

Chair, Cabinet Legislation Committee

SOCIAL SECURITY (EMERGENCY HOUSING AND TRANSITIONAL HOUSING) AMENDMENT REGULATIONS 2020

Proposal

1. I seek authorisation for submission to the Executive Council of the Social Security (Emergency Housing and Transitional Housing) Amendment Regulations 2020 (the Amendment Regulations) so that:
 - the Ministry of Social Development (MSD) recovers an emergency housing contribution at a rate that is not inconsistent with the provisions of the Special Needs Grants Programme
 - the recovery of the emergency housing contribution cannot be deferred
 - a benefit debt (the recovery of which can be suspended) excludes an emergency housing contribution, and
 - the emergency housing contribution and the transitional housing contribution¹ are allowable costs for calculating Temporary Additional Support (TAS).

Policy

2. Managing demand and reducing reliance on the use of motels for emergency housing is a critical part of this Government's response to homelessness, alongside increases in appropriate housing supply. The broader umbrella Government response is the Aotearoa/New Zealand Homelessness Action Plan (the Action Plan) which sets the vision, guiding principles, action areas, outcomes and immediate and longer-term actions to address and where possible, prevent homelessness.
3. In December 2019, along with the Action Plan, Cabinet agreed to the proposed policy changes to Emergency Housing Special Needs Grants (EH SNGs) and to amendments being made to the Social Security Regulations 2018 (the principal regulations) to enable the policy decisions [CAB-19-MIN-0672]. The key policy change will require recipients of EH SNGs to contribute 25 percent of their income² towards their emergency housing costs.
4. Currently, EH SNG clients do not pay anything towards their emergency housing costs. This is because when the emergency housing policy was developed, it was intended as a short-term (up to seven-days) last resort option for people seeking sustainable accommodation, where there was no transitional housing place available. Since the

¹ The transitional housing contribution is an existing policy under emergency housing funding model contracts.

² 25 percent of income or 25 percent of the rate of jobseeker support that would be appropriate if the applicant were a beneficiary (whichever is higher).

policy was introduced, the number of people receiving an EH SNG has risen substantially³ and the average stay in emergency housing has increased to over 7 weeks, in large part, because of a lack of appropriate available housing.

5. By requiring a contribution, emergency housing will be more equitable with transitional and public housing where clients are already required to contribute to their housing costs.
6. The policy will, however, allow an initial seven-day period where the emergency housing contribution is not required. Clients staying for longer than seven-days also have access to intensive case management or navigator support, so they are better prepared and able to transition to stable housing.
7. s 9(2)(h)
8. The Amendment Regulations allow MSD to recover the emergency housing contribution at a rate that is set out in the Special Needs Grants Programme. The Special Needs Grant Programme will require the contribution to be recovered at the rate of 25 percent of income.
9. The Amendment Regulations for the emergency housing contribution are minor and are intended to ensure emergency housing policies are fair and more in line with transitional and public housing policies.

Recovery of the emergency housing contribution

10. The emergency housing contribution will be treated as a debt for MSD operational purposes only. This enables MSD to use its existing systems and processes to implement and report on the contributions. However, the contribution will not be treated like an MSD debt in any other way.
11. An emergency housing contribution is expected to be paid by the next available benefit or wage payment date(s) and cannot be deferred to a later date like other debts. This will largely be managed by requiring a part redirection of benefit for those receiving a benefit. Those not receiving a benefit will also be able to redirect wages if they choose or make a manual payment.
12. It is important to strike a fair balance so that people in exceptional circumstances do not face undue hardship. MSD will have safeguards in place to ensure all clients are supported, where necessary, to make the contribution. For example, every client applying for an EH SNG is assessed for their full and correct entitlement.

³ The quarter ending December 2019, 5,910 distinct clients received an EH SNG.

Temporary Additional Support policy decision

13. The Amendment Regulations will also allow the emergency housing and transitional housing contributions to be considered allowable costs for TAS. This means the contribution will be considered as an essential outgoing expense when calculating TAS.
14. TAS is a weekly payment available to clients for essential living costs which cannot be met from their available income.
15. Clients in emergency housing can already apply for TAS for other essential costs, however as they generally do not have any current outgoing housing costs, this is not included in the calculation. A data snapshot shows that on average around three percent of emergency housing clients receive TAS.
16. I am also seeking a policy decision from Cabinet to enable the contribution paid by clients in HUD-funded transitional housing to be an allowable cost for TAS, as reflected in the Amendment Regulations. The Cabinet Social Wellbeing Committee paper from 11 December 2019 provided the policy rationale for adding the emergency housing contribution as an essential cost for TAS, [SWC-19-MIN-0205] however an oversight in the original drafting meant HUD transitional housing was omitted from this initially. Including both contributions means both forms of housing under the MSD emergency housing model⁴, are treated the same.
17. It is unlikely there would be a significant increase in demand for TAS because EH SNG clients do not pay other costs associated with accommodation such as power and heating, so they are not factored into TAS calculations. The costs towards emergency and transitional housing are generally much lower than private accommodation costs.

