

Legislative statement: Child Support (Pass On) Acts Amendment Bill

This legislative statement is presented to the House of Representatives in accordance with Standing Order 272.

Overview

This legislative statement supports the first reading of the Child Support (Pass On) Acts Amendment Bill. The Bill was introduced on 27 March 2023.

The Bill is an omnibus Bill that amends the following Acts and associated regulations:

- Child Support Act 1991
- Child Support Rules 1992
- Family Court Rules 2002
- Social Security Act 2018
- Social Security Regulations 2018
- Public and Community Housing Management Act 1992
- Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018

Details of changes in the Bill

The Bill seeks to align how child support is treated for beneficiaries receiving a sole parent rate of main benefit and other beneficiaries.

Beneficiaries receiving a sole parent rate of main benefit will no longer be required to apply to Inland Revenue for formula assessed child support. Child support payments made to these beneficiaries for periods on and after 1 July 2023 will be passed on to them. These changes do not apply to Unsupported Child's Benefit recipients.

Beneficiaries receiving child support payments via Inland Revenue will have those payments treated as income when determining entitlement to a benefit or other assistance. The Bill introduces new child support income-charging rules relating to periods on or after 1 July 2023.

Under the new rules, a monthly child support payment will be treated as income proportionally over the next four or five weeks for benefit purposes. This will be automated. This is different from the general income rules in the Social Security Act 2018. Those rules give MSD discretion to determine the period over which the income is considered for benefits and other assistance including for past periods. The new rules ensure entitlement to benefits or other assistance is assessed based on the current financial resources available to the receiving carer, and is consistent with the number of weeks that the child support payments are intended to support the child.

Child support liability to be an allowable cost for Temporary Additional Support and Special Benefit

This Bill proposes that formula assessed child support liability be treated as an allowable cost for Temporary Additional Support and Special Benefit.

The Bill also proposes that any existing clients receiving Temporary Additional Support on 1 July 2023 will be able to have these costs backdated for up to 13 weeks (to the later of 1 July 2023 or the date they were assessed to be liable to pay child support).

Treatment of child support as income will be automated which will be supported by the Approved Information Sharing Agreement between the two agencies

Child support payment information relating to periods on and after 1 July 2023 will be shared by Inland Revenue with MSD and matched with MSD clients (recipients of relevant benefits or other assistance). Using this information, MSD will automate the treatment of child support payments as income when determining the amount of benefit or other assistance payable under the Social Security Act 2018.

Information sharing between Inland Revenue and MSD will occur under the Approved Information Sharing Agreement between those agencies.

This will reduce the need for clients with child support arrangements administered by Inland Revenue to declare the child support payments they receive as income and reduce the compliance burden for clients and improve the consistency and accuracy of income charging.

MSD's ability to review child support income in a past benefit period limited to specific circumstances

The Bill proposes to limit MSD's power to review a past benefit period in relation to child support income to specified circumstances such as errors with the payment information. This ensures child support payments are almost always spread forward, which reduces the likelihood of debt and that child support payments are treated as income in a way that best reflects money that the beneficiary has available.

The Bill also ensures that MSD cannot recover benefit debt resulting from issues with the information sharing and subsequent income charging.

Regulation making powers

The Social Security Act 2018 includes provisions empowering the making of regulations (the Social Security Regulations 2018). The Bill amends some existing regulations to align them with the policy intent of proposals in the Bill. It also proposed new regulation making powers to:

- define additional grounds for reviewing a person's child support payment calculated under the new income rules which has led to an incorrect income charge;
- define additional scenarios where child support should be income according to the general income charging rules; and
- prescribe transitional and/or savings provisions to ensure a workable transition to the amendments made by this Bill.

Changes to Public and Community Housing Management Act 1992

The Bill also aligns the treatment of child support payments between the Public and Community Housing Management Act 1992 (and associated regulations) and the Social Security Act 2018.

Other related changes

The Bill also proposes changes to assist with the administration of the child support pass-on – such as, how the proposals apply for benefit stand downs, cash asset tests and the deprivation of income rules.