

Chair
Cabinet Social Wellbeing Committee

PERMANENT EXEMPTION TO SOCIAL SECURITY INCOME AND CASH-ASSET TESTING FOR FINANCIAL DONATIONS TO THOSE AFFECTED BY THE CHRISTCHURCH MOSQUE ATTACKS

Proposal

- 1 I am seeking approval to amend the exemption from income and cash-asset tests for the purposes of social security assistance eligibility that applies to donations made to those affected by the attacks on Christchurch mosques on 15 March 2019 (the attacks). This exemption applies to all payments made to a person because they were affected by the attacks. These donations are currently subject to a 12-month exemption period. I propose that this exemption be made permanent.
- 2 To achieve this, I am seeking 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 2020
 - 2.2 the Residential Care and Disability Support Services (Exempt Assets – Christchurch Mosques Attack Support Payments) Amendment Regulations 2019.

Executive summary

- 3 Financial gifts and donations made to people affected by the Christchurch mosque attacks are currently exempt from income and cash-asset tests for social security assistance for 12 months after the donations are made, thereby ensuring the continued eligibility to entitlements of current or potential income support recipients.
- 4 A significant portion of the affected donations were administered by Victim Support and were paid between March and June 2019. As the exemption for donations was initially in place for 12 months, the exemption for donations made during this period will expire between the first anniversary of the attacks and the end of June 2020. This coincides with the start of the trial of the alleged attacker which is scheduled for 2 June 2020. This timing is likely to cause additional anxiety and distress for those affected.
- 5 I propose making the exemption on these payments permanent. A permanent exemption will ensure that those affected have time to decide how best to use the resources given to them. This approach reflects the unprecedented nature of the attacks, and the exceptional circumstances of those affected.
- 6 Regulatory changes are required to make these changes permanent.

Background

- 7 Following the terrorist attacks on two Christchurch mosques on 15 March 2019, a large number of financial gifts and donations were made to those affected by the attacks. These

IN CONFIDENCE

donations were made and coordinated by a range of organisations, including Victim Support, the Christchurch Foundation, and online tools.

- 8 On 2 April 2019, these financial gifts and donations were made exempt from income and cash-asset tests for the purposes of eligibility to social security assistance for 12 months from the date of payment (CAB-19-MIN-0134 refers).
- 9 The primary intention of this exemption was to ensure that people affected by the attacks were able to meet their day-to-day costs without depleting resources that were given for the purpose of helping them rebuild their lives.
- 10 The Ministry of Social Development (MSD) does not hold detailed financial information showing the dates on which donations were made. However, the funds that were administered by Victim Support were distributed between March and June 2019. The current exemption for these donations will therefore expire between March and June 2020. This coincides with the first anniversary of the attacks, on 15 March 2020, and the trial of the alleged attacker, which is scheduled to begin on 2 June 2020.
- 11 Approximately 150 people have been identified as having received a donation and being in receipt of some form of social security assistance. Of this group, approximately 40 people are currently receiving asset-tested assistance. MSD does not know how many of these people still have assets resulting from these donations, and how many have spent these assets.

A permanent exemption recognises the exceptional circumstances of those affected

- 12 The expiration of the current exemption will result in people losing access to support immediately following the first anniversary of the attacks, and during the trial of the alleged attacker. Losing access to this support at this time is likely to cause additional anxiety and distress during a difficult period for those affected.
- 13 I propose that the exemption from income and cash-asset social security assistance eligibility tests on financial gifts and donations to those affected by the attacks be made permanent.
- 14 A 12-month limit was initially chosen for this exemption as this is consistent with similar exemptions, such as for donations from the Red Cross appeal following the 2010 and 2011 Canterbury earthquakes, and for payments to victims of crime; and to allow further time to explore a longer-term plan for this exemption.
- 15 However, I now consider that it would be unfair to people who are affected by the attacks in Christchurch to have their social security assistance entitlements reduced as a result of receiving financial donations in direct response to the attack at any time in their lives.
- 16 Due to the unique nature of the terrorist attack in Christchurch and the undeniable harm caused as a result of this, I believe it is appropriate that a permanent exemption to income and cash-asset testing is made, in line with the permanent exemption made to Ex Gratia and Compensation payments in 2019.
- 17 MSD staff have been advised that some clients are waiting until after the trial of the alleged attacker is complete before making long-term decisions regarding their future. Similarly, there are some people affected for whom Immigration New Zealand has not yet made decisions regarding permanent residence.
- 18 The inability to make long-term decisions regarding their future, especially in relation to which country they will be living in, makes it very difficult for those affected to decide how best to use assets which were donated with the intention of helping them to rebuild their lives. For

IN CONFIDENCE

example, there are some who have indicated that they wish to use the funds to purchase property. However, without knowing whether they will remain in New Zealand permanently, this is difficult to do.

A welfare programme was also established for those affected by the attacks

- 19 The Christchurch Mosques Attack Welfare Programme was established on 3 June 2019 in order to support those affected by the attacks. The programme allows those eligible to access financial assistance from Work and Income for which their residency status would otherwise make them ineligible.
- 20 The welfare programme is currently due to expire in June 2020. At the time of the establishment of this programme, Cabinet delegated authority to me and the Minister of Finance (Joint Ministers) to access funding for this programme for 2019/20 and 2020/21. I intend to use this authority to extend this programme for 12 months, expiring in June 2021, subject to approval for funding from the Minister of Finance.

