



15 JUL 2021

Tēnā koe

On 26 May 2021, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information regarding the rationale for applying sections 195 and 196 of the Social Security Act:

- 1. Why did the MSD change the legislation?*
- 2. What was taken into consideration when amending the legislation?*
- 3. What effects if any on the welfare of the child and parent were taken into consideration?*
- 4. Were the effect on parents with disabilities taken into consideration?*

On 24 June 2021, the Ministry informed you of the need to extend the due date of your request to 15 July 2021, as more time was necessary for consultation.

Prior to 1991 parents living apart, who cared for their child an average of three nights a week, would each be paid a benefit reflecting their responsibility for the care of that child. For example, each parent could receive the domestic purposes benefit. Family support payments were divided between the two parents.

In March 1991 the current definition of "dependent child" was included in the Act. It replaced an earlier definition which had defined dependent child by reference to payment of universal family benefit.

The definition of dependent child required the parent to be "primarily responsible" for the child and thereby contemplated payment of only one benefit.

Section 70B was then introduced as part of the benefit reforms implemented by the Social Security Amendment Act (No 2) 1991. Its introduction followed consideration of the recommendations of a Benefit Reform Working Group. The Working Group described its principal task of reform as to "develop a new system of categorical social welfare benefits which will facilitate the Government's objectives of encouraging greater self-sufficiency by New Zealanders and discouraging unnecessary dependence on the benefit system by people who have the capacity to participate in the full or part time paid work force".

The Working Group reported to the Minister of Social Welfare on 17 May 1991 and described its proposal as "have been developed around the philosophy that people of work force age should be primarily responsible for supporting themselves and the dependent members of their core families through their own work efforts. Accordingly the benefit system is available as a safety net where people are unable to meet these self-support requirements. In return for receiving benefit support in such situations,

people accept the reciprocal obligation to take all reasonable steps to move out of the benefit system and into paid employment; or undergo training or rehabilitation towards greater independence”.

On 1 July 1991, Cabinet endorsed principles for benefit reform, including the following:

1. The benefit system should be based on principles of fairness, self-reliance, and efficiency.
2. Where practicable, the benefit system should encourage people to move off benefits and into the paid work force.
3. The core family has primary responsibilities for meeting its own welfare needs. The state has a responsibility to provide income maintenance for those unable to support themselves despite carrying out their primary obligations.

On 2 July 1991, the issue of split custody was addressed in a briefing to the Minister of Social Welfare. Split care involves one parent having day to day custody of one or more children of the relationship and the other parent having day to day care custody of another child or children of the relationship. Shared care is where parents share care of the same child or children.

Although the briefing dealt with the approach to be adopted for split custody, the principles of encouraging and providing incentives for parents to be self-supporting also applied to situations of shared care.

The new policy was designed to ensure parents did not avoid the responsibility to be self-supporting by making custody arrangements that gave eligibility to two domestic purposes benefits.

On 15 July 1991, Cabinet agreed to amend Domestic Purposes Benefit entitlements in cases of shared custody from 1 October 1991, so that only one benefit was payable.

For new applications lodged after 1 October 1991, the benefit was paid only to the principal caregiver. Where the parents share custody on an equal basis further factors are considered, such as:

- Who makes decisions about the daily activities of the child including their education and health needs?
- Who takes the children to and from school, supervises their leisure activities, and so on?
- The financial arrangements for the children and the basis on which costs are shared.

If these factors do not clarify which of the parents is the principal caregiver, the benefit will be paid to the parent who fulfilled that role prior to the breakup of the relationship.

The periods the child is in the care of each parent, and the factors specified, do not focus on biological factors. They appropriately cover matters relevant to responsibility for a child.

The framework being transparent enables parents to understand the criteria for determining entitlement and increases the likelihood of the decision being made promptly, which is in the best interest of the child.

Regarding question four of your request, this part of your request is refused under section 18(e) of the Act as the information does not exist.

Following the recommendations of the Welfare Expert Advisory Group, a review of the recognition of shared care in the income support system is on the long term Welfare Overhaul work programme.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work, and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter is available to the wider public. The Ministry will do this by publishing this letter on the Ministry of Social Development's website. Your personal details will be deleted, and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response regarding the rationales of sections 195 and 196 of the Social Security Act, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi nui



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