



SENSITIVE

Pay restraint in the public sector - Remuneration Authority (COVID 19) Bill

Date: 29 April 2020
Report No: SSC2020/0079
Contact: Hannah Cameron
Telephone: 9(2)(a)

	Actions Sought	Due Date
Hon Chris Hipkins, Minister of State Services	Agree the approach taken in drafting the attached Bill Lodge the accompanying Cab paper and Bill for consideration by Cabinet	30 April 2020

Enclosure: Yes

Executive Summary

This briefing seeks your confirmation on aspects of the attached draft Bill as outlined in the attached Cabinet paper. If you are comfortable with the approach taken, we invite you to lodge the Cabinet paper and Bill for consideration at Cabinet on 4 May 2020.

Minister's Office Comments

Comments:	
Date returned to SSC:	

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Recommended Action

We recommend that you:

- a **note** that the Bill has been drafted to give effect to a single process for Ministers and others that enables the Remuneration Authority to reduce pay by up to 20% for six months, in accordance with your comments on our previous briefing (SSC2020/0074)
- b **agree** that the six-month limit will apply to all positions, including MPs and Ministers
Agree/disagree.
- c **note** that discussions with other officials have enabled us to provide further clarification about the application of the changes to other processes underway for MP and local government determinations, and that these details are set out in the Cabinet paper.
- d **note** that DIA officials have confirmed that the approach to Local Government is appropriate, and have discussed this with the Minister for Local Government
- e **agree** that DIA officials consult Local Government New Zealand on the proposals ahead of the cabinet discussion
agree/disagree.
- f **note** that we are awaiting confirmation of the BORA vet by the Ministry of Justice but anticipate receiving this within the next day.
- g **agree** to undertake appropriate Ministerial consultation, and lodge the attached Cabinet paper and Bill for discussion at Cabinet on 4 May
agree/disagree.
- h **agree** to seek leave for cross-party agreement to be obtained to pass the Bill through all stages in a single day
Agree/disagree.
- i **agree** that the SSC release this briefing in full once the Bill has been introduced to Parliament.
Agree/disagree.

Hon Chris Hipkins
Minister of State Services

SSC Report: Pay restraint in the public sector - Remuneration Authority (COVID 19) Bill

Purpose of Report

1. Further to our report of 23 April 2020 clarifying several points for drafting (SSC2020/0074), this briefing confirms what has been done in arriving at the attached draft Bill, draft Cabinet Paper and Disclosure Statement specifically:
 - The duration of the pay reduction
 - The approach taken to local government
 - MP pay processes
 - The Parliamentary process.

The duration of the pay reduction

2. Previous proposals were based on having separate provisions in the Bill for parliamentarians and non-parliamentarians, with a 6 month time limit on reductions for non-MPs, while Ministers and MPs would continue any reduction in pay until the next government took office.
3. Under the self-initiated approach, the reduction would apply to the individual Ministers, it would not change the determination and would not apply to any future post holder. Under this scenario, it was feasible to enable the reduction to have a more flexible end date ie up until the next Government takes office.
4. You have now indicated that a single process will apply to all officers, where the Remuneration Authority will make a new temporary determination. The Authority will make a temporary determination for a role, not for an individual officer holder. This means that there would be additional complexity if the duration is more flexible.
5. In addition, PCO have advised that there is no clear legal trigger at the point that a new Government takes office. It is convention for all Ministers to resign and be reappointed, but this is not necessarily required by law. The only clear trigger in law would be the election itself, which could lead to the strange situation where Ministers' pay reverted to its original amount for days or weeks required for the formation of a new government.
6. On balance, we recommend a simple six-month limit be applied to all temporary determinations. This is included in the attached draft Bill.
7. In practice, the temporary determinations are likely to be made by mid-May and will therefore apply until mid-November which should extend beyond the formation of a new Government.

Local government

8. You are aware that some mayors have expressed an intention to join with Ministers in taking a voluntary pay reduction.
9. In our briefing SSC2020/0074 we split elected members of local government into two groups. Mayors, chairs, chairs of committees and council members were in group C – in scope. Those involved with local boards were in group D – which you agreed should be out of scope.

10. We had previously considered whether there should be a threshold so that those earning less than \$100k from their office would be out of scope for this amendment. (Most, but not all, mayors and some others in the group C cohort are paid more than \$100k.) As you have decided to leave the reduction to be determined by the Remuneration Authority, it is not necessary to specify a threshold as the Authority will take the level of pay into account. The Authority have indicated in our discussions with them, that they are likely to use the \$100k as a guide when making their determinations.
11. We have discussed the approach with DIA officials, including the policy to allow the Authority to use their discretion to address the issue of Local Government pay. Officials emphasised the previous efforts to move to address inequities in local government remuneration. They also expressed concerns that lower paid council members might be alarmed that their pay will be reduced. However, on balance they agree with that the proposal provides the best mechanism to enable the change desired by many Mayors and members. We understand that officials have provided this advice to the Minister of Local Government.
12. We recommend that DIA officials discuss the proposal (but not share any papers) with Local Government New Zealand (LGNZ) to confirm their perspective before the cabinet discussion.

MP determination processes

13. As a result of an amendment to the Remuneration Authority Act passed by Parliament last year, the Authority is currently considering the remuneration for MPs for the period July 2019 to polling day 2020. This raised a question during consultation about the application of the new temporary processes.
14. We have discussed this question with the Authority, they have indicated that they will complete the current determination process shortly. We have also clarified that any consideration of a new temporary determination will apply **after** the backdated determination. For the avoidance of doubt, this has been set out in the Cabinet paper.
15. We have also ensured that the Bill enables the Authority to make new 'original' determinations during the period in which a temporary reduction is in place.

Next Steps and the Parliamentary process

16. The attached Cabinet paper, Bill and Disclosure Statement are now complete, except for the confirmation of the Bill of Rights Act vetting that we anticipate receiving from Ministry of Justice within the next day.
17. As noted in the attached Cabinet paper, we understand that you intend to seek leave to obtain cross-party agreement for the Bill to pass all stages in a single day without going through Select Committee process.
18. Passing the Bill by agreement, or otherwise under urgency, will maximise the time available for the Remuneration Authority to develop its determinations before the 30 June 2020 deadline, including consulting with those affected.

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT