

Ann

Office of the Minister for Social Development and Employment

In confidence

Chair

Cabinet Legislation Committee

## **ANNUAL GENERAL ADJUSTMENT 2021 AND RELATED REGULATORY CHANGES**

### **Proposal**

- 1 This paper seeks Cabinet approval to submit to the Executive Council the following Orders and Amendment Regulations, to give effect to the 2021 Annual General Adjustment and related regulatory matters arising from Cabinet decisions on abatement threshold changes:
  - Social Security (Rates of Benefits and Allowances) Order 2021
  - Social Security (Definition of Income Test 1, Income Test 2, Income Test 3, and Income Test 4) Order 2021
  - Social Security Amendment Regulations 2021
  - Residential Care and Disability Support Services Amendment Regulations 2021
  - Student Allowances Amendment Regulations 2021
  - Health Entitlement Cards Amendment Regulations 2021
  - Oranga Tamariki (Minimum Rates of Payment for Board and Lodgings) Order 2021.
- 2 This paper also seeks Cabinet agreement to amend the Social Security Regulations 2018 to exempt Transitional Assistance Payments from being considered as chargeable income for Temporary Additional Support. Transitional Assistance payments will be provided to those who are financially disadvantaged as a result of the 1 April 2021 abatement threshold increases.

### **Previous decisions**

*The Annual General Adjustment is a statutory requirement to adjust rates of social assistance on 1 April each year*

- 3 There is a statutory requirement to adjust rates of main social security benefits, Student Allowances, Orphan's Benefit, Unsupported Child's Benefit, Foster Care Allowance and New Zealand Superannuation from 1 April each year in a process known as the Annual General Adjustment (AGA). Other adjustments are made in this process under the authority of a Cabinet decision or convention.
- 4 In March 2002 Cabinet delegated authority to the Minister of Finance and the Ministers responsible for New Zealand Superannuation, social security benefits and allowances, the Community Services Card, Student Allowances, and War Pensions and Allowances to jointly approve adjustments to rates and thresholds [CAB Min (02) 7/1A refers].

- 5 In 2016, Cabinet agreed that if an adjustment is linked to the Consumers Price Index, the All Groups Consumers Price Index, excluding cigarettes and other tobacco products index, must be used. This is the final year that this decision applies [CAB-16-MIN-0189 refers].
- 6 In late 2005, through a Confidence and Supply Agreement, it was agreed that the net married couple rate of New Zealand Superannuation for the 2006 adjustment be set at a minimum of 66 percent of the net average wage. The same decision was made for the adjustments in 2007 and 2008. In April 2009, Cabinet agreed to set the net married couple rate of New Zealand Superannuation at a minimum of 66 percent of the net average wage on an on-going basis [CAB Min (09) 13/8 (56) refers]. The Superannuation and Retirement Income Act 2001 was amended in 2020 to include the requirement to set the net married couple rate of New Zealand Superannuation at a minimum of 66 percent of the net average wage.
- 7 As part of the Budget 2019 Income Support Package, Cabinet agreed to change the way main benefits are adjusted in the AGA, so that they reflect any increase in the net average wage [CAB-19-MIN-0174.36 refers]. This decision was given effect by amendments to the Social Security Act 2018. This is the second year that this decision applies.
- 8 The Minister of Finance, Minister of Housing, Minister of Education, Minister for Social Development and Employment, Minister of Health, Minister for Veterans and Minister for Children approved the new rates and thresholds, consistent with their delegated authority, on 10 February 2021.

