childcare Assistance as agreed by Cabinet ...

- 8 As part of the Budget 2022 package, and through pre-commitments against Budget 2023, Cabinet agreed to the following income support changes being progressed on 1 April 2023. These policy changes, and the legislative requirements to give effect to them, are being progressed as part of the 2023 AGA and do not require further Cabinet decisions.
 - 8.1 Hardship assistance (Special Needs Grants, Recoverable Assistance Payments and Advance Payments of Benefit) income limits will be indexed to net average wage growth from 1 April 2023 [CAB-22-SUB-0129 refers].
 - 8.2 Childcare Assistance (Childcare Subsidy and Out of School Care and Recreation Subsidy) income thresholds will increase on 3 April 2023¹ to account for growth in the net average wage since they were frozen in 2010 [CAB-22-MIN-0473 refers].
 - 8.3 One-off increase to main benefit rates² on 1 April 2023, after indexation by net average wage growth, to ensure the overall increase is equivalent to the increase in the CPI of 7.22 percent [SWC-23-MIN-0007 refers]. This change aims to support beneficiaries to meet the rising cost of living.

¹ The changes will be progressed through the AGA and come into force on 1 April but, in practice, will take effect on Monday 3 April, as Childcare Assistance is only paid during weekdays.

² Main benefits include Jobseeker Support, Youth Payment, Young Parent Payment, Sole Parent Support, Supported Living Payment, and the grandparented Widows' and Domestic Purposes Benefit.

... as well as additional legislative amendments to give effect to the following changes

- 9 For the 2022 AGA, the Minister of Education and I approved a technical adjustment to create two gross abatement rates for the 'at home' and 'away from home' Student Allowance payments for those under 24 years of age without children [REP/22/1/021 refers], to maintain Cabinet agreement to net abatement at 25 percent [CAB Min (04) 11/9 refers].
- 10 This change required amendments to the Student Allowances Regulations 1998 in two stages to create two gross abatement rates - one for the portion of these payments in the 10.5 percent income tax bracket and another for the portion of these payments in the 17.5 percent income tax bracket.
- 11 The second stage of these changes is required this year, to account for the lower 'at home' payment rate reaching the 17.5% tax bracket from 1 April 2023. There are no fiscal implications from this technical change and no further Cabinet decisions are required.
- 12 s 9(2)(h)
- 13 Acting with Cabinet's delegated authority, the Minister of Finance and I agreed indexation to net average wage growth will be maintained for the Blind Subsidy income thresholds on 1 April each year to meet statutory requirements, s 9(2)(f)(iv)
- 14 Given the policy increases to Supported Living Payment (SLP) rates as part of the 2022 AGA, a two-step indexation process was also agreed for the Blind Subsidy income thresholds to meet the statutory requirements for indexing these thresholds and pass on the policy increases to SLP rates that flow through from the original method of indexation [REP/22/2/108 refers]. On 1 April 2022, the thresholds were first indexed by net average wage growth, followed by a discretionary top-up to the couple threshold to pass on the policy increases to SLP rates in line with the original method of indexation.³
- 15 Due to the one-off increase to main benefit rates on 1 April 2023, Cabinet agreed to the same two-step indexation process for the Blind Subsidy income thresholds for the 2023 AGA: indexation by net average wage growth, followed by a discretionary increase to the Blind Subsidy couple threshold, in line with the original method of indexation [SWC-23-MIN-0007 refers].

Orders and Amendment Regulations to give effect to the decisions

- 16 To give effect to the above decisions, the Orders and Amendment Regulations will come into force on 1 April 2023 and will:
 - 16.1 increase the rates of main benefits in line with the 7.22 percent⁴ increase in the CPI (All Groups), as agreed by Cabinet through a Budget 2023 pre-commitment, which complies with the statutory requirement to adjust the

³ The single supplement was increased by the net wage growth because the original method of indexation for the single supplement would see a decrease to the supplement, inconsistent with legislative requirements.

⁴ This is the rounded percentage; the calculations of the increases are based on the unrounded percentage figure of 7.2192513 percent.

rates to reflect the 6.24 percent⁵ increase in the net average wage over the previous year [SWC-23-MIN-0007 refers]

- 16.2 increase the rates of Student Allowances, OB/UCB, Foster Care Allowance Minimum Rates of Payment for Board and Lodgings, rates of benefits payable to long-term hospital patients, and New Zealand Superannuation, to comply with the statutory requirement to adjust the rates to reflect the 7.22 percent increase in the CPI (All Groups) over the previous year
- 16.3 increase rates and thresholds of allowances and various forms of supplementary assistance in line with the 7.22 percent increase in the CPI (All Groups) over the previous year
- 16.4 increase income thresholds for Disability Allowance and the Community Services Card by applying the 7.22 percent increase in the CPI (All Groups) over the previous year⁶
- 16.5 increase Childcare Assistance income thresholds to reflect the 6.24 percent increase in the net average wage over the previous year, as well as an additional one-off increase through a Budget 2023 pre-commitment to account for growth in the net average wage since 2010 [CAB-22-MIN-0473 refers]
- 16.6 increase hardship assistance income thresholds to reflect the 6.24 percent increase in the net average wage over the previous year [CAB-22-SUB-0129 refers]
- 16.7 amend the abatement regime for the 'at home' Student Allowance payments for those under 24 years of age without children, to maintain Cabinet agreement to apply a net abatement of 25 percent [CAB Min (04) 11/9 refers]
- 16.8 increase the Blind Subsidy income thresholds to reflect the 6.24 percent increase in the net average wage over the previous year and a further discretionary increase to the Blind Subsidy couple threshold so the overall adjustment is in line with the percentage increase to the Supported Living Payment [SWC-23-MIN-0007 refers].

Timing and 28-day rule

- 17 If approved, the Orders and Amendment Regulations will be submitted to the Executive Council for consideration on 20 March 2023. Cabinet's decision to apply a one-off increase to main benefit rates delayed this paper and a waiver to the 28-day rule is now required, to ensure the legislative amendments come into force on 1 April 2023. The 28-day rule can be waived if a change only confers benefits to those affected. The Orders and Amendment Regulations, which only confer benefits to those affected, will be published in the New Zealand Gazette as soon as possible following 20 March 2023.

⁵ This is the rounded percentage; the calculations of the increases are based on the unrounded percentage figure of 6.2416750 percent.

⁶ A net wage adjustment is sometimes applied to some Disability Allowance and superannuation-specific Community Services Card income thresholds to prevent people losing eligibility to this assistance. This year the CPI adjustment to these rates was sufficiently large that no further wage related adjustment was required.

Compliance

- 18 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 2020
 - relevant international standards and obligations
 - *Legislation Guidelines: 2021 Edition*, published by the Legislation Advisory Committee.

Regulations Review Committee

- 19 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 327.

Certification by Parliamentary Counsel

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

Impact analysis

- 21 Treasury's Regulatory Impact Analysis team has determined that the 2023 Annual General Adjustment of benefit rates and thresholds is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that the government has limited statutory decision-making discretion for the content of proposed legislation, or that the proposals implement previous Cabinet decisions.
- 22 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

- 23 As part of the legislative requirements, the Orders and Amendment Regulations will be notified in the New Zealand Gazette at the earliest available opportunity.
- 24 The Ministry of Social Development will work with relevant Ministers' Offices to advise the public of the changes to rates and thresholds.

Proactive release

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

Consultation

- 26 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

I recommended that the Cabinet Legislation Committee:

- 1 **note** that, acting with Cabinet's delegated authority [CAB Min (02) 7/1A refers], the Ministers responsible for the Finance, Children, Housing, Education, Social Development, Health and Veterans portfolios have approved new rates of New Zealand Superannuation, benefits, Student Allowances, Foster Care Allowance and new rates and thresholds for allowances and supplementary assistance [REP/23/2/057 refers]
- 2 **note** that the proposed Orders in Council and Amendment Regulations will:
 - 2.1 increase the rates of main benefits in line with the 7.22 percent increase in the CPI (All Groups), as agreed by Cabinet through a Budget 2023 pre-commitment, which complies with the statutory requirement to adjust the rates to reflect the 6.24 percent increase in the net average wage over the previous year [SWC-23-MIN-0007 refers]
 - 2.2 increase the rates of Student Allowances, Orphan's Benefit, Unsupported Child's Benefit, Foster Care Allowance, rates of benefits payable to long-term hospital patients, and New Zealand Superannuation, to comply with the statutory requirement to adjust the rates to reflect the 7.22 percent increase in the Consumers Price Index (All Groups) over the previous year
 - 2.3 increase rates and thresholds of allowances and various forms of supplementary assistance in line with the 7.22 percent increase in the Consumers Price Index (All Groups) over the previous year
 - 2.4 increase income thresholds for Disability Allowance and the Community Services Card by applying the 7.22 percent increase in the Consumers Price Index (All Groups) over the previous year
 - 2.5 increase Childcare Assistance income thresholds to reflect the 6.24 percent increase in the net average wage over the previous year, as well as an additional one-off increase through a Budget 2023 pre-commitment to account for growth in the net average wage since 2010 [CAB-22-MIN-0473 refers]
 - 2.6 increase hardship assistance income thresholds to reflect the 6.24 percent increase in the net average wage over the previous year [CAB-22-SUB-0129 refers]
 - 2.7 amend the abatement regimes for the 'at home' and 'away from home' Student Allowance payments for those under 24 years of age without children, to maintain policy intent of keeping net abatement of these payments at 25 percent [CAB Min (04) 11/9 refers]

- 2.8 increase the Blind Subsidy income thresholds to reflect the 6.24 percent increase in the net average wage over the previous year to meet requirements under the Social Security Act 2018, and a further discretionary increase to the Blind Subsidy couple threshold so the overall adjustment is in line with the percentage increase to the Supported Living Payment [SWC-23-MIN-0007 refers].
- 3 **note** a further adjustment to the net weekly couple amount of New Zealand Superannuation will not be required in the 2023 AGA, as the 7.22 percent Consumers Price Index (All Groups) adjustment will see this amount exceeding the minimum 66 percent of net average wage statutory requirement
- 4 **note** that the proposed Orders in Council and Amendment Regulations will come in to force on 1 April 2023
- 5 **agree** to waive the 28-day rule on the grounds that the amendments only confer benefits to those affected, so that the amendments can come in to force on 1 April 2023
- 6 **authorise** the submission to the Executive Council of the following Orders and Amendment Regulations:
- 6.1 Social Security (Rates of Benefits and Allowances) Order 2023
 - 6.2 Social Security Amendment Regulations 2023
 - 6.3 Student Allowances Amendment Regulations 2023
 - 6.4 Oranga Tamariki (Minimum Rates of Payment for Board and Lodgings) Order 2023
 - 6.5 Health Entitlement Cards Amendment Regulations 2023
 - 6.6 Residential Care and Disability Support Services Amendment Regulations 2023.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Social Development and Employment