

Departmental Disclosure Statement

Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Social Development.

The Ministry of Social Development certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

11/06/2015

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Part One: General Policy Statement - Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill

General Policy Statement - Social Security (Extension to Young Persons Services and Remedial Matters) Bill

This Bill amends the Social Security Act 1964 to implement extensions to the Youth Service and provide for remedial matters. The purposes of the Bill are to:

- extend the existing Youth Service to:
 - all 19 year old beneficiaries with children and
 - 18 and 19 year olds beneficiaries without children who are considered at significant risk of long term welfare dependency.
- fix certain deficiencies and ambiguities in the legislation.

Implementation date

The Youth Service extension will come into force on a date appointed by the Governor-General by Order in Council. One or more orders may be made bringing different provisions into force on different dates.

The remedial matters will come into force on the day after the date the Act receives the Royal Assent.

Youth Service extension

The Youth Service provides wraparound support to young people with the aim of reducing long term welfare dependency. Currently, 16 to 18 year old parents receive the Young Parent Payment and 16 and 17 year olds without children receive the Youth Payment.

Nineteen year old beneficiaries with children

The Bill will extend the age of eligibility for the Young Parent Payment (YPP) from 18 years to 19 years. People receiving YPP are automatically referred to a youth service provider to work with a youth coach. As a result of this extension, 19 year old parents will:

- have youth activity obligations which are to be in full-time education leading towards NCEA Level 2, undertake a budgeting course and have on going budgeting discussions with their youth coach, and undertake a parenting course and other activities to support good parenting
- receive incentive payments of \$10 a week where they meet their obligations, and
- be money managed.

Where both spouses or partners are aged 19 years or younger and have children, they will be transferred to YPP. Nineteen year old spouses and partners of other main beneficiaries who have children will (as currently) have youth activity obligations and will be newly entitled to receive incentive payments.

Eighteen and 19 year old beneficiaries without children who are at risk of long term welfare dependency

The Youth Service extension will also support certain 18 and 19 year old beneficiaries without children who are considered at significant risk of long term welfare

dependency. Youth Service providers will assist these beneficiaries to find work or support them back into education if they have not yet achieved NCEA Level 2.

These 18 and 19 year old beneficiaries will remain on their existing benefit, and will be referred to the Youth Service if they are considered at significant risk of long term welfare dependency and are:

- Jobseeker Support beneficiaries (either the main recipient, his or her spouse or partner, or both where they meet the criteria), or
- spouses or partners of Supported Living Payment and Emergency Benefit recipients who have work-test obligations.

The Bill will amend the Social Security Act so that the beneficiaries referred to the Youth Service will:

- have work-focused obligations (i.e. work-test and work preparation) with a provision to defer work-test obligations to allow some to study full-time where they do not have NCEA Level 2
- be required to undertake a budgeting course and have on going budgeting discussions with their youth coach
- receive incentive payments of \$10 a week where they meet certain obligations, and
- be money managed.

The Bill also extends the period that the Youth Service applies, or youth support payments continue, to 31 March following the date the young person ages out if the young person is in secondary school or their course of education or training ends in December.

The Bill also extends incentive payments to spouses or partners of specified beneficiaries without dependent children who are required to comply with youth activity obligations.

Remedial matters

The Bill will fix four remedial matters:

- to limit appeal and review rights to a person's own financial assistance and not decisions about other people's benefits (except for the purpose of debt recovery from a beneficiary's spouse or partner)
- to confirm that terminal benefits are paid into the account of the deceased unless an application has been made by a surviving spouse or partner, or a person caring for a surviving child, to have the payment made to them
- to correct the legislation so a benefit commences on the day after a stand down period ends as opposed to the day the stand down period ends, and
- to authorise payment of money credited on a payment card to a young person after the young person ceases to be subject to money management as this is not currently supported by legislation.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
Youth Service Evaluation – June 2014 https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/evaluation/youth-service/index.html	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
The regulatory impact statement 'Extension of the Youth Service' was prepared to inform the policy decisions in the Bill, and accompanied the paper that went to Cabinet 30 March 2015. This will be published following the introduction of the Bill and can be found at http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/regulatory-impact-statements/	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	YES
The Regulatory Impact Analysis Team assessed the regulatory impact statement prepared by the Ministry of Social Development and associated supporting material, and considers that the information and analysis summarised meets the quality assurance criteria (23/02/2015)	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	YES
The regulatory impact statement determined that at risk 16-19 year old Supported Living Payments clients could "opt-in" to the Youth Service on a trial basis. This would mean that they would remain on Supported Living Payment but receive most Youth Service supports. However, this was excluded after further consultation, and the Cabinet paper recommended that the existing young Supported Living Payment trial be closely monitored to draw on any early findings to inform what supports are most effective in working with this cohort, including determining whether the Youth Service would be an effective intervention for them.	

