

Legislative Statement

Social Security (Subsequent Child Policy Removal) Amendment Bill: Second Reading

21 September 2021

This legislative statement supports the second reading of the Social Security (Subsequent Child Policy Removal) Amendment Bill (the Bill). The Bill has been reported back from the Social Services and Community Committee. The Committee recommended by majority that the Bill be passed with four minor and technical amendments.¹

- The first would delete clause 16, which would have amended regulation 179B(2)(d) of the Social Security Regulations 2018. This clause is no longer needed because regulation 179B was a temporary measure as part of the COVID-19 recovery (relating to exemptions from stand-downs), and was revoked on 25 July 2021.
- The second would amend clause 17 to simplify and update the amending language that inserts a new Part 7 in Schedule 1 of the Act. The previous language *"In Schedule 1 of the Social Security Act 2018, after Part 6, insert the Part 7 set out in the Schedule of this Act"* will be replaced by *"In Schedule 1 of the Social Security Act 2018,—*
(a) insert the Part set out in the Schedule of this Act as the last Part; and
(b) make all necessary consequential amendments."
- The third would renumber clauses 86 to 89 as clauses 89 to 92 of new Part 7, which would be inserted into Schedule 1 of the Act. This would reflect the recent changes to the Act made by the Social Security (Financial Assistance for Caregivers) Amendment Act 2021.
- The fourth amendment would replace "transitional period" with the correct term, "transition period", in clauses 90 and 92 of new Part 7 in Schedule 1 of the Act.

These four amendments were recommended to the Committee by the Parliamentary Counsel Office as part of their continuous review and checking in order to improve the quality of the drafting of the Bill and to update the Bill in line with any subsequent relevant amendments that have occurred since the Bill was introduced.

Overview of the Bill

The Bill will amend the Social Security Act 2018 (the Act) and Social Security Regulations 2018 (the Regulations), to remove the subsequent child policy.

The Bill contains two parts:

- Part 1 will give effect to the removal of the subsequent child policy (the policy) from the Act and the Regulations. It comes into force on 8 November 2021.
- Part 2 sets out transitional provisions related to the removal of the policy. It comes into force on 11 October 2021, to allow for a 28-day transition period prior to the policy's removal. The transition period also extends 28 days after the policy is removed.

The Bill also includes a schedule, which outlines specific details relating to how parts 1 and 2 are applied.

¹ The Social Services and Community Committee's recommendation can be accessed here: https://www.parliament.nz/resource/en-NZ/SCR_115584/7daa54ef11049e3b9f6de7860927cfaebf6668fb.

Part 1: Substantive and consequential amendments to the legislation

A client's eligibility for Sole Parent Support and work or work preparation obligations are generally based on the age of their youngest dependent child. Under the current policy, when a client has a 'subsequent' child while receiving a main benefit, that child's age is only considered for the purposes of benefit entitlement and work or work preparation obligations until they reach the age of one. Work or work preparation obligations and eligibility for Sole Parent Support are then generally based upon the age of a parent's youngest non-subsequent child.²

As such, the policy currently impacts eligibility for Sole Parent Support, and places obligations on parents to search for and move into work earlier if they have an additional child while receiving a main benefit.

The policy's removal will mean that the youngest dependent child is always the basis for establishing eligibility for Sole Parent Support, and is always considered when setting work or work preparation obligations.

Part 1 of the Bill gives effect to the removal of the policy from the Act and the Regulations. It will make substantive and consequential amendments to the Act and the Regulations, to remove provisions related to the policy, and to make related consequential amendments.

All of the necessary changes, including to the Regulations, are included in the Bill. The Bill fits with the principle that the law should be publicly available and capable of being ascertained before it comes into force.

Part 2: Transitional, savings, and related provisions

The policy's removal will result in a change in benefit type and/or work or work preparation obligations for some affected parents. Some clients may have an application in progress or change in circumstances around the time of the policy's removal, which would result in multiple changes to their entitlement (benefit type and/or work or work preparation obligations) in a short period of time when the policy is removed.

Clients receive communications from MSD every time their entitlement changes. Multiple changes of entitlement in a short period of time would result in a number of communications from MSD. This is ultimately confusing and would have a negative impact on the client experience.

Without transitional provisions, MSD would be required to apply the current policy until it is removed on 8 November 2021 (except under limited circumstances). In order to prevent multiple changes to clients' entitlement in a short period, the transition period requires MSD to respond to new benefit applications or to a client's change in circumstances, in line with the removal of the policy.

These provisions will improve the client experience by reducing complexity for affected clients and ensuring that the treatment of client scenarios in the transition period aligns with the policy intent of the initiative.

The transition period begins 28 days before the policy's removal, and extends 28 days after the policy change (56 days total). New applications for benefit, a client's benefit commencement date, and the date of MSD's decision (or corresponding dates for a change in circumstances) may occur over a number of weeks before or after the policy's removal. The length of the transition period is intended to ensure equitable treatment of clients in similar circumstances and ensure a streamlined process for clients.

² Note work or work preparation obligations change based on the age of the client's youngest (non-subsequent) dependent child:

- work preparation obligations if the child is aged under three years
- part-time work obligations if the child is aged three and above, up to fourteen years
- full-time work obligations if the child is aged fourteen years and over.