



COVERSHEET

Minister	Hon Andrew Little	Portfolio	Workplace Relations and Safety
Title of Cabinet paper	COVID-19 Leave Support Scheme Changes	Date to be published	3 November 2020

List of documents that have been proactively released		
Date	Title	Author
September 2020	COVID-19 Leave Support Scheme Changes	Office of the Minister of Workplace Relations and Safety
21 September 2020	CAB-20-MIN-0451	Cabinet Office

Information redacted

YES / NO *[select one]*

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Office of the Minister of Finance
Office of the Minister of Health
Office of the Minister for Workplace Relations and Safety
Office of the Minister for Social Development
Cabinet

COVID-19 Leave Support Scheme Changes

Proposal

- 1 This paper seeks agreement to immediate modifications to the COVID-19 Leave Support Scheme to better support the Government's public health response, and enhance scheme efficiency and scope.

Executive Summary

- 2 Self-isolation and testing is a key part of the Government's 'Elimination Strategy' and 'Resurgence Plan'. It plays a critical role in containing the spread of COVID-19 by breaking the chain of transmission, especially in the early stages of an outbreak. It also helps mitigate the risk of prolonged periods with regions, or the country, at high Alert Levels, and the significant economic and social costs associated with this.
- 3 The COVID-19 Leave Support Scheme (LSS) is one tool to support compliance with self-isolation requirements. It provides financial assistance to people who may have to self-isolate because they have been, or may have been exposed to COVID-19, or they have higher health risks if they do become sick.
- 4 The LSS can help push against some of the barriers that may act as constraints on workers and firms fully complying with public health guidance. These include financial barriers and job security concerns.
- 5 There are three lines of defence that are integral to the COVID-19 testing and self-isolation strategy. These lines of defence can be classified as 'detect', 'respond', and 'protect' stratagems. Detection is supported through:
 - 5.1 high levels of surveillance testing of asymptomatic people both in the community and at the borders (including air crew and border staff)
 - 5.2 testing of people with COVID-19 like symptoms but no known exposure to the virus.

The 'respond' and 'protect' stratagems are supported through testing and self-isolation.

- 6 Modifications to scheme coverage and design can be made at pace to ensure the LSS is in alignment with, and supports, the Government's Elimination Strategy.

Expanding eligibility and clarifying entitlement

- 7 We recommend expanding eligibility and adjusting the payment periods in line with the Ministry of Health's guidance. The eligibility currently covers:
- 7.1 those who have contracted, or are a close contact with a known case of COVID-19
 - 7.2 those who are, or have a household member who is, at increased risk of serious illness if they contract COVID-19.
- 8 We recommend expanding eligibility to groups where we consider the risks of exclusion are significant. These groups are:
- 8.1 People who are symptomatic and meet the Ministry of Health's Higher Index of Suspicion (HIS)¹ criteria, and are directed to self-isolate until the return of a negative test result, with exceptions for -
 - 8.1.1 returning international air crew (who are subject to different criteria); and
 - 8.1.2 people who have travelled internationally (and are captured within the Managed Isolation and Quarantine (MIQ) system).
 - 8.2 People who are directed to self-isolate by a Medical Officer of Health or their delegate (being the local District Health Board Public Health Unit) including those who return a negative test and those not required to get a test;
 - 8.3 Symptomatic people working in a health and disability facility or a health and disability service that is funded, in part or whole, by a DHB, the Ministry of Health or Ministry of Social Development (such as businesses that provide community health care) not employed by the State Sector including, for example:
 - 8.3.1 The disability support workforce who are at higher risk of transmitting COVID-19 to vulnerable people and are staying home while awaiting a test or test result
 - 8.3.2 Workforces in a primary care facility such as nurses and doctors in a general practice clinic and are staying home while awaiting a test or test result.
 - 8.4 Symptomatic people working in an aged care facility or service and are staying home while awaiting a test or test result.

¹ HIS criteria extends to people who have had contact with a confirmed or probable case, direct contact with a person who has travelled overseas (e.g. Customs and Immigration staff, staff at quarantine/isolation facilities), cleaned at an international airport or maritime port in areas/conveniences visited by international arrivals, or meet any other criteria requested by the local Medical Officer of Health.

- 8.5 The parent or caregiver of a dependant who is directed to self-isolate and needs support to do so safely.
- 9 We recommend that people who are in MIQ because they have contracted, or come into possible contact with, COVID-19 as a result of community transmission (either in New Zealand or in future safe travel zones) should continue to be eligible for the scheme. However, eligibility should be discontinued for those who are returning to New Zealand from overseas, have travelled to a country outside of a safe travel zone (yet to be established), or are migrating to New Zealand.
- 10 To support greater clarity, resilience and sustainability of scheme entitlements, we also recommend that eligibility for the LSS is linked to receiving a directive from a Medical Officer of Health or their delegate (being the local District Health Board Public Health Unit), or an instruction to self-isolate issued by a medical practitioner.² This includes directions to self-isolate while awaiting a test result, or direction for continued self-isolation after having returned a negative test.
- 11 Better aligning the LSS to public health guidance and requirements will enhance the scheme's suitability, ensure broader coverage and facilitate ease of access. It will also improve scheme agility and resilience with eligibility criteria more easily updated should COVID-19 case definitions change, or new criteria for self-isolation be implemented.

