

Office of the Minister for Social Development

Chair, Cabinet Legislation Committee

Social Assistance Legislation (Budget 2019 Welfare Package) Amendment Bill: Approval for Introduction

Proposal

1. The Social Assistance Legislation (Budget 2019 Welfare Package) Amendment Bill (the Bill) is proposed for introduction on 30 May 2019.
2. This Bill includes a package of measures to:
 - 2.1. remove the benefit deductions in section 192 of the Social Security Act 2018 (SSA) for sole parents who do not apply for child support;
 - 2.2. change the way main benefits are adjusted annually, to reflect any increase in average wages (net) each year (rather than being adjusted by the Consumer Price Index (CPI) which is current practice); and
 - 2.3. create a regulation making power and move the abatement thresholds for veteran's pensioners into regulations to enable planned increases to abatement thresholds in 2020, 2021, 2022 and 2023 to be made through Order in Council.
3. The Bill is an Omnibus Bill. It is proposed to be introduced and enacted, under urgency, in the House on 30 May 2019.

Policy

Current Cabinet decisions

4. On 15 April 2019, as part of Budget 2019, Cabinet agreed to an initiative titled '*Incomes for People Receiving Benefits – Indexing Main Benefits, Removing Deductions and Changing Abatement Thresholds*' (Budget 2019 Welfare Package) in order to support the Government's objectives for a significant and sustained reduction in child poverty, and contribute to the achievement of the ten-year child poverty reduction targets [CAB-19-MIN-0174.36 refers].
5. The impacts of the proposed changes are that:
 - 5.1. rates of main benefits are maintained relative to wages in society;
 - 5.2. people can continue to work approximately the same number of hours on the minimum wage until before their benefit begins to abate (until 2023); and

- 5.3. 12,000 sole parents are better able to support their families by not having a deduction applied to their benefit.
6. Cabinet agreed the following key changes which require legislative and regulatory amendment in order to come into effect from 1 April 2020 [CAB-19-MIN-0174.36 refers]:
 - 6.1. remove deductions for sole parent beneficiaries who fail to apply for child support, by repealing section 192 of the SSA (repeal of section 192);
 - 6.2. that the rates of main benefits will be adjusted annually in line with any upwards percentage movement in average wage (net), rather than CPI (indexation changes); and
 - 6.3. increase abatement thresholds in line with planned increases to the minimum wage in 2020, 2021, 2022 and 2023 for main benefit recipients, New Zealand Superannuation (NZS) recipients where they have a non-qualifying partner included in their NZS, and Veteran's Pension (VP) recipients¹ (increasing abatement thresholds).
7. For the purpose of repealing section 192, Cabinet agreed to the following consequential changes:
 - 7.1. repeal sections 193 and 194 of the SSA and sections 9(6), 9(6b), 9(7) and 122(2) of the Child Support Act 1991, to have effect from 1 April 2020; and
 - 7.2. amend section 9 of the Child Support Act 1991 so that either the Commissioner for Inland Revenue or the Chief Executive for the Ministry of Social Development can determine whether one of the exceptions to the obligation to apply for child support under section 9(5B) of the Child Support Act 1991 apply.

Delegated decisions

8. Cabinet delegated authority to myself and the Minister for Veterans to jointly agree the best way to provide legislative support for the proposed increases to abatement thresholds [CAB-19-MIN-0174.36 refers]. Under this authority we agreed to:
 - 8.1. create a regulation making power in relation to abatement thresholds under section 265 of the Veterans' Support Act 2014;
 - 8.2. shift the details of the Veteran's Pension abatement thresholds out of section 171 of the Veterans' Support Act 2014 and into the Veterans' Support Regulations 2014; and
 - 8.3. remove the detailed definition of Income Test Three from section 158 of the Veterans' Support Act 2014.

¹ There are two abatement regimes for VP recipients:

- (i) A non-qualifying partner of a veteran aged over 65 is subject to an abatement regime designed to encourage full time work under Income Test Three in section 158.
- (ii) A veteran aged under 65, entitled to receive the VP by reason of infirmity, is subject to an abatement regime designed to encourage part time work under sections 171(3)(a)(b) and (4)(a)(b).

