

## **In Confidence**

Office of the Minister for Social Development  
Chair, Cabinet Legislation Committee

# **Student Allowances (Christchurch Mosques Attack) Amendment Regulations 2020**

## **Proposal**

- 1 This paper seeks Cabinet approval to submit to the Executive Council the Student Allowances (Christchurch Mosques Attack) Amendment Regulations 2020 which will:
  - 1.1 exempt Christchurch Response Visa holders<sup>1</sup> and some other visa holders<sup>2</sup> from the three-year residence stand-down period for eligibility to student allowances; and
  - 1.2 exclude financial gifts and donations made to people affected by the Christchurch Mosques Attack from personal and partner income tests for student allowances [CAB-20-MIN-0094 refers].

## **Policy**

- 2 Following the terrorist attacks on two Christchurch mosques on 15 March 2019 (the attacks), Cabinet waived the two-year residence stand-down period applicable to main benefits for people with a Christchurch Response Visa and people who would have been eligible for a Christchurch Response Visa but were already holding another residence class visa. Cabinet also exempted financial gifts and donations made to people affected by the attacks from income and cash-asset testing for social security assistance<sup>3</sup> [CAB-20-MIN-0094]. Student financial support was not considered at the time because Cabinet were looking at the immediate income support needs of the affected families.
- 3 Currently, a residence stand-down period of three years applies for people with a residence visa before they become eligible for student loans and allowances<sup>4</sup>. Some Christchurch Response Visa holders and other visa holders are not eligible for student loans and allowances because of the residence stand-down period.
- 4 Additionally, financial gifts and donations made to people affected by the attacks would currently be treated as income when assessing eligibility to student allowances. This means some people affected by the attacks who wish to pursue tertiary education, may lose entitlement to student allowances because of the financial gifts or donations received in the wake of the attacks.
- 5 On 16 March 2020, Cabinet agreed to:
  - 5.1 exempt Christchurch Response Visa holders and other residence visa holders who would have been eligible for the Christchurch Visa from the three-year residence

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<sup>1</sup> The Christchurch Response (2019) Visa provides a special permanent residency visa to people who were living in New Zealand on 15 March 2019 and were present at the mosques during the attack, were injured during the attacks, or are the immediate family member of someone who was present during the attacks.

<sup>2</sup> People who would have been eligible for a Christchurch Response Visa but were already holding another residence visa.

<sup>3</sup> The Student Allowances (Christchurch Mosques Attack) Amendment Regulations 2020 refer to payments made to a person because they are affected by the Christchurch mosques attacks and are defined as "Christchurch Mosques Attack support payments".

<sup>4</sup> Unless they are one of the exempted groups for student allowances and loans such as refugees, protected persons, and people sponsored by recognised refugees, and Afghan nationals.

stand-down period for eligibility to student loans and allowances from 1 June 2020 and;

- 5.2 exclude financial gifts and donations made to people affected by the Christchurch Mosques Attack from personal, parental and partner income tests for student allowances from 1 June 2020 [CAB-20-MIN-0094 refers].
- 6 In light of the evolving situation around the COVID-19 pandemic, on 14 April 2020 Cabinet agreed to delay implementation of the changes to eligibility settings applying to student loans and allowances to accommodate for the increased demand on the Ministry of Social Development's (MSD) services [CAB-MIN-20-0164]. A new implementation date was not set at this time.
- 7 I propose an implementation date of 1 January 2021. This means that the changes to eligibility settings for student loans and allowances will apply to periods of study starting on or after 1 January 2021. This captures any new students enrolling for study in 2021. If required some people may seek or continue to receive income support through MSD, provided they meet the eligibility criteria.
- 8 The changes to eligibility settings applying to student loans do not require legislative amendment. An amendment to the Student Allowances Regulations 1998 is required to give effect to the changes to eligibility settings applying to student allowances<sup>5</sup>.

### Timing and 28-day rule

- 9 The Student Allowances (Christchurch Mosques Attack) Amendment Regulations 2020 (Amendment Regulations), if approved, will be submitted to the Executive Council for consideration on 27 July 2020, published in the New Zealand Gazette by 31 July 2020, and come into force on 21 September 2020. This will allow StudyLink to receive and process applications for study starting on or after 1 January 2021 at the end of this year.

### Compliance

- 10 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; and
  - *Legislation Guidelines: 2018 Edition*, published by the Legislation Advisory Committee.

### Human Rights

- 11 These changes will improve the position of certain groups relative to the status quo under the student support system. Members of the groups being advantaged will generally be

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<sup>5</sup> The Social Security Regulations 2018 already exempt financial gifts and donations made to those affected by the attacks from parental income tests for student allowances. The Amendment Regulations therefore do not include reference to the exemption applying to parental income. This is explained in the explanatory note of the Amendment Regulations.

Muslim, but this is not the reason to distinguish them from other groups who are not also being advantaged. The proposed exemption applies to people in, or connected to, Masjid Al Noor and Linwood Masjid. The exemptions do not require the person to be a member of a religious community or exclude other religious groups. MSD do not consider there is any unlawful discrimination in this context and therefore consider the proposals to be consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### **Regulations Review Committee**

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

### **Certification by Parliamentary Counsel**

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

### **Impact Analysis**

- 14 The Treasury Regulatory Quality Team has determined that the decisions sought in this paper are exempt from the Regulatory Impact Analysis requirements on the grounds that they will have no or only minor impacts on businesses, individuals or not-for-profit entities.

### **Publicity**

- 15 MSD officials will work to develop a communications strategy for appropriately and sensitively communicating the changes to those newly eligible for student support.

### **Proactive release**

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

### **Consultation**

- 17 The Ministry of Education has been consulted on this paper.

### **Recommendations**

It is recommended that the Committee:

1. **note** that on 16 March 2020 Cabinet agreed to:
  - 1.1. exempt Christchurch Response Visa holders and other residence visa holders who would have been eligible for a Christchurch Visa from the three-year residence stand-down period for eligibility to student loans and allowances from 1 June 2020 and;
  - 1.2. exclude financial gifts and donations made to people affected by the Christchurch Mosques Attack from personal, parental and partner income tests for student allowances from 1 June 2020 [CAB-20-MIN-0094 refers];
2. **note** that in light of the evolving situation around the COVID-19 pandemic, Cabinet agreed to delay implementation of the changes to eligibility settings applying to student loans and allowances to accommodate for the increased demand on the Ministry of Social Development's services [CAB-MIN-20-0164];

3. **authorise** the submission to the Executive Council of Student Allowances (Christchurch Mosques Attack) Amendment Regulations 2020;
4. **note** that the Student Allowances (Christchurch Mosques Attack) Amendment Regulations 2020 come into force on 21 September 2020 and that the changes will apply to periods of study starting on or after 1 January 2021.

Authorised for lodgement

Hon Carmel Sepuloni

Minister for Social Development