

DIRECTION BY MINISTER OF SOCIAL SERVICES, WORK AND INCOME

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To: The Chief Executive of the Department of Work and Income

Pursuant to section 5 of the Social Security Act 1964, I, **ROGER MORRISON SOWRY**, Minister of Social Services, Work and Income, give you the following direction.

This direction replaces and revokes the previous directions relating to Advance Payment of Benefits given to the Director-General of Social Welfare and in force, in relation to you, by virtue of section 10 of the Employment Services and Income Support (Integrated Administration) Act 1998.

ADVANCE PAYMENT OF BENEFITS

This direction applies where a Beneficiary makes application for an advance payment of a Benefit under section 82 (6) of the Social Security Act 1964.

In considering whether an advance payment of a Benefit would best meet the Immediate Needs of a Beneficiary and in exercising your discretion to make such payment, you are to apply the following provisions.

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1 Interpretation

1.1 In this direction, unless the context otherwise requires, -

“**Act**” means the Social Security Act 1964;

“**Advance**” means an advance payment of a Benefit under section 82 (6) of the Act;

“**Beneficiary**”-

- (a) means the person granted a benefit; and
- (b) includes the spouse or partner of the person referred to in paragraph (a) if some or all of that benefit is payable to that spouse or partner under section 83 of the Act.

“**Cash Assets**”, in relation to any person-

- (a) mean assets of that person and his or her spouse or partner (if any) that can be readily converted into cash and include-
 - (i) shares, stocks, debentures, bonus bonds, and other bonds;

- (ii) bank accounts, including fixed and term deposits with any bank, friendly society, credit union, or building society;
 - (iii) money invested with or lent to any bank or other financial institution or person;
 - (iv) the net equity held in any property or land not used as the person's home;
 - (v) building society shares;
 - (vi) mortgage investments and other long term loans;
 - (vii) bills of exchange or promissory notes;
 - (viii) the applicants share in any partnership; but
- (b) do not include-
- (i) the motor vehicle principally used by the person for his or her personal use;
 - (ii) a caravan, boat, or other vehicle the net equity in which is less than \$2,000;
 - (iii) a caravan, boat, or other vehicle which is used by the person or a member of his or her immediate family for day to day accommodation;
 - (iv) the personal effects of the person and his or her Spouse or partner (if any);
 - (v) for the period of 12 months after it is made, any ex gratia payment of the kind referred to in regulation 10(1)(f) of the Social Security (Long-term Residential Care) Regulations 2005 (SR 2005/183);
 - (vi) any ex gratia payment of the kind referred to in regulation 10(1)(g) of those regulations.

“Immediate Needs”, in relation to a Beneficiary, means all of the Beneficiary's essential needs, including-

- (a) the Beneficiary's Particular Immediate Need; and
- (b) his or her ability to meet the regular and ongoing essential living expenses of the Beneficiary and his or her Spouse or partner and Dependent Children (if any);

“Invalid’s Benefit” *revoked by Instrument amending Ministerial directions and welfare programmes 2005*

“Particular Immediate Need”, in relation to a Beneficiary, means a particular and immediate need for an essential item or service.

- 1.2 Expressions otherwise defined in section 3 (1) of the Act are to have the meanings so defined.

Note: Except in headings, words, or phrases whose words begin with capital letters refer to a term defined in clause 1.1 or in section 3 (1) of the Act.

2 Identifying Particular Immediate Need

- 2.1 To be considered for an Advance, a Beneficiary must be able to identify a Particular Immediate Need.

- 2.2 In determining if a Particular Immediate Need exists, you are to have regard to the following matters:

- (a) the effect on the Beneficiary or the Beneficiary's Spouse or partner or any Dependent Child if the need is not met:
- (b) when that effect might be expected to impact on that or those persons:
- (c) the Beneficiary's ability to meet the need from the Beneficiary's own resources.

- 2.3 A Beneficiary can generally be expected to be able to meet a Particular Immediate Need if the Beneficiary and his or her Spouse or partner (if any) has-

- (a) cash Assets to a value of, -
 - (i) for a single person, the amount in clause 1 of Schedule 31 of the Act; or
 - (ii) for a person who is married or in a civil union or in a de facto relationship or a sole parent, the amount in clause 2 of that Schedule; or
- (b) income (including any New Zealand superannuation or veteran's pension payable to the Beneficiary and his or her Spouse or partner) in excess of the appropriate amount set out in Part 2 of that Schedule.

Note discretion in exceptional circumstances in clause 6.2.