9. This approach:
 - 9.1. ensures that legislative authority can be provided for the schedule of changes to Veteran’s Pension abatement thresholds agreed to by Cabinet [CAB-19-MIN-0174.36 refers];
 - 9.2. is consistent with the intent and design of the Veterans’ Support Act 2014; and
 - 9.3. ensures that these abatement threshold changes can be consistent with the abatement threshold changes to be made for superannuitants and main beneficiaries.

These decisions require legislation and amendments to regulations to implement

10. An omnibus Bill is necessary to implement the Budget 2019 Welfare Package, as substantive amendments to the following Acts will be required:
 - 10.1. Social Security Act 2018;
 - 10.2. Child Support Act 1991; and
 - 10.3. Veterans’ Support Act 2014.
11. The proposal to increase abatement thresholds will also require amendments to regulations. Table 1 sets out how the Budget 2019 Welfare Package will be given legislative authority.

Table 1: How the Budget 2019 Welfare Package will be given effect		
Item	Amendment required	Vehicle
Repeal of Section 192	Primary legislative amendment to repeal section 192 (as well as consequential amendments)	Social Assistance Legislation (Budget 2019 Welfare Package) Amendment Bill
Indexation changes	Primary legislative amendment to change the indexation of main benefits from CPI to any increase in the average wage (net)	Social Assistance Legislation (Budget 2019 Welfare Package) Amendment Bill
	Amendment to main benefit rates annually	Order in Council as part of Annual General Adjustment of benefits process each year
Increasing abatement thresholds: main beneficiaries and non-qualified partners of superannuitants	Amendment to the definition of Income Test 1, 2, 3 and 4 in 2020, 2021, 2022 and 2023	Order in Council as part of Annual General Adjustment of benefits process from 2020 to 2023
Increasing abatement thresholds: Veteran’s Pensioners	Primary legislative amendment to create a regulation making power	Social Assistance Legislation (Budget 2019 Welfare Package) Amendment Bill

	Regulatory Amendment to increase abatement thresholds in 2020, 2021, 2022 and 2023	Order in Council alongside the Annual General Adjustment of benefits process from 2020 to 2023
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12. Cabinet agreed that these decisions be implemented using both the Social Assistance Legislation Bill and Orders in Council [CAB-19-MIN-0174.36 refers].

Impact analysis

13. The Treasury Regulatory Quality Team has determined that the decisions sought in this paper are not subject to the Regulatory Impact requirement on the basis that they would substantively duplicate other government policy development, reporting and publication requirements or commitments. This exemption however only applies if the previous analysis of the proposed policy is released publicly and in an accessible way.

Compliance

14. The Bill complies with the following:
- 14.1. the principles of the Treaty of Waitangi;
 - 14.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 14.3. the disclosure statement requirements (a draft disclosure statement has been prepared and is attached to the paper);
 - 14.4. the principles and guidelines set out in the Privacy Act 1993;
 - 14.5. relevant international standards and obligations;
 - 14.6. the [Legislation Guidelines](#) (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

The New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993

15. The Budget 2019 Welfare Package, as is the case with the welfare system, does in some cases make distinctions between groups of taxpayers, and these distinctions arguably amount to limitations on the rights guaranteed to under the New Zealand Bill of Rights Act 1990 (eg limiting the right to freedom from discrimination under section 19 of that Act).
16. The changes proposed to be made through the Social Assistance Legislation (Budget 2019 Welfare Package) Amendment Bill do not make these existing distinctions any less consistent with the right to freedom from discrimination under section 19 of the New Zealand Bill of Rights Act 1990. Furthermore the Bill seeks to remove a sanction which is currently only applied to sole parent beneficiaries under section 192 of the Social Security Act 2018.

Consultation

Government departments

17. Inland Revenue, the Parliamentary Counsel Office, the Ministry of Social Development, Veterans' Affairs and the Treasury were consulted on the development of the proposals and on the Bill. The Department of Prime Minister and Cabinet (Policy Advisory Group and the Child Poverty Unit) has also been informed.

