

Chair
Cabinet

Ensuring continued eligibility for social security assistance for those affected by the Christchurch terrorist attack who receive financial donations and gifts

Proposal

- 1 I seek Cabinet's approval to exempt financial donations and gifts for people affected by the Christchurch terrorist attack of 15 March 2019 from income and cash asset tests for social security assistance.
- 2 To achieve this, I seek authorisation for submission of the attached Amendment Regulations to the Executive Council:
 - 2.1 the Social Security (Cash Assets and Income Exemptions— Christchurch Mosques Attack Support Payments) Amendment Regulations 2019
 - 2.2 the Residential Care and Disability Support Services (Exempt Assets—Christchurch Mosques Attack Support Payments) Amendment Regulations 2019.

In the wake of the Christchurch terrorist attack, communities have been providing financial support to victims and their families

- 3 Following the Christchurch terrorist attack, individuals, communities and businesses have been providing donations and funds to assist affected people. Much of this financial support has been collected through crowd funding platforms such as Givealittle and LaunchGood. People are continuing to provide help. I am informed that at the time of preparation of this Cabinet paper the largest donations include:
 - the Victim Support fund on Givealittle, which has raised over \$8.8 million
 - the Christchurch Foundation fund "Our City, Our People", which has raised over \$3.8 million in cash and pledges
 - the New Zealand Islamic Information Centre fund on LaunchGood, which has raised over \$2.6 million dollars.
- 4 There are also various other appeals on Givealittle and other similar websites, all raising substantial amounts of money to assist those affected. These funds will be provided to individuals and families, as well as the affected community as a whole. The various donation pages have stated that donations received will be used to provide support and resources for people affected by the attack and their family members.

Some of those affected will likely be receiving social security assistance from the government

- 5 I have been advised by the Ministry of Social Development (MSD) that it is likely that some of the people affected by the Christchurch event will be receiving social security assistance of

some kind. There is still limited information about who the group of affected people are. However, after initial analysis MSD has been able to provide some estimates. It should be noted that there will be some crossover between the estimated figures quoted and, therefore, no total can be provided. s 9(2)(a)

- [REDACTED]
- [REDACTED]
- [REDACTED]

Payments and donations may impact affected people's access to social security assistance

- 6 Under the Social Security Act 2018 (the SSA) and the Residential Care and Disability Support Services Act 2018 (the RCDSS Act), MSD must consider a client's income and cash assets when determining what support a person may be eligible for. A one-off payment, such as the provision of a financial gift or donation, may affect people's entitlement to social security assistance.
- 7 Exemptions for certain types of income and cash assets are specified in the Social Security Regulations 2018 and the Residential Care and Disability Support Services Regulations 2018. Financial donations and gifts relating to the Christchurch terrorist attack are not currently exempt under these regulations, so these payments will currently be treated as income or cash assets when determining someone's entitlement to social security assistance.
- 8 A single lump-sum payment will generally not affect entitlement to main benefits. However, any income derived from this payment would likely be included in calculations and would reduce means tested entitlements. The payment would also still be treated as a cash asset and would affect assistance that includes an asset test, for example Special Needs Grants, Accommodation Supplement or Temporary Additional Support. This means that donations or gifts could affect clients' entitlements to social security assistance.
- 9 A single lump-sum payment will not affect the rate of income-related rent for people currently in Public Housing, but could still be treated as a cash asset for assessing eligibility. Furthermore, any income derived from this payment lasting over eight weeks could technically be counted as assessable income for calculating income-related rent.

Income and cash assets tests should be amended to ensure that affected people's social security assistance is not negatively impacted

- 10 I propose that an exemption be applied to the financial donations and gifts received by affected people. I consider that it would be unfair to people who are affected by the attack in Christchurch to have their social security assistance entitlements reduced.
- 11 Those affected may have already received assistance, or may soon be receiving assistance. Given the gravity of the situation I propose that the changes are progressed rapidly. I therefore seek Cabinet's approval to submit the attached Amendment Regulations to the Executive Council on 1 April 2019.