Increasing efficiency

- 12 The current payment period for the LSS is in four week lump sum payments. To better align with the current Ministry of Health general 14 day protocol for self-isolation from contact, we recommend that the payment is issued in two-weekly rather than four-weekly instalments. Employers of workers who are required to self-isolate for longer, or are sick with COVID-19, can re-apply for additional lump sum payments. A two week payment will also offset some of the increased fiscal cost of expanded coverage, by better targeting support and enhancing scheme efficiency.

Change implementation

- 13 The estimated fiscal costs of expanding the eligibility criteria and moving to a two week payment is approximately \$2.6 million a fortnight (between \$61 and \$68 million a year). This should be considered as an upfront investment in helping prevent future widespread community outbreaks. Given the nature of the leave scheme the costs are highly variable and sensitive to the numbers who are eligible and take-up rates.
- 14 Subject to Cabinet's agreement, the Ministry of Social Development can make these recommended changes at an estimated initial cost of \$250,000 using

² As per Schedule 2 of the Social Security Act 2018, **medical practitioner** means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

the current LSS system and high-trust model as the platform, and start accepting applications five working days following Cabinet's agreement (midday Monday 28 September).

Next steps

- 15 Expanding scheme coverage and amending the payment period are necessary fixes that can provide quick wins to support the Government's Elimination Strategy. Longer-term, a fundamental review of the design of the LSS is required to support a scheme that is both efficient and fit-for-purpose.

Background

- 16 Cabinet agreed to establish the COVID-19 Leave Payment Scheme alongside the Wage Subsidy Scheme on 16 March 2020 [CAB-20-MIN-0105 refers]. Both were introduced at pace with an emphasis on administrative feasibility and quick delivery, and shared many of the same design features. On 27 March 2020, the Ministers with Power to Act agreed to simplify the system by collapsing the then Leave Payment Scheme into the Wage Subsidy Scheme and directed further work to be undertaken on support for workers in essential businesses who may be unable to work due to COVID-19.
- 17 On 1 April 2020, Cabinet agreed to establish the Essential Workers Leave Support Scheme [CBC-20-MIN-0020 refers]. This scheme subsequently became the COVID-19 Leave Support Scheme (LSS) on 1 May 2020 [CBC-20-MIN-0047 refers].
- 18 On 14 August 2020, Cabinet agreed in principle that the LSS should be further modified to better support the Government's resurgence plan, and that these modifications could include removing the financial impacts test for firms to qualify, relaxing eligibility for workers in aged care facilities, expanding eligibility to include the parents and caregivers of someone who is required to self-isolate, and hard-linking eligibility to instructions to self-isolate [CAB-20-MIN-0399 refers].
- 19 On 17 August 2020, Cabinet agreed [CAB-20-MIN-0402 refers]:
 - 19.1 to remove the revenue drop test and the significantly negatively impacted test from the LSS; and
 - 19.2 directed officials to report to the Minister of Finance, Minister for Workplace Relations and Safety, and Minister for Social Development on further changes to the LSS that could be made alongside work to transition towards a more sustainable longer term scheme that adapts to changing Alert Levels.
- 20 This paper seeks Cabinet agreement to several changes to the LSS that can be rapidly enacted to support the Government's public health response and to enhance scheme efficiency and integrity. This paper also signals a more significant review of the scheme to ensure it is financially sustainable, can

adapt to changing Alert Levels, and functions as a key pillar of the Government's public health strategy over the longer term.

Self-isolation is critical to containing the spread of COVID-19

- 21 Self-isolation, especially in the early stages of an outbreak, plays a critical role in containing the spread of COVID-19 by breaking the chain of transmission. It helps mitigate the risk of prolonged periods with regions, or the country, at high Alert Levels, and the significant economic and social costs associated with this.
- 22 Self-isolation is a key part of the Government's 'Elimination Strategy' and 'Resurgence Plan'. The Elimination Strategy has four pillars – border controls; robust case detection and surveillance; effective contact tracing and quarantine; and strong community support of control measures.
- 23 There are three lines of defence that are integral to the COVID-19 testing and self-isolation strategy. These can be classified as 'detect', 'respond', and 'protect' stratagems. Detection is supported through:
 - 23.1 high levels of surveillance testing of asymptomatic peoples both in the community and at the borders (including air crew and border staff)
 - 23.2 testing of people with COVID-19 like symptoms but no known exposure to the virus.
- 24 Respond and protect stratagems are supported through testing and self-isolation. Directions to self-isolate are issued by Medical Officers of Health and their delegates in the local District Health Board Public Health Units.
- 25 Creating a safe environment in which workers feel supported to stay home and get tested if sick, or when they have been exposed to the virus, underpins this strategy. Removing barriers that could deter people from self-isolating, such as a loss of income, can help support compliance with public health guidance.

The leave support scheme supports self-isolation.....

