

In Confidence

Office of the Minister for Social Development and Employment

Office of the Minister of Revenue

Cabinet Legislation Committee

The Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Amendment Order 2026

Proposal

- 1 This paper seeks Cabinet authorisation to submit the Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Amendment Order 2026 (the Order) to the Executive Council. The changes in the Order support the delivery of Budget 2025 initiatives to improve the accuracy and integrity of Ministry of Social Development (MSD) payments (income charging).

Executive Summary

- 2 To support the income charging initiative, Cabinet agreed in-principle to amend the Approved Information Sharing Agreement between MSD and Inland Revenue (the AISA). The proposed amendment would waive the Privacy Act 2020 requirement to provide 10 working days' notice before MSD can use Pay As You Earn (PAYE) and child support income information shared by Inland Revenue (CAB-26-MIN-0112 refers) to take an adverse action in relation to benefits and subsidies.
- 3 Officials consulted on the proposed AISA amendment with the public from 20 April to 29 May 2026 and received a written submission from the Privacy Commissioner in June 2026. The proposed AISA amendment has been narrowed to specify which subsidies the waiver applies to in the Order to reflect the intent of the policy agreed by Cabinet (CAB-26-MIN-0112 refers) and reflects feedback from stakeholders.
- 4 We consider that the Privacy Act 2020 requirements have been met and we recommend the Order be authorised for referral to the Executive Council.

Policy

- 5 Cabinet agreed through Budget 2025 to change how MSD charges income in two phases (CAB-25-MIN-0126.61 refers). Phase 1, currently in effect, aims to improve benefit integrity by increasing the number of manual checks Ministry of Social Development (MSD) staff carry out each year on salary and wage records shared by Inland Revenue to MSD.
- 6 Phase 2 will take effect from July 2028 and will allow MSD to use Inland Revenue's PAYE income information to more accurately charge salary and wage income against benefit payments. It is estimated to realise \$376.524 million¹ in savings annually from July 2028 and will reduce the burden on clients to regularly declare this income to

¹ As forecast in Budget 2025.

MSD. This is being progressed with other changes to the policy settings, including charging income forward from the week the client receives it.

- 7 The terms of the AISA mean that the default Privacy Act 2020 requirement applies. MSD must give clients 10 working days to challenge the accuracy of PAYE income information shared by Inland Revenue before MSD can use that information to assess their eligibility to income-tested financial assistance or adjust their rate of assistance. This 10 working-day notice period would reduce the potential savings and cause overpayment debt to become a larger issue for clients when improvements are made to the accuracy and integrity of MSD payments (income charging) in July 2028.
- 8 In April 2026, Cabinet agreed in-principle to amend the AISA to waive the 10 working-day notice period prior to taking an adverse action when MSD uses (CAB-26-MIN-0112 refers):
 - 8.1 PAYE income information from Inland Revenue to charge income for benefits from October 2026, and subsidies² from July 2028
 - 8.2 child support income from Inland Revenue to adjust the rate of Income-Related Rent and assess eligibility for Public Housing and priority on the Public Housing Register from October 2026. This will resolve an existing issue stemming from child support changes in 2023.
- 9 Before recommending an Order in Council to amend an AISA, the Privacy Act 2020 requires:
 - 9.1 the responsible Ministers to have regard to matters under section 149;
 - 9.2 consulting with the Privacy Commissioner, and people or organisations that represent the interests of people whose personal information will be shared as a result of the proposed change and that responsible Ministers have regard to submission received, under section 150.

Outcome of public consultation and adjustments to the policy

- 10 Public consultation took place from 20 April to 29 May 2026. Feedback was sought on three specific purposes of the proposed AISA amendment:
 - 10.1 **Purpose One:** to allow MSD to assess and charge PAYE income against clients' benefits as soon as Inland Revenue shares PAYE income information with MSD:
 - 10.1.1 from October 2026, to support the existing checks of PAYE income information to support Phase 1 of income charging
 - 10.1.2 from July 2028, to support the implementation of Phase 2 with automated income charging changes using prescriptive rules and charging income forward from the week clients receive PAYE income.

