

# The Treasury

## COVID-19 Information Release

April 2020

This document has been prepared for release by the Treasury and proactively released by the Department of Prime Minister and Cabinet.

### Context

Agreed recommendations in this Minute reflect decisions taken by Ministers with Power to Act with delegated authority from Cabinet [see COVID-19 Ministerial Group Minute "Transitioning to an Enhanced Wage Subsidy Scheme"].

### Information Withheld

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Reference: T2020/788

SH-1-6-1-3-1 (COVID19 Wage Subsidy Scheme)

Date: 26 March 2020

To: Prime Minister (Rt Hon Jacinda Ardern)  
 Deputy Prime Minister (Rt Hon Winston Peters)  
 Minister of Finance (Hon Grant Robertson)  
 Minister of Social Development (Hon Carmel Sepuloni)  
 Associate Minister of Finance (Hon James Shaw)

From: Jordan Ward, Acting Manager, The Treasury

Deadline: Urgent

## Updated design settings for the wage subsidy scheme

CVD considered a cabinet paper this morning (26 March 2020) on transitioning to an enhanced wage subsidy scheme. Cabinet agreed to delegate decision making on the scheme to the Prime Minister, Deputy Prime Minister, the Minister of Finance, the Minister of Social Development, and the Associate Minister of Finance (Hon James Shaw).

There are currently two schemes in operation – the wage subsidy scheme, and the COVID-19 leave scheme. Officials have proposed an updated wage subsidy scheme in response to Alert Level 4. They also propose stopping the separate COVID-19 leave scheme as the objectives of that scheme would be met by the updated wage subsidy scheme.

This report provides an updated set of recommendations for the scheme to address concerns raised. Specifically:

- Ensuring that the updated scheme does not allow employers to pay employees at a rate below the minimum wage
- Ensuring that employees are not forced to use leave entitlements during Alert Level 4
- Clarifying that those covered by the existing COVID Leave Scheme would be covered by the updated scheme
- Providing assurance that essential workers will continue to get coverage for taking COVID-related leave
- Clarifying the communication approach – that this is an update to existing schemes, rather than a new scheme

Updated recommendations are **attached** to this report. These include the following key changes, highlighted in the attached report:

- Recommendations to clarify that employees must be paid for the work they do at their contracted wage rate
- Recommendations to clarify that an employer cannot compel an employee to take annual leave during this disruption

Other more technical changes recommended by officials are summarised at the end of this report.

### Context – why urgent change is needed to the current scheme

The current wage subsidy and leave payment schemes were designed to operate in an environment where the majority of businesses were still trading. The move to alert level four has changed those dynamics. The majority (if not all) of New Zealand firms and workers are now affected by the shutdown and many of those firms will be in a similar position in terms of supporting workers who are unable to work as they usually would

Officials recommend that the two existing schemes be consolidated into one modified scheme with some urgency for a number of reasons:

- *Avoiding double dipping between the COVID-19 leave scheme and wage subsidy scheme:* The COVID-19 leave payment was established at a time when only a handful of people were expected to have to avoid work and self isolate.

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This is why we are proposing combining the two schemes into one.

- *Avoiding people moving onto benefit too rapidly:* If no action is taken, a very large number of workers could be made redundant in the coming days. If this occurs, there could be significant delays in getting all applicants onto benefit. These delays could be weeks or even months. MSD is currently processing benefit applications at 500 per day. 2,500 new applications have been received in recent days. If unemployment increases to 10% in coming weeks, then approximately 160,000 additional people could seek support through the benefit system. The modified wage subsidy scheme would avoid people transferring to benefit, ensure people remain connected to work and that those businesses can restart rapidly after stage four guidelines are lifted.
- *Providing certainty about connection to jobs and income levels while businesses shut down:* The existing wage subsidy scheme provides limited certainty about income levels for employees whose hours may be reduced, including to zero, during the shutdown. The modified scheme requires that the subsidy rate be passed on in full where hours worked reduce below the applicable rate and provides a subsidy for wages that can be paid above that level where businesses require that support because of COVID.

### Ensuring workers are not paid sub-minimum wage

We understand Ministers are concerned that some employees would be receiving less than minimum wage through this wage subsidy scheme. The key principle for Government support through this wage subsidy is that **employees should get paid what they are worth for what they work** (i.e. for each hour worked, employees would get paid their normal wage).

In effect, this means:

- If an employee does no work they would get paid the subsidy rate that applies to them (\$585.80 (if usually work full time) or \$350 (if part time) per week).
- If an employee can do some work – they would get paid their normal wage for those hours worked (and if the total income for those hours worked is less than the subsidy rate per week, then the minimum the employee would get paid is the subsidy rate (\$585.80 per week)).
- If an employee can do all of their work – they would get paid their full wage for those hours (and the employer is being subsidised to pay them).

