



# Cabinet

## Minute of Decision

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### Charging Backdated ACC Payments Against Welfare Assistance

**Portfolio**                      **Social Development and Employment**

On 15 December 2025, Cabinet:

- 1        **noted** that on 5 September 2024, the Social Security Appeal Authority decided that the Ministry of Social Development (MSD) failed to take into account all relevant considerations when deciding whether to exercise discretion under clause 13, schedule 3 of the Social Security Act 2018 to charge a backdated ACC payment as income against past entitlement for supplementary assistance;
- 2        **noted** that on 14 October 2025, the High Court decided that while section 252 of the Accident Compensation Act 2001 enables MSD to recover main benefit payments directly from ACC, this provision does not affect the client's status as a beneficiary for the period reimbursed;
- 3        **noted** that, despite being available to them in the law, the decisions in paragraphs 1 and 2 above do not align with longstanding policy intent, and create a notable inequity across ACC compensation recipients;
- 4        **agreed** that, when calculating a person's weekly income, MSD must charge that income for the period it represents;
- 5        **agreed** that, if MSD is unable to determine the period a person's income represents as specified in paragraph 4 above, MSD must determine the appropriate period to charge that income, having regard to:
  - 5.1      the extent to which it was earned in that period or those periods; or
  - 5.2      the extent to which any other entitlement to it arose in, or in respect of, that period or those periods; or
  - 5.3      the period or periods for which it was otherwise received, acquired, paid, provided, or supplied;
- 6        **agreed** that when a person has received a backdated ACC payment, MSD must review any supplementary assistance, Temporary Additional Support, or Special Benefit that has been granted for that period;

- 7 **agreed** that where a person's main benefit reduces to zero because they have received a backdated ACC payment, MSD must treat that person as a non-beneficiary when reviewing entitlement to supplementary assistance for that period;
- 8 **agreed** that where a person's entitlement to a benefit or rate of benefit changes as a result of that review, MSD may either suspend, cancel, or vary the rate of entitlement for that period;
- 9 **agreed** that the above amendments will:
- 9.1 have retrospective effect and validate all MSD decisions that are in scope of the Social Security Appeal Authority and High Court decisions as stated in paragraphs 1 and 2 above;
- 9.2 preserve the law as found by the Social Security Appeal Authority and High Court through a savings provision for cases where:
- 9.2.1 the Appeal Authority or High Court have issued judgments in their favour;
- 9.2.2 the cases have been lodged with the Appeal Authority or the Courts but have not yet been decided at the time of the Bill's introduction;
- 9.2.3 an appeal of a decision from either the Appeal Authority or the Courts has been lodged, but not yet decided, at the time of the Bill's introduction;
- 9.3 give effect to paragraphs 4–8 above prospectively;
- 10 **agreed** that it is necessary to amend legislation under urgency to confirm the longstanding policy intent and mitigate potential financial and operational impacts;
- 11 **invited** the Minister for Social Development and Employment to issue drafting instructions to the Parliamentary Counsel Office to enable amendments to the Social Security Act 2018 to give effect to the policy decisions in paragraphs 4–9 above;

12 s (9)(2)(g)(i)

Diana Hawker  
for Secretary of the Cabinet