*Student allowances and other related rates and thresholds will be adjusted by the CPI (excluding tobacco) for the 2021 AGA*

- 9 s 9(2)(h) [Redacted]
- 10 s 9(2)(h) [Redacted]
- 11 s 9(2)(h) [Redacted]
- 12 s 9(2)(f)(iv) [Redacted]

*This Cabinet paper seeks to make related regulatory changes arising from the Cabinet decision to increase abatement thresholds*

- 13 Abatement thresholds will also be increased on 1 April 2021 for main benefits as well as for New Zealand Superannuation and Veteran's Pension recipients (over 65) where they have a non-qualifying partner included, and recipients of Veteran's Pension (under 65). Cabinet agreed to the new thresholds in December 2020 [CAB-20-MIN-0512 refers], and the regulatory changes to give effect to these changes are being progressed as part of the AGA. Changes to Veteran's Pension are being progressed separately.
- 14 Cabinet have agreed to fund a Transitional Assistance Payment for those who are financially disadvantaged on 1 April 2021 as a result of the abatement threshold increases [CAB-20-MIN-0512 refers]. This Transitional Assistance Payment will largely reflect parameters of previous TAP welfare programmes (e.g. the Income Support Package and COVID-19 Recovery Package (Transitional Assistance) Programme).
- 15 However, Cabinet agreement is needed to amend the Social Security Regulations 2018 to exempt the Abatement Threshold Increase (Transitional Assistance) Programme from being considered as chargeable income for Temporary Additional Support. This is needed as people may be financially disadvantaged due to a reduction in, or loss of eligibility to, their Childcare Assistance or Temporary Additional Support (TAS) disability exception amount when abatement thresholds are changed.
- 16 I seek agreement to amend the Social Security Regulations 2018 under section 428 of the Social Security Act 2018 to exempt the proposed the Abatement Threshold Increase (Transitional Assistance) Programme (TAP) 2021, from being considered income for TAS purposes. Without the amendment, there would be an unintended circular flow between the proposed TAP and TAS payments.

### **Orders and Amendment Regulations to give effect to the decisions**

- 17 The Orders and Amendment Regulations to give effect to the decisions described above will come into force on 1 April 2021. They will:
  - increase the rates of main benefits to comply with the statutory requirement to adjust the rates to reflect the 3.10 percent increase in the net average wage over the previous year<sup>1</sup>
  - increase the rates of Student Allowance, Orphan's Benefit, Unsupported Child's Benefit, Foster Care Allowance and New Zealand Superannuation to comply with the statutory requirement to adjust the rates to reflect the 1.15 percent increase in the Consumers Price Index over the previous year
  - further increase the rates of New Zealand Superannuation in line with the commitment to keep the net married rate at a minimum 66 percent of the net average wage

---

<sup>1</sup> 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 3.095298 percent.

- increase rates and thresholds of allowances and various forms of supplementary assistance in line with the 1.15 percent increase in the Consumers Price Index over the previous year<sup>2</sup>
- increase income thresholds for Disability Allowance and superannuitant-specific income thresholds for the Community Services Card by the greater dollar impact from: applying the annual percentage increase in the All Groups Consumers Price Index excluding cigarettes and other tobacco products; or applying the annual increase amount of New Zealand Superannuation
- amend the definitions of Income Test 1, Income Test 2, Income Test 3, and Income Test 4 in Schedule 2 of the Social Security Act 2018 to increase the abatement thresholds for main beneficiaries and non-qualified spouses and partners of superannuitants
- amend the Social Security Regulations 2018 to exempt the Abatement Threshold Increase (Transitional Assistance) Programme (TAP) 2021 from being considered as chargeable income for Temporary Additional Support.

18 The Minister for Veterans has prepared a separate paper for the Cabinet Legislation Committee, seeking approval to submit to the Executive Council the:

- Veterans' Support (Abatement Thresholds) Amendment Regulations 2021, which specify the increased Veteran's Pension abatement thresholds that come into effect on 1 April 2021.

### Timing and 28-day rule

19 The Orders and Amendment Regulations, if approved, will be submitted to the Executive Council for consideration on 22 February 2021. They will be published in the New Zealand Gazette by 25 February 2021 and will come into force on 1 April 2021. This timing is consistent with Rule 7.96 – 7.99 of the Cabinet Manual (the '28-day rule').