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
Youth Service Evaluation – June 2014 https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/evaluation/youth-service/index.html The regulatory impact statement also analyses the information and data gathered	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

The Bill does not impact on New Zealand's international obligations.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

The provisions of the Bill apply generally to the New Zealand public and do not impact on the principles of the Treaty of Waitangi.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

The Ministry of Justice has advised the Attorney General that the Bill appears to be consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990. The Advice provided to the Attorney-General is expected to be available on the Ministry of Justice's website upon introduction of the Bill <http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/>

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?

YES

The Bill proposes to amend sections of the Social Security Act 1964 relating to information sharing between the Ministry of Social Development and the Ministry of Education. The existing data feed for the current Youth Service will be used, but will need to be extended to the older cohort for the extension. This means information will be collected and used by the Ministry of Social Development for an older cohort. This is detailed in primary legislation and will be enabled by an Approved Information Sharing Agreement under the Privacy Act 1993.

3.5.1. Was the Privacy Commissioner consulted about these provisions?

YES

The Office of the Privacy Commissioner was consulted with and worked alongside the Ministry for the proposed information sharing arrangements. The amendments to sections in the Act will be accompanied by a newly created Approved Information Sharing Agreement under the Privacy Act 1993 to allow the information sharing required for both the existing Youth Service and the extension. This provides for more certainty and transparency of information sharing in relation to the Youth Service, and the Office of the Privacy Commissioner is in agreement with this approach.

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>No formal public consultation was undertaken on the proposals in the Bill. However, public consultation occurred on the proposal to establish the original Youth Service. The development of policy in this area was informed by the recommendations of the Welfare Working Group. The proposal to extend the Youth Service was included in the Government's welfare manifesto.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p>The proposals in the Bill build on the delivery model of the existing Youth Service, altering it slightly to acknowledge the age difference between the extended cohort and the existing Youth Service clients.</p> <p>The Treasury and the Ministry of Education contributed by having representatives on the policy working group for the project. The Office of the Privacy Commissioner was kept updated and consulted regarding the possible privacy impacts of the extension.</p> <p>Regular feedback was provided on operational design and development from officials within the Ministry of Social Development and the Ministry of Education.</p>	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	YES
<p>Three of the remedial amendments in the Bill have retrospective effect, which could be seen as contentious, as generally legislation should operate prospectively not retrospectively. However, in all three cases the retrospective provisions can be justified to ensure:</p> <ul style="list-style-type: none">• the Government policy intent is upheld• practice and understanding that has been applied to date by the Ministry of Social Development is validated• financial costs to the Crown that were not anticipated are avoided. <p>The amendment to section 80BA to correct the commencement date of a benefit so that a benefit commences on the day after a stand down period ends will be retrospective, in order to validate the Ministry of Social Development's practice and decisions (made relying on the current understanding of section 80BA since this period). An attempt to correct this anomaly was made in the 1998 Social Security Amendment Act (no 2) but a drafting error was made and the effect was re-enacted instead of corrected. As such correcting the amendment in this Bill will be retrospective to 3 June 1998, (the date the error should originally have been corrected).</p> <p>The amendment to confirm that terminal benefits are paid into the account of the deceased does not have retrospective effect, but the Bill validates the Ministry's practice back to 28 September 1982, the date when a predecessor to section 80BD was enacted.</p> <p>The amendment to authorise payment of the amounts credited on a payment card to the young person concerned has retrospective effect to the date the money management provisions were first enacted in order to validate the Ministry's practice.</p>	

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	YES
The Bill contains decision making powers that require certain people to receive Youth Services, and comply with additional obligations arising out of that, as well as being subject to money management, based on whether they are assessed as at risk or not at risk.	

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	YES
The Bill contains a remedial amendment to limit rights to review and appeal decisions or determinations to the applicant or beneficiary in respect of whom the decision or determination was made instead of an applicant or beneficiary affected by the decision or determination.	