

# **Social Security (Subsequent Child Policy Removal) Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill proposes to remove the subsequent child policy from the Social Security Act 2018 and Social Security Regulations 2018.

Under the current policy, if someone has another child while they are receiving a main benefit, work obligations are based on the age of their youngest non-subsequent child from the additional child's first birthday. This means that, in some instances, a parent is required to look for or enter work once their youngest child turns one or risk losing some of their benefit income due to sanctions. The application of the subsequent child policy can add further stress to the parent(s), and limit the extent to which they are able to interact with their child and to support their early development.

The subsequent child policy disproportionately impacts Māori and women, has contributed to increased complexity in the welfare system, and reduced flexibility for parents to spend time with their child or children.

The Bill includes a 56-day transition period starting on 11 October 2021 and ending with the close of 5 December 2021. This is 28 days before and 28 days after the proposed commencement, on 8 November 2021, for the subsequent child policy removal, and covers a wide range of client scenarios. This includes the dates of benefit applications and decisions, and commencement dates, which can spread across several weeks.

The transition period ensures that, where applicable, the Ministry of Social Development (as the administering agency of the Social Security Act 2018) is required to treat clients in line with the removal of the policy. This is intended to improve the client experience by reducing complexity and ensuring fairness in the treatment of different client scenarios.

### Departmental disclosure statement

The Ministry of Social Development is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2021&no=18>

### Regulatory impact assessment

The Ministry of Social Development produced a regulatory impact assessment on 22 July 2020 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact assessment can be found at—

- [www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/information-releases/welfare-overhaul-removing-the-subsequent-child-policy/impact-summary-removing-the-subsequent-child-policy.pdf](http://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/information-releases/welfare-overhaul-removing-the-subsequent-child-policy/impact-summary-removing-the-subsequent-child-policy.pdf)
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* relates to commencement. If the Bill is enacted,—

- the transitional provisions in *clause 17* will come into force on **11 October 2021**; and
- the other provisions will come into force 28 days later, on **8 November 2021**.

## Part 1

### Substantive and consequential amendments

#### *Amendments to Social Security Act 2018*

*Clauses 3 to 10* amend the Social Security Act 2018—

- to remove provisions relating to the subsequent child policy; and
- to make related consequential amendments.

#### *Amendments to Social Security Regulations 2018*

*Clauses 11 to 16* amend the Social Security Regulations 2018—

- to remove provisions relating to the subsequent child policy; and
- to make related consequential amendments.

## Part 2

### Transitional, savings, and related provisions

*Clause 17* inserts, in Schedule 1 of the Social Security Act 2018, a *new Part 7* that sets out transitional provisions related to the subsequent child policy removal. *New Part 7*—

- provides for a 56-day transition period starting on **11 October 2021** and ending with the close of **5 December 2021**;
- requires MSD to decide a transition period benefit application in line with the removal of the policy;
- requires MSD, after the changeover, to treat an existing affected caregiver in line with the removal of the policy;
- in particular, requires transfer to sole parent support, on the changeover, of a person (**P**) who, immediately before the changeover,—
  - receives jobseeker support; and
  - would be eligible for sole parent support, if section 222(2) did not apply to **P**, in relation to the dependent child or children concerned; and
  - has not notified MSD, before the changeover, that, after the changeover, **P** wants, if eligible to do so, to continue to receive jobseeker support;
- requires MSD to respond to a transition period change of circumstances in line with the removal of the policy.



*Hon Carmel Sepuloni*

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### **Part 1**

#### **Substantive and consequential amendments**

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**Part 2**  
**Transitional, savings, and related provisions**

17 Schedule 1 of Social Security Act 2018 amended 4

**Schedule** 5  
**New Part 7 inserted into Schedule 1**

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Social Security (Subsequent Child Policy Removal) Amendment Act **2021**.

**2 Commencement** 5

*Transitional provisions*

(1) **Section 17** comes into force on **11 October 2021**.

*Other provisions*

(2) The rest of this Act comes into force on **8 November 2021**.

