

In Confidence

Office of the Minister for Social Development and Employment
Cabinet Business Committee

Proposed amendment to the Social Workers Registration Legislation Amendment Bill

Proposal

- 1 I am seeking Cabinet approval to draft an Amendment Paper to amend the Social Workers Registration Legislation Amendment Bill (the Bill).
- 2 The Bill as currently drafted proposes a four-year delay to the repeal of the experience pathway for social worker registration. The proposed amendment to the Bill would shorten this repeal timeframe from four years to two years.

Relation to government priorities

- 3 The Bill will contribute to the Government’s commitment to investing in earlier and more effective interventions for our most disadvantaged citizens. Social workers play an important role in helping to achieve this by providing support to members of our society experiencing significant vulnerability.

Background

- 4 The Social Workers Registration Act 2003 (the Act) sets out occupational regulations for social workers to enhance the professionalism of social work and to ensure public safety through competency standards and accountability mechanisms.
- 5 Since 2021, the Act has required all social workers to register with the Social Workers Registration Board (SWRB). To be eligible for registration, applicants must have a qualification recognised by the SWRB (a prescribed qualification). Section 13 of the Act provides an alternative registration pathway for people with extensive practical experience but without a prescribed qualification (the experience pathway).
- 6 In 2017, the National-led government agreed to repeal the experience pathway, with the repeal coming into effect five years from the commencement of the Social Workers Registration Legislation Act 2019 [CAB-17-MIN-0234 refers]. Repealing the experience pathway removes the ability for people without a prescribed qualification but with extensive practical experience to apply to register as a social worker. The experience pathway is currently due to be repealed on 28 February 2024.
- 7 The decision to repeal the experience pathway was made to support professionalising social work by emphasising and standardising the workforce through academic qualification. A five-year delay for the repeal was recommended to enable the sector to transition to a mandatory registration environment. These decisions were underpinned by an assumption at the time that there would be sufficient supply to meet future demand for social workers.

Registration provides the basis for determining the safety of social workers to practise

- 8 Registration provides the basis for determining the safety of social workers to practise. To gain social worker registration, all applicants (whether they have a prescribed qualification or are using the experience pathway) are required to pass initial competency assessments and ‘fit and proper person’ tests. The accountability and oversight mechanisms that come with registration provide assurance that social workers are safe, competent, and professional in their practice.
- 9 Some parts of the public and social work sector may perceive that people with a prescribed qualification are safer and more competent than social workers who register through the experience pathway. However, there is currently no evidence that people registering through the experience pathway are less safe or competent than academically qualified social workers.

Changes to the social work environment mean that more time is needed to support the sector to transition to a mandatory qualification setting

- 10 There have been changes to the social work operating environment since decisions were made to repeal the experience pathway in 2017. These changes are set out below in paragraph 11.1 – 11.3. In particular, workforce shortages have increased significantly since the original decision to repeal the experience pathway.
- 11 These changes have highlighted the need for more time to support the sector to transition to a mandatory prescribed qualification environment. There are likely to be benefits to temporarily delaying the repeal of the experience pathway, including the following:
- 11.1 *Avoiding exacerbating workforce supply issues:* Social worker workforce shortages have continued to increase in recent years. These workforce shortages have been exacerbated by an increase in demand for social workers, due to the impacts of COVID-19 and Cyclone Gabrielle. There has also been a reduction in the pipeline of workforce entrants through the prescribed qualification pathway¹. The SWRB estimates that there are up to 700 unfilled social worker vacancies nationally, with an overall downward trend in the number of students enrolled across all years of social work qualifications². Closing off the experience pathway at a time of workforce shortages would mean closing off a potential pipeline of registered practitioners into the sector. An extension of the experience pathway would help avoid exacerbating workforce supply issues further.
- 11.2 *Incentivising unregistered practitioners to apply for registration under the experience pathway:* The recent pay correction for social workers³ has lifted the pay of social workers across the sector. It has also provided a financial

¹ There has been an overall downward trend in the number of students enrolled in social work degree programmes since 2015, as well as an increase in the number of students that start but do not finish their degree. There are also fewer social work degree graduates taking up social worker roles.

