

IN CONFIDENCE

In Confidence

Office of the Minister for Social Development and Employment

Cabinet Legislation Committee

SOCIAL SECURITY (CASH ASSETS AND INCOME EXEMPTIONS— KĀINGA ORA ENERGY SUBSIDY) AMENDMENT REGULATIONS 2023 AND STUDENT ALLOWANCES (INCOME EXEMPTIONS— KĀINGA ORA ENERGY SUBSIDY) AMENDMENT REGULATIONS 2023

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the following regulations to ensure that subsidies provided as part of Kāinga Ora’s Pilot Winter Energy Study (the pilot) are excluded as income for the purposes of the Social Security Act 2018, the Public and Community Housing Management Act 1992, and the Student Allowance Regulations 1998:
 - 1.1 Social Security (Cash Assets and Income Exemptions—Kāinga Ora Energy Subsidy) Amendment Regulations 2023
 - 1.2 Student Allowances (Income Exemptions—Kāinga Ora Energy Subsidy) Amendment Regulations 2023.

Policy

- 2 Over the 2023 and 2024 winter months, Kāinga Ora will partner with energy retailers to investigate how capped electricity bills impact the heating behaviour in public housing households. The pilot will assess if upfront investment in energy through a capped electricity bill improves the health and wellbeing of their tenants, and reduces government spend in the health and welfare systems.
- 3 Kāinga Ora is proposing to pay energy retailers in multiple instalments over the two-year period. The subsidies are therefore likely to be considered ‘periodical’ or ‘regular’ and be captured by the definitions of ‘income’ in the Social Security Act (SSA), the Public and Community Housing Management Act (PACHMA), and the Student Allowance (SA) Regulations.
- 4 Cabinet agreed to exclude the subsidies from the definition of ‘income’ in the SSA and the definitions of ‘personal income’ and ‘spousal or partner’s income’ in the SA Regulations [CAB-23-MIN-0083 refers]. This is to ensure the subsidies do not impact entitlements, which would otherwise disadvantage participants who are likely to be beneficiaries or lower income households.
- 5 An amendment to PACHMA is not required because reg 14(a)(iv) of the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018 excludes from ‘income’ an amount or payment identified in Schedule 8, cl 4 of the Social Security Regulations 2018 (SSR). Therefore, an

IN CONFIDENCE

IN CONFIDENCE

amendment to the SSR will result in the subsidies not being considered income for the purposes of PACHMA.

Timing and 28-day rule

- 6 A waiver of the 28-day rule is sought to ensure the exemptions are in place prior to Kāinga Ora paying the first subsidy for any electricity consumption over each participant's electricity cap to the energy retailers in June 2023. The amendments to the regulations will only confer benefits for those affected by them.

Compliance

- 7 The regulations (where applicable) comply with:
- 7.1 the principles of the Treaty of Waitangi;
 - 7.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 7.3 the principles and guidelines set out in the Privacy Act 2020;
 - 7.4 relevant international standards and obligations;
 - 7.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

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

Certification by Parliamentary Counsel

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

Impact Analysis

- 10 The Treasury's Regulatory Impact Analysis team has determined that this proposal to exclude subsidies made as part of Kāinga Ora's Pilot Winter Energy Study from being considered as income when assessing eligibility for social assistance is exempt from the requirement to provide a Regulatory Impact Statement. This is granted on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.

Publicity

- 11 There will not be any proactive announcements about the pilot.

IN CONFIDENCE

Proactive release

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

Consultation

- 13 The following government agencies/ departments were consulted in the course of developing the policy and draft regulations: Kāinga Ora, Ministry of Business, Innovation and Employment, Ministry of Housing and Urban Development, The Treasury, Ministry of Education, Ministry of Health, Office for Seniors, Te Puni Kōkiri, Ministry for Pacific Peoples, and Oranga Tamariki.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that on 20 March 2023 Cabinet agreed to exclude the subsidies provided as part of Kāinga Ora's Pilot Winter Energy Study from the definition of income in the Social Security Act 2018 and the Student Allowance Regulations 1998 [CAB-23-MIN-0083];
- 2 **note** that the Social Security (Cash Assets and Income Exemptions— Kāinga Ora Energy Subsidy) Amendment Regulations 2023 and Student Allowances (Income Exemptions—Kāinga Ora Energy Subsidy) Amendment Regulations 2023 will give effect to the decision referred to in recommendation 1 above;
- 3 **note** that a waiver of the 28-day rule is sought:
 - 3.1 so that the regulations can come into force prior to Kāinga Ora paying the first subsidy for any electricity consumption over each participant's electricity cap to energy retailers in June 2023;
 - 3.2 on the grounds that the amendments to the regulations will only confer benefits for those affected by them;
- 4 **agree** to waive the 28-day rule so that the regulations can come into force on 12 May 2023;
- 5 **authorise** the submission to the Executive Council of the:
 - 5.1 Social Security (Cash Assets and Income Exemptions—Kāinga Ora Energy Subsidy) Amendment Regulations 2023
 - 5.2 Student Allowances (Income Exemptions—Kāinga Ora Energy Subsidy) Amendment Regulations 2023.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Social Development and Employment