



# Report

**To:** Hon Carmel Sepuloni, Minister for Social Development

**From:** Debbie Power, Chief Executive, Ministry of Social Development

**Date:** 25 March 2020

*This report includes legal advice and is legally privileged. It should not be disclosed on an information request without further legal advice*

## **Epidemic Preparedness (Social Security Regulations 2018 - Temporary Additional Support) Immediate Modification Order**

### **Purpose**

- 1 This report recommends modifications to section 96(1)(c) the Social Security Act 2018 under Section 15 of the Epidemic Preparedness Act 2006 ("EPA").

### **Recommendation from the Chief Executive**

- 2 To make a modification order to the Social Security Act 2018, the Parliamentary Counsel Office have advised that the Chief Executive of the Ministry of Social Development must recommend to the Minister that this modification is necessary.
- 3 The key criteria for consideration are that:
  - 3.1 the effects of an epidemic of the quarantinable disease stated in the attached epidemic notice are, or are likely to be, such that the requirement is impossible or impracticable to comply (or comply fully) with; and
  - 3.2 the modifications the order makes go no further than is, or is likely to be, reasonably necessary in the circumstances.
- 4 Under section 15(2)(a) of the EPA I consider the effects of the quarantinable disease referred to in the attached Ministry of Health Epidemic notice are, or are likely to be, such that a modification to section 96(1)(c) of the Social Security Act 2018 is required to ensure Temporary Additional Support applications can continue to be properly administered.
- 5 The recommended modifications go no further than required to give effect to this purpose.

### **Proposed modification of the Social Security Act 2018**

- 6 The recommended modification changes the requirement in section 96(1)(c) of the Social Security Act 2018 that, before a person (P), is entitled to Temporary Additional Support, P must meet criteria and requirement in the Social Security Regulations 2018. Those criteria and requirements in regulation 61 include that Temporary Additional Support may be granted to an applicant for that support only

if an application form is completed in writing by or on behalf of the applicant, and sets out the information required to allow:

- 6.1 the applicant's eligibility for temporary additional support to be assessed; and
- 6.2 the rate of any temporary additional support payable to the applicant to be
- 7 The effect of the modification is that people who have applied for Temporary Additional Support before 30 March will be treated as though they have met the criteria contained in regulation 61.
- 8 The recommended modifications are necessary to avoid adding to the extreme pressure service centre staff are already under and to prevent any opportunity for further community transmission of COVID19, by ensuring that current clients receiving TAS can continue to receive it without needing to reapply.

## Recommended actions

It is recommended that you:

- 1 **note** that to give effect to this modification you must agree to the following recommendations under section 15(1)(b) of the EPA
- 2 **agree** the effects are, or are likely to be, such that the requirement or restriction is impossible or impracticable to comply (or comply fully) with,

**Agree / Disagree**

**AND**

- 3 **agree** the modifications go no further than is, or is likely to be, reasonably necessary in the circumstances.

**Agree / Disagree**

  
Debbie Power  
Chief Executive  
Ministry for Social Development

25 March 2020  
Date

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Hon Carmel Sepuloni  
Minister for Social Development

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Date

## **Epidemic Preparedness (COVID-19) Notice 2020**

Pursuant to section 5 of the Epidemic Preparedness Act 2006, the Prime Minister gives the following notice—

- (a) with the agreement of the Minister of Health; and
- (b) on, and after considering, the written recommendation of the Director-General of Health.

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### **Notice**

**1 Title**

This notice is the Epidemic Preparedness (COVID-19) Notice 2020.

**2 Commencement**

This notice comes into force on 25 March 2020.

**3 Declaration relating to COVID-19**

The Prime Minister declares that she is satisfied that the effects of the outbreak of COVID-19 are likely to disrupt or continue to disrupt essential governmental and business activity in New Zealand significantly.

Dated at Wellington this 24<sup>th</sup> day of March 2020.



Prime Minister.

## Explanatory note

*This note is not part of the notice, but is intended to indicate its general effect.*

By this notice, the Prime Minister declares that she is satisfied that the effects of the outbreak of COVID-19 are likely to disrupt or continue to disrupt essential governmental and business activity in New Zealand significantly.

This notice comes into force on 25 March 2020. Under section 5(3) of the Epidemic Preparedness Act 2006, the notice expires on the day that is 3 months after its commencement, unless—

- an earlier expiry date is notified; or
- the notice is renewed under section 7 of that Act.

The notice is one way in which the following powers under the Health Act 1956 are activated (they can also be activated by the Minister of Health authorising their use or by a state of emergency being declared under the Civil Defence Emergency Management Act 2002):

- the special powers of medical officers of health under section 70 of the Health Act 1956;
- the requisition powers of medical officers of health under section 71 of that Act.

The notice also activates section 24 of the Epidemic Preparedness Act 2006, which will enable certain Judges and Associate Judges to, in particular cases, modify rules of court as they think necessary in the interests of justice to take account of the effects of COVID-19.

The notice is a prerequisite for—

- the making of notices under section 74C of the Health Act 1956 (these notices can require that medicines under the control of the Crown or a Crown entity are administered, dispensed, prescribed, or supplied in accordance with priorities determined by the Director-General of Health);
- the making of epidemic management notices under section 8 of the Epidemic Preparedness Act 2006, which can—
  - activate dormant provisions of the Criminal Procedure Act 2011, the Immigration Act 2009, the Parole Act 2002, the Sentencing Act 2002, and the Social Security Act 2018 that are intended to deal with an out- break of disease; and
  - activate prospective modification orders under section 11 and 12 of that Act (these orders may modify requirements or restrictions in legislation, either for the purpose of enabling the effective management of an out-break or dealing with requirements or restrictions that are or may well be impossible or impracticable to comply with);

- the making of immediate modification orders under section 14 and 15 of that Act (these orders are similar in purpose and effect to prospective modification orders, but do not require an epidemic management notice to activate them).

This notice is also relevant to—

- whether the Chief Electoral Officer may, under the Electoral Act 1993, adjourn voting at polling places and use alternative voting processes (*see* sections 195 to 195B of that Act);
- whether liability for certain people, including employees of the Department of Corrections, may be excluded for failures to comply with the Corrections Act 2004 or regulations made under it (*see* sections 179C and 179E of that Act).

Date of notification in *Gazette*:

This notice is administered by the Ministry of Health.

Proactively Released