

Aide-mémoire



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

Cabinet paper

Date: 15 March 2021 **Security Level:** Cabinet Sensitive

For: Hon Carmel Sepuloni, Minister for Social Development and
Employment

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Cabinet Legislation Committee paper – Social Security (Subsequent Child Policy Removal) Amendment Bill: Approval for Introduction

Cabinet Committee	Cabinet Legislation Committee
Date of meeting	18 March 2021
Minister	Hon Carmel Sepuloni, Minister for Social Development and Employment. Hon Michael Wood will present the item on your behalf at the Committee meeting.
Proposal	The Cabinet paper seeks approval for the Social Security (Subsequent Child Policy Removal) Amendment Bill (the Bill) to be introduced. The Bill will remove the subsequent child policy (the policy) from the Social Security Act 2018.
Talking points (for Hon Michael Wood)	Key points In July 2020, Cabinet agreed to the removal of the policy, to be given effect from November 2021. This initiative is part of the welfare overhaul work programme and is consistent with the advice of the Welfare Expert Advisory Group. A Bill is required to remove the policy from the Social Security Act 2018, and the Minister for Social Development and Employment has sought a category 2 priority for the Bill on the 2021 Legislation Programme (must be passed in the year). The Bill contains two parts. Part 1 gives effect to the removal of the policy and comes into force on 8 November 2021.

Part 2 introduces transitional provisions to mitigate potential complexity for some clients around the time of the policy's removal, and to improve the client experience.

Part 2 comes into effect on 11 October 2021, which is 28 days prior to the policy's removal. The transition period also extends to 28 days following the policy's removal, for a total transition period of 56 days.

The transitional provisions cover a range of client scenarios, and some examples are outlined in the Cabinet paper.

The Bill should be introduced by 25 March 2021 and enacted by 11 October 2021, to allow for the start of the transition period.

The Minister for Social Development and Employment expects that this Bill will follow a full legislative process. The Bill should be referred to the Social Services and Community Select Committee.

Responses to possible questions (if required)

Why is the Bill only being progressed now, after Cabinet agreed to the policy's removal in July 2020?

9(2)(f)(iv) OIA

Due to timing constraints, including COVID-19 and election timings, a 2020 Amendment Bill did not progress. In late 2020, the Minister for Social Development and Employment then decided to progress this as a standalone Bill, and drafting began thereafter.

Is there anything in the current Social Security Act that allows the policy to not be applied to clients, before it is removed from legislation?

Section 224 of the Social Security Act 2018 states that, in limited circumstances, MSD may elect not to apply the policy. This section is discretionary and must be assessed on a case-by-case basis.

Section 224 will also be removed on 8 November 2021 and can only be used prior to the removal of the policy. For example, section 224 would not be applicable for a client who applies for a benefit after the policy is removed but has an entitlement date prior to 8 November 2021 (such as Example C of the example scenarios in the Cabinet paper).

As such, transitional provisions are required in order for the identified cohort to be treated in line with the removal of the policy before 8 November 2021.

Why is the transition period 56 days in total?

The dates of application, decision by MSD, and commencement (or corresponding dates for a change in circumstances) can be spread across several weeks. A broad window is therefore required to ensure equitable treatment across a range of timings within the transition period. The Cabinet paper outlines some example scenarios of this.

**Additional
information on
the Bill**

You have sought a category 2 priority for the Bill on the 2021 Legislation Programme (must be passed in the year).

The Bill should be introduced by 25 March 2021 and passed by 11 October 2021 to allow for a 28-day transition period prior to the policy's removal. The Bill should be referred to the Social Services and Community Select Committee.

Part 1 of the Bill

Part 1 of the Bill will make substantive and consequential amendments to the Social Security Act 2018 and Social Security Regulations 2018, to remove provisions relating to the policy and to make consequential amendments. It comes into force on 8 November 2021.

