

Social Security (Subsequent Child Policy Removal) Amendment Bill

Government Bill

As reported from the Social Services and Community Committee

Commentary

Recommendation

The Social Services and Community Committee has examined the Social Security (Subsequent Child Policy Removal) Amendment Bill and recommends by majority that it be passed with the amendments shown.

About the bill as introduced

The bill would amend the Social Security Act 2018 and the Social Security Regulations 2018 to remove the subsequent child policy.

About the subsequent child policy

The subsequent child policy affects the timing of the work or work-preparation obligations that recipients of a work-tested benefit with dependent children need to satisfy.¹ For sole parents and partners of main beneficiaries, obligations to work or prepare for work are generally based on the age of their youngest dependent child. These obligations are as follows:

- Full-time work obligations (at least 30 hours per week) apply when the youngest dependent child is aged 14 years or older.
- Part-time work obligations (at least 20 hours per week) apply when the youngest dependent child is aged between 3 and 13 years.

¹ Work-tested benefits include sole parent support, the supported living payment, jobseeker support, or an equivalent emergency benefit.

- Work-preparation obligations apply when the youngest dependent child is aged under three years.²

The subsequent child policy was introduced in 2012 to address concerns about long-term welfare dependency. The specific concern was that having an additional child while receiving a main benefit (referred to in the policy as a subsequent child) means that the carer will be out of the labour market for longer, and therefore at increased risk of needing to receive welfare for an extended period.

Under the policy, from a subsequent child's first birthday, work or work-preparation obligations for sole parents or partners of main beneficiaries are based on the next youngest (non-subsequent) child.³ Therefore, in some instances, a parent or caregiver is required to look for or enter work once their youngest child turns one year old, or they risk losing some of their benefit income due to sanctions if they do not meet their obligations.

The policy also affects eligibility for sole parent support. Currently, a subsequent child is taken into account until age one. After their first birthday, eligibility is based on the next youngest, non-subsequent child (if that child is under age 14). If the next child is 14 years or older, a person will not be eligible for sole parent support, and instead may be eligible for jobseeker support.⁴

The bill would remove the subsequent child policy

The bill proposes to remove the policy. There would no longer be the category of subsequent child (referred to in the Act as "additional dependent child"). This means that a child who would have previously been considered a subsequent child would be treated in the same way as a non-subsequent child. The effect of this would be that if a person on a main benefit has a child, work-preparation obligations for them or their partner would apply until that child is three. After that, part-time and full-time work obligations would apply, in line with the general work and work-preparation obligations listed above.

Removing the policy would also mean that, when determining eligibility for sole parent support, subsequent children would be taken into account until age 14. (Currently, they are only taken into account until their first birthday.) Some sole parents currently receiving jobseeker support would also become eligible to transfer to sole parent support. This may mean that they would be eligible for additional financial

² Work-preparation obligations can include undertaking planning for employment and attending an interview with a Ministry of Social Development employee.

³ In limited circumstances, the Ministry of Social Development has discretion to not apply the policy (under section 224 of the Act).

⁴ When the youngest dependent child of a recipient of sole parent support turns 14, they are transferred from sole parent support to jobseeker support. However, their rate of benefit will remain the same.

incentives that are available when receiving sole parent support, such as the Work Bonus.

Transitional provisions

The bill includes transitional provisions related to the removal of the policy. The bill would come into force on 11 October 2021. This would allow a 28-day transition period prior to the policy's removal on 8 November 2021, as well as a 28-day period after its removal. This is to ensure that the policy would not be applied to people who had an application in progress, or a relevant change in circumstances, immediately before or after the law change. This would reduce complexity and ensure fairness in the treatment of different cases.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

We recommend making four minor and technical amendments to the bill:

- The first would delete clause 16, which would amend regulation 179B(2)(d) of the Social Security Regulations 2018. This clause is no longer needed because regulation 179B 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 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.

Submitters generally supported the bill

The majority of submitters (81 percent) supported the bill. They gave several reasons for supporting the policy's removal. Those most commonly cited are listed below:

- They considered the policy harmful to children's development. This is because the policy does not prioritise the first 1,000 days of a child's life, which are vital to a child's physical and emotional development, and their attachment with parents or caregivers.
- They said that the policy does not reflect parents' caring responsibilities. Because the policy decreases the scope for parents to stay at home with a subsequent child, they feel it devalues the role of parenting as unpaid work.

- They said that the policy has a negative effect on the mental health and wellbeing of parents, caregivers, and children.
- They believed that the policy disproportionately affects Māori and women. The Ministry of Social Development told us that about 56 percent of those affected by the policy are Māori, and 86 percent are women.
- They said that the policy creates inequities in the welfare system. This is because the policy implies that subsequent children need less parenting time and care than their older siblings.
- They told us that the policy adds complexity to the welfare system. Some submitters told us that removing the policy would simplify the welfare system by ensuring that the eligibility for sole parent support and the setting of work or work-preparation obligations is based on the youngest child in all cases.

Submissions opposing the bill

A minority of submissions (13 percent) opposed the bill.⁵ Some submitters told us that the bill would lead to an increase in child poverty due to parents and caregivers being on a benefit for longer without expectations to look for or take up work. Other submitters told us that if the policy is removed, more children would be born into poverty.

