

EXPLANATORY STATEMENT

Appropriation Act (No. 1) 2021-2022

AFM Determination (No. 4 of 2021-2022)

Purpose of this Determination

The Advance to the Finance Minister (AFM) is a mechanism provided under section 10 of *Appropriation Act (No. 1) 2021-2022* (the Act). Section 10 permits the Finance Minister, by legislative instrument, to effectively amend Schedule 1 to the Act to make provision for certain urgent expenditure up to a total limit of \$2,000 million.

Section 10(1) has the effect that a determination can only be made under s 10(2) if the Finance Minister is satisfied there is an urgent need for expenditure, in the current year, that is not provided for, or is insufficiently provided for, in Schedule 1 of the Act either:

- because of an erroneous omission or understatement (see s 10(1)(a)), or
- because the expenditure was unforeseen until after the last day on which it was practicable to provide for it in the Bill for the Act introduced into the House of Representatives (see s 10(1)(b)).

In relation to the present determination (*AFM Determination (No. 4 of 2021-2022)*), the Finance Minister is satisfied that there is an urgent need for the expenditure for the reason in 10(1)(b). The Bill for the Act was Appropriation Bill (No. 1) 2021-2022 (the Bill), which provides appropriations for the ordinary annual services of government. The AFM provision within the Bill provides the Finance Minister with the capacity to modify an item in the Schedule to increase a nil amount where it was later determined that expenditure was required (subject to meeting the requirements of the AFM provision).

The Bill was introduced into the House of Representatives on 11 May 2021. The Finance Minister is satisfied, based on information provided by the NRRA that the additional expenditure was unforeseen until after the last day on which it was practicable to provide for it in the Bill before it was introduced to the House of Representatives on this date.

The PLDP is made to people who cannot earn an income because they must self-isolate, quarantine or care for someone who has to self-isolate or quarantine. The PLDP was introduced in August 2020 to provide temporary income support for those people who were required to isolate either because they had or were caring for a person with COVID-19 or a close contact of a person with COVID-19, who did not have paid sick leave available. The intent of this payment was to reduce the incentives for individuals to continue working while potentially infectious and thereby reduce risk of transmission.

Due to the emergence of the highly transmissible Omicron COVID-19 variant, cases within the community have grown significantly. Accordingly, this AFM allocation builds on AFM Determination (No. 2) 2021-22, which was necessary because of the impact of the Delta variant. Eligibility for the PLDP has been refined to reflect nationally agreed definitions of 'close contacts' with revised conditions being applied to the payment, including:

- a tiered payment structure whereby the payment reflects the amount of lost work such that a claimant who loses:
 - 20 or more hours will receive \$750 per week.
 - between 8 and 20 hours will receive \$450 per week.
 - less than 8 hours of work is not eligible for the payment.
- the application of a financial hardship test whereby claimants with more than \$10,000 of available funds are ineligible for the payment; and
- a reduction to the claiming period from 28 days to 14 days from the commencement of isolation.

The Finance Minister has made a determination under s 10(2) of the Act. The result of the determination is that Schedule 1 of the Act will have effect as if it were amended as specified in the determination. The total amount that the present determination makes provision for is \$920 million.

The effect of s 10(4) of the Act is that although the determination is a legislative instrument, it is not subject to disallowance in accordance with s 42 of the *Legislation Act 2003* (Legislation Act).

Section 10(4) of the Act also provides that the determination will not sunset in accordance with Part 4 of Chapter 3 of the Legislation Act.

Statement of Compatibility with Human Rights

Appropriation Acts perform an important constitutional function, by authorising the withdrawal of money from the Consolidated Revenue Fund for the broad purposes identified in the annual Appropriation Acts. However, annual Appropriation Acts do not create rights or impose any duties on an individual.

Given that the legal effect of annual Appropriation Acts is limited in this way, an increase to amounts appropriated in accordance annual Appropriation Acts through the AFM mechanism does not engage or otherwise affect the human rights described in the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Consultation and Impact

The NRRA was consulted in the preparation of this determination in accordance with s 17 of the Legislation Act.

This determination results in the amount specified in the administered item for Outcome 1 for NRRA, as set out in Schedule 1 to the Act, being increased by \$920 million.