3 Determining whether an Advance would Best Meet the Immediate Needs of the Beneficiary

In determining if an Advance would best meet the Immediate Needs of a Beneficiary, you are to have regard to:

- (a) the assistance that is or might be available to the Beneficiary from other sources or under the Act to meet the Beneficiary's Particular Immediate Need:
- (b) the Beneficiary's existing level of debt, and whether the rate of repayment of the proposed Advance (as set out in clause 5) from subsequent instalments of the Benefit would be sustainable, having regard to-

- (i) whether the reduction of the amount of Benefit payable to the Beneficiary will leave enough for the Beneficiary's living expenses and any other debt repayments; and
- (ii) the likelihood it would cause the Beneficiary to seek further Advances or other supplementary assistance under the Act:
- (c) whether the Beneficiary is likely to continue to be in receipt of the Benefit for the period over which the Advance would be repayable:
- (d) any other matters put forward by the Beneficiary to justify the Advance.

4 Amount of Advance

- 4.1 The amount of an Advance should be the least amount required to meet the Beneficiary's Particular Immediate Need.
- 4.2 In no case is the amount of an Advance to exceed the instalments of the Benefit payable to the Beneficiary and his or her Spouse or partner (if any) in a six week period.

Note discretion in exceptional circumstances in clause 6.2.

5 Repayment of Advance

Subject to clause 7.2.3, every Advance is to be recovered from the Beneficiary at a rate that will ensure the Advance is repaid within 24 months after the making of the Advance.

Note discretion in exceptional circumstances in clause 6.2.

6 Exercise of Discretion

- 6.1 If you determine that a Particular Immediate Need exists, and that an Advance would best meet the Immediate Needs of the Beneficiary, you are to have regard to the matters set out in clause 6.3 in exercising your discretion whether to make an Advance.
- 6.2 In the exercise of your discretion, if you determine that a Beneficiary has exceptional circumstances, you may, after having regard to the matters set out in clause 6.3-
 - (a) make an Advance where the Beneficiary and his or her Spouse or partner has Cash Assets or Income exceeding the limits set out in clause 2.3; or
 - (b) make an Advance in excess of any limit set out in clause 4 or clause 7.1.3; or
 - (c) recover an Advance at a lower rate than set out in clause 5 or clause 7.2.4.
- 6.3 The matters referred to in clause 6.1 and 6.2 are-
 - (a) the Beneficiary's ability to repay the Advance;
 - (b) whether the Beneficiary could reasonably have been expected to have made provision for the Particular Immediate Need;

- (c) the extent to which not making an Advance, or an Advance in excess of the limit, or requiring recovery at the rate set out in clause 5, would-
 - (i) worsen the Beneficiary's position, or
 - (ii) increase or create any risk to the life or welfare of the Beneficiary or the Beneficiary's Spouse or partner or any Dependent Child, or
 - (iii) cause serious hardship to the Beneficiary, or the Beneficiary's Spouse or partner or any Dependent Child,
- (d) any other matters that you consider to be relevant, in the circumstances of the particular case.

7 Advances for Particular Needs

7.1 Essential Home Repairs

7.1.1 You may, subject to the provisions of this direction, make an Advance to any Beneficiary for the following Particular Immediate Need:

- (a) to carry out essential repairs and maintenance to the Beneficiary's home, or to the paths, fences, or retaining walls of, the property on which that home is located; or
- (b) to provide essential services to the Beneficiary's home such as sewerage, water, or electricity connection.

7.1.2 No Advance under clause 7.1.1 may be made unless-

- (a) the Beneficiary provides proof of his or her ownership (or joint ownership) and occupation of the property to which the Advance is to be applied;
- (b) the work to be done is essential in order to maintain the property in a reasonable living standard; and
- (c) the Beneficiary shows proof that he or she has unsuccessfully applied for financial assistance for the purpose from any other agencies that provide assistance to Beneficiaries for such purposes.

7.1.3 An Advance under clause 7.1.1 should not exceed an amount of \$1,000.

Note discretion in exceptional circumstances in clause 6.2

7.2 Safety Footwear

7.2.1 You may, subject to this direction, make an Advance to a Work-tested Beneficiary who -

- (a) is undertaking, pursuant to the Beneficiary's job seeker agreement or section 123B of the Act, any job seeker development activity or activity in the community that involves undertaking work; and

- (b) is, for the Beneficiary's safety while participating in that activity, required by the provider of the work to wear safety footwear not supplied by that provider, and
- (c) does not already own suitable safety footwear, and
- (d) could not participate in the activity without purchasing safety footwear.

7.2.2 A Beneficiary may not be refused an Advance under clause 7.2.1 by reason only of the matters set out in clause 3 (b) or (c).

7.2.3 An Advance under clause 7.2.1 should not exceed \$130.

Note discretion in exceptional circumstances in clause 6.2

7.2.4 Where the Beneficiary receives a Participation Allowance for participating in the activity, an Advance under clause 7.2.1 should be recovered at the rate of not less than \$5 a week.

Note discretion in exceptional circumstances in clause 6.2.

7.2.5 In clause 7.2, the terms **job seeker agreement**, **job seeker development activity**, and **activity in the community** have the meanings in section 88A of the Act.

7.3 **Travel for stranded beneficiaries**

7.3.1 For the purpose of enabling the beneficiary to return to his or her usual place of residence, the chief executive may make an advance of not more than \$200 for travel to a beneficiary who is,-

- (a) stranded away from his or her usual place of residence; and
- (b) unable to pay for that travel due to circumstances which could not reasonably be foreseen

7.3.2 If any of the beneficiary's spouse or partner or dependent children (a **dependant**) is, together with the beneficiary, also in the circumstances set out in paragraphs (a) and (b) of clause 7.3.1, the amount of an advance under that clause may be increased by not more than \$200 for each such dependant in those circumstances.

Dated this 25th day of May 1999

Roger Sowry
Minister of Social Services, Work and Income

Historical information

2007

Instrument amending Ministerial directions and welfare programmes (No 3) 2007

Direction for Advance payment of Benefits (given on 25 May 1999)

This Instrument comes into effect on the day after the date on which it is signed by the Minister. (signed 25 June 2007)

Clause 1(1)

Add to paragraph (b) of the definition of **cash assets** the following subparagraphs;

- (v) for the period of 12 months after it is made, any ex gratia payment of the kind referred to in regulation 10(1)(f) of the Social Security (Long-term Residential Care) Regulations 2005 (SR 2005/183);
- (vi) any ex gratia payment of the kind referred to in regulation 10(1)(g) of those regulations.

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

This instrument amending Ministerial directions and welfare programmes, which comes into effect on the day after the date on which it is published in the Gazette excludes certain payments from a person's cash assets, which are considered in determining his or her eligibility to the types of social security assistance specified in this instrument. The exclusion for ex-gratia payments made because of personal injury caused by hepatitis C infection contracted through the New Zealand blood supply is limited to 12 months from the date of payment.

Instrument amending Ministerial Direction and Welfare Programmes (No 2) 2007

Advance Payments of Benefits (given on 25 May 1999)

Clause 2.3(a)(ii)

Insert "or in a de facto relationship" after "union".

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

This instrument, which comes into effect on 1 April 2007, amends a number of Ministerial directions and welfare programmes under the Social Security Act 1964 to recognise de facto relationships within the meaning of section 29A the Interpretation Act 1999.

2006

Instrument amending Ministerial directions and welfare programmes (No 2) 2006

Advance Payments of Benefits (given on 25 May 1999)

Clause 1.1

Insert in paragraph (b) of the definition of **beneficiary**, after "spouse" in both places it appears, "or partner".

Insert in paragraph (b) of the definition of **immediate needs**, after "spouse", "or partner".

Clause 2.2(a)

Insert, after "spouse" in both places it appears, "or partner".

Clause 2.3

Insert, after "spouse", "or partner".

Clause 2.3(a)(i)

Omit "an unmarried" and substitute "a single"

Clause 2.3(a)(ii)

Omit "an unmarried" and substitute "person who is married or in a civil union, or is single".

Clause 4.2

Insert, after "spouse", "or partner".

Clause 6.2(a)

Insert, after “spouse”, “or partner”.

Clause 6.3(c)

Insert, after “spouse”, in both places it appears, “or partner”.

Clause 7.3.2

Insert, after “spouse”, “or partner”.

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

This instrument, which comes into effect on the day after its publication in the *Gazette*, amends a number of Ministerial directions and welfare programmes under the Social Security Act 1964 to treat people in civil unions in the same way as people in marriages and make related amendments.

Date of notification in *Gazette*: 08 June 2006.

2005

Revoke the definition of invalid's benefit in clause 1.1. Clause 2.3 of the direction is amended by omitting paragraph (a) and (b), and substituting with (a) and (b) by an amendment that comes into effect from 1 April 2005.

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

This instrument, which takes effect on 1 April 2005, amends various Ministerial directions and welfare programmes to:

- make various change relating to the Working for Families package, principally to replace reference to the invalid's benefit in cash assets and income limits with reference to the new Schedule 31 of the Social Security Act 1964 which comes into force on that date
- adjust certain rates to take into account a 2.70% increase in the Consumers Price Index
- adjust average regional rents in the Special Transfer Allowance Programme 2005 to reflect movements in rentals
- make minor definitional changes to clarify the application of the Recoverable Assistance Programme

2004

The definition of “Beneficiary” and clause 7.3 Travel for stranded beneficiaries was inserted by Instrument amending Direction on Advance Payment of Benefits, Recoverable Assistance Programme and Special Needs Grants Programme dated 24 June 2004 to be effective from 1 July 2004.

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

This instrument, which comes into effect on 1 July 2004, amends the Direction on Advance Payment of Benefits, Recoverable Assistance Programme, and Special Needs Grants Programme to provide that grants for travel for stranded persons who are beneficiaries are made as benefit advances, and for non-beneficiaries, as recoverable assistance payments.

2002

Clause 7.2.1 of the direction is amended by revoking paragraph (a), and substituting with (a)(i) and (ii) by an amendment that comes into effect from 1 April 2002.

2001

Clause 7.2.1(a) was amended by the Direction on Advance Payment of Benefits Amendment (No 2) 2001.