

Chair
Cabinet Legislation Committee

SOCIAL SECURITY (RATES OF BENEFITS AND ALLOWANCES) AMENDMENT ORDER 2020

Proposal

- 1 This paper seeks Cabinet approval to submit to the Executive Council the Social Security (Rates of Benefits and Allowances) Amendment Order 2020, which makes technical corrections of errors made in the Social Security (Rates of Benefits and Allowances) Order 2020.

Technical corrections as part of the 2020 Annual General Adjustment

- 2 Each year, rates and thresholds for various forms of social assistance are changed in a process known as the Annual General Adjustment.
- 3 In February 2020, as part of the 2020 Annual General Adjustment, the Minister of Finance, Minister of Housing, Minister of Education, Minister for Social Development, Minister of Health, Minister for Veterans and Minister for Children used their delegated authority to approve the new rates and thresholds for social assistance [CAB Min (02) 7/1A refers]. This included approval of:
 - a discretionary increase to the abatement thresholds and income limits for the Youth Payment and Young Parent Payment in line with upwards movement of the Consumers Price Index of 1.66 percent¹
 - mandatory increases of the additional subsidy paid on earnings of a blind beneficiary in line with upwards movement in the net average wage of 3.09 percent².
- 4 Regulatory changes to give effect to most adjustments were agreed by Cabinet on 21 February 2020, including approval of the Social Security (Rates of Benefits and Allowances) Order 2020 [CAB-20-MIN-0050 refers].
- 5 The Ministry of Social Development has identified an error in this Order that needs to be amended. The abatement thresholds and income limits for Youth Payment and Young Parent Payment were omitted from the Order, while the explanatory note to the Order indicates that they are included. The omission means that the amount of income that recipients of these payments can earn before the payment begins or abate, or is stopped, would not be increased from 1 April 2020, as agreed by Ministers using their delegated authority.
- 6 The Ministry of Social Development also identified that there was a minor error in how a change to the additional subsidy paid on earnings of a blind beneficiary was characterised. Instead of being described as a mandatory adjustment by the net average wage which it is,

¹ This is the rounded percentage in the Consumers Price Index, however the calculations of the increases will be based on the unrounded percentage figure of 1.66178 percent.

² This is the rounded percentage movement in the net average wage, however the calculations of the increases will be based on the unrounded percentage figure of 3.08541 percent.

the change was misidentified as a discretionary adjustment in line with the Consumers Price Index. While not an essential change, as an amendment is required to amend the error identified in Paragraph 5, it is proposed that this is also rectified.

- 7 The proposed corrective action is an Amendment Order which amends the Social Security (Rates of Benefits and Allowances) Order 2020 and is consistent with decisions already made about the 2020 Annual General Adjustment. The proposed Social Security (Rates of Benefits and Allowances) Amendment Order 2020, if approved, will:
 - update the abatement thresholds and income limits for assistance for Youth Payment and Young Parent Payment
 - shift the adjustments of the additional subsidy paid on earnings of a blind beneficiary to the correct Schedule of the Order to reflect that it is a mandatory rather than discretionary adjustment.
- 8 Although the Amendment Order will include its own explanatory note describing the corrective changes, it is not possible to amend the errors in the original explanatory note. The explanatory note indicates the general effect of the Order but has no legal effect.
- 9 The Ministry of Social Development has undertaken a thorough review to ensure that, once the Amendment Order is approved, all changes for the 2020 Annual General Adjustment will have been made under the correct legislative authority and by the correct amount. The Ministry of Social Development is also taking steps to ensure this will not happen in future, including reviewing the Annual General Adjustment process.

Timing and the 28-day rule

- 10 The Amendment Order in Council, if approved, will be submitted to the Executive Council for consideration on 16 March 2020 and published in the *New Zealand Gazette* on 19 March 2020. The Amendment Order will come into force the day after its notification in the *New Zealand Gazette* (ie 20 March 2020). This will ensure that the proposed amendments are incorporated into the Social Security (Rates of Benefits and Allowances) Order 2020 when it takes effect from 1 April 2020.
- 11 A waiver to the 28-day rule is sought on the grounds that the Amendment Order confers only benefits for those affected by them, and that early commencement is necessary to be consistent with other changes introduced by the 2020 Annual General Adjustment.

Compliance

- 12 The Order complies, where applicable, with the following:
 - the principles of the Treaty of Waitangi;
 - the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - the principles and guidelines set out in the Privacy Act 1993;
 - relevant international standards and obligations; and
 - *Legislation Guidelines: 2018 Edition*, published by the Legislation Advisory Committee.

Regulations Review Committee

- 13 There are no grounds for the Regulations Review Committee to draw the Order to the attention of the House under Standing Order 319.

Certification by Parliamentary Counsel

- 14 The Order has been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact analysis

- 15 Changes made as part of an Annual General Adjustment are exempt from Regulatory Impact Analysis requirements on the basis that they have been approved by joint Ministers in accordance with the policy agreed by Cabinet in March 2002.

Publicity

- 16 The 2020 Annual General Adjustment changes have already been announced publicly. No specific announcement for this Amendment Order is planned.

Proactive release

- 17 I intend to proactively release this Cabinet paper within standard timeframes.

Consultation

- 18 The Treasury, Ministry of Housing and Urban Development, Ministry of Education, Ministry of Health, Inland Revenue, Veterans' Affairs and Oranga Tamariki–Ministry for Children were consulted and agreed with the Annual General Adjustment recommendations in the previous Cabinet paper. The Department of the Prime Minister and Cabinet (Policy Advice Group) was also informed of that paper.

Recommendations

It is recommended that the Committee:

- 1 **note** that, acting with Cabinet's delegated authority [CAB Min (02) 7/1A refers], the Ministers responsible for the Finance, Housing, Education, Social Development, Health, Veterans and Children portfolios have approved new rates and thresholds for social assistance
- 2 **note** that the Social Security (Rates of Benefits and Allowances) Order 2020 which was approved by Cabinet on 21 February 2020 [CAB-20-MIN-0050 refers] includes the following errors:
 - increases to the income abatement thresholds and income limits for the Youth Payment and Young Parent Payment of 1.66 percent in line with upwards movement in the Consumers Price Index changes were omitted
 - the increase to the additional subsidy paid on earnings of a blind beneficiary is mischaracterised as a discretionary adjustment in line with the Consumers Price Index when it is a mandatory adjustment by the net average wage

- 3 **note** that the proposed amendment Order in Council will come into effect on 20 March 2020 and will address the errors by:
- inserting the adjusted abatement thresholds and income limits for assistance for Youth Payment and Young Parent Payment
 - for legislative clarity, shift the adjustments of the additional subsidy paid on earnings of a blind beneficiary to the correct Schedule of the Order to reflect that it is a mandatory rather than discretionary adjustment.
- 4 **note** that a waiver to the 28-day rule is sought on the grounds that the Amendment Order confers only benefits for those affected by it, and that early commencement is necessary to be consistent with other changes introduced by the 2020 Annual General Adjustment
- 5 **agree** to waive the 28-day rule so that the Amendment Order can come into force on 20 March 2020, which will ensure that the proposed amendments are incorporated into the Social Security (Rates of Benefits and Allowances) Order 2020 when it takes effect from 1 April 2020
- 6 **authorise** the submission to the Executive Council of the Social Security (Rates of Benefits and Allowances) Amendment Order 2020 to give effect to the corrections.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Social Development