### Compliance

20 The Orders and 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;
- relevant international standards and obligations; and
- *Legislation Guidelines: 2018 Edition*, published by the Legislation Advisory Committee.

---

<sup>2</sup> 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 1.1538462 percent.

## Regulations Review Committee

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

## Certification by Parliamentary Counsel

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

## Impact analysis

- 23 The AGA changes are exempt on the basis that they have been approved by joint Ministers in accordance with the policy agreed by Cabinet in March 2002.
- 24 A Regulatory Impact Assessment (RIA) was completed in November 2020 for the increases to the abatement thresholds and the transitional payment to accompany these changes. The Quality Assurance reviews considered the RIA partially met the quality criteria of the Regulatory Impact Analysis framework.

## Publicity

- 25 The Ministry of Social Development will work with relevant Ministers' Offices to advise the public of the changes to rates and thresholds after they are confirmed by Cabinet on 22 February 2021.

## Proactive release

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

## Consultation

- 27 The Treasury, Ministry of Housing and Urban Development, Ministry of Education, Ministry of Health, Inland Revenue, Veterans' Affairs and Oranga Tamariki–Ministry for Children have been consulted and agree with the recommendations in this paper. The Department of the Prime Minister and Cabinet (Policy Advice Group) has been informed of this 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 of New Zealand Superannuation, benefits, Student Allowance, Foster Care Allowance and new rates and thresholds for allowances and supplementary assistance
- 2 **agree** to amend the Social Security Regulations 2018 to exempt the Abatement Threshold Increase (Transitional Assistance) Programme (TAP) 2021 from being considered as chargeable income for Temporary Additional Support.
- 3 **note** that the proposed Orders in Council and Amendment Regulations will come into effect on 1 April 2021 and will:

- 3.1 increase the rates of main benefits to comply with the statutory requirement to adjust the rates to reflect the 3.10 percent increase in the net average wage over the previous year
  - 3.2 increase the rates of Student Allowance, Orphan's Benefit, Unsupported Child's Benefit, Foster Care Allowance and New Zealand Superannuation to comply with the statutory requirement to adjust the rates to reflect the 1.15 percent increase in the Consumers Price Index over the previous year
  - 3.3 further increase the rates of New Zealand Superannuation in line with the commitment to keep the net married rate at a minimum 66 percent of the net average wage
  - 3.4 increase rates and thresholds of allowances and various forms of supplementary assistance in line with the 1.15 percent increase in the Consumers Price Index over the previous year
  - 3.5 increase income thresholds for Disability Allowance and superannuitant-specific income thresholds for the Community Services Card by the greater dollar impact from: applying the annual percentage increase in the All Groups Consumers Price Index excluding cigarettes and other tobacco products; or applying the annual increase amount of New Zealand Superannuation
  - 3.6 amend the definitions of Income Test 1, Income Test 2, Income Test 3, and Income Test 4 in Schedule 2 of the Social Security Act 2018 in line with the commitment to increase the abatement thresholds for main beneficiaries and non-qualified spouses and partners of superannuitants
  - 3.7 amend the Social Security Regulations 2018 to exempt the Abatement Threshold Increase (Transitional Assistance) Programme (TAP) 2021 from being considered as chargeable income for Temporary Additional Support.
- 4 **authorise** the submission to the Executive Council of the following Orders and Amendment Regulations:
- 4.1 Social Security (Rates of Benefits and Allowances) Order 2021
  - 4.2 Social Security (Definition of Income Test 1, Income Test 2, Income Test 3, and Income Test 4) Order 2021
  - 4.3 Social Security Amendment Regulations 2021
  - 4.4 Residential Care and Disability Support Services Amendment Regulations 2021
  - 4.5 Student Allowances Amendment Regulations 2021
  - 4.6 Health Entitlement Cards Amendment Regulations 2021
  - 4.7 Oranga Tamariki (Minimum Rates of Payment for Board and Lodgings) Order 2021.

Authorised for lodgement

Hon Carmel Sepuloni  
Minister for Social Development and Employment