Public consultation

18. While there was no formal public consultation on the Budget 2019 Welfare Package, it is consistent with some of the Welfare Expert Advisory Group's recommendations for changes to the Welfare system.

Briefing of Government Caucuses

19. It is intended that the Government caucuses be briefed on this Bill prior to its proposed introduction in the House on 30 May 2019.

Binding on the Crown

20. The principal Acts impacted by this Bill all currently bind the Crown. This amending Bill will not alter the status quo in this respect.

Allocation of decision making powers

21. The draft legislation provides a new power for the commissioner of Inland Revenue to make decisions under section 9 of the Child Support Act 1991. This new power enables either the Commissioner of Inland Revenue or the Chief Executive of the Ministry of Social Development to determine whether a person in receipt of a social security benefit (as defined under the Child Support Act 1991) is exempt from the obligation to apply for child support.
22. This new decision making power ensures that a beneficiary can be exempted from their obligation to apply for child support if either the Ministry of Social Development or Inland Revenue are satisfied that one of the exemptions applies under section 9(5B) of the Child Support Act 1991 apply. The intent of this change is to ensure that the client can disclose sensitive information to either the Ministry of Social Development or Inland Revenue for the exemption to be applied. This change was deemed necessary to enable clients to choose which agency to disclose this information to following to repeal of section 192 of the Social Security Act 2018.

Associated regulations

23. No regulations are required to bring any provisions of the Bill into operation. However, the Bill enables regulations to be made that will set out the abatement thresholds for Veteran's Pensioners. It is not anticipated the burden on the Parliamentary Counsel Office will be large.

Other instruments

24. Section 20 of the Bill amends section 265 of the Veterans' Support Act 2014, to empower the Governor-General to make regulations by Order in Council in relation to abatement thresholds for Veteran's Pension. In order for power under section 265 of the Veteran's Support Act 2014 to have effect, the Bill also amends section 171 of that Act to remove the detail of the abatement thresholds so that they can be set out in regulations.
25. I, together with the Minister for Veterans, agreed (under Cabinet's delegated authority [Cab-19-MIN-0174.36 refers]) to create this new regulation making power to ensure that changes to abatement thresholds can be made for the Veteran's Pension in a similar way to how they can be made for main beneficiaries and superannuitants.

Definition of Minister/department

26. The Bill does not contain a definition of Minister, department, or chief executive.

Commencement of legislation

27. The Bill will come into force the day after Royal assent to enable Orders in Council to be made under the new provisions before, but to have effect only on or after, 1 April 2020. However the following specified provisions come into force on 1 April 2020:
 - 27.1. clauses 4 to 7, 10(3), 13, and 14 (and Part 1 of the Schedule) (repeal of the Ministry of Social Development's duty to reduce rates of benefits for sole parents for failure to assist child support);
 - 27.2. clause 16 (authorising the Commissioner to decide that a social security beneficiary is not required to apply for a formula assessment);
 - 27.3. clauses 18 to 20 (abatement of veteran's pension—but new Part 4 of Schedule 1 of the Veterans' Support Act 2014 (see clause 21) enables the new regulation-making powers to be used after this Bill is enacted and before 1 April 2020).

Parliamentary stages

28. Cabinet agreed that the Budget 2019 Welfare Package would be legislated through the Social Assistance Legislation Bill, which holds a category 4 priority on the 2019 Legislative Programme [CAB-19-MIN-0174.36 refers].
29. However, through discussion with the Leader of the House and my colleagues, I seek your agreement that the Budget 2019 Welfare Package be legislated through the Social Assistance Legislation (Budget 2019 Welfare Package) Amendment Bill, with a category 2 priority (to be passed in 2019). I seek this change because I think it is important to take swift legislative action in response to the report of the Welfare Expert Advisory Group and because it will provide greater certainty for affected people.

30. Consistent with this, the Bill should be:
 - 30.1. introduced on 30 May 2019, subject to the final approval of the Government Caucuses and sufficient support in the House of Representatives; and
 - 30.2. passed through all stages and enacted under urgency on 30 May 2019.

