

From: s9(2)(a)
Sent: Wednesday, 5 August 2015 11:42 a.m.
To: s9(2)(a)
Cc:
Subject: PASS minutes re SSA rewrite & definitions

Hi s9(2)

As requested, please find below the relevant section of the PASS meeting minutes from July 29 regarding the item Social Security Act rewrite: Clarifying "resident" and "ordinarily resident".

Item 2.2 Social Security Act rewrite: Clarifying "resident" and "ordinarily resident"

s9(2)(a) and s9(2)(a) remained in the meeting.

Officials introduced the paper, *Memo – Social Security Act rewrite: Clarifying "resident" and "ordinarily resident"*, noting that it arose through litigation via the appeal system, and the intention is for the Minister to approve the amended definitions of "resident" and "ordinarily resident" in order to avoid further issues.

The Committee noted that the current definitions are the same, and that this does not reflect policy intent or current Ministry practice. The committee discussed the legal process so far, noting that while the High Court ruled against MSD's current practice, the Court of Appeal ruled in MSD's favour. Officials are now awaiting the Supreme Court process and decision.

The Committee determined that if the Supreme Court rules in MSD's favour and affirms that the law reflects MSD's understanding, then the current definitions could remain. It was noted that clarity comes in the policy and operations beneath the legislation.

The Committee discussed the apparent need for urgency with the new definitions, noting that the Social Security Act rewrite is underway and provides a logical avenue to address the definitions. However members agreed that if the Supreme Court decision is favourable, changes will not be necessary and that the decision would provide helpful jurisprudence for

MSD.

It was recommended that officials speak with PCO, and look at timeframes. The Committee asserts that the policy intent hasn't changed, and takes comfort from the Court of Appeal decision in this. There is a paper going to SOC in October, and this provides an appropriate opportunity to raise the issue, should the Supreme Court decision mean changes are required at that point. PCO will have feedback on new definitions, should the need arise. Ministers could decide what to do at that point, if necessary (with the option to do an SOP if needed).

s9(2)(a) and s9(2)(a) left the meeting.

No decisions were required.

No actions were required.

s9(2)

s9(2)(a)
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s9(2)(a)

Regard

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