To address their wage bill while they have restricted operating income, an employer may either reduce hours or reduce wage rates:

- If employees are already on the minimum wage rate, then an employee cannot lower their rate, but can lower their hours.
- If an employee is on a wage rate above the minimum wage, the employer may reduce both hours worked and the wage rate (but not below the minimum wage rate).

In any instance, the employer **must agree** with employees prior to taking any action to reduce hours or wage rates. In no instance may employers pay less than the minimum wage (which is an hourly rate) for hours worked.

#### **Ensuring workers are not forced to use leave entitlements during Alert Level 4**

This scheme does not change the legal entitlements or legal obligations for employment. Employees should not be compelled to take any leave to receive the subsidy. However, if an employee and employer are using their leave, then the payment that would have been made as a result of that leave should still be made.

- If employers and employees have agreed to take annual leave to cover some or all of this period of disruption then the employee is entitled to receive their normal wage for their normal hours worked (and the employer can use the consolidated wage subsidy to help pay).
- If an employee is sick, then the employee is entitled to receive their normal wage for their normal hours worked while they have sick leave available (and the employer can use the consolidated wage subsidy to help pay).

The employer and employee may negotiate an alternative approach should the employee be sick and no sick leave is available. The default approach should no sick leave be available, is that the employer can use this consolidated wage subsidy to continue paying the sick employee at the subsidy rate.

The labour inspectorate will be investigating instances of employers breaching either minimum wage or Holidays entitlements if notified by employees or unions.

Here are some worked examples of how this scheme will operate:

James is a barista at a Wellington café. James earn the minimum wage. The café is closed for the lockdown. James' employer cannot afford to pay any wage to James, but wants to keep the worker on. James does not want to use his annual leave entitlements

James' employer can access the consolidated wage subsidy if they need support to pay or retain staff, and pay \$585 per week to James, without James being required to do any work. James retains his annual leave entitlements to use at a different time

Sam is a civil engineer. The business is non-essential and closed for the lockdown. Sam can do some work from home over this period. He does 30 hours per week and his hourly rate is \$30 per hour.

Sam's employer can access the consolidated wage subsidy. Under employment law, the employee has to receive \$900 per week for his hours worked (i.e. 30 hours at \$30/hour). Sam's employer can use the \$585.80 per week to subsidise Sam's wages, but they must pay him for the 30 hours worked. This means Sam's employer will top up the wage subsidy with \$314.20 to compensate the hours Sam worked."

Phil is a HR advisor in a medium-sized business and works full time. The business is non-essential and closed for the lockdown. Phil can do some work from home. He does 8 hours per week. His hourly rate is \$25 per hour

Phil's employer can access the consolidated wage subsidy if they need support to pay or retain staff. Under employment law, the employee has to receive \$200 per week for his hours worked. But as the wage subsidy for a person working fulltime prior to the shut down is \$585 (and the employer is able to access that payment), the employer must pass that total amount to Phil.

Craig is a waiter at a successful restaurant chain that also needs to close during the lockdown. Craig was getting paid \$1,000 per week. Craig's employer has committed to paying full wages to their staff as they know that such workers will be in demand as the lockdown ends.

Craig's employer can access the consolidated subsidy scheme to pay Craig \$585.80 per week, and the employer can then top that up with \$414.20 per week to ensure Craig receives his full income.

Steve is an essential services worker, ensuring certainty of electricity supply. Steve is really busy, working his normal hours and getting paid at his normal rate, and his business has not been affected by COVID and does not require support to pay or retain its staff.

Steve's employer does not need to apply to the consolidated wage subsidy scheme.

#### **Maintaining coverage for essential workers**

Under the level 4 alert, a number of essential workers will still be working and coming into contact with people. They remain at risk of contagion. It will be important that we

are able to support those workers to self-isolate or stay at home if they are sick. In many instances, employers may not be able to afford both to pay the worker and pay for the replacement that is needed to keep the essential service going. The consolidated scheme will ensure that firms who engage workers who are providing essential services and need to take leave can have access to the subsidy. This will work in exactly the same way as it would for any worker who is not able to work for a non-essential business.

### **Communicating the change**

The Cabinet paper considered at CVD discussed an enhanced wage subsidy scheme. We understand Ministers are concerned about confusion this might cause. We propose that changes be communicated as an update to the current wage subsidy scheme, in a similar way to the decision to remove the \$150,000 cap.

