



# Cabinet Legislation Committee

## Minute of Decision

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### **Social Security (Income and Cash Assets Exemption) Amendment Regulations 2021 and Residential Care and Disability Support Services (Income and Cash Assets Exemption) Amendment Regulations 2021**

**Portfolio**                      **Social Development and Employment**

On 3 June 2021, the Cabinet Legislation Committee:

- 1        **noted** that on 7 April 2021, the Cabinet Social Wellbeing Committee (SWC) confirmed a strategy to respond to a Court of Appeal decision that found that some aspects of the Ministry of Social Development's (MSD) approach to the financial means assessment (FMA) to determine a client's eligibility or the Residential Care Subsidy (RCS) was inconsistent with legislation [SWC-21-MIN-0035];
- 2        **noted** that as part of the strategy referred to in paragraph 1 above:
  - 2.1      MSD will contact affected clients or estates of deceased clients whose past FMAs may have been affected by the Court of Appeal decision and offer them retrospective reviews of their RCS entitlements;
  - 2.2      following some reviews, lump sum RCS refunds will need to be paid where clients have paid more towards their care than they should have; and
  - 2.3      this may affect clients' and/or their partners' receipt of income- and asset-tested assistance, including the RCS and certain social security assistance;
- 3        **noted** that on 7 April 2021, SWC agreed to amend the Social Security Regulations 2018 and the Residential Care and Disability Support Services Regulations 2018 to exempt retrospective back-payments arising from reviews from asset and income tests for the RCS and social security assistance for 12 months from the date of payment [SWC-21-MIN-0035];
- 4        **noted** that the Social Security (Income and Cash Assets Exemption) Amendment Regulations 2021 and the Residential Care and Disability Support Services (Income and Cash Assets Exemption) Amendment Regulations 2021 give effect to the decision referred to in paragraph 3 above;

- 5 **authorised** the submission to the Executive Council of the:
- 5.1 Social Security (Income and Assets Exemption) Amendment Regulations 2021 [PCO 23779/2.0];
  - 5.2 Residential Care and Disability Support Services (Income and Cash Assets Exemption) Amendment Regulations 2021 [PCO 23779/2.0];
- 6 **noted** that a waiver of the 28-day rule is sought:
- 6.1 so that the Amendment Regulations can come into force on 9 June 2021;
  - 6.2 on the grounds that the Amendment Regulations confer only benefits to those affected by them;
- 7 **agreed** to a waiver of the 28-day rule.

Gerrard Carter  
Committee Secretary

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**Present:**

Hon Andrew Little (Chair)  
Hon David Parker  
Hon Nanaia Mahuta  
Hon Kris Faafoi

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG