



Treasury Report: COVID-19 Leave Scheme update and eligibility for State Owned Enterprises and Mixed Ownership Model Companies

Date:	24 February 2022	Report No:	T2022/336
		File Number:	SE-2-1-1

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	Agree to the recommendations outlined in this report Refer to the other shareholding Ministers of SOEs and MOMs, and the Associate Ministers of Finance, for their information	28 February 2022
Minister for Social Development and Employment (Hon Carmel Sepuloni)		
Minister for Workplace Relations and Safety (Hon Michael Wood)		

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Out of scope	Analyst, Welfare and Oranga Tamariki	Out of scope	✓
	Analyst, Commercial Performance		
	Acting Manager, Commercial Performance		
	Manager, Welfare and Oranga Tamariki		

Minister's Office actions

Minister of Finance's office: Refer the report to the other shareholding Ministers of SOEs and MOMs (the Minister for State Owned Enterprises and Minister for Biosecurity) and the Associate Ministers of Finance, for their information

All Ministers' offices: Return the signed report to the Treasury

Note any feedback on the quality of the report

Enclosure: No

Treasury Report: COVID-19 Leave Scheme update and eligibility for State Owned Enterprises and Mixed Ownership Model Companies

Purpose of report

1. This report:
 - provides an update on the Leave Support Scheme (LSS) and Short-Term Absence Payment (STAP) (together, the COVID-19 Leave Schemes) as we enter Phase 3 of the Government's Omicron plan; and
 - seeks joint Ministers' agreement to grant State Owned Enterprises (SOEs) and Mixed Ownership Model Companies (MOMs) eligibility to apply for the COVID-19 Leave Schemes.

Update on COVID-19 Leave Schemes as we enter Phase 3

2. We noted in our advice last week [TR2022/162 refers] that in Phase 2 and 3 of the Government's Omicron plan there are new methods by which a person may be notified that they are required to self-isolate. This is because the Ministry of Health (MoH) is no longer able to continue its previous contact tracing processes and has shifted to more of a self-management approach. As we noted, this means, particularly in Phase 2, a COVID-19 positive case may be expected to notify at least some of their own close contacts directly and advise them that they need to self-isolate in accordance with public health guidance.
3. In keeping with the policy intent of the LSS to support individuals to follow public health guidance on self-isolation, and maintaining a broad-based scheme, we seek agreement from Ministers that the *method* by which a person is advised to self-isolate is no longer a component of eligibility. As agreed in our advice from last week, this means a person advised to self-isolate via their employer (where applicable) will be eligible for the LSS, and would also include where an individual is advised by a positive COVID-19 case that they must self-isolate as a close contact.
4. In taking a broad-based approach to eligibility, not all individuals will have readily available health information to verify their eligibility, and s 9(2)(h) [REDACTED] Officials are working through what integrity measures are available in this context, and MSD will report back to Ministers in March on options for what verification might reasonably be obtained from applicants, and on any shift in integrity measures taken as application volumes increase.
5. We are aware that the public health settings in response to Omicron are subject to change. This means that, while officials are making best attempts to enable the Schemes to adapt to changing public health settings, there is a limit to how much we can 'future proof' the COVID-19 Leave Schemes. As mentioned, if there are significant changes to the public health settings which impact of the COVID-19 Leave Schemes e.g. a significant shortening of self-isolation periods, we will need to reassess the Schemes (including whether the rationale for them continuing still stands) and provide further advice to Ministers on any changes required.

COVID-19 Leave Scheme eligibility for SOEs and MOMs

Background

6. When the first iteration of the COVID-19 Leave Support Scheme was set up in March 2020, it was decided that State Sector Organisations (SSOs), including SOEs and MOMs, would be ineligible [CAB-20-MIN-0105 refers]. This is because State Sector

employers were expected to pay employees their normal wages through periods of self-isolation without drawing on leave balances, hence costs would be met within baselines.

7. SSOs were also ineligible for the Wage Subsidy Scheme (WSS), but an exception process was implemented to allow the Minister of Finance to grant an exception on a case-by-case basis [T2020/912 refers]. Exceptions to apply for the WSS also confer eligibility to apply for the COVID-19 Leave Schemes [T2020/912 and CAB-20-MIN-0531 refer]. Crown Research Institutes are eligible for the Schemes [T2020/912 refers], and six individual exceptions have been granted to date¹.
8. The Treasury considers it important at this juncture to re-assess eligibility for SSOs to apply for the COVID-19 Leave Schemes, in particular those which operate commercially. The context has changed since March 2020, given the WSS is no longer available, and the higher number of workers expected to self-isolate during the Omicron outbreak.
9. Given the changed context, and the different eligibility thresholds of the COVID-19 Leave Schemes (relating to business continuity impact) relative to the WSS (related to significant revenue impact), the Treasury expects to receive further exception-related enquiries and requests. For example, AsureQuality Ltd, an SOE, recently approached the Treasury regarding the exception process for SSOs detailed on the Ministry of Social Development's (MSD's) website.
10. On 21 February 2022, Cabinet agreed to delegate authority to joint Ministers (Finance, Social Development and Employment, and Workplace Relations and Safety) to make decisions on the eligibility of categories of SSOs for the COVID-19 Leave Schemes [CAB-22-MIN-0030 refers]. The Treasury outlined the exceptions process in its recent advice to joint Ministers [T2022/162 refers], which involves an SSO working with its monitoring agency and the Treasury to seek an exception from the Minister of Finance.

Rationale for change

11. SOEs² and MOMs³ are the most commercial categories of SSOs, generating the majority of revenue through commercial streams as opposed to Crown funding. These companies compete with private sector companies on a commercial basis and therefore would be at a disadvantage if they cannot access these COVID-19 Leave Schemes.
12. Per the State Owned Enterprises Act 1986, the principal objective of every SOE is to operate as a successful business and, to this end, be as profitable and efficient as comparable, non-Crown-owned businesses. MOMs are publicly listed companies.
13. The Treasury recommends joint Ministers agree to grant SOEs and MOMs eligibility to apply for the COVID-19 Leave Schemes. This approach would:
 - ensure SOEs and MOMs are not at a disadvantage relative to their private sector competitors, due to the additional requirement to seek the Minister of Finance's agreement in order to apply for the COVID-19 Leave Schemes;
 - align with the Treasury's principle-based approach to providing companies support – in particular, market-based solutions should be seen as the core source of resilience for businesses, however businesses should be also be aware and

¹ Airways Corporation of New Zealand Ltd, KiwiRail Holdings Ltd, New Zealand Artificial Limb Service (an Autonomous Crown Entity), New Zealand Post Ltd, Quotable Value Ltd and Television New Zealand Ltd

² Airways Corporation of New Zealand Ltd, Animal Control Products Ltd, AsureQuality Ltd, Electricity Corporation of New Zealand Ltd, KiwiRail Holdings Ltd, Kordia Group Ltd, Landcorp Farming Ltd, Meteorological Service of New Zealand Ltd, New Zealand Post Ltd, New Zealand Railways Corporation, Quotable Value Ltd and Transpower New Zealand Ltd

³ Genesis Energy Ltd, Mercury NZ Ltd and Meridian Energy Ltd

make use of broad-based solutions (such as the COVID-19 Leave Schemes); and

- ensure these companies are able to meet the COVID-19 Leave Schemes' application deadlines – for the STAP, applications need to be made within eight weeks of the relevant employee's COVID-19 test (the time period for LSS applications is discussed further below). Therefore, they are not all required to compete on a commercial basis, and hence not disadvantaged by not being able to access the Schemes.

14. If SOEs and MOMs are granted eligibility to apply for the COVID-19 Leave Schemes, they are less likely to approach the Crown as shareholder for bespoke support.

Other SSO categories would continue with the case-by-case exceptions approach

15. The Treasury is not proposing joint Ministers extend the eligibility to apply for the COVID-19 Leave Schemes to other SSO categories, such as Crown Entity Companies⁴ and Public Finance Act Schedule 4A Companies⁵. This is because the companies within these SSO categories have varying degrees of commerciality, and so we consider the current 'case by case' exceptions process to still be appropriate for other SSO categories.

Operational implications

16. Agreeing to grant SOEs and MOMs eligibility to apply for the COVID-19 Leave Schemes would not automatically approve their application – the companies would need to assess their and their employees' situation against the eligibility criteria for the COVID-19 Leave Schemes, as set out on MSD's website and declarations, before submitting an application/s.

Time period for applications

17. Joint Ministers have agreed to implement an eight-week time period for LSS applications in line with the time period for STAP applications [T2022/162 refers]. This means employers will need to apply for LSS within eight weeks of an employee's self-isolating period ending. This change has not yet been implemented, but is anticipated to go live by 14 March 2022, at the same time as the recommended change to SOEs and MOMs' eligibility to apply for the COVID-19 Leave Schemes.

18. The Treasury proposes SOEs and MOMs would only be able to apply for the COVID-19 Leave Schemes for employees who were self-isolating after 14 March 2022. This provides a clear transition point for application eligibility and means funding is not provided to these entities for periods when they were excluded from the COVID-19 Leave Schemes. Companies that already had an exception in place would be able to apply for support from before this date.

