

**House of Representatives**

**Supplementary Order Paper**

**Tuesday, 11 October 2016**

**Social Security Legislation Rewrite Bill**

*Proposed amendments*

Carmel Sepuloni, in Committee, to move the following amendments:

*Clause 4*

Replace *clause 4(a) to (e)* (page 27, lines 25 to 36) with:

- (a) all people who require support under this Act should have their dignity and rights upheld:
- (b) continued participation in society offers the best opportunity for individual and society-wide prosperity:
- (c) primary consideration is to be given to the welfare and best interests of any child or children who may be directly or indirectly affected by the exercise of that duty or function:
- (d) people for whom work is not appropriate should be supported in accordance with this Act:
- (e) people of working age, and for whom work is appropriate, should be supported towards employment through the creation of opportunities, including job-hunting assistance and further education:
- (f) the Act must be administered in such a way as to ensure that individuals entitled to support under this Act receive all assistance to which they are entitled:
- (g) to help achieve the best possible outcomes for all, MSD must identify appropriate assistance, support, and services, under this Act, for all people:
- (h) reduction and relief of poverty is the major role of social security.

*New clause 4A*

After *clause 4* (page 27, after line 37) insert:

**4A Families Commissioner and Children’s Commissioner to monitor and report**

- (1) The Families Commissioner and the Children’s Commissioner must report in writing to the Minister on the extent to which principles outlined in **section 4** are being achieved through the administration of the Act.
- (2) A report under **subsection (1)** must be presented to the Minister no later than **1 July 2019** and by 1 July in each subsequent year.
- (3) Reports presented in accordance with **subsection (2)** must be published on MSD’s website within 7 days of presentation to the Minister.

*Clause 26*

In *clause 26(c)*, delete “became unemployed or” (page 41, line 4).

*Clause 30*

In *clause 30(1)(e)*, replace “employment.” (page 42, line 26), “with employment; or”

After *clause 30(1)(e)* (page 42, after line 26), insert:

- (f) P is in a shared care arrangement where each parent of a dependent child who live apart has the primary responsibility for the care of the child for at least 40% of the time.

Delete *clause 30(2)* (page 42, lines 27 and 28).

*Clause 34*

Replace *clause 34(1)* (page 44, lines 12 to 15) with:

- (1) A person (**P**) has restricted work capacity if P—
  - (a) is permanently and severely restricted in P’s capacity for work because of—
    - (i) a health condition; or
    - (ii) injury or disability arising (in either case) from an accident or existing from birth; or
  - (b) has a certificate lodged with the chief executive by a prescribed health practitioner stating that P is unable to work for the period of treatment and the period of treatment is less than the minimum period prescribed under **subsection (2)(a)**, and meets the requirement specified in **subsection (3)**.

After *clause 34(3)* (page 44, after line 22), insert:

- (4) A person who is eligible for a supported living payment on the basis of a certificate referred to in **subsection (1)(b)** is entitled to a supported living payment for the period of treatment stated in the certificate.
- (5) A prescribed health practitioner lodging a certificate under **subsection (1)(b)** on behalf of a person must lodge the certificate promptly with the chief executive after the person has authorised its being lodged.
- (6) When the period of treatment specified by a prescribed health practitioner in the certificate lodged under **subsection (5)** has ended, the period may be extended by the prescribed health practitioner lodging a further certificate.

*Clause 59*

Delete *clause 59(5)* (page 53, lines 32 to 37).

*Clause 60*

In the heading to *clause 60*, after “grant during epidemic” (page 54, line 1), insert “or civil emergency”.

In *clause 60(1)*, replace “and for any period after it” (page 54, line 3), with “or an emergency is declared, and for any period after the notice or emergency”.

*Clause 107*

Delete *clause 107(b)* (page 75, lines 18 to 21).

Delete *clause 107(g)* (page 76, lines 1 to 3).

*Clause 117*

In *clause 117(2)*, delete “(as defined in regulations made under **section 409**)” (page 79, lines 2 and 3).

*Clause 118*

In *clause 118(1)(b)*, delete “(as defined in regulations made under **section 409**)” (page 79, lines 13 and 14).

*Clause 119*

In *clause 119(1)*, delete “(as defined by regulations made under **section 409**)” (page 79, line 25).

*Clause 123*

Replace *clause 123(1)* (page 80, lines 22 to 26), with:

- (1) Regulations made under **section 409** may prescribe, for the purposes of **sections 117 to 120**, the meaning of approved early childhood education programme.

*Clause 126*

Delete *clause 126(1)(g)* (page 82, lines 1 to 3).

*Clause 131*

In *clause 131*, definition of **suitable employment**, after “to satisfy the work test for P” (page 83, line 35), insert “(considering the person’s individual circumstances and whether the offer of employment is on terms and conditions no less favourable than those usually offered for the type of work in the region)”.

*Clause 154*

In *clause 154* delete the definition of **core check** (page 98, lines 12 to 15).

*Clause 170*

In *clause 170(c)*, replace “effect.” (page 107, line 6), with “effect; and”.

After *clause 170(c)* (page 107, after line 6), insert:

- (d) the person’s full entitlements and all assistance that is available to them.

*Cross-heading above clause 176*

Delete the cross-heading above *clause 176* (page 110, line 9).

*Clauses 176 to 178*

Delete *clauses 176 to 178* (page 110, line 10 to page 111, line 31).

*Cross heading above clause 179*

Delete the cross-heading above *clause 179* (page 111, line 32).

*Clauses 179 and 180*

Delete *clauses 179 and 180* (page 111, line 33 to page 112, line 32).

*Cross-heading above clause 204*

Delete the cross-heading above *clause 204* (page 122, line 15).

*Clauses 204 to 207*

Delete *clauses 204 to 207* (page 122, line 16 to page 124, line 9).

*Clause 296*

In *clause 296(2)(d)*, replace “**section 30(1)(e)**” (page 165, lines 15 and 16) with “**section 30(e)**”.

*Clause 332*

After *clause 332(c)* (page 180, after line 15), insert as *subclause (2)*:

- (2) Before initiating the recovery of any debt, MSD must provide a breakdown of the evidence of that debt to the client owing the debt.

*Clause 397*

Delete heading above *clause 397(1)(h)* (page 217, line 24).

Delete *clause 397(1)(h)* (page 217, lines 25 and 26).

*Clause 409*

In *clause 409(1)(a)* replace “terms” (page 224, line 36) with “term”, and delete “, core check, and registered school,” (page 224, line 37).

*Clause 428*

After *clause 428(2)* (page 242, after line 34), insert:

- (2A) Regulations made under **subsection (1)** must take into account any reading disabilities or language barriers that may affect people to whom the regulations apply.

*Schedule 2*

In *Schedule 2*, replace the definition of **core check** (page 317, lines 28 to 31) with:

**core check** means a check of a child’s health and well-being that is—

- (a) done under, and identified in contract or funding arrangements as an essential part of, the programme in question; and  
(b) funded, directly or indirectly, through Vote Health

In *Schedule 2*, definition of **Income Test 1**, *paragraph (a)*, replace “\$100” (page 324, line 21), with “\$150”, and replace “\$200” (page 324, line 21), with “\$250”.

In *Schedule 2*, definition of **Income Test 2**, *paragraph (a)*, replace “\$100” (page 324, line 26), with “\$150”, and replace “\$200” (page 324, line 26), with “\$250”.

In *Schedule 2*, definition of **Income Test 2**, *paragraph (b)*, replace “\$200” (page 324, line 28), with “\$250”.

In *Schedule 2*, replace the definition of **Income Test 3** (page 324, lines 29 to 35), with:

**Income Test 3** means that the applicable rate of benefit is reduced by 70 cents for every \$1 of the total income of the beneficiary and his or her spouse or partner that is more than \$150 a week

In *Schedule 2*, definition of **Income Test 4**, replace “\$80” (page 324, line 38), with “\$150”.

In *Schedule 2*, definition of **part-time work-tested beneficiary**, in *paragraph (b)*, (page 329, line 3) delete “; or” and delete *paragraph (c)* (page 329, lines 4 to 6).