### **Additional changes to the recommendations**

The Cabinet paper lodged for CVD was prepared at pace. Officials recommend a number of largely technical updates to recommendations and have incorporated these into the updated recommendations attached. Key changes include:

- Agreeing that applicants will no longer need to demonstrate a 30% decline in revenue, as signalled in the body of the Cabinet paper
- Agreeing to the details of MSD's transitional approach for implementing changes, replacing previous Rec 17
- Clarifying the process for re-hiring workers recently made redundant
- Agreeing to continue to pay the staff named in their application at least 80% of their normal income, *before COVID impacted them, regardless of hours worked*, if this is reasonably possible
- Funding IR's \$1.5m operational costs
- Updating financial recommendations to align with the revised fiscal management approach for COVID-19 (

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There are also some minor changes of wording to additional recommendations in the paper which clarify eligibility.

**Consultation:** MSD and MBIE have been consulted on this advice.

**Recommendation:** Officials recommend you agree to the **attached** recommendations.



Jordan Ward

**Acting Manager, Welfare and Oranga Tamariki, The Treasury**

*Agree/disagree*

Rt Hon Jacinda Ardern

**Prime Minister**

*Agree/disagree*

Rt Hon Winston Peters

**Deputy Prime Minister**

*Agree/disagree*

Hon Grant Robertson

**Minister of Finance**

*Agree/disagree*

Hon Carmel Sepuloni

**Minister of Social Development**

*Agree/disagree*

**Hon James Shaw**

Associate Minister of Finance

## Recommendations

The Minister of Finance and the Minister for Social Development recommend that Cabinet:

1. **note** that on Monday 16 March, Cabinet agreed to implement a temporary COVID-19 wage subsidy scheme to help affected employees and businesses to adjust to the impact of COVID-19 [CAB-20-MIN-0108];
2. **note** that on Monday 16 March, Cabinet agreed to implement a temporary COVID-19 leave scheme to help affected employees and businesses to adjust to the impact of COVID-19 [CAB-20-MIN-0108];
3. **note** the government has announced a four level COVID-19 Alert System. These alert levels specify the public health and social measures to be taken. New Zealand is currently at COVID-19 Alert level 4;

### *An updated wage subsidy scheme*

4. **note** there is a need to update the current wage subsidy scheme to enable firms that do need to shut down under Alert Level 4 meet wage costs for an extended period of time;
5. **note** this updated wage subsidy scheme would support employers and employees to maintain an employment connection and ensure a basic income for affected employees, but avoid incentivising unnecessary economic activity which may intensify or prolong the COVID-19 pandemic;
6. **note** the updated wage subsidy scheme consolidates the original COVID-19 wage subsidy and leave schemes;
7. **agree** that aim of consolidating the two schemes is to ensure the employer of any employee who would have been eligible under the leave payment scheme or the wage subsidy would become eligible for the subsidy under the updated wage subsidy scheme, but not to receive more than one subsidy for the same employee for the same period;
8. **delegate** authority to the Minister of Finance, Minister for Economic Development and the Minister for Social Development to make decisions about operational design of the scheme as needed to ensure the objective outline in recommendation 7 above is met;
9. **note** that business and employee arrangements in New Zealand can be complex, and some flexibility in the interpretation of the scheme's settings may be required to meet the intent above;



10. **agree** that officials interpret the following recommendations with this intent;
11. **direct** officials to seek guidance from the Ministers of Finance, Social Development and Economic Development when making eligibility and implementation decisions that are likely to have material flow-on fiscal cost or equity implications for this or other government support schemes;
12. **agree** to replace the existing COVID-19 wage subsidy and leave payment schemes with an updated wage subsidy scheme;
13. **agree** that the updated wage subsidy scheme will be open to all employers, registered businesses, self-employed, sole traders, registered charities, incorporated societies, non-government organisations, and post settlement governance entities, but will exclude state sector organisations;
14. **agree** that employers, including the self-employed and sole contractors, must declare that they have been adversely affected by COVID-19 and require support to pay and retain named staff to be eligible for the updated wage subsidy scheme;
15. **agree** that employers will be eligible where they require support to pay or retain any of their staff, including any named staff that are essential workers who cannot work because they are self-isolating, caring for vulnerable people or are sick;
16. **agree** that in advance of receiving the subsidy, employers be required to have taken measures to manage the implications of COVID-19 on their business;
17. **note** that such measures include but are not limited to employers engaging pro-actively with their banks and drawing on internal cash reserves;
18. **agree** employers will be entitled to a flat rate of:
  - 18.1 \$585.80 (gross, before tax) for each full-time employee (where they usually worked greater than or equal to 20 hours before COVID-19 impacted),
  - 18.2 and \$350.00 (gross, before tax) for each part time employee (where they usually worked fewer than 20 hours before COVID-19 impacted).
19. **note** that this entitlement updates the definition of a full-time employee to clarify that people working exactly 20 hours qualify as full-time, to align with the way that officials have implemented the rule for the existing wage subsidy scheme;