Consultation

- 21 The Treasury has been consulted but does not support the policy change due to the precedent risk associated with it. The Ministry of Health has been consulted. The Department of Prime Minister and Cabinet has been informed.

Financial implications

- 22 The initial 12-month exemption was not costed when the policy was first implemented because of time pressure and unique circumstances. Any costs were absorbed. Other recent exemptions that have been made were also not required to be costed. Making the exemption permanent will act to maintain the status quo for existing clients. MSD estimates the upper bound of these costs would be \$882,307 over the next five years. I propose that this cost is picked up through the standard forecast process.
- 23 The Treasury has advised that new funding is required to meet this cost and that this be charged against the between-Budget contingency established as part of Budget 2019.

Human rights implications

- 24 This paper has no human rights implications.

Legislative implications

- 25 The changes in this paper require amendment to the Social Security Regulations 2018, the Residential Care and Disability Support Services Regulations 2018 and the Ministerial Direction in relation to Special benefit.

Timing and the 28-day rule

- 26 The Amendment Regulations, if approved, will be submitted to the Executive Council for consideration on 9 March 2020, published in the New Zealand Gazette on 10 March 2020, and will come into force on 13 March 2020.

IN CONFIDENCE

- 27 A waiver to the 28-day rule is sought on the grounds that the Amendment Regulations confer only benefits for those affected by them, and that early commencement is necessary to avoid the purpose of the regulatory change being defeated.

Compliance

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

28.1 the principles of the Treaty of Waitangi

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

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

28.4 relevant international standards and obligations

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

Regulation Review Committee

- 29 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

- 30 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

- 31 The Treasury Regulatory Quality Team has determined that the decisions sought in this Cabinet paper are not subject to the Regulatory Impact Analysis requirements on the basis that they will have no, or minor, impacts on businesses, individuals, or not-for-profits.

Gender implications

- 32 Most of the larger payments made by the Christchurch Foundation and other organisations were made to women who were widowed by the attacks. However, more payments overall were made to men, as more men were present during the attacks.
- 33 MSD does not hold information regarding who still has assets from these donations, and therefore is unable to identify the genders of those who continue to benefit from the exemption.

Disability perspective

- 34 A small number of those who sustained injuries in the attacks are now disabled.

IN CONFIDENCE

- 35 MSD does not hold information regarding who still has assets from the donations made following the attacks, and is therefore unable to identify how many, if any, disabled people continue to benefit from the exemption.

Publicity

- 36 As part of the legislative requirements, the Amendment Regulations will be notified in the New Zealand Gazette on 10 March 2020. The amendment to the Ministerial Direction in relation to Special Benefit will be notified in the Gazette and published on the MSD website on 10 March 2020.
- 37 The Ministry of Social Development is developing a communications strategy for communicating the change to those currently eligible for income support.

Proactive release

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

Recommendations

- 39 It is recommended that the Committee:

- 1 **note** that following the terrorist attacks on Christchurch mosques on 15 March 2019, donations were provided through a range of platforms to those affected;
- 2 **note** that the exemption on donations received by those affected by the attacks from income and cash-asset testing for the purposes of social security assistance eligibility will begin to expire following the first anniversary of the attacks;
- 3 **note** that it is appropriate to apply a permanent exemption to income and cash-asset testing for financial gifts and donations received by those affected by the terrorist attacks in Christchurch due to the unprecedented nature of the attacks, and the exceptional circumstances of those affected;
- 4 **agree** to amend the Social Security Regulations 2018 and the Residential Care and Disability Support Services Regulations 2018 to permanently exempt financial gifts or donations made in relation to the Christchurch mosque attacks and any income derived from them, from income and cash-assets tests for financial assistance;

Financial implications

- 5 **agree** that the cost (\$882,307 over five years) incurred under recommendation 4 above be picked up through the standard forecast process;

IN CONFIDENCE

OR (Treasury recommended)

- 6 **approve** the following changes to appropriations to give effect to the policy decision in recommendation 4 above, with a corresponding impact on the operating balance and net core Crown debt:

Vote Social Development	\$m – increase/(decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 & Outyears
Minister of Housing Benefits or Related Expenses:					
Accommodation Assistance	0.039	0.189	0.189	0.189	0.190
Minister for Social Development					
Hardship Assistance	0.004	0.020	0.020	0.020	0.020
Total Operating	0.043	0.209	0.209	0.209	0.210

- 7 **agree** that the proposed change to appropriations for 2019/20 above be included in the 2019/20 Supplementary Estimates and that, in the interim, the increase be met from imprest supply;
- 8 **agree** that the expenses incurred under recommendation 4 above be charged against the between-Budget contingency established as part of Budget 2019;

Legislative implications

- 9 **authorise** the submission of the Social Security (Cash Assets and Income Exemptions – Christchurch Mosques attack Support Payments) Amendment Regulations 2020 and the Residential Care and Disability Support Services (Exempt Assets – Christchurch Mosques Attack Support Payments) Amendment Regulations 2020 to the Executive Council to give effect to the decision referred to in recommendation 4 above;
- 10 **note** the Minister for Social Development intends to amend the Ministerial Direction in relation to Special Benefit to permanently exempt financial gifts and donations from chargeable income assessment for Special benefit;
- 11 **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 that early commencement is necessary to avoid the purpose of the regulatory change being defeated; and
- 12 **agree** to waive the 28-day rule so that the Amendment Regulations can come into force on 13 March 2020 to ensure that nobody loses eligibility to social security assistance.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Social Development