² As of May 2023

³ Extension of pay equity settlement

<https://www.publicservice.govt.nz/system/public-service-people/pay-gaps-and-pay-equity/extension-of-pay-equity/>

incentive for unregistered practitioners to register as social workers through the experience pathway. Registered practitioners would be eligible for a higher pay correction and financial support to maintain registration. This would increase the number of practitioners in the social sector that are captured by the SWRB's safety and accountability mechanisms and would have positive public safety benefits.

- 11.3 *Recognising the growing importance of a diverse social worker sector and a variety of approaches to social work registration and practice:* There is an increasing need to enhance the diversity of the social worker workforce to better reflect the communities it serves and provide culturally competent services. The experience pathway is a key avenue for Māori and Pacific peoples to enter the social work workforce. Recent changes to the SWRB's experience pathway registration processes are more inclusive of kaupapa Māori approaches and the number of Māori using the experience pathway has increased since 2020. Continuing the experience pathway will provide opportunities for diverse and experienced practitioners to enter the workforce while further work is undertaken to broaden entry pathways into social work, for example, by considering how to support more people to train as social workers.
- 12 There are over 300 social workers currently registered through the experience pathway. However, experience pathway practitioners only make up a small proportion of the total social work workforce (between 2 to 3 percent)⁴. The number of applicants for registration through the experience pathway is tracking higher in the financial year to date. This may be indicative of practitioners without prescribed qualifications taking the opportunity to apply for social worker registration before the experience pathway closes.
- 13 The experience pathway is only one temporary avenue for supporting the sector and further short- and long-term work is needed to address workforce supply issues. Other steps have already been taken to provide short-term support to address workforce supply issues. For example, changes have been made through the immigration system to add social workers to the immigration Green List. Practicum funding for social work courses has also been increased to support the delivery of social work degree-level education.

The sector is broadly supportive of a temporary delay of the repeal of the experience pathway

- 14 The social work sector is broadly supportive of a temporary delay to the repeal of the experience pathway as a short-term measure. Through the consultation process, key sector partners indicated that a temporary delay to the repeal of the experience pathway would leverage the extension of the recent pay correction for social workers and provide more time to ensure qualifications prescribed by the SWRB are accessible and culturally appropriate⁵.

⁴ Between 2019 and 2023 of the 4,423 people registered as social workers, 82 have been through the experience pathway.

⁵ The Ministry of Social Development has worked closely with the Social Worker Registration Board and consulted with key stakeholders to inform the proposed four-year delay of the experience pathway repeal.

- 15 Sector partners have emphasised the importance of the move to a professionalised workforce and the role of academic qualifications in supporting this. Therefore, they do not support a permanent extension of the experience pathway.

The Social Workers Registration Legislation Amendment Bill aims to delay the repeal of the experience pathway

- 16 The Bill aims to provide temporary support to the sector by delaying the repeal of the experience pathway. As currently drafted, the Bill would delay the repeal of the experience pathway by four years, from 28 February 2024 to 28 February 2028.
- 17 A four-year delay was originally proposed on the basis that it would allow time to consider ways to broaden entry into social work before the experience pathway closed. This four-year delay would also align with the SWRB's review of the Act, due in 2025, which is a key avenue for considering changes to social worker registration mechanisms, including future entry pathways to becoming a social worker.

The Social Services and Community Select Committee has reported back on the Bill

- 18 The Bill was introduced to the House on 13 April 2023 and was considered by the Social Services and Community Select Committee (the Committee) between May and August 2023. The Bill received 25 submissions, with 16 in support and five opposed. The majority of submissions were in support of the Bill, although some submitters who were in support also raised broader considerations relating to social worker registration.
- 19 Aotearoa New Zealand Association of Social Workers Te Rōpū Tauwhiro i Aotearoa and the Council for Social Work Education in Aotearoa New Zealand supported delaying the repeal of the experience pathway but recommended that the time period for the delay be shortened to two years. Some Committee members were supportive of this recommendation. However, other members, who did not support the delay, thought that enough time had passed for social work practitioners to register through the experience pathway.
- 20 The Committee reported back to the House on 16 August 2023. The Labour majority view of the Committee was that the Bill should be passed with a four-year delay of the repeal of the experience pathway. This was proposed on the basis that a four-year delay would provide time for alternative entry pathways to social work to be considered and for the benefits of the pay equity settlement to bed-in.