In *Schedule 2*, replace the definition of **registered school** (page 330, lines 29 to 30), with:

**registered school** means a school that is a State school, a partnership school kura hourua, or a school registered under section 35A of the Education Act 1989

In *Schedule 2*, definition of **suitable employment**, *paragraph (a)*, after “to satisfy the work test for that person” (page 334, line 9), insert “(considering the person’s individual circumstances and whether the offer of employment is on terms and conditions no less favourable than those usually offered for the type of work in the region)”.

In *Schedule 2*, after the definition of **third failure** (page 334, after line 23), insert:

**treatment**, in relation to a person, includes the following:

- (a) rehabilitation:
- (b) examination:
- (c) assessment:
- (d) reassessment

In *Schedule 2*, delete the definition of **violence** (page 334, line 31).

In *Schedule 2*, definition of **work-tested beneficiary**, delete *paragraph (c)* (page 336, lines 1 and 2).

In *Schedule 2*, definition of **work-tested benefit**, delete *paragraph (a)(ii)* (page 336, lines 11 to 13).

#### *Schedule 4*

In *Schedule 4, Part 1*, delete *item 1(b)* (page 351).

In *Schedule 4, Part 2*, delete *clause 2(a)* (page 353, lines 8 and 9).

In *Schedule 4, Part 2, clause 2(b)* (page 354, line 3), delete “in any other case,”.

#### *Schedule 10*

In *Schedule 10, Part 1*, in the item relating to the Child Support Act 1991 (1991 No 142), delete *the item* relating to section 9(6) and (6B), and the *2 items* relating to section 9(7) (page 387, lines 1 to 7).

## Explanatory note

This Supplementary Order Paper amends the Social Security Legislation Rewrite Bill (the **rewrite**) which is to replace the Social Security Act 1964. This Bill was introduced on the basis that it was a policy neutral rewrite; however there are significant changes which have been proposed that do not adhere to this policy neutral mandate. Therefore, this provides the opportunity for other amendments to be considered. The changes proposed in this Supplementary Order Paper take into account advice from submitters, and are aimed at ensuring a better, fairer welfare system.

*Clause 4* Feedback from relevant organisations both in prior meetings, and through written and oral submissions continually argued for the overhaul of all of the principles of the Act. There was in particular strong criticism of the principal in *clause*

*4(e)* which was added in the rewrite, in addition to the overall work-focused nature of the principles. This Supplementary Order Paper updates the rewrite so it aligns with the rights of all citizens and incorporates equally those who aspire to work but are physically or mentally unable to, either temporarily or permanently.

*New clause 4A* Currently there is no extensive information on the overall operation of the Act. Anecdotal evidence suggests that children may be negatively affected by the current work-focus of welfare and harsh use of sanctioning. Therefore in order to ensure the principles of the Act are adhered to, more robust and extensive data collection is required.

*Clause 26* Penalising individuals who choose to pursue further employment-related training does not appear to support the pursuance of better outcomes for beneficiaries. This Supplementary Order Paper allows individuals to work toward improving their circumstances and job prospects through work-related training.

*Clause 30* In the rewrite, both parents in split custody care situations can receive Sole Parent Support, yet those in shared parenting arrangements cannot. This provision could place parents under financial pressure to separate children as this would be financially advantageous to the family. Therefore allowing both split and shared custody arrangements to qualify for Sole Parent Support would prevent unnecessary family break-ups. The parents in both situations would have the same work obligations to adhere to.

*Clause 34* Figures released by MSD from December 2015 showed that 55,257 working-age individuals were receiving the Job Seeker Support with a health condition or disability deferral. Anecdotal evidence indicates that the Job Seeker Benefit is an inappropriate means of financial support for those with illness or injury due to the accompanying administrative requirements and obligations. This Supplementary Order Paper proposes to extend the eligibility criteria of the Supported Living Payment to ensure those unable to work are provided with proper support during a time of illness or injury.

*Clause 59* This Supplementary Order Paper seeks to remove the working obligations placed on those entitled to the Exceptional Circumstances Benefit as proposed in the rewrite. The application of obligations and sanctions is inappropriate as emergency or exceptional circumstances are by definition unexpected and urgent. On top of this, the primary demographics of this financial assistance are people over 65 years old.

