

Chair
Cabinet Legislation Committee

AMENDMENT TO SOCIAL SECURITY REGULATIONS TO ALLOW FOR CHANGES TO COHORT ENTRY POLICY

Proposal

- 1 This paper seeks Cabinet approval to submit the Social Security (Childcare Assistance - Cohort Entry Policy) Amendment Regulations 2019 (the Amendment Regulations) to the Executive Council. The Amendment Regulations will change the eligibility criteria for Childcare Subsidy (CCS) and Out of School Care and Recreation (OSCAR) subsidy in response to recent changes to the cohort entry policy.

Policy

Cabinet agreed to changes to the cohort entry policy so that no children can start school before they turn five

- 2 In 2017, the Education Act 1989 was amended to enable schools to adopt and enforce a cohort entry policy which, if adopted by a school, meant that new entrants could start at that school as part of a group (cohort) at the beginning of the term closest to their fifth birthday. This meant that the youngest a child could start school was around four years and ten months, and that some children could not start until five years and two months.
- 3 The Ministry of Social Development (MSD) administers childcare assistance to help support low income families enter employment, training or education and to increase access to childcare centres. CCS is a payment that helps families with the cost of pre-school childcare for children while OSCAR subsidy is a payment which helps families with the costs of before and after school care.
- 4 Prior to the 2017 cohort entry policy, the eligibility criteria for the CCS, OSCAR subsidy and the Guaranteed Childcare Assistance Payment (GCAP) were based primarily around a child turning five. Eligibility for CCS ended when a child was five years and 28 days and a child needed to be at least five years old to receive OSCAR subsidy.
- 5 The eligibility criteria for the CCS, OSCAR subsidy and GCAP was changed in line with the 2017 cohort entry policy to reflect that there were children who started school before they turned five (so needed OSCAR subsidy earlier), or could not start school until after their fifth birthday (so needed CCS or GCAP for longer). This change was only for students that attended cohort entry schools. Nothing has changed for children attending continuous entry schools.
- 6 On 28 May 2018, the Cabinet Business Committee agreed to further changes to the cohort entry policy so that no children would be able to start school before they turned five [CBC-18-MIN-0070 refers]. These changes take effect from 1 January 2020 and will mean that children attending schools which have cohort

entry policies can start school at the beginning of a term or the mid-term start date on or after their fifth birthday.

- 7 As a result of these changes the Social Security Regulations 2018 need to be amended. The Cabinet Business Committee invited me, as the Minister for Social Development, to issue drafting instructions to Parliamentary Counsel to progress these amendments [CBC-18-MIN-0070 refers].

Amendments to the Social Security Regulations 2018 will change the eligibility criteria for CCS and OSCAR subsidy

- 8 MSD only pays CCS until a child is first able to start school¹. Once a child starts school, they then become eligible for the OSCAR subsidy. Because the change in cohort entry policy changes the age in which a child is first able to start school, amendments to the Social Security Regulations 2018 are needed to change the eligibility criteria for CCS and OSCAR subsidy.
- 9 The amendments are needed to ensure that, from 1 January 2020, no children under five will be able to receive OSCAR subsidy as no children under five will be attending school. However, there will be some children aged over five years who need CCS and GCAP as they will not be able to start school until the beginning of a term or the mid-term start date on or after their fifth birthday.
- 10 The Amendment Regulations will:
- change the eligibility for CCS or GCAP for children attending schools with a cohort entry policy so that eligibility ends on the first term or mid-term start date on or after their fifth birthday
 - repeal the provision which currently allows for an OSCAR subsidy to be paid for a child under five who is attending a school with a cohort entry policy.
- 11 I also intend to amend the GCAP Welfare Programme in line with these proposals.

Timing and 28-day rule

- 12 It is proposed that Cabinet refer the Amendment Regulations to the Executive Council on 11 November 2019. The Amendment Regulations will be gazetted on 14 November 2019 and will come into force on 1 January 2020. This is in line with the 28-day rule.

Compliance

- 13 The Amendment Regulations comply, 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

¹ Children receiving Child Disability Allowance can receive a CCS until they are six years of age.

- relevant international standards and obligations
- Legislation Advisory Committee Guidelines: Guidelines on Process and Content of Legislation, published by the Legislation Advisory Committee.

Regulations Review Committee

- 14 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

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

Regulatory Impact Analysis

- 16 A Regulatory Impact Statement was prepared by the Ministry of Education when policy decisions were first sought for these changes [CBC-18-MIN-0070 refers]. The Ministry of Education's Regulatory Impact Analysis Panel considered that the Regulatory Impact Statement met the quality assurance criteria.

Publicity

- 17 The Amendment Regulations will be notified in the New Zealand Gazette.
- 18 The Ministry of Education has been communicating with schools and early childhood education centres using the Ministry Bulletin for School Leaders and the Early Learning Bulletin and has published information regarding the changes to cohort entry on their website.
- 19 MSD is developing communication procedures related to the change in cohort entry policy. This includes communicating with MSD staff as well as childcare and OSCAR providers about the changes. MSD will also continue standard processes, informing clients when their eligibility for GCAP, CCS and the OSCAR subsidy may change. MSD's Work and Income website and internal knowledge bases will also be updated.

Proactive Release

- 20 I intend to proactively release this paper in full (as required by CO (18) 4).

Consultation

- 21 MSD has consulted with the Treasury, Ministry of Education, and Oranga Tamariki-Ministry for Children. The Department of the Prime Minister and Cabinet has been informed.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that Cabinet agreed [CBC-18-MIN-0070 refers] to change the cohort entry policy, meaning that children attending schools which have cohort entry policies can start school at the beginning of a term or the mid-term start date on or after their fifth birthday
- 2 **note** that, as a result of these changes, the Social Security Regulations 2018 need to be amended
- 3 **note** that Cabinet invited the Minister for Social Development, to issue drafting instructions to Parliamentary Counsel to progress these amendments
- 4 **note** that eligibility for Childcare Subsidy or Guaranteed Childcare Assistance Payment for children attending schools with a cohort entry policy will end on the first term or mid-term start date on or after their fifth birthday
- 5 **note** that the provision which currently allows for the Out of School Care and Recreation subsidy to be paid for a child under five will be repealed meaning no four year olds will be eligible for the Out of School Care and Recreation subsidy
- 6 **note** that I intend to amend the Guaranteed Childcare Assistance Programme Welfare Programme in line with these amendments
- 7 **authorise** the submission to the Executive Council of the attached Social Security (Childcare Assistance - Cohort Entry Policy) Amendment Regulations 2019.

Hon Carmel Sepuloni
Minister for Social Development

Authorised for lodgement