- 26 The LSS is one tool that supports compliance with self-isolation requirements. It provides employers a four week lump sum payment of \$585.80 a week for eligible full-time workers (working 20 hours or more per week), and \$350 a week for part-time workers (working less than 20 hours). The full-time rate equates to 77.5 percent of the minimum wage of \$756 per 40 hour week.
- 27 People who cannot work from home, and who don't have sufficient paid leave, may face a financial penalty by self-isolating. These workers may feel compelled to go to work, especially for lower paid and more vulnerable workers, where they are less able to meet ongoing costs of living. Many workers, such as contractors, casual workers and the self-employed, have no entitlement to statutory leave provisions, or can't access them easily because of the nature of their contracts.

- 28 Along with issues of equity, there is a strong public good rationale for compensating workers who would potentially incur an economic cost in undertaking an action that benefits the wider good. Fiscally, this approach can be considered an up-front investment in risk mitigation against a return to higher Alert Levels which impose a much greater potential cost to the government, and the economy more broadly.
- 29 As at 7 September 2020, 2,328 LSS applications have been approved, providing a total of \$17.3 million of support. The Leave Payment Scheme, Essential Workers Leave Support Scheme and the LSS have paid a combined total of \$128 million.

...but there are barriers for some employers and workers

- 30 The LSS can help push against some of the barriers that may act as a constraint on workers and firms fully complying with public health guidance:
- 30.1 **Financial barriers** - Some workers may face trade-offs between going to work when sick or going without income, if the time away is not subsidised or compensated and sick leave entitlements are either unavailable or exhausted
- 30.2 **Job security** – Some of the inherent systemic issues in the employer/employee relationship can be mitigated by open discussion but some workplaces are more proactive at this than others.
- 31 These are exacerbated by some inconsistencies in the current scheme settings around:
- 31.1 **Eligibility criteria** - leaving gaps in coverage
- 31.2 **Payment for a set period** - the current payment for a four week period is incongruous with the recommended two week self-isolation period.

Coverage needs support both the ‘respond’ and ‘protect’ stratagems.

- 32 To support the Government’s Elimination Strategy, we need to ensure the LSS coverage is responsive. Responsive coverage extends to population groups that have COVID-19, or have come into contact with a known or probable case of COVID-19. The purpose of providing coverage to this group is to incentivise self-isolation to stop the spread of community transmission.
- 33 While the current LSS design is broadly fit for purpose as a response, it may either provide:
- 33.1 surplus coverage - for example, for workers that are directed to self-isolate for 14 days, but receive a four week payment; or
- 33.2 inadequate coverage – for example, for workers who have a dependant that has been directed to self-isolate.

- 34 Protective coverage extends to groups where the consequences of coming into contact with COVID-19 are greater. These fall into two categories:
- 34.1 those who are immunocompromised or otherwise at a higher risk if they get COVID-19; and
 - 34.2 those who work to support or reside with people who are immunocompromised or otherwise at a higher risk if they get COVID-19.
- 35 For these groups, the current LSS design may lead to ill-matched coverage – for example, for those immunocompromised or vulnerable people who need to stay at home or self-isolate while there is active community transmission of COVID-19 (Alert Levels 2-4). The LSS is not well-designed to support a worker to remain away from their workplace for potentially extended periods of months or more while COVID-19 is active in the community. For these workers, a different type of intervention may be required.
- 36 With applications now closed for the Wage Subsidies, the LSS will become increasingly utilised (along with other supports) for businesses and their immunocompromised and vulnerable workers who are unable to work from home and cannot return to their place of work.

Amending eligibility criteria to improve scheme coverage

- 37 The majority of New Zealand employers are eligible to apply for the LSS, with exclusions generally applying to state sector organisations. Eligibility is currently limited to workers who cannot work from home but must self-isolate because:
- 37.1 they have contracted COVID-19, or have come into contact with someone who has contracted COVID-19, and are required to self-isolate in accordance with official Government public health guidance; or
 - 37.2 they are in the category of people that are most at risk of severe illness from COVID-19 (as defined in official Government public health guidance); or
 - 37.3 they have a person or persons in their household who are in the category of people that are most at risk of severe illness from COVID-19 (as defined in official Government public health guidance) and they need to stay away from work to reduce the risk of transmitting the virus to that person or persons.

- 38 Coverage does not currently extend to:
- 38.1 groups who have been required to self-isolate in accordance with official Government public health guidance but do not fulfil the criteria above
 - 38.2 parents or caregivers of dependants who are required to self-isolate
 - 38.3 people in the general population with cold and flu-like symptoms and no known exposure risk
 - 38.4 close contacts of close contacts of a known case
 - 38.5 casual contacts of a known case who have not been directed to self-isolate.

