



# Report

**Date:** 13 June 2019

**Security Level:** IN CONFIDENCE

**To:** Hon Carmel Sepuloni, Minister for Social Development

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## Amendment to Direction in Relation to Special Benefit – Ex gratia and compensation payments exemption

### Purpose of the report

- 1 This report provides an instrument amending the Direction in relation to Special Benefit (Direction) to apply changes that are being made to the cash asset and income exemption for ex gratia and compensation payments in regulations to special benefit. The changes:
  - extend the exemption beyond payments made by the Crown (as it is currently) to include payments made by specified non-Crown entities and
  - remove the 12-month time limit to make the exemption permanent.

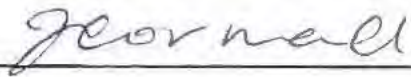
### Recommended actions

It is recommended that you:

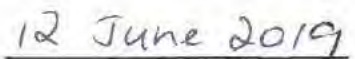
- 1 **note** that your Cabinet paper proposing to amend regulations to change the ex gratia and compensation payments exemption was agreed by the Cabinet Social Wellbeing Committee on Wednesday 12 June 2019. The changes in your Cabinet paper:
  - extend the exemption beyond payments made by the Crown (as it is currently) to include payments made by specified non-Crown entities and
  - remove the 12-month time limit to make the exemption permanent
- 2 **note** that in your Cabinet paper you indicated your intention to give directions to the Ministry of Social Development to reflect the changes to the ex gratia and compensation payments exemption regulations by amending the Direction in Relation to Special Benefit
- 3 **agree** to sign the attached instrument amending the Direction in Relation to Special Benefit which links the treatment of ex gratia and compensation payments for special benefit to the ex gratia and compensation payments exemption in Schedule 8 of the Social Security Regulations 2018
- 4 **note** that linking the Direction in relation to Special Benefit directly to ex gratia and compensation payments exemption in Schedule 8 of the Social Security Regulations 2018 will ensure they remain aligned if any future amendments are made to the exemption

**agree/disagree**

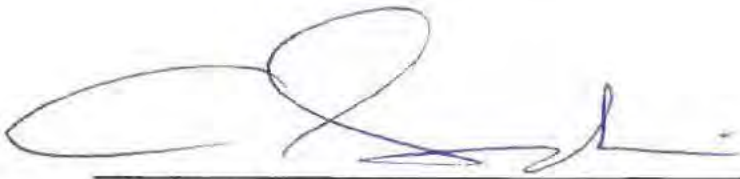
- 5 **note** that following your approval and signature, your office will arrange for copies of the attached instrument amending the Direction in Relation to Special Benefit to be tabled in the House of Representatives
- 6 **note** that Officials will notify the making of the instrument in the New Zealand Gazette and publish a copy on the Ministry of Social Development's external website as required by section 7 of the Social Security Act 2018.



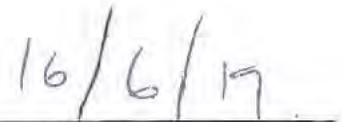
Justine Cornwall  
General Manager  
Seniors and International Policy



Date



Hon Carmel Sepuloni  
Minister for Social Development



Date

## **An Amendment to the Direction in Relation to Special Benefit is attached for your approval and signature**

- 2 On 12 June 2019, the Cabinet Social Wellbeing Committee agreed to amend the income and cash asset exemption for ex gratia and compensation payments by amending Schedule 8 of the Social Security Regulations 2018 and Schedule 3 of the Residential Care and Disability Support Services Regulations 2018. The Committee agreed to:
  - extend the exemption beyond payments made by the Crown (as it is currently) to include payments made by specified non-Crown entities and
  - remove the 12-month time limit to make the exemption permanent.
- 3 Cash asset and income exemptions in regulations apply to means-tested assistance such as temporary additional support, but not to special benefit. This is because the special benefit provisions have been repealed and replaced by the temporary additional support provisions, and special benefit is only paid under grand-parenting provisions.
- 4 To ensure special benefit is aligned with the exemption regulations you can give directions to Ministry of Social Development (MSD) under section 7 of the Social Security Act 2018. In 2019 you have made several amendments to the Direction to exempt lump sum payments:
  - made as a Christchurch mosques attack support payment
  - made by MSD to refund repayments made against recoverable assistance granted as a result of Housing New Zealand's zero-tolerance methamphetamine policy
  - of arrears of accommodation supplement made as a result of correcting a specified area boundary error.
- 5 An instrument amending the Direction is attached for your approval and signature. The instrument exempts ex gratia and compensation payments from being a cash asset or chargeable income when determining eligibility for special benefit, as well as any income derived from them, by linking the Direction directly to the ex gratia and compensation payments exemption in Schedule 8 of the Social Security Regulations 2018. By doing it this way there is no need to specify any particular amendments as it links to the exemption as a whole. This will ensure the Direction remains aligned if any future amendments are made to the ex gratia and compensation payments exemption.
- 6 The amendments to the Direction will start from 21 June 2019 when the amendments to regulations come into force.

### **Next steps**

- 7 Following your approval and signature your office will arrange for a copy of the instrument amending the Direction in Relation to Special Benefit to be tabled in the House.
- 8 Officials will arrange for the attached instrument to be notified in the New Zealand Gazette once signed and publish a copy of the instrument on MSD's external website as required by sections 7 of the Social Security Act 2018.

9 s 9(2)(f)(iv)

REP/19/5/478

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Responsible manager: s 9(2)(a) Manager, Income Support Policy

Amendment to Direction in Relation to Special Benefit - Ex gratia and compensation payment exemption

# Direction in relation to Special Benefit Amendment (No 4) 2019

This instrument is made under section 7 of the Social Security Act 2018 by the Minister for Social Development.

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## **Instrument**

- 1 Title**  
This instrument is the Direction in relation to the Special Benefit Amendment (No 4) 2019.
- 2 Commencement**  
This instrument comes into force on 21 June 2019.
- 3 Principal direction amended**  
This instrument amends the Direction in relation to Special Benefit given on 10 February 1999<sup>1</sup> (the **principal direction**).
- 4 New clause 2.1B inserted**  
After clause 2.1A of the principal direction, insert:  
2.1B A person's chargeable income does not include any payments or income described in Schedule 8, Clause 14 of the Social Security Regulations 2018.

Dated at Wellington this 18<sup>th</sup> day of June 20 17



Minister for Social Development

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<sup>1</sup> New Zealand Gazette, 16 December 1999, page 4599, notice 9385

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### **Explanatory note**

*This note is not part of the instrument, but is intended to indicate its general effect.*

This instrument, which comes into force on 21 June 2019, amends the Direction in relation to Special Benefit to align it with amendments to income and asset exemptions being made to the Social Security Regulations 2018 and the Residential Care and Disability Support Services Regulations 2018.

The changes made by this instrument ensure exempt income under the Direction will include changes made to the exemption Regulations to:

- extend the exemption for ex gratia and compensation payments beyond Crown entities to include payments made by non-Crown entities, and to include any income derived from such payments; and
- remove the 12-month time limit to make the exemption permanent.

