

In confidence

Chair
Cabinet Legislation Committee

ANNUAL GENERAL ADJUSTMENT 2022 AND RELATED REGULATORY CHANGES

Proposal

- 1 This paper seeks Cabinet approval to submit to the Executive Council the following Orders and Amendment Regulations. These instruments will give effect to the 2022 Annual General Adjustment and related regulatory matters arising from Cabinet decisions relating to the Budget 2021 package and a Budget 2022 pre-commitment to increase Orphan's Benefit and Unsupported Child's Benefit.
 - Social Security (Rates of Benefits and Allowances) Order 2022
 - Social Security Amendment Regulations 2022
 - Residential Care and Disability Support Services Amendment Regulations 2022
 - Student Allowances Amendment Regulations 2022
 - Health Entitlement Cards Amendment Regulations 2022
 - Oranga Tamariki (Minimum Rates of Payment for Board and Lodgings) Order 2022.

Previous decisions

The Annual General Adjustment is a statutory requirement to adjust rates of social assistance on 1 April each year

- 2 There is a statutory requirement to adjust rates of main social security benefits, Student Allowances, Orphan's Benefit, Unsupported Child's Benefit (OB/UCB), Foster Care Allowance Minimum Rates of Payment for Board and Lodgings, rates of main benefits payable to long-term hospital patients, and New Zealand Superannuation from 1 April each year, in a process known as the Annual General Adjustment (AGA). Other adjustments are made in this process under the authority of a Cabinet decision or convention.
- 3 There is a legislative requirement to adjust the net weekly couple rate of New Zealand Superannuation by increases in CPI, and then further adjust this rate to ensure it is not less than 66 percent, or more than 72.5 percent, of the net average wage. A further adjustment will not be required in the 2022 AGA, as the CPI adjustment by 5.95 percent will see this rate exceed the 66 percent minimum requirement.
- 4 In March 2002 Cabinet delegated authority to the Minister of Finance and the Ministers responsible for New Zealand Superannuation, social security benefits and allowances, the Community Services Card, Student Allowances, and War Pensions and Allowances, to jointly approve adjustments to rates and thresholds [CAB Min (02) 7/1A refers].

- 5 In 2016, Cabinet agreed that if an adjustment is linked to the Consumers Price Index (CPI), the All Groups CPI, excluding cigarettes and other tobacco products index, must be used. 2021 was the final year that this decision applied [CAB-16-MIN-0189 refers], and adjustments made using the CPI in the 2022 AGA will now revert to using the CPI (All Groups).
- 6 As part of the Budget 2019 Income Support Package, Cabinet agreed to change the way main benefits are adjusted in the AGA, so that they reflect any increase in the net average wage [CAB-19-MIN-0174.36 refers]. This decision was given effect by amendments to the Social Security Act 2018. This is the third year that this decision applies.
- 7 The Ministers of Finance, Housing, Education, Social Development and Employment, Health, Veterans, and Children approved the new rates and thresholds, consistent with their delegated authority, on 10 February 2022.

On 1 April 2022, there will be further increases to benefit rates following Cabinet agreement of the following policy changes...

- 8 As part of Budget 2021 package initiatives, and alongside a Budget 2022 pre-commitment to increase OB/UCB¹, Cabinet agreed to the following income support changes being progressed on 1 April 2022, in addition to the indexation of benefit rates (where applicable) [CAB-21-MIN-0116 and CAB-21-MIN-0457 refers]. These policy changes, and the legislative requirements to give effect to them, are being progressed as part of the 2022 AGA and do not require further Cabinet decisions.
 - 8.1 Adult rates of main benefits are further increasing to the rates recommended by the Welfare Expert Advisory Group (WEAG) in 2019, with an additional \$15 per week, per adult for families with children,
 - 8.2 youth rates of main benefits are receiving the same dollar increase as the indexed adult rates of the equivalent benefits,
 - 8.3 student support rates (Student Loan Living Costs and Student Allowance) are further increasing by \$25 per week, per adult, and \$50 per week for couples,
 - 8.4 as part of the Budget 2021 package and alongside a Budget 2022 pre-commitment, OB/UCB rates are further increasing by \$39.84 per week for children aged 0-4 years and by \$15 for children aged 5 years and over,
 - 8.5 Childcare Assistance income thresholds are being indexed annually by net average wage growth from 1 April 2022.

... as well as additional legislative amendments resulting from the following initiative

- 9 The Minister of Education and I have also approved a technical adjustment to create two gross abatement rates for the 'at home' and 'away from home' Student Allowance payments for those under 24 years of age [REP/22/1/021 refers]. This change requires amendments to the Student Allowances Regulations 1998 to create two gross abatement rates - one for the portion of these payments in the 10.5 percent income tax bracket, and another for the portion of these payments in the 17.5 percent income tax bracket. This technical adjustment will ensure that the policy intent of keeping net abatement at 25 percent for these payments is

¹ The Foster Care Allowance rate will receive the same further increases as the Orphan's Benefit and Unsupported Child's Benefit. With the exception of the CPI adjustment described above, the rate of the Foster Care Allowance is set by the Chief Executive of Oranga Tamariki under Section 363(1) of the Oranga Tamariki Act. No additional legislative change is therefore required.

maintained, in line with Cabinet agreement in 2004 [CAB Min (04) 11/9 refers]. There are no fiscal implications from this technical change and no further Cabinet agreement is required for the policy.

The following legislative amendment will be progressed in early March 2022

- 10 Consistent with their delegated authority, joint Ministers approved the Blind Subsidy couple and single thresholds on 10 February 2022. Officials have since advised that further work is required to determine the adjustments to these thresholds. Any increases to the Blind Subsidy will still take effect on 1 April 2022, however the regulatory amendments to give effect to these increases will be progressed in a separate paper in early March to allow for further policy work.

Orders and Amendment Regulations to give effect to the decisions

- 11 To give effect to the above decisions, the Orders and Amendment Regulations will take effect on 1 April 2022 and will:
 - 11.1 increase the rates of main benefits to comply with the statutory requirement to adjust the rates to reflect the 4.71 percent increase in the net average wage over the previous year²
 - 11.2 increase the rates of Student Allowance, OB/UCB, Foster Care Allowance Minimum Rates of Payment for Board and Lodgings, rates of benefits payable to long-term hospital patients, and New Zealand Superannuation, to comply with the statutory requirement to adjust the rates to reflect the 5.95 percent increase in the Consumers Price Index (CPI) (All Groups) over the previous year
 - 11.3 increase rates and thresholds of allowances and various forms of supplementary assistance in line with the 5.95 percent increase in the CPI (All Groups) over the previous year
 - 11.4 increase income thresholds for Disability Allowance and the Community Services Card by applying the 5.95 percent increase in the CPI (All Groups) over the previous year³
 - 11.5 further increase main benefit rates to those recommended by WEAG, with an additional \$15 per week, per adult for families with children, in line with the policy initiatives agreed to by Cabinet for Budget 2021 [CAB-21-MIN-0116 refers]
 - 11.6 further increase Student Allowance and Student Loan Living Cost rates by \$25 or \$50 per week for singles and couples respectively, in line with the policy initiatives agreed to by Cabinet as part of the Budget 2021 package [CAB-21-MIN-0116 refers]
 - 11.7 further increase OB/UCB in line with the policy initiatives agreed to by Cabinet for the Budget 2021 package and a Budget 2022 pre-commitment to further increase OB/UCB rates [CAB-21-MIN-0116 and CAB-21-MIN-0457 refers]
 - 11.8 increase Childcare Assistance income thresholds annually by net average wage growth from 1 April 2022, in line with the policy initiatives agreed to by Cabinet for Budget 2021 [CAB-21-MIN-0116 refers]

² This is the rounded percentage movement in the net average wage, however the calculations of the increases will be based on the unrounded percentage figure of 4.71484985.9490085 percent.

³ A net wage adjustment is sometimes applied to some Disability Allowance and superannuation-specific Community Services Card income thresholds to prevent people losing eligibility to this assistance. This year the CPI adjustment to these rates was sufficiently large that no further wage related adjustment was required.

- 11.9 create two gross abatement rates for the 'at home' and 'away from home' Student Allowance payments for those under 24 years of age, to maintain policy intent of keeping net abatement of these payments at 25 percent [CAB Min (04) 11/9 refers].

Timing and 28-day rule

- 12 If approved, the Orders and Amendment Regulations will be submitted to the Executive Council for consideration on 21 February 2022 and will be published in the New Zealand Gazette by 24 February 2022, to ensure that they take effect on 1 April 2022. This timing is consistent with Rule 7.96 – 7.99 of the Cabinet Manual (the '28-day rule').

Compliance

- 13 The Orders and 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 2020
 - relevant international standards and obligations, and
 - *Legislation Guidelines: 2021 Edition*, published by the Legislation Advisory Committee.

Regulations Review Committee

- 14 There are no grounds for the Regulations Review Committee to draw the Orders or Amendment Regulations to the attention of the House under Standing Order 327.