Part 2 of the Bill

Part 2 of the Bill sets out transitional provisions related to the removal of the policy. It comes into force on 11 October 2021, to allow for a 28-day transition period prior to the policy's removal (outlined further below).

Transitional provisions will improve the client experience

The policy's removal will result in a change of entitlement (benefit type and/or work obligations) for some affected clients. It is possible that clients affected by the policy may have an application in progress or a change in circumstances close to the time of the policy's removal. Without transitional provisions, this may result in multiple changes to a client's entitlement within a short period.

Clients receive communications from MSD when their entitlement changes, so multiple changes in a short period would result in a number of communications from MSD with updated messaging, which is ultimately confusing and would have a negative impact on the client experience. Transitional provisions are required to mitigate these impacts. This will improve the client experience by reducing complexity and ensuring that the treatment of different client scenarios in the transition period aligns with the intent of removing the policy.

Where the transitional provisions apply to a client, MSD is required to treat the client in line with the removal of the policy. This will allow the client to receive the benefit (and work obligations) they would be entitled to if the policy had already been removed. This will avoid situations where clients are moved from one benefit (and/or work obligations) to another over a short period of time.

The transition period will be 28 days prior to and following the policy's removal (56 days total)

The dates of application, decision by MSD, and commencement (or corresponding dates for a change in circumstances) can be spread across several weeks. The Bill therefore includes a 28-day transition period either side of the law change (56 days total), which provides a broad window to ensure equitable treatment across a range of timings within the transition period. Example scenarios are included in the appendix to the Cabinet paper.

For a benefit application, the transitional provisions apply when the application date and benefit commencement date occur within the transition period.

For a change in client circumstances, the provisions apply when the notification date and effective date occur within the transition period.

Background of the policy

The subsequent child policy

The policy was introduced in 2012. It impacts eligibility for Sole Parent Support and places obligations on parents to return to work earlier if they have an additional child while receiving a main benefit.

If a person has a subsequent child come into their care whilst receiving a main benefit, that subsequent child is only considered when setting work obligations and eligibility for Sole Parent Support (as opposed to Jobseeker Support) until they reach the age of one. Work obligations are then based upon the age of a person's youngest non-subsequent child. In effect, after the 'subsequent child' turns one, that child is effectively ignored for the purposes of setting work obligations and eligibility for Sole Parent Support.¹

The policy's primary focus was on requiring parents to return to work as early as possible after having a subsequent child. MSD's modelling on the cohort affected by the policy has found no evidence to suggest that the policy has reduced time on benefit or improved financial or social outcomes.

The policy does, however:

- create inequities in the welfare system
- undermine the value of parenting
- disproportionately impact Māori and women.

Cabinet agreed to the removal of the policy

In July 2020, Cabinet agreed to the removal of the policy, to be given effect from November 2021. This initiative will mean that the youngest dependent child will always be considered when setting work obligations, and establishing eligibility for Sole Parent Support, for a client. Note this will generally not result in a change to the rate of benefit received.

As at May 2019, approximately 9,000 people will be directly impacted by the policy's removal. The positive impacts of this initiative are:

- increased flexibility to spend time with children in the first 1,000 days of their life, which is a critical time period for a child's long-term development
 - increased equity and simplicity in the welfare system
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¹ Work obligations change based on the age of a client's youngest (non-subsequent) dependent child:

- work preparation obligations if the child is aged under three years
- part-time work obligations if the child is aged three and above, up to fourteen years
- full-time work obligations if the child is aged fourteen years and over.

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- a reduction in stress and therefore likely positive impact on mental health and wellbeing
 - eligibility to additional (albeit minimal) financial assistance for some clients (subject to other eligibility criteria).

This initiative is part of the welfare overhaul work programme and aligns with the welfare overhaul commitments of the Government, including to support those who are able to be earning, learning, caring or volunteering. It is also consistent with the advice of the Welfare Expert Advisory Group.

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