

Budget Sensitive

Office of the Minister for Social Development and Employment

Cabinet Legislation Committee

Social Assistance Legislation (Accommodation Supplement and Income-related Rent) Amendment Bill: Approval for Introduction

Proposal

- 1 This paper seeks approval for the introduction of two Bills through the budget process on 22 May 2025 (Budget day):
 - 1.1 Social Assistance Legislation (Accommodation Supplement and Income-related Rent) Amendment Bill
 - 1.2 Social Security (Mandatory Reviews) Amendment Bill.

Policy

Social Assistance Legislation (Accommodation Supplement and Income-related Rent) Amendment Bill

- 2 This Bill implements the Budget 2024 decision to count the housing contribution from all boarders in the assessment of housing subsidies [CAB-24-MIN-0148.74 refers]. This means the Ministry of Social Development (MSD) will no longer disregard housing contributions received from the first two boarders when assessing someone's entitlement to housing subsidies under the SSA. It will also change the way excess income from boarding situations is recognised, how Income Related Rent (IRR) is calculated for social housing tenants, and clarify in the legislation how renters are treated.
- 3 At the time of the Cabinet decision in Budget 2024, this initiative was expected to return \$150.96 million in net operating funding over four years. This includes a reduction of \$76.854 million in expenditure on the Accommodation Supplement (AS), \$21.416 million on the Income Related Rent Subsidy (IRRS), and \$63.353 million on Temporary Additional Support (TAS) and Special Benefit over the forecast period.¹ Net savings from this initiative have been returned to the Crown.
- 4 The Social Assistance Legislation (Accommodation Supplement and Income-related Rent) Amendment Bill amends the Social Security Act 2018 (the SSA) and the Public and Community Housing Management Act 1992 (PaCHMA). It also makes consequential amendments to the Residential Care and Disability Support Services Act 2018, the Social Security Regulations 2018 and the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018.

¹ This includes \$17.559 million in implementation and ongoing operational costs.

Social Security (Mandatory Reviews) Amendment Bill

- 5 This Bill implements the first tranche of Budget 2025 decisions to implement mandatory reviews of specified benefits.² Regular mandatory reviews will confirm if a client is still eligible and receiving the correct rate of assistance, including if they receive any contributions from boarders, at least once every 52 weeks. Automated Decision-Making (ADM) will be used in some parts of the administration of reviews.
- 6 Introducing mandatory reviews of specified benefits is an important component of the Budget 2025 ADM package. That full package is expected to return \$158 million savings (net) over five years, net of operational costs.
- 7 The Social Security (Mandatory Reviews) Amendment Bill amends the SSA and the Social Security Regulations 2018.

Joint Ministers have made decisions on the policy details of the boarders' contribution initiative

- 8 Through Budget 2024 decisions Cabinet authorised me, the Associate Minister of Housing, and other Ministers as appropriate to make final decisions on the policy details to count the housing contribution from all boarders in the assessment of housing subsidies from 1 April 2026 [CAB-24-MIN-0148.74 refers].
- 9 On 3 February 2025 Cabinet expanded this authorisation [CAB-25-MIN-0014 refers]. Cabinet authorised the Minister of Housing, me, and the Associate Minister of Housing to make final decisions on the policy. At the same time, Cabinet also agreed to introduce the policy from 2 March 2026 instead of 1 April 2026.
- 10 The Social Assistance Legislation (Accommodation Supplement and Income-related Rent) Amendment Bill gives effect to these changes, and the following decisions on the policy made by Joint Ministers:
- 10.1 specifying how housing contributions from boarders will be recognised for SSA assistance as reducing accommodation costs for the person receiving the board payment;
 - 10.2 specifying how housing contributions from boarders will be recognised for social housing tenants by modifying the calculation of IRR, to ensure 62 percent of payments received from all boarders are reflected directly in the IRR a social housing tenant must pay;
 - 10.3 specifying how excess income from boarders³ will be included as income for any other income-tested assistance under the SSA and/or any income-tested assistance that uses the SSA definition of income;

² Specified benefits are: Supported Living Payment; Emergency Benefit with an expiry date beyond 52 weeks or no expiry date at all; Accommodation Supplement; Disability Allowance; New Zealand Superannuation with a Non-Qualified Partner.

³ Excess income is when housing contributions from boarders exceed the total allowable accommodation costs (for Social Security Act assistance) or the market rent applicable (for the social housing property) of the person receiving board payments.