Certification by Parliamentary Counsel

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

Impact analysis

- 16 Treasury's Regulatory Impact Analysis team has determined that the Annual General Adjustment of social assistance rates 2022 is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that the government has limited statutory decision-making discretion for the content of proposed legislation, or that the proposals implement previous Cabinet decisions.
- 17 Treasury concluded that a Regulatory Impact Statement for the Budget 2021 policy initiatives were not required as it would substantively duplicate documents which informed decisions [CAB-21-MIN-0116.33].
- 18 A Regulatory Impact Assessment (RIA) was completed in October 2021 for the Budget 2022 increases to OB/UCB and FCA as part of the Working for Families changes. The Quality Assurance reviews considered the RIA partially met the quality criteria of the Regulatory Impact Analysis framework.

Publicity

- 19 As part of the legislative requirements, the Orders and Amendment Regulations will be notified in the New Zealand Gazette at the earliest available opportunity.
- 20 The Ministry of Social Development will work with relevant Ministers' Offices to advise the public of the changes to rates and thresholds after they are confirmed by Cabinet on 21 February 2022.

Proactive release

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

Consultation

- 22 The Treasury, Ministry of Housing and Urban Development, Ministry of Education, Ministry of Health, Inland Revenue, Veterans' Affairs and Oranga Tamariki–Ministry for Children have been consulted and agree with the recommendations in this paper. The Department of the Prime Minister and Cabinet (Policy Advice Group) has been informed of this paper.

Recommendations

It is recommended that the Committee:

- 1 **note** that, acting with Cabinet's delegated authority [CAB Min (02) 7/1A refers], the Ministers responsible for the Finance, Children, Housing, Education, Social Development, Health and Veterans portfolios have approved new rates of New Zealand Superannuation, benefits, Student Allowance, Foster Care Allowance and new rates and thresholds for allowances and supplementary assistance
- 2 **note** that the proposed Orders in Council and Amendment Regulations will:
 - 2.1 increase the rates of main benefits to comply with the statutory requirement to adjust the rates to reflect the 4.71 percent increase in the net average wage over the previous year
 - 2.2 increase the rates of Student Allowance, Orphan's Benefit, Unsupported Child's Benefit, Foster Care Allowance, rates of benefits payable to long-term hospital patients, and New Zealand Superannuation, to comply with the statutory requirement to adjust the rates to reflect the 5.95 percent increase in the Consumers Price Index (All Groups) over the previous year
 - 2.3 increase rates and thresholds of allowances and various forms of supplementary assistance in line with the 5.95 percent increase in the Consumers Price Index (All Groups) over the previous year
 - 2.4 increase income thresholds for Disability Allowance and the Community Services Card by applying the 5.95 percent increase in the Consumers Price Index (All Groups) over the previous year
 - 2.5 further increase the rates of main benefits, Student Allowance and Student Loan Living Costs in line with the policy initiatives agreed to by Cabinet as part of the Budget 2021 package [CAB-21-MIN-0116 refers]

- 2.6 further increase Orphan's Benefit, Unsupported Child's Benefit in line with the policy initiatives agreed to by Cabinet for the Budget 2021 package and an additional Budget 2022 pre-commitment [CAB-21-MIN-0116 and CAB-21-MIN-0457 refers]
- 2.7 increase Childcare Assistance income thresholds annually by net average wage growth from 1 April 2022, in line with the policy initiatives agreed to by Cabinet for Budget 2021 [CAB-21-MIN-0116 refers]
- 2.8 create two gross abatement rates for the 'at home' and 'away from home' Student Allowance payments for those under 24 years of age, to maintain policy intent of keeping net abatement of these payments at 25 percent [CAB Min (04) 11/9 refers].
- 3 **note** a further adjustment to the net weekly couple rate of New Zealand Superannuation will not be required in the 2022 AGA, as the 5.95 percent CPI (All Groups) adjustment will see this rate exceeding the minimum 66 percent legislative requirement for this year
- 4 **note** that the proposed Orders in Council and Amendment Regulations will come in to effect on 1 April 2022
- 5 **authorise** the submission to the Executive Council of the following Orders and Amendment Regulations:
 - 5.1 Social Security (Rates of Benefits and Allowances) Order 2022
 - 5.2 Social Security Amendment Regulations 2022
 - 5.3 Residential Care and Disability Support Services Amendment Regulations 2022
 - 5.4 Student Allowances Amendment Regulations 2022
 - 5.5 Health Entitlement Cards Amendment Regulations 2022
 - 5.6 Oranga Tamariki (Minimum Rates of Payment for Board and Lodgings) Order 2022.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Social Development and Employment