20. **agree** the following obligations on employers:
- 20.1 to continue to pay the staff named in their application at least 80% of their normal income immediately before COVID impacted the employer and/or employee, regardless of hours worked, if this is reasonably possible;
  - 20.2 if this is not possible, then employers are required to pass on at least the full subsidy to each named employee;
  - 20.3 to retain the named employees for the duration of the subsidy grant.
21. **note** the previous recommendation does not override an employer's employment law obligations;
- 21.1 **note** that employers must continue to pay employees for any work completed at the wage rate agreed between the employer and employee.
  - 21.2 **note** that no employer may pay any employee less than the minimum wage for any work completed, however the employer may agree with the employee to reduce hours or to reduce hourly wage rate (but not lower than the minimum wage), and this wage subsidy will help enable employers to pay.
22. **note** that no employer may unilaterally compel employees to take annual leave during this disruption, however should the employer and the employee agree for the employee to take annual leave, the employee should be paid at their normal wage rate for their normal hours of work, and this wage subsidy will help enable employers to pay that leave;
23. **note** that Officials are aware of anecdotal evidence that some employers are requiring essential workers who have to care for vulnerable people during the shutdown to take annual leave. The modified scheme should assist employers and employees in these circumstances by providing a subsidy in relation to these employees where the business requires support to pay or retain them because of COVID;
24. **agree** that applicants will no longer need to demonstrate a 30% decline in revenue;
25. **agree** that if the employment relationship ends, the employer is required to notify MSD and will not be entitled to further subsidies in relation to the specified employee;
26. **note** that there may be some cases arising from recommendation 25 where the employer may retain some of the subsidy that may have ordinarily been passed on to the employee in the case of an employment relationship ending;

27. **agree** the scheme will be available for applications while we are at Alert Level 4, and will be paid in a lump sum to eligible employers on a 12-weekly basis;
28. **invite** the Minister of Finance and Minister of Social Development to report back to CVD on any proposal to keep the scheme available for applications for a period after the Alert Level drops below Level 4;
29. **agree** the existing wage subsidy and COVID-19 leave schemes will be collapsed into the updated wage subsidy scheme in the following way:
- 29.1 MSD will disable applications under the current schemes shortly after announcement and will require a short window to upload the new application form;
- 29.2 Applications made under the existing wage subsidy scheme will be processed in line with those criteria;
- 29.3 Grants will be for a 12 week period for named employees;
- 29.4 Grants will only be open while Alert Level 4 is in place;
- 29.5 A person who received a grant under the current wage subsidy scheme can only apply under the updated wage subsidy scheme in relation to employees not previously claimed for, and will receive a subsidy for a 12 week period for those employees.
30. **agree** that employers can apply in relation to employees who were stood down from work on or after 17 March 2020 as a result of COVID-19, but who have been re-hired before the relevant application is lodged;
31. **invite** the Minister of Finance and Minister of Social Development to report back to CVD with further advice on transitional issues;
32. **approve** the following change to appropriations to fund the COVID-19 wage subsidy scheme with a corresponding impact on the operating balance and net core Crown debt:

Vote Social Development Minister for Social Development	\$m – increase/(decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 & Outyears
<b>Non-Departmental Other Expenses:</b>					
Business Support Subsidy Covid-19	2,700.000	-	-	-	-

33					
	-	-	-	-	-
	-	-	-	-	-

33. **approve** the following change to appropriations to fund Inland Revenue's administrative cost to support the COVID-19 wage subsidy scheme with a corresponding impact on the operating balance and net core Crown debt;

Vote Revenue Minister of Revenue	\$m – increase/(decrease)				
	2019/20	2020/21	202 /22	2022/23	2023/24 & Outyears
33					
	-	-	-	-	-
	-	-	-	-	-

34. **agree** that the expenses occurred under recommendation 32 and 33 above

35. **note** this takes the total amount appropriated to the wage subsidy scheme to \$12 billion;

36. **agree** that the proposed changes to appropriations for 2019/20 above be included in the 2019/20 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;

37. **agree** that any underspends with the implementation and the costs of the COVID-19 wage subsidy scheme as at 30 June 2020 be transferred to

the 2020/21 financial year to ensure that funding is available for this purpose;

38. **authorise** the Minister of Finance and the Minister for Social Development jointly to agree the final amount to be transferred, following completion of the 2019/20 audited financial statements of the Ministry of Social Development or beforehand if necessary, with no impact on the operating balance and/or net core Crown debt across the forecast period;
39. **delegate** authority to the Minister of Finance and the Minister for Social Development to increase/decrease funding for the updated wage subsidy scheme if required;
40. **delegate** authority to the Minister of Finance and the Minister for Social Development to make technical design changes and minor policy decisions about the updated wage subsidy scheme that do not have fiscal implications;
41. **note** that the appropriation changes above only reflect the estimated 12 week cost, and that additional funding may be required if Alert Level 4 continues for a longer period.

Authorised for lodgement

Hon Grant Robertson  
Minister of Finance

# The Treasury

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