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- 10.4 clarifying the treatment of boarders and renters by defining a boarder in the legislation, treating those who are not boarders as renters, and specifying the current treatment of renters in the legislation;
- 10.5 changes to AS settings to allow ADM if required so that:
 - 10.5.1 a grant of AS is no longer discretionary (consistent with current MSD practice); and
 - 10.5.2 MSD is not required to grant AS for a specified time period (i.e. recipients remain eligible for AS until they are no longer eligible – grants will not expire).
- 10.6 Specifying how the portion of the property used for a person's business would be excluded from accommodation costs, by clarifying that the proportion of the premises used for their business will not be considered part of their accommodation costs;
- 10.7 Enabling a disputes process, should the information provided by a person paying board/rent and the board/rent recipient does not match and they do not agree on the rate of payment; and
- 10.8 required amendments to the definition of "premises" in the SSA, noting that as part of this the proposed amendments have been removed from the current Regulatory Systems Amendment Bill (No 2) (RSB).

Cabinet has made decisions in respect of mandatory reviews of specified benefits

- 11 On 3 February 2025, Cabinet agreed to the following policy decisions in respect of mandatory reviews [CAB-25-MIN-0014 refers]:
 - 11.1 the introduction of mandatory reviews of specified benefits⁴ so information on boarders in a household is kept up to date and regularly reviewed;
 - 11.2 that the mandatory review of specified benefits will occur every 52 weeks unless the client qualifies for an exception, exemption, or extension;
 - 11.3 that completion of a specified engagement can meet the requirements of a review in some situations, resetting the review period
 - 11.4 settings related to exceptions, exemptions, and extensions for the mandatory review process; and
 - 11.5 broadening the provisions in section 363A of the SSA to support the use of ADM for this proposal.
- 12 Cabinet made some further detailed decisions in March 2025 to clarify detailed design requirements for mandatory reviews [CAB-25-MIN-0050 refers].

⁴ Specified benefits are: Supported Living Payment; Emergency Benefit with an expiry date beyond 52 weeks or no expiry date at all; Accommodation Supplement; Disability Allowance; New Zealand Superannuation with a Non-Qualified Partner.

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Cabinet agreement is needed to regulation-making powers to enable mandatory reviews changes

- 13 I am now seeking Cabinet agreement to introduce a regulation-making power that allows for the following to be detailed in the Social Security Regulations 2018, to enable policy changes previously made by Cabinet in relation to ADM [CAB-25-MIN-0014 refers]. The regulation-making power will enable the Governor-General via an Order in Council to:
- 13.1 remove payments from the list of specified payments that are subject to mandatory reviews (for the avoidance of doubt, this power could not be used to add new payments)
 - 13.2 specify the reasons why MSD would not be required to initiate or undertake a mandatory review for clients or a group of clients.

Contentious items

- 14 The Social Security (Mandatory Reviews) Amendment Bill expands MSD's use of Automated Decision-Making (ADM) in the administration of income support, which has recently been the subject of scrutiny. I expect MSD to clearly explain the changes within this Bill to affected clients, including how ADM is being used, and ensure that any use is compliant with MSD's ADM Standard.

Impact analysis

- 15 A Supplementary Analysis Report was prepared on the boarders' contributions policy changes. This was reviewed by a panel of representatives from the Ministry of Social Development and Ministry of Housing and Urban Development. It received a 'partially meets' rating against the quality assurance criteria for the purpose of informing Cabinet decisions. This assessment recognised that there has been limited consultation with the public on the proposals, and the limitations on the data and evidence available and the modelling able to be undertaken means the impacts of the policy are not able to be fully quantified.
- 16 A separate Regulatory Impact Statement was prepared for mandatory reviews. The Regulatory Impact Statement was reviewed by a panel of representatives from the Ministry of Social Development. It received a 'partially meets' rating against the quality assurance criteria for the purpose of informing Cabinet decisions. This assessment recognised that the analysis could have been strengthened in some areas, and consultation would have been useful.
- 17 The Ministry for Regulation has confirmed a Regulatory Impact Statement is not required for the decision sought in this paper for a regulation-making power to enable mandatory reviews.

Compliance

- 18 The proposed legislation is consistent with:

- 18.1 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 (subject to confirmation by the Ministry of Justice);the Treaty of Waitangi;
- 18.2 the disclosure statement requirements;
- 18.3 the principles and guidelines set out in the Privacy Act 2020;
- 18.4 relevant international standards and obligations;
- 18.5 The Legislation Design and Advisory Committee Guidelines 2021 edition.