*Clause 60* This proposed extension of the exceptional circumstances benefit to also include civil emergencies would enable citizens to be better equipped and under less immediate financial pressure during and after a state of emergency. Having this in the Bill would also ensure that legislative changes do not have to be made urgently in the event of a civil emergency.

*Clause 107* Currently the rewrite continues to enforce differential work obligations for a parent that has an additional child while receiving a working-age benefit. Whilst with other children, a parent is not expected to take up part-time employment until the youngest child is 3 years old, if any additional child is born while on the benefit, work obligations for that parent come into effect when that child turns 1. This enforces a

problematic undervaluing of the vital role of parenting in society and prevents the same parental bonding that was available to the older children to be given to the younger child. This Supplementary Order Paper seeks to amend this policy.

*Clause 117* Concerns were raised during submissions about terms not being defined in the Bill. Regulations are not given the same public scrutiny and transparency. Defining key terms is therefore too important to leave out of the Bill. The key terms that have been defined are: core check, as defined in the rewrite itself, and registered school, based on the Education Act 1989.

*Clause 131* The New Zealand Council of Trade Unions raised concerns that the current test of suitable employment is not in accordance with International Labour Organisation Convention 44, which holds that industry and local standards for terms and conditions of employment must be taken into account in deciding whether employment is suitable. Given the changing nature of work, and the rise of precarious and insecure employment, there needs to be a legal change in order to offer protection to beneficiaries, and promote quality long-term employment.

*Clause 170* Concerns have been raised during submissions, and anecdotally from constituents, that individuals who are either applying to go on the benefit or are already on it are not being told what they are entitled to. As it stands, MSD must inform clients of obligations, consequences and requirements. Yet MSD is under no compulsion to provide the same level of information on entitlements. This Supplementary Order Paper aims to prevent the added difficulties for clients and reduce the likelihood of financial hardship.

*Clauses 176 to 178* In the rewrite, as in the original Act, a sole parent beneficiary who is unable or unwilling to identify the other parent of their child will have a \$22 to \$28 sanction imposed per week. This policy is currently affecting 17.7% of working age sole parent beneficiaries, and 17,000 children. The current laws are particularly concerning when there may be a fear of violence if the other parent is identified, or the child may be the result of rape or incest. This is a discriminatory law that fails to ensure child support, and instead negatively impacts on children in hardship.

*Clause 332* Anecdotal evidence suggests beneficiaries are being burdened with significant debt that they are ordered to repay, yet MSD is at times not giving information as to how this debt occurred, or is only doing so under duress, for example, when media are involved. This Supplementary Order Paper ensures clients are fully informed of their debt, which will also alert them on how to prevent building up a debt in future.

*Clause 428* Based on parliamentary written questions, a majority of Work and Income (WINZ) clients do not use electronic channels as the primary means of communication with benefit related matters. This is visible in the current use of MyMSD, with only 2.7% of total WINZ clients having logged in at least once. As well as logging fluctuating working hours, this contact is still primarily being done through person to person communication. This suggests WINZ clients may not have regular access to emails, or be comfortable using computers for this, or have other language barriers.



Therefore in order to ensure these clients continue to comply with WINZ regulations, it is important that they receive notifications in a way that is accessible for them.

*Schedule 2* This Supplementary Order Paper is based on a previous member's Bill from Carmel Sepuloni that was voted down in the first reading. These proposed changes are based on the importance of part-time work as an effective means of transitioning from unemployment into full-time employment. Labour wants to promote pathways into full employment for all of those supported by social security, where the persons are capable of being employed full-time. In order to do this, the disincentives to engage in part-time work need to be removed, by lifting the threshold of how much persons can earn before their benefit is reduced by abatement rates.

*Schedule 4* Currently benefit rates are inconsistent for younger clients. Currently there are lowered benefit levels for those under the age of 25. Turning 25 years old does not necessarily bring bigger financial burden for a person, than it would for a person 24 years old or younger. Therefore there is no discernible reason for these benefit levels to be different.