Additional coverage

- 39 We recommend expanding eligibility to groups where we consider the benefits of inclusion outweigh the risks of exclusion. These groups are:
- 39.1 People who are symptomatic and meet the Ministry of Health's Higher Index of Suspicion (HIS) criteria and are directed to self-isolate until the return of a negative test result, with exceptions for -
 - 39.1.1 returning international air crew (who are subject to different criteria); and
 - 39.1.2 people who have travelled internationally (and are captured within the MIQ system).
 - 39.2 People who return a negative result but are still directed to self-isolate by a Medical Officer of Health or their delegate (being the local District Health Board Public Health Unit).
 - 39.3 Symptomatic people working in a health and disability facility or a health and disability service that is funded, in part or whole, by a DHB, the Ministry of Health or MSD (such as businesses that provide community health care) not employed by the State Sector including, for example:
 - 39.3.1 The disability support workforce who are at higher risk of transmitting COVID-19 to vulnerable people and are staying home while awaiting a test or test result
 - 39.3.2 Workforces in a primary care facility such as nurses and doctors in a general practice clinic and are staying home while awaiting a test or test result.
 - 39.4 Symptomatic people working in an aged care facility or service and are staying home while awaiting a test or test result.

- 39.5 The parent or caregiver of a dependant who is directed to self-isolate and needs support to do so safely.

People who are symptomatic and meet the Ministry of Health's HIS criteria

- 40 Under existing settings, people with COVID-19 symptoms who meet the HIS criteria are tested and must self-isolate while the test is pending. However, eligibility for the LSS is currently tied to having already received a positive test result or being a close contact of a confirmed or probable case.
- 41 Expanding LSS coverage to this group could encourage employers to support their workers to contact Healthline or their GP and self-present for tests, support them to isolate and consequently mitigate the risk of transmission. Confirming that workers who return a negative test result are eligible, including those who can return to work without having to complete the full 14 days of self-isolation, will also support employers' awareness and trust in the LSS, and facilitate a culture of awareness and testing in the workplace.
- 42 In the situations where a worker receives a negative test result and can return to the workplace once they are well, there may be a dead-weight cost incurred with the two week payment.

The health and disability funded workforce

- 43 The health and disability funded workforce has a large number of people who are casual or fixed-term employees who may not have sick leave entitlements. The workforce is often shared across the aged and disability care sectors and they often have prolonged periods of contact with their patients.
- 44 In particular, residents of aged-care facilities are more at risk of severe illness from COVID-19 due to their age and the increased risk of underlying health conditions. Aged care facilities have been shown to be susceptible to rapid transmission of COVID-19 with infections occurring in residents and staff.
- 45 Under public health guidance, symptomatic health and disability workers are advised to get a test but are not required to self-isolate. This currently leaves them ineligible for the LSS and some workers may elect to continue to work while awaiting the results of a test. The parts of this workforce that are State Sector employees will continue to be paid a wage while they stay home. However, there are a number of workers who work for organisations that are contracted to, or funded in whole or part, by organisations in the State Sector but are not State Sector employees as such.
- 46 By explicitly making these workforces eligible, so that they can access the LSS should they need to be tested and asked to stay home by their employer, we can help ensure that we are supporting these workers to be healthy and safe, and help protect the people they work with.

Parents or caregivers of dependants

- 47 Parents or caregivers of dependants, particularly single-earner households, face a financial burden in having to care for a household member who is required to self-isolate and needs support to do so safely.
- 48 Expanding coverage to this group will limit the potential financial barrier that workers whose child or dependant needs to self-isolate may face. It will also ensure that people are not being put in the compromised position of needing to choose between their work and the safety of their dependant.

Remaining exclusions

- 49 There are a number of other groups who are not currently covered by the LSS, but that we do not recommend expanding eligibility to. This is because they are assessed as presenting a very low level of risk of having, or transmitting, COVID-19, and other entitlements such as sick leave should be utilised in these cases. Under the 'detect' stratagem, they can be identified through surveillance testing, at which point they would tip into the 'respond' stratagem. These include:
 - 49.1 people who are captured under the general requirement to self-isolate if they have been in, and then left, a region under a high Alert Level;
 - 49.2 close contacts of close contacts of a known case;
 - 49.3 casual contacts of a known case who have not been directed to self-isolate;
 - 49.4 people with no known exposure risk and with cold and flu-like symptoms.
- 50 The risks associated with transmission from people who have been in, and then exited, a region under Alert Level 3 or 4 can be triaged through the use of other systems such as contact tracing and testing if symptomatic. These systems will also be activated for those people who are close contacts of close contacts, or casual contacts, of a known case and become symptomatic.
- 51 The fiscal costs of extending scheme coverage to the general workforce for those with cold and flu-like symptoms would likely outweigh the benefits as it would be costly to administer and lead to infrequent isolation of positive cases.

Eligibility changes for people in Managed Isolation and Quarantine

- 52 Under the current settings, being in Managed Isolation or Quarantine (MIQ) does not affect a worker's eligibility for the LSS, provided that they fulfil all other eligibility criteria.
- 53 For those in MIQ, isolation is mandated, so the financial barriers the LSS was developed to address are not relevant. However, people may experience

financial hardship as a result of being in MIQ. People may also be discouraged to self-present or get tested if they are concerned that they will be placed in MIQ without access to financial supports.

- 54 On this basis, people who are in MIQ because they have contracted, or come into possible contact with COVID-19, as a result of community transmission (either in New Zealand or in a future safe travel zone) should continue to be eligible for the scheme. Parents or caregivers that enter into MIQ to support dependants who came into contact with COVID-19 as a result of community transmission should also be eligible.
- 55 We recommend discontinuing eligibility for those who are returning to New Zealand from overseas, who have travelled to a country outside of a future safe travel zone, or who are migrating to New Zealand.
- 56 Providing coverage to these groups may compromise scheme integrity, and could damage perceptions of equity. It may also incentivise travel to areas outside of future safe travel zones, which could have public health consequences. Safe travel zones are anticipated but not yet established and will form part of a future work programme.

Linking eligibility to receiving a directive to self-isolate

- 57 Linking eligibility for the LSS to receiving a directive to self-isolate from a Medical Officer of Health or their delegate (being the local District Health Board Public Health Unit) or a medical practitioner will provide greater clarity as to eligibility and better align the LSS to public health guidance and requirements. This includes directions to self-isolate while awaiting a test result, or a Medical Officer of Health directing continued self-isolation after having returned a negative test.
- 58 Under the current settings, not all people who are required to self-isolate under public health guidance are eligible for the LSS. This is in part because scheme updates have required a Cabinet decision, and have not always kept pace with changes to the case definition and public health guidance.
- 59 Linking eligibility to a self-isolate directive will enhance the scheme's integrity, support broad coverage and facilitate ease of access. It will also improve scheme agility and resilience with eligibility criteria more easily updated should COVID-19 case definitions change, or new criteria for self-isolation be expected. Scheme integrity could also be aided by a system that provides eligible workers with a Ministry of Health-generated certificate or case number which the employer cites in their application. This would need to form part of any longer terms changes.
- 60 Furthermore, linking eligibility is consistent with the scheme's key design principles, as coverage for medically vulnerable people already adjusts to different Alert Level settings. Firms will still be required to apply for the scheme on behalf of their employees. While removing the financial tests criterion for firms should support uptake, clear communication about scheme eligibility, and about employers' obligations under the Health and Safety at

Work Act may encourage firms to apply, which would make this change even more effective.

Payment periods

- 61 Under the current LSS parameters, firms are provided a four-weekly lump sum payment, at the rate of \$2,343.20 for a full-time employee, and \$1,400 for a part-time employee. While this was suitable for previous versions of the Leave Scheme, current protocols for self-isolation generally require 14 days following possible exposure. The payment period of four weeks is incongruous with self-isolation protocols, and may lead to a surplus payment of \$1,171.60 or \$700.
- 62 To better align the duration of support to the duration most LSS recipients will be required to self-isolate, we recommend providing the payment in two-weekly rather than four-weekly instalments. This is consistent with the standard 14 day isolation recommended by the Ministry of Health guidelines. It will also offset some of the increased fiscal cost of expanded coverage, by better targeting support and enhancing scheme efficiency.
- 63 Employers would continue to be able to reapply if additional time away from work is required, with the same reapplication entitlements, requirements and obligations as under the current scheme. For some employers this will increase their compliance costs, and may dissuade them from accessing the scheme.

Implementation

Operationalising short-term changes

- 64 Following Cabinet agreement, the Ministry of Social Development (MSD) has advised it will take five business days to make these changes, using the current LSS system and high-trust model as the platform, and can start accepting applications from midday Monday 28 September.
- 65 MSD currently employs a high-trust model, utilising the existing measures for scheme integrity as with the extension of the Wage Subsidy Scheme. This approach will continue, with employers needing to declare that they have been advised by their worker that they are in an affected group, such as whether they have been directed to self-isolate. MSD will not verify this information, nor expect employers to collect evidence on whether the employee meets the criteria, although employers can collect this information if it is part of their normal employment process.
- 66 The existing features of the LSS would remain, including the requirement that employers who have surplus subsidy amounts (which is any remaining subsidy amount that cannot be used to meet the wages of other staff), will continue to be obligated to notify MSD and refund the amount. Surplus amounts can occur when:
- 66.1 an employee earns less than the LSS amount, for example they work only 10 hours per week at minimum wage; or

- 66.2 an employee is approved by a Medical Officer of Health to return to work within the 14 day self-isolation period and an employer has no other employees that they can put surplus leave payments towards; or
 - 66.3 an employment relationship ends because an employee resigns or is dismissed during the payment period, or the business shuts down.
- 67 An estimated initial \$250,000 is required for the associated IT system changes. There may be additional administrative costs for MSD, for example, from having to process more applications, although an increase in demand will likely be offset by a corresponding decline in applications for the wage subsidy schemes.

Amendments to the employer declaration

- 68 When a person applies for the Leave Support Scheme they must agree to criteria and obligations specified in a declaration form. The declaration form provides the legal basis for obligations imposed by the scheme and a means for recovering money where a person breaches the scheme.
- 69 The declaration was amended in August 2020 to reflect Cabinet's decision to remove the revenue drop and significantly impacted tests and to align with the declaration used for the wage subsidy. We would like to bring to Cabinet's attention three changes to the declaration:
 - 69.1 The definition of "ordinary wages or salary": Ordinary wages are relevant to the obligation to pay at least 80 percent "of ordinary wages or salary" or, if the employee is usually paid less than the subsidy rate, to continue to pay their "ordinary wages or salary." Ordinary wages were fixed to the date the Leave Support Scheme was introduced, 1 May 2020. We consider it is not necessary to rely on a fixed date and instead will require employers to use ordinary wages at the date they apply
 - 69.2 Minor modifications to clarify that nothing in the scheme overrides any employment law obligations
 - 69.3 A new obligation on employers to notify employees once the outcome of a subsidy application is known by the employer. This obligation supplements existing avenues for employees to check if an employer has applied.

Further ongoing work

- 70 Despite the recommended changes above, issues remain with the current scheme that require a longer timeframe to resolve. There are some groups for whom the LSS may not provide appropriate support, for example, workers who are symptomatic; groups of workers who are required to stay at home for periods but not to self-isolate for 14 days; and vulnerable workers.

Gaps in coverage remain

- 71 The current scheme does not extend to individuals in the general population that are symptomatic and need to stay home for a few days while waiting on the outcome of a test. Employer and worker representatives have highlighted that, particularly for workers with no, or exhausted, sick leave entitlements, it could act as a disincentive to get tested and stay away from work because they may potentially need to go through a period without pay.
- 72 If the pandemic continues for the next two to three years, many workers may be required to get a test multiple times and stay at home while awaiting test results, for example, supermarket employees and other frontline essential workers. While the LSS is unlikely to be the right mechanism for supporting this group, consideration should be given as to how to best support them.

Only employers may apply

- 73 Applications for the LSS are only accepted from an eligible employer and workers have limited involvement in the process. The decision to apply resides with the employer. Eligible workers may miss out on the LSS where an employer decides not to apply because:
- 73.1 they are uncertain as to whether the worker, or their business, meet the criteria; or
- 73.2 they have a need for the employee to remain at work; or
- 73.3 they expect the application process will be complex and burdensome.

The amount paid is inadequate

- 74 The rate paid is not sufficient to replace the wages of most workers who need to stay away from work, given it is below the minimum wage for a full-time working week. Where the worker is a casual worker, contractor or self-employed and may not have access to leave entitlements, this may act as an incentive for the worker to remain at work. The current payment amount does not cover related costs for employers, such as replacement staff.
- 75 If the rate is too low, the employer may not apply for the LSS but the dynamics of the employment relationship are such that this may foster dissatisfaction and create pressure on the employee.

Scheme suitability

- 76 Establishing a more sustainable scheme linked to the Ministry of Health guidance should also address some of the confusion that has existed between the wage subsidy schemes and the LSS. Tying the LSS to public health guidance this way will mean that MSD and MBIE will need to update guidance and communications in line with updates the Ministry of Health makes to the public health guidance.

- 77 Additional measures to support scheme integrity over the longer-term could include linking eligibility to:
- 77.1 accompanying evidence from a registered medical practitioner, or a Medical Officer of Health or their delegates that the worker has been directed to test and self-isolate (stay at home) until the results of that test; and/or
 - 77.2 a COVID-19 test reference number.
- 78 Measures such as these will need to take into account legislative implications, for example, regarding the Privacy Act 1993 and the Health and Safety at Work Act 2015, as well as administrative requirements. Therefore they would need to be considered as part of providing longer term advice on a more sustainable payment scheme to support firms with any other potential resurgences of COVID-19 in the future.

Scheme terms and conditions

- 79 The LSS has a number of terms and conditions for employers that may lead to ambiguity and uncertainty. Along with previous wage and leave subsidy schemes, the LSS requires an employer accessing the scheme to:
- 79.1 pay an employee's full pre-COVID-19 income if possible; or
 - 79.2 make best endeavours to pay up to 80 percent of the pre-COVID-19 income; or
 - 79.3 as a minimum, pay the subsidy rate itself.
- 80 Most of the time the LSS will only be required to cover a relatively short self-isolation period. It is difficult for employers and employees to negotiate reduced hours or rate of pay ahead of the employee needing to self-isolate following public health directions. There is a potential risk this may result in an inadvertent permanent reduction in that employees' hours or pay.
- 81 The key reasons to differentiate the LSS from other schemes that have included these same terms and conditions are:
- 81.1 earlier schemes were established at a time when employers and employees were expected to be engaged in a process to renegotiate aspects like hours and rate in employment agreements (to respond to the shocks from COVID-19 and lockdown), so in accessing the schemes employers were expected to agree to seek to retain employees pay as at close as possible to pre-COVID-19 amounts through that process
 - 81.2 the wage subsidy scheme was established in the expectation that employers would be engaged in this process to change hours or pay rates, and the subsidy would be paid while that process occurred.

Further work is warranted

- 82 A comprehensive review of the LSS could consider amendments to the existing scheme, an entirely new scheme, and/or strengthening additional supports. Options for change that would be considered include:
- 82.1 closer alignment of payment rates with employee earnings and actual employee COVID-19 related leave days taken. This better matches an employee's actual economic costs incurred over the period they are absent. A potential mechanism to give effect to this is retrospective payments or a reimbursement model whereby the employer continues to pay wages and the Crown reimburses based on an agreed set of criteria
 - 82.2 greater involvement of workers in the application process
 - 82.3 options for how the revised scheme (or schemes) will interact with leave entitlements
 - 82.4 considering solutions for medically vulnerable workers
 - 82.5 the information and communications needed to support understanding of and adherence to the scheme.
- 83 Further work is required to develop these options and clarify the benefits, costs and constraints of each. Legislative amendments may be required to give effect to any of the above proposals and to ensure existing entitlements are not unintentionally affected. Officials will provide us with advice by 31 October 2020.

Financial Implications

Available funding

- 84 The estimated cost of making these short-term changes to the LSS is approximately \$2.6 million a fortnight (\$68 million a year if constant positive cases in the community, or \$61 million a year if a series of shorter outbreaks occur) based on current volumes.. The majority of the cost is covering symptomatic workers in the health care sector (not including state sector employees) on the assumption that all are required to self-isolate.
- 85 Due to lower uptake of the scheme to date, there is approximately \$30 million of unused funding in the COVID-19 Leave Support Scheme appropriation for the 2020/21 fiscal year which we propose is used to offset the costs of these changes. There is a high degree of uncertainty around this number and changes in uptake or Alert Levels will impact the amount of unused funding available.
- 86 The announcement of the expansion of coverage and the end of wage subsidy programmes could increase uptake of the scheme and reduce the unused funding available. We propose the remaining amount of the cost of the policy that cannot be met from unused amounts and the IT funding that MSD require be drawn down from the COVID-19 Response and Recovery Fund. We propose an increase in appropriation by \$31.0 million in 2020/21

fiscal year and officials will report closer to the end of the fiscal year if a further increase is required.

Legislative Implications

87 There are no legislative implications or regulatory impacts.

Human Rights and Population Implications

88 Expanding the scheme coverage for the LSS will be of benefit to all New Zealanders. It will also go part of the way to address inequities for some types of workers, in particular contract, casual and part-time workers. Māori, Pasifika, women and disabled people represent a large proportion of these types of workers.

Consultation

89 The Department of Prime Minister and Cabinet, the Treasury, Ministry of Social Development, Ministry of Health and Inland Revenue were consulted.

Communications

90 The proposals in this paper, if agreed, will translate into the fourth iteration of a leave support scheme. There is a risk of increased confusion and uncertainty for employers and workers around what the scheme covers and who is eligible. Some employers and workers may not understand the purpose or eligibility requirements of the scheme, or how it interfaces with leave entitlements (for example, sick leave).

91 A communications plan will be prepared to both help employers and workers better understand the LSS, and to also help support self-isolation more generally.

92 The Minister for Workplace Relations and Safety will announce changes to the Leave Support Scheme following Cabinet decisions.

Proactive Release

93 This paper will be proactively released (with any appropriate withholdings) as part of the Government's proactive release of COVID-19 related papers.

Recommendations

The Minister of Finance, the Minister of Health, the Minister for Workplace Relations and Safety and the Minister for Social Development recommend that the Cabinet:

1 **note** that on 14 August 2020 [CAB-20-MIN-0399 refers], Cabinet agreed in principle that the COVID-19 Leave Support Scheme (LSS) should be modified to support the Government's resurgence plan, and on 17 August 2020 agreed to remove the 'revenue drop' and 'negatively impacted' tests and directed officials to report back on further changes [CAB-20-MIN-0402 refers];

- 2 **note** that officials have undertaken further work and propose the following short-term changes to the LSS:
 - 2.1 expanding the eligibility criteria to extend coverage to groups where the benefits of inclusion are greater than the costs and risk from exclusion;
 - 2.2 linking scheme-eligibility to receiving a directive to self-isolate from a Medical Officer of Health or their delegate (being the local District Health Board Public Health Unit), or a medical practitioner, including while waiting for test results or, if they have returned a negative test, directed to continue to self-isolate;
 - 2.3 limiting eligibility for those in Managed Isolation or Quarantine facilities to those who are in those facilities as a result of community transmission either in New Zealand or future safe travel zones; and
 - 2.4 changing the payment period from four weeks to two weeks, at the same weekly rates.
- 3 **note** that it will take the Ministry of Social Development (MSD) five working days from Cabinet decisions to implement these changes with applications being accepted from midday Monday 28 September 2020;
- 4 **note** that, if agreed, MSD would implement these changes using the same high trust approach, centred on an employer submitted application and completed declaration form, as with previous and current Leave Support and COVID-19 Wage Subsidy schemes;
- 5 **note** that exemptions provided to State Sector Organisations (including State Owned Enterprises) enabling them to apply for the LSS continue to apply;

Changing the eligibility criteria

- 6 **agree** to expand the eligibility criteria for the LSS to cover the following groups:
 - 6.1 People who are symptomatic and meet the Ministry of Health's Higher Index of Suspicion (HIS) criteria and are directed to self-isolate until the return of a negative test result, with exceptions for people who are either: international air crew (who are provided with other supports), or have travelled internationally (captured under the MIQ requirements);
 - 6.2 People who are directed to self-isolate by a Medical Officer of Health or their delegate (being the local District Health Board Public Health Unit) including those who return a negative test and those not required to get a test;
 - 6.3 Symptomatic people working in a health and disability facility or a health and disability service that is funded, in part or whole, by a DHB, the Ministry of Health or MSD (such as businesses that provide community health care) not employed by the State Sector including, for example:

- 6.3.1. The disability support workforce who are at higher risk of transmitting COVID-19 to vulnerable people and are staying home while awaiting a test or test result;
- 6.3.2. Workforces in a primary care facility such as nurses and doctors in a general practice clinic and are staying home while awaiting a test or test result;
- 6.4 Symptomatic people working in an aged care facility or service who are staying home while awaiting a test or test result;
- 6.5 The parent or caregiver of a dependant who is directed to self-isolate and needs support to do so safely.
- 7 **agree** to link scheme-eligibility to receiving a directive to self-isolate from a Medical Officer of Health as defined under the Health Act 1956 or as advised by a medical practitioner as defined under the Social Security Act 2018;
- 8 **note** that an effect of these proposed changes is that people meeting HIS criteria, including non-state sector organisation workers at the border, will qualify once directed to self-isolate rather than only if they were a close contact or returned a positive test;
- 9 **note** that an employer would be eligible to apply for the LSS for any employee waiting on a test result who is directed to self-isolate (regardless of how long they are told to stay home);
- 10 **agree** to remove LSS eligibility for people who have arrived in New Zealand and are required to enter Managed Isolation and Quarantine because:
 - 10.1 they are returning to New Zealand from living overseas;
 - 10.2 they have travelled to a country outside of a future safe travel zone; or
 - 10.3 they are migrating to NZ;
- 11 **note** that people who are at higher risk if they or a person in their household get COVID-19 and they need to self-isolate to reduce that risk while public health restrictions are in place will continue to be eligible for the LSS;

Changing the payment terms

- 12 **agree** that the current weekly payment rates of \$585.80 gross for people working 20 hours or more (full-time) and \$350 gross for people working less than 20 hours (part-time) remain unchanged;
- 13 **agree** to provide the subsidy in two-weekly instalments rather than the current four-weekly instalments;

Financial recommendations

IN CONFIDENCE

- 14 **note** that the estimated additional cost of making these short-term changes to the LSS is estimated to be between \$61 million and \$68 million;
- 15 **note** that to implement these changes MSD will require an initial \$250,000 in IT funding;
- 16 **note** that the recommended changes to the scheme are to be funded by:
- 16.1 around \$30 million currently unallocated in the COVID-19 Leave Support Scheme appropriation for the 20/21 year, and
- 16.2 \$31.0 million of new funding from the COVID-19 Response and Recovery Fund (CRRF);
- 17 **agree** that the changes to the LSS will in part be funded from unallocated funding remaining in existing appropriations;
- 18 **approve** the following changes to appropriations to enable MSD to establish, administer and/or pay the scheme and to audit the scheme, with a corresponding impact on the operating balance:

Vote Social Development Minister for Social Development	\$m – increase/(decrease)			
	2020/21	2021/22	2022/23	2023/24 & Outyears
Non-Departmental Other Expenses:				
COVID-19 Leave Support Scheme	31.000	-	-	-
Multi-Category Expenses and Capital Expenditure				
Improved Employment and Social Outcomes Support				
Departmental Output Expenses:				
Improving Employment Outcomes (funded by revenue Crown)	0.250	-	-	-
Total Operating	31,250	-	-	-

IN CONFIDENCE

- 19 **agree** that all the expenses incurred under recommendation 18 will be charged against the COVID-19 Response and Recovery Fund established as part of Budget 2020;
- 20 **agree** that changes to appropriations for 2020/21 above be included in the 2020/21 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;

Next steps

- 21 **authorise** the Minister of Finance, the Minister of Health, the Minister for Workplace Relations and Safety, and the Minister for Social Development to make minor policy and operational updates to LSS settings if required to reflect changes in public health guidelines, within the overall policy settings;
- 22 **agree** that any underspends with the COVID-19 Leave Support Scheme as at 30 June 2021 be transferred to the 2021/22 financial year to ensure that funding is available for the scheme in 2021/22, as maybe required;
- 23 **authorise** the Minister of Finance and the Minister for Social Development to jointly agree the final amount to be transferred, following completion of the 2020/21 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;
- 24 **agree** that any unused non-departmental funding drawn down from the COVID-19 Response and Recovery Fund in recommendation 18, be returned back to the COVID-19 Response and Recovery Fund at the cessation of the scheme; and
- 25 **note** that officials are preparing further advice on longer-term changes that could be made to the LSS, a more sustainable wage subsidy scheme, and statutory leave entitlements.

Hon Grant Robertson
Minister of Finance

Hon Chris Hipkins
Minister of Health

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Social Development

Hon Andrew Little
Minister for Workplace
Relations and Safety

IN CONFIDENCE

IN CONFIDENCE