² The AISA defines subsidies as specific financial assistance and support payments, including Working for Families tax credits, Community Services Cards, Student Loans and Allowances, Child Support, and income-related rent and social housing (Public Housing Register and relevant priority). Some of these subsidies are not conventional subsidies.

- 10.2 **Purpose Two:** from October 2026, to resolve an existing issue whereby MSD must wait 10 working days to decrease a client's Income-Related Rent when their child support income received through Inland Revenue has decreased.
- 10.3 **Purpose Three:** from July 2028, to enable the Government to make decisions in the future about how PAYE income information could be used to assess eligibility and the rate of subsidies without needing to amend the AISA again.
- 11 Officials analysed stakeholder feedback s 9(2)(f)(iv) 
- 12 However, the Privacy Commissioner recommended that MSD implement all recommendations in the Privacy Impact Assessment report on the proposed changes, ensures that the use of automated decision-making (ADM) is in line with MSD's ADM Standard and is subject to monitoring and assurance, and that the concerns below are addressed.

Concerns	How they will be addressed
That the AISA amendment should specify which subsidies Purpose Two and Purpose Three would apply to.	Following consultation, the proposed AISA amendments in the Order now only apply to specific subsidies which have policy agreement from the Minister of Social Development and Employment and the Minister of Revenue (i.e. Income-Related Rent, eligibility to Public Housing, and priority on the Public Housing Register).

s 9(2)(f)(iv) 

- 13 The Order has been updated to specify which subsidies the AISA amendment would apply to, as in the table above. The change reflects the intent of previous policy decisions and is a minor and technical change which is in keeping with our delegated authority from Cabinet (CAB-26-MIN-0112 refers).
- 14 As the responsible Ministers, we are satisfied that requirements set out in the Privacy Act 2020 have been met. We seek your authorisation to submit the Order (Appendix 1) to the Executive Council.

Timing and 28-day rule

- 15 Subject to your agreement, the Order will be gazetted on 10 September 2026 and will come into effect on 8 October 2026. This is in line with the 28-day rule.

Compliance

- 16 The Order complies, where applicable with each of the following:
- 16.1 the principles of the Treaty of Waitangi;

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- 16.2 advice from the Treaty Provisions Officials Group on any Treaty of Waitangi provisions;
- 16.3 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
- 16.4 the principles and guidelines set out in the Privacy Act 2020, noting the view of the Privacy Commissioner in paragraph 28;
- 16.5 relevant international standards and obligations;
- 16.6 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 17 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

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

Regulatory Analysis

- 19 A Regulatory Analysis Summary is not required because the policy proposal was exempt from the Cabinet impact analysis requirements. Cabinet was advised of the exemption when approving the policy on 7 April 2026 (CAB-26-MIN-0112 refers). However, the following documents have been appended to support regulatory analysis: the Consistency Accountability Statement (Appendix 2), the Summary of Underpinning Analysis (Appendix 3), the Privacy Impact Assessment Report (Appendix 4) and the Guidance and Advice (Appendix 5).
- 20 A Regulatory Analysis Summary will be completed to support policy decisions on the substantive changes to necessary legislation to implement income charging from July 2028 to allow MSD to use Inland Revenue's PAYE income information to charge salary and wage income more accurately against benefit payments.

Consistency with principles of responsible regulation

- 21 MSD and Inland Revenue consider that the proposal is consistent with the principles of responsible regulation.

Publicity

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

Proactive release

- 24 We propose to release this Cabinet paper proactively (as required by CO (23) 4) alongside:
 - 24.1 the April 2026 Cabinet paper in which Cabinet agreed in-principle to amend the AISA to waive the 10 working-day notice period prior to taking an adverse action when MSD uses (CAB-26-MIN-0112 refers)

- 24.2 the document summarising the feedback of stakeholders, which was agreed to be published on MSD and Inland Revenue's website by the Minister for Social Development and Employment and the Minister of Revenue under delegated authority from Cabinet (CAB-26-MIN-0112 refers).