Fiscal implications

19. The Treasury does not expect the decision to make all SOEs and MOMs eligible to apply for the COVID-19 Leave Schemes to have a material impact on the cost of the COVID-19 Leave Schemes. There are approximately 16,000 – 17,000 FTEs in total across all SOEs and MOMs, and not all employees would be eligible for the COVID-19 Leave Schemes, for example, if they can work from home or are not advised to self-isolate.

⁴ Crown Irrigation Investments Ltd, New Zealand Growth Capital Partners Ltd, Radio New Zealand Ltd and Television New Zealand Ltd

⁵ City Rail Link Ltd, Crown Asset Management Ltd, Crown Infrastructure Partners Ltd, Education Payroll Ltd, The Network for Learning Ltd, New Zealand Green Investment Finance Ltd, Ōtākaro Ltd, Predator Free 2050 Ltd, Provincial Growth Fund Ltd, Research and Education Advanced Network New Zealand Ltd, Southern Response Earthquake Services Ltd, Tāmaki Redevelopment Company Ltd and Ngāpuhi Investment Fund Ltd

20. This is different to the WSS, where the subsidy is paid to employers on a per employee basis, and therefore providing blanket application eligibility for SOEs and MOMs would have a more significant fiscal impact.

Consultation

21. MSD was consulted on this report and its feedback is reflected in this report.

Next steps

22. MSD is implementing updates to the COVID-19 Leave Schemes in stages, with Ministerial decisions to inform the next iteration of updates due 28 February 2022 in order to go live by 14 March 2022.
23. If joint Ministers agree to grant SOEs and MOMs eligibility to apply for the COVID-19 Leave Schemes, the Treasury would work with MSD to implement this decision. This would include communicating this decision to these companies – likely by way of email notification of their eligibility to apply for the COVID-19 Leave Schemes – and reflecting this decision in MSD guidance.
24. If joint Ministers do not agree to SOE and MOMs being eligible for the COVID-19 Leave Schemes, the status quo would apply – namely, that the Minister of Finance can grant an exception for individual companies on a case-by-case basis in line with the standard process [T2022/162 refers].

Recommended action

We recommend that you:

- a **agree** that, in keeping with the policy intent of the COVID-19 Leave Schemes to support individuals to follow public health guidance on self-isolation, and maintaining a broad-based scheme, the *method* by which a person is advised to self-isolate is no longer a component of eligibility

Agree/disagree.
Minister of Finance

Agree/disagree.
Minister for Social
Development and
Employment

Agree/disagree.
Minister for Workplace
Relations and Safety

- b **note** MSD will report back to Ministers in March on what verification might reasonably be obtained from applicants of the COVID-19 Leave Schemes in an Omicron environment, and on any shift in integrity measures taken as application volumes increase
- c **note** State Sector Organisations (SSOs) are currently ineligible for the COVID-19 Leave Schemes
- d **note** Cabinet has delegated authority to joint Ministers (Finance, Social Development and Employment, and Workplace Relations and Safety) to make decisions on the eligibility of categories of SSOs for the COVID-19 Leave Schemes [CAB-22-MIN-0030]
- e **note** State Owned Enterprises (SOEs) and Mixed Ownership Model Companies (MOMs) are the most commercial categories of SSOs, and are expected to compete with private sector companies on a commercial basis
- f **agree** to grant SOEs and MOMs eligibility to apply for the COVID-19 Leave Schemes due to the principled basis outlined in recommendation e

IN-CONFIDENCE

Agree/disagree.
Minister of Finance

Agree/disagree.
Minister for Social
Development and
Employment

Agree/disagree.
Minister for Workplace
Relations and Safety

- g **note** recommendation f above does not mean an SOE or MOM would automatically receive payments under the COVID-19 Leave Schemes, as each company would need to meet the relevant criteria for the COVID-19 Leave Schemes
- h **note** that agreeing recommendation f above would not extend eligibility to apply for the COVID-19 Leave Schemes to other SSO categories, whose applications would continue to be considered on a case-by-case basis by the Minister of Finance
- i **direct** officials to implement the decision in recommendation f, including communicating the decision to SOEs and MOMs, and reflecting the decision in COVID-19 Leave Schemes guidance

Agree/disagree.
Minister of Finance

Agree/disagree.
Minister for Social
Development and
Employment

Agree/disagree.
Minister for Workplace
Relations and Safety

- j **refer** this report to the other shareholding Ministers of SOEs and MOMs (the Minister for State Owned Enterprises and Minister for Biosecurity) and the Associate Ministers of Finance, for their information

Out of scope

**Acting Manager, Commercial
Performance**

**Manager, Welfare and
Oranga Tamariki**

Hon Grant Robertson
Minister of Finance

Hon Carmel Sepuloni
**Minister for Social Development
and Employment**

Hon Michael Wood
**Minister for Workplace
Relations and Safety**