Consultation

- 19 The following agencies were consulted on the policy settings proposed for the Bill: Ministry of Housing and Urban Development; Kāinga Ora; Ministry of Education; The Treasury; Ministry for Pacific Peoples; Te Puni Kōkiri; Whaikaha – Ministry of Disabled People; Ministry for Ethnic Communities; Inland Revenue; Statistics New Zealand; Ministry of Health; Ministry of Youth Development; Social Investment Agency; Department of Internal Affairs; and the Office for Seniors.

Binding on the Crown

- 20 The SSA and PaCHMA are binding on the Crown and the amendments contained in the Bill are consistent with this position.

Creating new agencies or amending law relating to existing agencies

- 21 This legislation will not create a new agency or amend law relating to existing agencies. The legislation will not amend the existing coverage of the Ombudsman Act 1975, the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987.

Allocation of decision-making powers

- 22 This legislation does not allocate decision-making powers between the executive, the courts, and tribunals.

Associated regulations

- 23 In order to bring the changes into operation, amendments are required to the Social Security Regulations 2018 and the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018. These amendments are included in the Bill.

Definition of Minister/department

- 24 The Bill does not contain a definition of Minister, department or equivalent government agency, or chief executive of a department or equivalent position.

Commencement of legislation

- 25 Once the Bills receive Royal Assent MSD will start informing people of the changes and collecting relevant information from clients. Information collection will support a smooth implementation of this change from 2 March 2026.
- 26 The Bills will both come into force on 2 March 2026. From this time, AS and TAS will automatically be updated to reflect housing contributions from boarders. MSD will require clients to provide information on boarding arrangements to correctly determine their rate of payment and the introduction of mandatory reviews will allow us to efficiently manage any updates or changes to renting/boarding arrangements. MSD will also start reassessing social housing clients' IRR from their next annual review or change in circumstances, whichever comes first. MSD will also commence mandatory reviews of specified benefits.

Parliamentary stages

- 27 Following Cabinet agreement, I propose that both Bills are introduced and passed under urgency through the budget process on 22 May 2025 as part of Budget night legislation.

Proactive Release

- 28 I intend to proactively release this Cabinet paper within the standard 30 working days timeframe.

Recommendations

I recommend that the Cabinet Legislation Committee:

Social Assistance Legislation (Accommodation Supplement and Income-related Rent) Amendment Bill

- 1 **note** as part of Budget 2024 Cabinet agreed to [CAB-24-MIN-0148.74 refers]:
 - 1.1 reduce expenditure on housing subsidies by changing the way accommodation costs are calculated when a person receives board payments;
 - 1.2 authorise the Minister for Social Development and Employment, the Associate Minister of Housing and other Ministers as appropriate to make final decisions on the policy details;
- 2 **note** that on 3 February 2025 Cabinet expanded this authorisation for the Minister of Housing, the Minister for Social Development and Employment, and the Associate Minister of Housing to make final decisions on the policy [CAB-25-MIN-0014 refers];
- 3 **approve** the Social Assistance Legislation (Accommodation Supplement and Income-related Rent) Amendment Bill for introduction, so that housing contributions from all boarders will be considered when assessing housing subsidies;

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- 4 **note** the Bill gives effect to the policy decisions made by the Minister of Housing, Minister for Social Development and Employment and the Associate Minister of Housing, under their delegated authority from Cabinet;
- 5 **note** that the Social Assistance Legislation (Accommodation Supplement and Income-related Rent) Amendment Bill holds a category 2 priority on the 2025 Legislation Programme (noting this is the older title of the bill);

Social Security (Mandatory Reviews) Amendment Bill

- 6 **agree** for the inclusion of regulation-making powers in the Social Security (Mandatory Reviews) Amendment Bill that allow for:
 - 6.1 the removal of specified benefits that are subject to mandatory reviews, and
 - 6.2 prescribing the circumstances when MSD would not be required to initiate or undertake a mandatory review for clients or a group of clients to be included in the Social Security Regulations 2018;
- 7 **approve** the Social Security (Mandatory Reviews) Amendment Bill for introduction, to enable the implementation of mandatory reviews of specified benefits;

In respect of both Bills

- 8 **authorise** the Parliamentary Counsel Office to make editorial corrections, or other non-substantive (policy neutral) drafting changes, to both Bills in preparation for introduction to the House of Representatives;
- 9 **agree** that both Bills will be introduced on 22 May 2025 as part of Budget night legislation for the 2025 Budget;
- 10 **agree** that the Government pass both Bills under urgency on 22 May 2025.

Authorised for lodgement

Hon Louise Upston

Minister for Social Development and Employment

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