Timing and 28-day rule

18. The Amendment Regulations, if approved, will be submitted to the Executive Council for consideration on 24 February 2019. They will be published in the New Zealand Gazette by 28 February 2020 and will come into force on 30 March 2020.

Compliance

19. 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
 - relevant international standards and obligations

⁴ This is the model that MSD uses to assist people with their emergency housing need. It first considers temporary options or financial assistance. Where this is not appropriate, MSD will look for a transitional housing place with a HUD funded provider. As a last resort, if a transitional housing place is not available or suitable, an EH SNG will be considered.

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

Regulations Review Committee

20. 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

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

Impact Analysis

22. The Treasury agrees that no Regulatory Impact Assessment (RIA) is required for this proposal, since it would substantively duplicate other government policy development, reporting and publication requirements or commitments.
23. The conditions of the exemption are that:
 - a. 'Emergency Housing Special Needs Grant (EH SNG) Policy Settings' contingency bid will need to be pro-actively published to fully substitute a RIA and meet the RIA requirement.
 - b. A monitoring and evaluation plan is developed for the proposal. The contingency bid does acknowledge implementation and effectiveness risks for which there are mitigation strategies. A clear, fit for purpose, monitoring, evaluation and review plan would ensure that potential unintended consequences are identified early on and responded to. A timeframe for review would also ensure the changes proposed do not become outmoded if a more comprehensive approach to addressing homelessness is adopted.

Publicity

24. As part of the legislative requirements, the Amendment Regulations will be notified in the New Zealand Gazette by 28 February 2020. Dates for the announcement of the EH SNG policy changes are being considered with the broader homelessness package announcements.

Proactive release

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

Consultation

26. The Ministry of Housing and Urban Development and The Treasury have been consulted. The Ministries of Health, Justice, Education and Pacific Peoples, the Departments of Internal Affairs, Corrections and Prime Minister and Cabinet, Statistics New Zealand, New Zealand Police, Te Puni Kōkiri, Kāinga Ora and Oranga Tamariki have been informed.

Recommendations

27. I recommend that the Legislation Cabinet Committee:
1. **note** that on 11 December 2019 the Cabinet Social Wellbeing Committee agreed to the introduction of a 25 percent of income emergency housing contribution for people receiving an Emergency Housing Special Needs Grant, after the first seven days in emergency housing, and emergency housing contributions to be added as an essential cost for Temporary Additional Support [SWC-19-MIN-0205]
 2. **note** that while the Cabinet Social Wellbeing Committee paper from 11 December 2019 provided the policy rationale for adding the emergency housing contribution as an essential cost for Temporary Additional Support, the Ministry of Housing and Urban Development funded transitional housing contribution was unintentionally omitted from the recommendation for the policy decision [SWC-19-MIN-0205]
 3. **note** that the Emergency Housing Special Needs Grant will be operationalized as a debt in the Ministry of Social Development system, however it will not be treated as a debt and will not be able to be deferred or suspended like Ministry of Social Development debts
 4. **agree** that the Ministry of Housing and Urban Development funded transitional housing contribution is added, as originally intended, as an essential cost for Temporary Additional Support where a client has a deficiency in their income to meet their essential living costs
 5. **note** that the Social Security (Emergency Housing and Transitional Housing) Amendment Regulations 2020 will give effect to the decisions referred to in the above recommendations
 6. **note** that the Ministry of Social Development intends to meet the conditions for the Regulatory Impact Assessment required by The Treasury which are to publish the 'Emergency Housing Special Needs Grant (EH SNG) Policy Settings' contingency bid and develop a monitoring and evaluation plan for the changes to the Emergency Housing Special Needs Grants policy settings
 7. **authorise** the submission to the Executive Council of the Social Security (Emergency Housing and Transitional Housing) Amendment Regulations 2020
 8. **note** that the Social Security (Emergency Housing and Transitional Housing) Amendment Regulations 2020 will come into force on 30 March 2020.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Social Development