Consultation

Public consultation

- 25 MSD and Inland Revenue ran consultation from 20 April to 29 May 2026 on the AISA amendment. There were seven written submissions. Six workshops were held with nine stakeholders, comprising a combination of welfare advocates, privacy advocates, social service providers, iwi accord partners and unions.
- 26 As discussed in paragraph 11, s 9(2)(f)(iv) further adjustments have been made to the proposed AISA amendment, reflecting feedback from the Privacy Commissioner and other stakeholders during consultation.

Agency consultation

- 27 The Department of Prime Minister and Cabinet, Ministry for Business Innovation and Employment, Ministry for Pacific Peoples, Ministry for Women, Ministry for Ethnic Communities, Ministry for Regulation, Ministry of Youth Development, Ministry of Housing and Urban Development (Ministry for Cities, the Treasury, Environment, Regions and Transport), Ministry of Justice, the Office for Seniors, the Office of the Privacy Commissioner, Oranga Tamariki—Ministry for Children, Te Puni Kōkiri, Te Tari Whakataua, Veterans' Affairs, the Youth Service, the Parliamentary Counsel Office and Whaikaha - Ministry of Disabled People have been consulted on this paper.

Privacy Commissioner's view

- 28 The Privacy Commissioner is satisfied that the proposed removal of the notice period is justified, based on what he was told about how the change will be implemented and the safeguards that will be put in place. The Privacy Commissioner is pleased to see that, in line with his recommendation, the amendment will relate only to certain specified subsidies and not to all subsidies. He also recommends that MSD implement all recommendations in the Privacy Impact Assessment report on the proposed changes, and ensure that the use of automated decision-making (ADM) is in line with MSD's ADM Standard and is subject to monitoring and assurance.

Recommendations

The Minister for Social Development and Employment and the Minister of Revenue recommend that the Committee:

- 1 **note** that Cabinet agreed;
- 1.1 through Budget 2025 (CAB-25-MIN-0126.61 refers) to change how MSD charges income, to more accurately charge salary and wages income against benefit payments in two phases, with Phase 1 having commenced in July 2025 and Phase 2 commencing in July 2028;

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- 1.2 on 7 April 2026, in-principle to amend the Approved Information Sharing Agreement between MSD and Inland Revenue (the AISA) to waive the 10 working-day notice period prior to taking an adverse action when MSD uses (CAB-26-MIN-0112 refers):
 - 1.2.1 PAYE income information from Inland Revenue to charge income for benefits from October 2026, and subsidies from July 2028;
 - 1.2.2 child support income from Inland Revenue to adjust the rate of Income-Related Rent and assess eligibility for Public Housing and priority on the Public Housing Register from October 2026.
- 2 **note** the Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Amendment Order 2026 now specifies that changes in relation to subsidies only apply to Income-Related Rent, eligibility to Public Housing, and priority on the Public Housing Register. This is a minor and technical change in keeping with our delegated authority to make changes to the proposed AISA amendment and reflects consultation feedback (CAB-26-MIN-0112 refers);
- 3 **note** that prior to recommending an amendment to the AISA by Order in Council we, the responsible Ministers, are satisfied that requirements set out in the Privacy Act 2020 have been met;
 - 3.1 the responsible Ministers have had regard to section 149;
 - 3.2 the Privacy Commissioner and people or organisations that represent the interests of people whose personal information will be shared have been consulted, and that responsible Ministers have regard to submission received, as required under section 150;
- 4 **authorise** the submission of the Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Amendment Order 2026 to the Executive Council;
- 5 **note** that the Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Amendment Order 2026 comes into force on 8 October 2026 with the exception of using PAYE income information in relation to Income-Related Rent, eligibility to Public Housing and priority on the Public Housing Register which will come into effect from July 2028.

Authorised for lodgement

Hon Louise Upston
Minister for Social Development and
Employment

Hon Simon Watts
Minister of Revenue

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Appendices

- 1 Appendix 1: Order in Council – The Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Amendment Order 2026
- 2 Appendix 2: Consistency Accountability Statement: the Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Amendment Order 2026
- 3 Appendix 3: Summary of Underpinning Analysis: the Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Amendment Order 2026
- 4 Appendix 4: Privacy Impact Assessment Report: Income Charging Information Sharing Agreement with Inland Revenue – Te Tari Taake
- 5 Appendix 5: Guidance and Advice – Removing the notice period for subsidies in relation to child support income