Proactive Release

31. This paper will be proactively released in whole within 30 business days. The proactive release of this paper will also likely include release of key reports which informed final decisions on the Budget 2019 Welfare Package. I will ensure relevant Ministers are kept informed of the scope of the eventual proactive release.

Recommendations

The Minister for Social Development recommends that the Committee:

1. **note** that on 15 April 2019, as part of Budget 2019, Cabinet agreed to an initiative titled '*Incomes for People Receiving Benefits – Indexing Main Benefits, Removing Deductions and Changing Abatement Thresholds*' (Budget 2019 Welfare Package) in order to support the Government's objectives for a significant and sustained reduction in child poverty, and contribute to the achievement of the ten-year child poverty reduction targets [CAB-19-MIN-0174.36 refers].
2. **note** that the impact of the proposed changes are that:
 - 2.1. 12,000 sole parents are better able to support their families by not having a deduction applied to their benefit;
 - 2.2. rates of main benefits are maintained relative to wages in society; and
 - 2.3. people can continue to work approximately the same number of hours on the minimum wage before their benefit begins to abate;
3. **note** that Cabinet agreed the following key changes which require legislative and regulatory amendment in order to come into effect from 1 April 2020:
 - 3.1. remove deductions for sole parent beneficiaries who fail to apply for child support by repealing sections 192 of the SSA (repeal of section 192);
 - 3.2. that the rates of main benefits will be adjusted annually in line with any upwards percentage movement in average wage (net), rather than CPI (indexation changes); and
 - 3.3. increase abatement thresholds in line with planned increases to the minimum wage in 2020, 2021, 2022 and 2023 for main benefit recipients, New Zealand Superannuation (NZS) recipients where they have a non-qualifying partner included in their NZS, and Veteran's Pension (VP) recipients² (increasing abatement thresholds);
4. **note** that, under delegated authority from Cabinet, the Minister for Veterans and I have agreed to:
 - 4.1. create a regulation making power for abatement thresholds under section 265 of the Veterans' Support Act 2014;
 - 4.2. shift the details of the Veteran's Pension abatement thresholds out of section 171 of the Veterans' Support Act 2014 and into the Veterans' Support Regulations 2014; and

² There are two abatement regimes for VP recipients:

- (iii) A non-qualifying partner of a veteran aged over 65 is subject to an abatement regime designed to encourage full time work under Income Test Three in section 158.
- (iv) A veteran aged under 65, entitled to receive the VP by reason of infirmity, is subject to an abatement regime designed to encourage part time work under sections 171(3)(a)(b) and (4)(a)(b).

- 4.3. remove the detailed definition of Income Test Three from section 158 of the Veterans' Support Act 2014;
5. **note** that the Bill makes substantive amendments to the following legislation:
 - 5.1. Social Security Act 2018;
 - 5.2. Veterans' Support Act 2014; and
 - 5.3. Child Support Act 1991;
6. **note** that, on 15 April 2019, Cabinet agreed that these decisions be implemented through the Social Assistance Legislation Bill (which holds a category 4 priority on the 2019 Legislative Programme) and through Orders in Council as part the Annual General Adjustment of Benefits [CAB-19-MIN-0174.36 refers];
7. **note** that it is important that the 2019 Budget Welfare Package is legislated as soon as possible to provide certainty for affected people;
8. **agree** that the Budget 2019 Welfare Package be legislated through the Social Assistance Legislation (Budget 2019 Welfare Package) Amendment Bill, with a category 2 priority (to be passed in 2019);
9. **approve** the Social Assistance Legislation (Budget 2019 Welfare Package) Amendment Bill for introduction, subject to the final approval of the Government Caucuses and sufficient support in the House of Representatives;
10. **agree** that the Parliamentary Counsel Office be authorised to make minor, technical and editorial amendments to the draft Bill attached to this paper prior to its introduction;
11. **agree** that the Bill be introduced on 30 May 2019; and
12. **agree** that the Government propose that the Bill be passed through all stages and enacted under urgency on 30 May 2019.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Social Development