I propose that the period for the repeal of the experience pathway is shortened from four years to two years

- 21 I have considered several options related to the future of the Bill, including not progressing the Bill, progressing the Bill in its current state, or making amendments to the Bill. This has been informed by the feedback from the submissions to the Select

Officials also consulted with the social sector including Tangata Whenua Social Workers Association, Social Service Providers Aotearoa, Social Work Alliance, and Aotearoa New Zealand Association of Social Workers. Officials also consulted with government agencies with an interest in the social sector, including but not limited to Oranga Tamariki, the Tertiary Education Commission, and the Ministry of Education.

Committee and advice provided by officials, on the implications of a shortened two-year delay as opposed to a four-year delay of the repeal of the experience pathway.

- 22 The key benefit of a shorter timeframe is that it would help to facilitate a quicker transition to a mandatory qualification setting for social worker registration. This would maintain the emphasis on the importance of academic qualifications in professionalising social work as originally sought by the decision to repeal the experience pathway. A shorter timeframe would also encourage experienced practitioners to register as social workers quicker than a four-year delay.
- 23 The shorter delay would continue to meet many of the benefits provided by a four-year delay. These benefits include continuing to provide a short-term measure to address workforce supply issues, allow for the pay equity extension to bed-in, and provide time to undertake further work to broaden entry pathways into social work. However, a shorter timeframe does risk a reduction in the workforce supply benefits.
- 24 While any recommendations that come out of the SWRB's 2025 review of the Act (including consideration of broadening entry pathways to social work) would not be able to be progressed through a legislative process before the proposed repeal date of 28 February 2026, consideration can still be given to any changes to social worker registration settings within existing legislative parameters. Consideration of changes to social work entry pathways are currently being explored through other avenues such as work on an education and training framework for social workers and potential updates to the use of Recognition of Prior Learning as part of the prescribed qualification requirements for registration.
- 25 Workforce supply issues are an on-going challenge within the social sector and will require work across government and the sector to ensure New Zealand has a diverse and sustainable pipeline of entrants into social work. A shortened delay of the repeal of the experience pathway would ensure that immediate steps are taken to address the underlying causes of workforce supply issues, such as declining student enrolments, barriers to education and training, and workforce recruitment and retention strategies.
- 26 I consider that a two-year delay would balance the need to support the sector in the short-term to address workforce supply issues, while maintaining the emphasis on transitioning to a mandatory qualification setting as soon as possible.
- 27 Therefore, I propose that the Bill is amended via an Amendment Paper seeking to delay the repeal of the experience pathway by two years (to 28 February 2026), as opposed to four years as currently drafted. I am seeking Cabinet agreement to issue drafting instructions to the Parliamentary Counsel Office to amend the Bill.
- 28 Timing will need to be carefully managed to ensure the Bill is passed before the repeal takes effect on 28 February 2024. If the Bill does not pass before 28 February 2024, the experience pathway will be repealed from the statute book. People without a prescribed qualification will not be able to apply for registration through the experience pathway from 28 February 2024. Applications received before this date would still be eligible for consideration.

- 29 Due to the time critical nature of the Bill, and the simplicity of the amendment, I am also seeking delegated authority from Cabinet to approve and release the final Amendment Paper without further reference to Cabinet.

Cost-of-living Implications

- 30 No cost-of-living implications have been identified.

Financial Implications

- 31 No financial implications have been identified.

Legislative Implications

- 32 The Bill amends section 2(2) of the Social Workers Registration Legislation Amendment Act 2019 to delay the commencement date for the repeal of the experience pathway. As currently drafted, this repeal will come into force on 28 February 2028. The proposed amendment paper will bring forwards the repeal by two years to 28 February 2026.

Impact Analysis

Regulatory Impact Statement

- 33 The Treasury's Regulatory Impact Analysis team has determined that this proposal to provide for a two-year delay in the repeal of the experience pathway for social workers registration is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no, or only minor, impacts on businesses, individuals, and not-for-profit entities.

Climate Implications of Policy Assessment

- 34 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

- 35 Population implications for a two-year delay of the repeal of the experience pathway remain consistent with those identified while developing the original Bill. In particular, this delay will have positive impacts for those who use the experience pathway for registration and for recipients of social work services. This would, therefore, have positive impacts on Māori, Pacific peoples, children and youth, disabled people, ethnic communities, older people, and women.
- 36 A change in duration may limit the positive effects for some population groups. A shortened two-year delay will result in shorter timeframes for eligible social work practitioners to register as social workers. This could have a particular impact on Māori and Pacific peoples for whom the experience pathway is a key avenue to social worker registration. However, a shorter timeframe would also encourage an earlier uptake of social work education within these key population groups and help facilitate a quicker transition to a mandatory qualification setting for social worker registration.

- 37 This potential risk can be mitigated in part through various avenues such as, active and wider promotion of the extension of the experience pathway, dedicated supports and resources to navigate registration processes where necessary, increasing awareness of the pay equity settlement extension, and exploring avenues to broaden entry pathways into social work over the longer-term.

Compliance

- 38 The Social Workers Registration Legislation Amendment Bill complies with each of the following:
- 38.1 the principles of The Treaty of Waitangi;
 - 38.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 38.3 the principles and guidelines set out in the Privacy Act 2020;
 - 38.4 relevant international standards and obligations;
 - 38.5 the Legislation Guidelines (2021 edition) which are maintained by the Legislation Design and Advisory Committee;
 - 38.6 the disclosure statement requirements. The Ministry of Social Development will prepare a disclosure statement for the proposed Amendment Paper.

Consultation

- 39 The following agencies have been consulted on this paper: Te Arawhiti, Te Puni Kōkiri, Accident Compensation Corporation, Te Tari Taiwhenua Department of Internal Affairs, The Joint Venture for the Elimination of Family Violence and Sexual Violence – Te Puna Aonui, Whaikaha – Ministry of Disabled People, Ministry for Pacific Peoples, Ministry for Women, New Zealand Police, Oranga Tamariki, Manatū Hauora Ministry of Health, Te Kawa Mataaho Public Service Commission, Tertiary Education Council, Ministry of Education, Ministry for Ethnic Communities, Social Service Accreditation – Te Kāhui Kāhu, Office for Seniors. All agencies were supportive of the proposal.

Communications

- 40 The Social Worker Registration Board, which is a Crown entity responsible for the registration of social workers, will lead and manage all required communications with the social work sector.

Binding on the Crown

- 41 The principal Act that this Bill amends – the Social Workers Registration Legislation Act 2019 – is binding on the Crown.

Allocation of decision-making powers

- 42 Not applicable.

Associated regulations

43 Not applicable.

Other instruments

44 Not applicable.

Definition of Minister/department

45 Not applicable.

Commencement of legislation

46 The Bill will come into force on the day after the date on which it receives Royal Assent. As proposed, the repeal of section 13 (the experience pathway) of the Social Workers Registration Act 2003 would then come into force on 28 February 2026.

Parliamentary stages

47 The Bill has been considered by the Social Services and Community Committee and is awaiting its second reading. Following the second reading, the Bill will go before the Committee of the Whole House.

Proactive Release

48 I intend to proactively release and publish this paper after the Social Workers Registration Legislation Amendment Bill has been enacted.

Recommendations

I recommend that the Committee:

- 1 **note** that the Social Workers Registration Legislation Act 2019 is due to repeal the experience pathway on 28 February 2024;
- 2 **note** that the Social Workers Registration Legislation Amendment Bill proposes to delay the repeal of the experience pathway by four years (to 28 February 2028);
- 3 **agree** to amend the Social Workers Registration Legislation Amendment Bill via an Amendment Paper to delay the repeal of the experience pathway by two years (to 28 February 2026), as opposed to four years as currently drafted;
- 4 **authorise** the Minister for Social Development and Employment to issue drafting instructions to the Parliamentary Counsel Office to amend the Social Workers Registration Legislation Amendment Bill as per Recommendation 3 above;
- 5 **delegate** authority to the Minister for Social Development and Employment to approve and release the Amendment Paper described in Recommendation 4 above;
- 6 **note** that further work will continue to be undertaken to consider broadening entry pathways to social work, including within existing legislative parameters and as part

of the 2025 statutory review of the Social Workers Registration Act by the Social Worker Registration Board; and

- 7 **note** that this Cabinet paper, and the associated minute of decisions taken, will be published on the Ministry of Social Development's website once the Social Workers Registration Legislation Amendment Bill has been enacted.

Authorised for lodgement

Hon Louise Upston

Minister for Social Development and Employment