

In Confidence

Office of the Minister for Social Development and Employment

Cabinet Legislation Committee

SOCIAL SECURITY (TEMPORARY ADDITIONAL SUPPORT—SEVERE WEATHER EVENTS TAA PROGRAMME) AMENDMENT REGULATIONS 2024

Proposal

1 This paper seeks authorisation for submission to the Executive Council of the following regulations to ensure that payments made under the amended Temporary Accommodation Assistance (Severe Weather Events) Programme (TAA Programme) continue to be excluded as chargeable income for the purposes of Temporary Additional Support in the Social Security Regulations 2018. The regulations will also ensure people who receive payments under the amended TAA Programme, or incur arrears in accommodation costs while receiving TAA Programme payments, cannot also claim their temporary accommodation costs or arrears as an allowable cost for Temporary Additional Support:

1.1 Social Security (Temporary Additional Support—Severe Weather Events TAA Programme) Amendment Regulations 2024.

Policy

Background

2 The TAA Programme was established in September 2023 to support a small, specified group of homeowners displaced from their home due to the January 2023 Auckland Floods and Cyclone Gabrielle. The programme was expanded later that month to also cover homeowners displaced by the August 2022 Nelson, Marlborough and Tasman Floods, keeping core policy settings the same. For the purposes of the TAA Programme, these weather events are collectively referred to as the “severe weather events”.

Joint Ministers have agreed to expand the TAA Programme to support some additional displaced homeowners in hardship

3 In December 2023, the Minister of Finance, Minister of Housing, and Minister for Social Development and Employment (Joint Ministers), under Power to Act authorised by Cabinet [CAB-23-MIN-0312 refers], agreed to amend the TAA programme to expand the eligibility criteria to support additional displaced homeowners in genuine need who do not meet one or more specified eligibility criteria.

4 In January 2024, the Joint Ministers agreed to the detailed policy parameters for this expansion.

5 To give effect to these decisions, the TAA Programme will be amended as follows:

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- 5.1 More homes that are uninhabitable due to damage by the severe weather events will be included. This will mean MSD is no longer limited to considering a council-issued red or yellow placard and will also be able to consider additional evidence. This reflects that placards were not able to be issued in all cases.
 - 5.2 More temporary accommodation agreements will be included, such as boarding, house sharing and commercial accommodation agreements, so that the Programme is no longer limited to a tenancy to which the Residential Tenancies Act 1986 applies.
 - 5.3 More kinds of qualifying temporary accommodation costs will be included, to align with the amended policy setting in paragraph 5.2 above.
 - 5.4 MSD will have discretion to grant TAA payments to applicants who:
 - 5.4.1 did not have a policy for temporary accommodation insurance cover due to circumstances outside their control, or
 - 5.4.2 did not receive temporary accommodation insurance cover due to the nature of the damage caused to their home by the severe weather event (for example, where the land was damaged but not the house).
 - 5.5 The previously available lump sum hardship payment (which was designed to support applicants with a gap in their financial support prior to the TAA Programme being in force) will be amended to ensure it can be granted to newly eligible applicants. This will be to support applicants for costs incurred prior to the implementation of the amended TAA Programme, as far back as 1 January 2024.
 - 5.6 Consequential changes required as a result of the above amendments will also be made, keeping all other policy settings the same.
- 6 Changes to two definitions in the Social Security Regulations are required to accommodate these amendments to the TAA Programme.

TAA Programme payments are not intended to affect eligibility for other MSD assistance, including Temporary Additional Support

- 7 In line with Cabinet's decision for the original TAA Programme [CAB-23-MIN-0312 refers], and Joint Ministers' decision for its expansion in September 2023, I recommend that the Cabinet Legislation Committee agree to further amend the Social Security Regulations to ensure that:
- 7.1 payments received under the amended TAA Programme are not chargeable income for the purposes of Temporary Additional Support
 - 7.2 temporary accommodation costs met by the amended TAA Programme are excluded as an allowable cost for the purposes of Temporary Additional Support.

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- 8 Currently, for the purposes of eligibility and calculation of Temporary Additional Support, payments received under the TAA Programme are exempted as chargeable income, and temporary accommodation costs met by the TAA Programme are excluded as allowable costs.
- 9 Definitions in the Social Security Regulations need to be added or amended for this exemption and exclusion to continue under the proposed amendments to the TAA Programme. A definition for “qualifying temporary accommodation” will be added and the definition of “temporary accommodation costs” will be amended so that they have meanings in the Social Security Regulations that are consistent with the amended TAA Programme. This will ensure that payments made under the amended provisions of the TAA Programme are subject to the qualifications outlined in paragraph 7 above.
- 10 Under the TAA Programme, arrears in accommodation costs incurred by a person while receiving TAA Programme payments are also not intended to be treated as an allowable cost for Temporary Additional Support. I recommend that an additional amendment to the Social Security Regulations is made to ensure this purpose is met. This will address a possible legal loophole identified as part of the 2024 changes to the regulations that could allow people receiving TAA Programme payments to claim Temporary Additional Support for arrears of any payments their TAA payment was intended to cover.

The amended TAA Programme will be implemented from 1 April 2024

- 11 The amended TAA Programme will be implemented from 1 April 2024 to include additional displaced homeowners in hardship who did not previously meet one or more specified eligibility criteria. Applications from displaced homeowners who already qualified under the previous criteria can continue to be made before 1 April 2024.