Analysis by the Ministry of Social Development showed no strong evidence to suggest that the policy has reduced the time people are on a benefit, or improved financial and social outcomes. It compared the amount that two groups of sole parents received in benefits over a period of time.⁶ One group were parents affected by the policy and the other were under general work-preparation obligations. The analysis suggests that removing the policy is not expected to affect what an individual is paid in benefit over a period of time. The analysis also suggests that the policy has not increased the number of parents returning to work; nor has it affected how soon they return to work, irrespective of what work obligations they have.

The ministry told us that there is no evidence to suggest that removing the policy would have a negative effect on the employment outcomes of parents and caregivers affected by the policy. Therefore, we do not recommend any substantive amendments to the bill.

⁵ A further six percent of submissions took no position on the bill or were out of scope.

⁶ These groups had sole parents with a youngest child aged between 12 months and 35 months.

Submissions about the wider welfare system overhaul are out of scope

Some submissions we received made broader comments about the Government's work to overhaul the welfare system and the recent report by the Welfare Expert Advisory Group (WEAG).⁷ These submissions supported the bill, saying it would be a small step forward in addressing the WEAG's recommendations. (Removing the policy was set out as one aspect of recommendation 11 in the WEAG's report.) Generally, these submitters wanted the welfare overhaul to progress faster.

We note that the scope of the bill is very narrow as it removes the subsequent child policy and manages the transition period. For this reason, we consider that broad issues raised by submitters about the welfare overhaul are not within the bill's scope. Therefore, we have not proposed any amendments that address these wider issues. We look forward to following the Government's progress on addressing the WEAG's recommendations.

National Party differing view

National Party members support the retention of the subsequent child policy and therefore do not support this bill.

The National-led Government introduced the subsequent child policy and members remain concerned about long-term benefit dependency and the impact that this has on children.

ACT New Zealand differing view

The ACT Party opposes this bill as we believe, in a time when child poverty and hardship has been in the spotlight as a major issue in this country, removing policies that were put in place to help tackle this seems to go against what we as a Parliament are trying to achieve.

⁷ The WEAG was established by the Government in 2018 to provide advice on the future of New Zealand's social security system.

Appendix

Committee process

The Social Security (Subsequent Child Policy Removal) Amendment Bill was referred to the committee on 6 April 2021. We invited the Minister for Social Development and Employment to provide an initial briefing on the bill. She did so on 2 June 2021.

The closing date for submissions on the bill was 19 May 2021. We received and considered 31 submissions from interested groups and individuals. We heard oral evidence from 11 submitters.

We received advice on the bill from the Ministry of Social Development. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Angie Warren-Clark (Chairperson)

Glen Bennett

Karen Chhour

Dr Emily Henderson

Anahila Kanongata'a-Suisuiki

Ricardo Menéndez March

Terisa Ngobi

Maureen Pugh

Hon Louise Upston

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Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Carmel Sepuloni

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17	Schedule 1 of Social Security Act 2018 amended	4
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	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
	<i>Transitional provisions</i>	
(1)	Section 17 comes into force on 11 October 2021 .	
	<i>Other provisions</i>	
(2)	The rest of this Act comes into force on 8 November 2021 .	
	Part 1	10
	Substantive and consequential amendments	
	<i>Amendments to Social Security Act 2018</i>	
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
5	Section 121 amended (Persons subject to work-preparation obligations) Repeal section 121(b).	
6	Section 183 amended (What this Part does) Repeal section 183(2)(r).	10
7	Sections 221 to 224 and cross-heading above section 221 repealed Repeal sections 221 to 224 and the cross-heading above section 221.	
8	Section 316 amended (Start and calculation of stand-down period) In section 316(2)(d), replace “30(1)(e)” with “30(e)”.	15
9	Schedule 2 amended In the Schedule 2 heading, delete “222,”.	
10	Schedule 4 amended (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>	
11	Amendments to Social Security Regulations 2018 Sections 12 to 16 amend the Social Security Regulations 2018.	
12	Regulation 72 amended (Guide to Part 3) In regulation 72(b), replace “74” with “75”.	25
13	Regulation 74 revoked (Deferral of work-test obligations of person with dependent child under age of 1 year) Revoke regulation 74.	
14	Regulation 79 amended (Procedure for deferral of work-test obligations) (1) In regulation 79(2), delete “74,”.	30
	(2) In regulation 79(3), replace “74, 75, or 76” with “75 or 76”.	

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Part 1 cl 15

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)~~

5

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

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.

Schedule
New Part 7 inserted into Schedule 1

s 17

Part 7	
Provisions relating to Social Security (Subsequent Child Policy Removal) Amendment Act 2021	5
8689 Definitions for this Part	
In this Part, unless the context otherwise requires,—	
Amendment Act means the Social Security (Subsequent Child Policy Removal) Amendment Act 2021	10
changeover means the commencement, at the start of 8 November 2021 , of most of the Amendment Act	
removal of the policy means the changes to be made, or made, at the changeover, by the Amendment Act	
transition period means the 56-day period—	15
(a) starting on 11 October 2021 ; and	
(b) ending with the close of 5 December 2021 .	
8790 How MSD must decide transition period benefit application	
<i>Transitional period benefit application</i>	
(1) This clause applies to an application—	20
(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.	25
<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.	
8891 How MSD must, after the changeover, treat existing affected caregiver	30
<i>Existing affected caregiver</i>	
(1) This clause applies to a person (P) 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

8992 How MSD must respond to transition period change of circumstances

Transition~~al~~ 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.

Legislative history

24 March 2021
6 April 2021

Introduction (Bill 18–1)
First reading and referral to Social Services and Community
Committee