- 12 These Regulations will ensure that affected people who receive financial donations or gifts that fall within the definition of the exemption will not have their eligibility for social security assistance affected.
- 13 Recipients may take time to decide how they use their financial donations or gifts and I consider that this is appropriate. I propose that the exemption period apply for 12 months. A 12-month exemption is consistent with other exemption periods in the welfare system. This approach to an exemption was used during the Canterbury earthquakes for donations coming from the Red Cross appeal. This 12-month exemption period should also apply to any income derived from the payment. There will also be the opportunity to extend the exemption period.
- 14 It is important to note that MSD is currently undertaking a full review of income and cash asset exemptions. The length of exemptions generally is being considered as part of this broader work programme and the 12-month timeframe proposed for this exemption will be considered as part of this review.
- 15 The Amendment Regulations will also enable financial donations and gifts made to affected people in need of Public Housing to be made exempt from the cash assets test, as the SSA definition for cash assets (and subsequent exemptions) is also used to assess Public Housing eligibility. Existing operational discretion enables MSD to override the income and asset test for Public Housing and exclude income from donations being included in the income related rent calculation for the 12-month period. Likewise, MSD can use this discretion to exempt other government financial assistance paid to affected individuals in, or in need of, Public Housing for the 12-month period to avoid any unintended reduction in housing entitlement.
- 16 Regulations to exempt cash assets for Accommodation Supplement and Temporary Additional Support (TAS) and income for the purposes of the SSA will be retrospective to exempt relevant payments received from 15 March 2019.
- 17 Regulations to exempt chargeable income for TAS and assets from means assessments for the purposes of the Residential Care and Disability Support Services Regulations 2018 will come into force on the day after Cabinet approval.
- 18 I consider it is important to ensure the exemption applies from the earliest point available under the regulations making powers in the SSA and the RCDDS Act to ensure people affected do not have their social security assistance entitlements reduced. The difference in commencement dates referred to at paragraphs 15 and 16 above reflect the regulations making powers in the relevant Acts.
- 19 I also plan to amend the Ministerial Direction on Special Benefit to ensure that financial donations and gifts will not be considered as chargeable income for Special Benefit purposes.

Consultation

- 20 The Ministry of Health, the Ministry of Housing and Urban Development, Inland Revenue and the Treasury have been consulted. The Department of the Prime Minister and Cabinet has been informed.

Financial implications

- 21 There are no financial implications as a result of exempting financial donations and gifts affected by the event in Christchurch from income and cash assets tests.

Human rights implications

- 22 The proposals in this paper have been considered and there are no human rights implications.

Legislative implications

- 23 Exempting financial donations and gifts from cash assets and income tests will, subject to Cabinet agreement, require changes to Regulations. These changes will be through:

23.1 the Social Security (Cash Assets and Income Exemptions— Christchurch Mosques Attack Support Payments) Amendment Regulations 2019

23.2 the Residential Care and Disability Support Services (Exempt Assets—Christchurch Mosques Attack Support Payments) Amendment Regulations 2019.

Timing and the 28-day rule

- 24 The Amendment Regulations, if approved, will be submitted to the Executive Council for consideration on 1 April 2019, will come into force on 2 April 2019 and will be published in the New Zealand Gazette on 2 April 2019.
- 25 A waiver to the 28-day rule is sought on the grounds that the Amendment Regulations confer only benefits for those affected by them.

Compliance

- 26 The Amendment Regulations comply, where applicable, with the following:

26.1 the principles of the Treaty of Waitangi

26.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993

26.3 the principles and guidelines set out in the Privacy Act 1993

26.4 relevant international standards and obligations

26.5 Legislation Guidelines 2018 edition published by the Legislation Design and Advisory Committee.

Regulation Review Committee

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

Certification by Parliamentary Counsel

- 28 The Amendment Regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Regulatory impact and compliance cost statement

29 The Treasury Regulatory Quality Team has determined that the decisions sought in this paper are exempt from the Regulatory Impact Analysis requirements as they have no or only minor impacts on businesses, individuals and not-for-profit entities.

Gender implications

30 The proposals in this paper have been considered and there are no gender implications.

Disability perspective

31 The proposals in this paper have no disability implications.

Publicity

32 As part of the legislative requirements, the Amendment Regulations will be notified in the New Zealand Gazette on 2 April 2019. MSD are working on a communications approach to notify affected people.

Recommendations

33 It is recommended that the Committee:

- 1 **note** that following the Christchurch terrorist attack of 15 March 2019, individuals, international governments, communities and businesses have been providing donations to assist people affected including through crowd funding platforms and gifts;
- 2 **note** that some of the people affected by the attack will be receiving social security assistance of some kind, however, at this current time we cannot identify exact numbers of people who are impacted;
- 3 **note** that the financial donations and gifts received by people affected by the attack would currently be treated as cash assets or income when determining eligibility for other government assistance and may impact:
 - 3.1 entitlement to financial assistance from the Ministry of Social Development;
 - 3.2 access to long-term residential care;
 - 3.3 eligibility to Public Housing and Income Related Rent;
- 4 **agree** to amend the Social Security Regulations 2018 and the Residential Care and Disability Support Services Regulations 2018 to exempt gifts or donations made in relation to the Christchurch terrorist attack and any income derived from them, from cash assets and income tests for financial assistance for a period of 12 months;
- 5 **authorise** the submission of the following Amendment Regulations to the Executive Council to give effect to the decision referred to in recommendation four above:
 - 5.1 the Social Security (Cash Assets and Income Exemptions— Christchurch Mosques Attack Support Payments) Amendment Regulations 2019; and

5.2 the Residential Care and Disability Support Services (Exempt Assets—Christchurch Mosques Attack Support Payments) Amendment Regulations 2019;

6 **note** that a waiver of the 28-day rule is sought on the grounds that the Amendment Regulations confer only benefits for those affected by them; and

7 **agree** to waive the 28-day rule so that the Amendment Regulations can come into force on 1 April 2019.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Social Development