Timing and 28-day rule

- 12 A waiver for the 28-day rule is sought for the proposed amendment to the Social Security Regulations, to provide support to homeowners as soon as possible. The waiver is sought on the grounds that the changes would confer only benefits on individuals, as they would alleviate hardship and provide more benefits for eligible applicants sooner.
- 13 I recommend that Cabinet Legislation Committee waive the 28-day rule for these amendments to the Social Security Regulations. This will ensure the exemptions are in place prior to the implementation of the expanded TAA Programme on 1 April 2024.

Compliance

- 14 The regulations (where applicable) comply with:
- 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 or the Human Rights Act 1993;

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- 14.3 the principles and guidelines set out in the Privacy Act 2020;
- 14.4 relevant international standards and obligations; and
- 14.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

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

Certification by Parliamentary Counsel

- 16 The draft regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

- 17 Joint Ministers have Power to Act relating to extending or expanding the Temporary Accommodation Assistance scheme [CAB-23-MIN-0312 refers]. Therefore, Cabinet's impact analysis requirements do not apply to the decision to expand assistance through the scheme to a group of additional displaced homeowners in hardship.

Publicity

- 18 The expansion of the TAA Programme will be announced on 18 March 2024.

Proactive release

- 19 The intention is to proactively release this Cabinet Legislation Committee paper, subject to any redactions as appropriate under the Official Information Act 1982.

Consultation

- 20 The following government agencies/departments have been consulted on the proposals in this paper: the Treasury, the Ministry of Business, Innovation and Employment, the Inland Revenue Department, Whaikaha – Ministry of Disabled People and the Office for Seniors.
- 21 The Department of the Prime Minister and Cabinet, the Ministry of Housing and Urban Development, Te Puni Kōkiri, the Ministry for Women, National Emergency Management Agency, and the Ministry for Ethnic Communities have been informed.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that the Minister of Finance, Minister for Social Development and Employment, and Minister of Housing (Joint Ministers), under Power to Act authorised by Cabinet [CAB-23-MIN-0312 refers], have agreed that the Temporary Accommodation

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Assistance (Severe Weather Events) Programme (TAA Programme) is expanded to support additional displaced homeowners in genuine need who did not previously meet one or more specified eligibility criteria

- 2 **note** that to give effect to the decision in recommendation 1 above, the TAA Programme will be amended to include:
 - 2.1 eligibility for more homes that are uninhabitable due to damage by the severe weather events (by allowing additional evidence to be considered and no longer being limited to a council-issued red or yellow placard only)
 - 2.2 eligibility for more temporary accommodation agreements, such as boarding, house sharing and commercial accommodation agreements, so that the TAA Programme is no longer limited to a tenancy to which the Residential Tenancies Act 1986 applies
 - 2.3 eligibility for more kinds of qualifying temporary accommodation costs, to align with the amended policy setting in recommendation 2.2 above
 - 2.4 discretion for MSD to grant TAA payments to applicants who:
 - 2.4.1 did not have a policy for temporary accommodation insurance cover due to circumstances outside their control, or
 - 2.4.2 did not receive temporary accommodation insurance cover due to the nature of the damage caused to their home by the severe weather event (for example, where the land was damaged but not the house)
 - 2.5 an amendment to the previously available lump sum hardship payment (which was designed to support applicants with a gap in their financial support prior to the TAA Programme being in force) to ensure it can be granted to newly eligible applicants (support applicants for costs incurred prior to the implementation of the amended Programme, as far back as 1 January 2024)
 - 2.6 consequential changes required as a result of the above amendments, keeping all other policy settings the same
- 3 **note** that changes to accommodate the amendments in recommendation 2 above are required to the Social Security Regulations 2018, which will include updated or new definitions for “qualifying temporary accommodation” and “temporary accommodation costs” to align the Regulations and the TAA Programme
- 4 **note** that an additional amendment to the Social Security Regulations 2018 is required to close off a possible loophole identified in the TAA Programme, which will ensure that arrears incurred in accommodation costs while a person is in receipt of TAA Programme payments are not treated as an allowable cost for Temporary Additional Support
- 5 **agree** to amend the Social Security Regulations 2018 to give effect to recommendations 3 and 4 above, to ensure:

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- 5.1 the amended TAA Programme payments are not chargeable income for Temporary Additional Support
- 5.2 people who receive the amended TAA Programme payments cannot also claim their temporary accommodation costs as an allowable cost for Temporary Additional Support
- 5.3 people who incur arrears in accommodation costs while receiving TAA Programme payments cannot claim those arrears as an allowable cost for Temporary Additional Support

AGREE / DISAGREE

- 6 **note** that the Social Security (Temporary Additional Support—Severe Weather Events TAA Programme) Amendment Regulations 2024 will give effect to the decision referred to in recommendation 5 above
- 7 **agree** to waive the 28-day rule for these amendments to the Social Security Regulations 2018 as the regulatory changes confer only benefits on individuals

AGREE / DISAGREE

- 8 **authorise** the submission to the Executive Council of the:
 - 8.1 Social Security (Temporary Additional Support—Severe Weather Events TAA Programme) Amendment Regulations 2024

Authorised for lodgement

Hon Louise Upston
Minister for Social Development and Employment