**Part 1** 10

**Substantive and consequential amendments**

*Amendments to Social Security Act 2018*

**3 Principal Act**

**Sections 4 to 10** amend the Social Security Act 2018.

**4 Section 30 amended (What is sole parent requirement)** 15

Replace section 30(1) and (2) with:

A person (**P**) meets the sole parent requirement if **P** is the mother or father of, and caring for, at least 1 dependent child aged under 14 years and—

(a) **P** is single; or

(b) **P**'s spouse or partner has died; or 20

(c) **P**'s marriage or civil union has been dissolved; or

(d) **P** is living apart from, and has lost the support of or is being inadequately maintained by, **P**'s spouse or partner; or

(e) **P** has lost the regular support of **P**'s spouse or partner because that spouse or partner— 25

	(i) is subject to a sentence of imprisonment and is serving the sentence in a prison or is subject to release conditions that prevent that spouse or partner from undertaking employment; or	
	(ii) is subject to a sentence of supervision, intensive supervision, or home detention and is subject to conditions (including post-detention conditions of a sentence of home detention) that prevent that spouse or partner from undertaking employment.	5
<b>5</b>	<b>Section 121 amended (Persons subject to work-preparation obligations)</b> Repeal section 121(b).	
<b>6</b>	<b>Section 183 amended (What this Part does)</b> Repeal section 183(2)(r).	10
<b>7</b>	<b>Sections 221 to 224 and cross-heading above section 221 repealed</b> Repeal sections 221 to 224 and the cross-heading above section 221.	
<b>8</b>	<b>Section 316 amended (Start and calculation of stand-down period)</b> In section 316(2)(d), replace “30(1)(e)” with “30(e)”.	15
<b>9</b>	<b>Schedule 2 amended</b> In the Schedule 2 heading, delete “222,”.	
<b>10</b>	<b>Schedule 4 amended</b> (1) In Schedule 4, Part 1, clause 6, replace “30(1)(e)” with “30(e)”.	
	(2) In Schedule 4, Part 2, clause 3, replace “30(1)(b) or (e)” with “30(b) or (e)”.	20
	<i>Amendments to Social Security Regulations 2018</i>	
<b>11</b>	<b>Amendments to Social Security Regulations 2018</b> <b>Sections 12 to 16</b> amend the Social Security Regulations 2018.	
<b>12</b>	<b>Regulation 72 amended (Guide to Part 3)</b> In regulation 72(b), replace “74” with “75”.	25
<b>13</b>	<b>Regulation 74 revoked (Deferral of work-test obligations of person with dependent child under age of 1 year)</b> Revoke regulation 74.	
<b>14</b>	<b>Regulation 79 amended (Procedure for deferral of work-test obligations)</b> (1) In regulation 79(2), delete “74,”.	30
	(2) In regulation 79(3), replace “74, 75, or 76” with “75 or 76”.	

**15 Regulation 80 amended (MSD may review, and extend, vary, or revoke, deferral of work-test obligations)**

In regulation 80(a), delete “74.”

**16 Regulation 179B amended (Exemptions from stand down: COVID-19 recovery)**

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In regulation 179B(2)(d), replace “30(1)(e)” with “30(e)”.

**Part 2**

**Transitional, savings, and related provisions**

**17 Schedule 1 of Social Security Act 2018 amended**

In Schedule 1 of the Social Security Act 2018, after Part 6, insert the Part 7 set out in the **Schedule** of this Act. 10



Schedule  
New Part 7 inserted into Schedule 1

s 17

<b>Part 7</b>	
<b>Provisions relating to Social Security (Subsequent Child Policy Removal) Amendment Act 2021</b>	
<b>86</b>	<b>Definitions for this Part</b>
	In this Part, unless the context otherwise requires,—
	<b>Amendment Act</b> means the <b>Social Security (Subsequent Child Policy Removal) Amendment Act 2021</b>
	<b>changeover</b> means the commencement, at the start of <b>8 November 2021</b> , of most of the Amendment Act
	<b>removal of the policy</b> means the changes to be made, or made, at the changeover, by the Amendment Act
	<b>transition period</b> means the 56-day period—
	(a) starting on <b>11 October 2021</b> ; and
	(b) ending with the close of <b>5 December 2021</b> .
<b>87</b>	<b>How MSD must decide transition period benefit application</b>
	<i>Transitional period benefit application</i>
(1)	This clause applies to an application—
	(a) for a benefit that commences on a date in the transition period; and
	(b) made in the transition period; and
	(c) made under section 297 of this Act.
	<i>How MSD must decide application</i>
(2)	MSD must decide the application in line with the removal of the policy.
	<i>Related provisions</i>
(3)	This clause applies—
	(a) despite the rest of this Act as in force before the changeover; and
	(b) whether MSD's decision is made before or after the changeover.
<b>88</b>	<b>How MSD must, after the changeover, treat existing affected caregiver</b>
	<i>Existing affected caregiver</i>
(1)	This clause applies to a person ( <b>P</b> ) if, immediately before the changeover, the additional dependent child rules in section 222(2) and (3)—

- (a) apply to P, in relation to any dependent child or children, under section 222(2) and (3); or
- (b) apply to P, in relation to any dependent child or children, under section 223; or
- (c) would apply to P, in relation to any dependent child or children, but for an election that is made by MSD under section 224 and is in force. 5
- How MSD must, after changeover, treat caregiver*
- (2) MSD must, after the changeover, treat P, in relation to the dependent child or children, in line with the removal of the policy. 10
- Transfer from jobseeker support to sole parent support*
- (3) In particular, P's jobseeker support expires, and is replaced with sole parent support in relation to the dependent child or children, on the changeover, if, immediately before the changeover, P—
- (a) receives jobseeker support; and
- (b) would be eligible for sole parent support, if section 222(2) did not apply to P, in relation to the dependent child or children. 15
- No transfer if eligible person wants to continue to receive jobseeker support*
- (4) However, P is not transferred to sole parent support in relation to the dependent child or children under **subclause (3)**, and so continues to receive jobseeker support, on the changeover, if P— 20
- (a) is, after the changeover, eligible to continue to receive jobseeker support; and
- (b) has notified MSD, before the changeover that, after the changeover, P wants, if eligible to do so, to continue to receive jobseeker support. 25
- Related provisions*
- (5) This clause applies—
- (a) despite the rest of this Act, and despite any applicable election made by MSD under section 224, as in force before the changeover; and
- (b) whether P is entitled to receive the benefit in P's own right or as the spouse or partner of the person granted the benefit; and 30
- (c) whether or not, immediately before the changeover, MSD has reviewed, is reviewing, or is to review, under subpart 3 of Part 6 of this Act, the benefit that P receives; and
- (d) without affecting whether or how those additional dependent child rules apply, or do not apply, to P, in relation to any dependent child or children, before the changeover. 35

- 89 How MSD must respond to transition period change of circumstances**
- Transitional period change of circumstances*
- (1) This clause applies to a change in a person's (P's) circumstances that—
- (a) affects, or may affect, all or any of the following:
    - (i) whether P, or P's spouse or partner, is entitled to receive a benefit: 5
    - (ii) what benefit P, or P's spouse or partner, is entitled to receive:
    - (iii) work-preparation obligations imposed on P, or on P's spouse or partner, under sections 120 to 125:
    - (iv) whether P, or P's spouse or partner, falls within the definitions of any of the following terms (*see* Schedule 2): 10
      - (A) part-time work-tested beneficiary:
      - (B) work-tested sole parent support beneficiary:
      - (C) work-tested spouse or partner; and
  - (b) occurs in the transition period; and
  - (c) is made known to MSD in the transition period, and by 1 or both of the following means: 15
    - (i) P, or P's spouse or partner, notifying the change under section 113 of this Act:
    - (ii) use of other information available to, or held by, MSD.
- How MSD must respond to change* 20
- (2) MSD must respond to the change in line with the removal of the policy.
- Related provisions*
- (3) This clause applies—
- (a) despite the rest of this Act as in force before the changeover; and
  - (b) whether P is entitled to receive the benefit in P's own right or as the spouse or partner of the person granted the benefit; and 25
  - (c) whether MSD's response occurs before or after the changeover; and
  - (d) whether MSD's response occurs in or apart from a review by MSD under subpart 3 of Part 6 of this Act.