

KiwiSaver (Foster Parents Opting in for Children in their Care) Amendment Bill

Member's Bill

Explanatory note

General policy statement

The proposed Member's Bill will make it possible for any foster parent (or kin carer) who has proof of their foster responsibility to approach a KiwiSaver provider to open an account for a foster child in their care. There are KiwiSaver providers who do not charge fees for a KiwiSaver account that has a nil balance, so no costs will be borne until there are funds in the account. Simplicity KiwiSaver, the not-for-profit KiwiSaver scheme, has offered not to charge for the accounts of foster children until there is a significant sum in the account.

Currently the only way for a foster parent or kin carer to open a KiwiSaver account is by application to their allocated social worker and experience has proven that this is a very low priority for social workers, as they have other more urgent tasks to address. The CEO of MSD currently has the power to open a KiwiSaver account for a child who has contested or no legal guardians but this relies on complex processes to take place within a bureaucratic framework where the CEO's priorities are in urgent demand in other areas.

The prerequisites for opening a KiwiSaver account are a birth certificate and an IRD number. Authority could be granted to foster parents and kin carers to access these through the Court ordered care plan which outlines the obligations of the foster parents. The care plan could give foster parents or kin carers the authority to obtain an IRD number and the authority to obtain a birth certificate for the purposes of opening a KiwiSaver account. An alternative would be an agency such as VOYCE or the Deputy CEO of Care Services at Oranga Tamariki being authorised to apply for these two documents on application by the foster parent.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the KiwiSaver Act 2006.

Clause 4 amends section 35 of the KiwiSaver Act 2006 to allow a foster parent or kin carer to opt in to KiwiSaver on behalf of a foster child in their care.

Hamish Walker

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the KiwiSaver (Foster Parents Opting in for Children in their Care) Amendment Act **2018**.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the KiwiSaver Act 2006.

4 Section 35 amended (Opting in by persons under 18)

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After section 35(4), insert:

(4A) A person who is 16 or 17 years old and in foster care may opt in if the person and 1 of their foster parents or kin carers jointly contract directly with a provider, in the name of the person. If the provider accepts the person, then the person is treated as—

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- (a) contracting directly with the provider; and
 - (b) 18 years for the purposes of subpart 6 of Part 2 of the Contract and Commercial Law Act 2017; and
 - (c) opting in under section 34(1)(a).
- (4B) A person who is less than 16 years and in foster care may opt in if 1 of the person's foster parents or kin carers (independently from the person, and from any CYPFA guardians, guardians, or both, of the person) contracts directly with a provider, in the name of the person. If the provider accepts the person, then the person is treated as—
- (a) contracting directly with the provider; and
 - (b) 18 years for the purposes of subpart 6 of Part 2 of the Contract and Commercial Law Act 2017; and
 - (c) opting in under section 34(1)(a).