

Departmental Disclosure Statement

Social Security (Mandatory Reviews) 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.

19 May 2025

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Part One: General Policy Statement

The Social Security (Mandatory Reviews) Amendment Bill amends the Social Security Act 2018 (the Act). The amendments will enable an efficient and proactive welfare system through introducing mandatory reviews. Mandatory reviews at least once every 52 weeks will confirm if clients are still eligible and receiving the correct rate of specified benefits. Automated decision making (ADM) will be used to administer aspects of these reviews.

Context

The Ministry of Social Development (MSD) currently has discretionary powers to determine whether a client remains eligible for a benefit and is receiving the right rate of payment (a discretionary review). However, this discretionary review does not require MSD to regularly check whether clients are still eligible for assistance, and, if eligible, are receiving the right assistance. In the absence of any engagement with MSD, this can make it uncertain whether clients remain eligible for the assistance they are currently receiving and whether they are receiving the correct rate.

Objectives of the Bill

The objectives of the Bill are to—

- determine at least once every 52 weeks if clients are still eligible and receiving the correct rate of assistance;
- create efficiencies within the administration of the welfare system through allowing the use of ADM.

What the Bill does to help achieve those objectives

To help achieve those objectives, this Bill will—

- introduce a requirement that MSD must review a client's eligibility and rate of a specified benefit at least once every 52 weeks (mandatory reviews); and
- allow the use of ADM to administer some aspects of the mandatory reviews to reduce the impact on MSD's frontline staff.

Mandatory reviews

This Bill will introduce a requirement that MSD must review specified benefits at least once every 52 weeks. The review will ask clients to confirm the information MSD holds about their circumstances, so MSD can determine if the client is still eligible and receiving the right rate of assistance. Specified benefits that will be included for mandatory reviews are—

- the supported living payment;
- the emergency benefit with an expiry date beyond 52 weeks or no expiry date at all;
- the accommodation supplement (except for clients who are also getting young parent payments or youth payments);
- the disability allowance;
- New Zealand Superannuation with a non-qualified partner (grandparented).

Some clients will have circumstances that prevent them from responding to their mandatory reviews. We propose to introduce legislative amendments to allow MSD to implement -

- exceptions where MSD would not be required to review a group of clients or a group of clients would not be required to respond to a review (these clients would not be required to respond to a review while they are experiencing specific circumstances or situations; and their next review would take place 52 weeks later, unless the client had completed a suitable engagement earlier);
- exemptions where MSD can exempt an individual client from a mandatory review when a client contacts MSD before their review date and MSD is satisfied that the client is not able to respond to the review even if the client had more time (these clients would not be required to respond to a review while they are experiencing specific circumstances or situations; and their next review would take place 52 weeks later, unless the client had completed a suitable engagement earlier);

- extensions where a review date can be extended by up to 20 working days if MSD determines that a client has a good and sufficient reason for needing more time to respond to the review.

Suitable Engagements

The Bill introduces the ability to reset the review date if the requirements of the mandatory review are met through a suitable engagement (for example, an application for temporary additional support).

Automated Decision-Making

Automated Decision-Making (ADM) will be used to administer aspects of mandatory reviews. The Bill will expand the current limited enabling provision to support the use of Automated Decision-Making in the administration of mandatory reviews.

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?	NO
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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 Ministry of Social Development produced a Regulatory Impact Statement (RIS) "Regulatory Impact Statement: Introducing mandatory reviews to support implementation of the Budget 2024 cost-savings initiative to recognise housing contributions from all boarders" on 23 January 2025. The RIS can be downloaded here .	

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?	NO
No independent opinion was given as the RIS was assessed as partially meeting the quality assurance criteria.	

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?	NO
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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:	
the size of the potential costs and benefits?	YES
the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	YES

This initiative will introduce the requirement that MSD reviews specified benefits at least once every 52 weeks (mandatory reviews). The review will ask clients to confirm the information MSD holds about their circumstances, so MSD can determine if the client is still eligible and receiving the right rate of assistance.

Introducing mandatory reviews is an important component of the Budget 2025 Automated Decision-Making package. That full package is expected to return \$158 million savings (net) over five years, net of operational costs. These savings are expected due to a higher number of clients who may be ineligible and may have their benefits cancelled, or have their benefits reduced (noting these savings will be offset by FTE and IT costs associated with implementing and undertaking mandatory reviews). However, some clients may also receive increased payments, if their circumstances have changed and they are entitled to more assistance than they are currently receiving.

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?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p>Currently, MSD is not required to review clients' circumstances at specific times to test their rate and eligibility for the specified benefits. Further, while clients are obligated to inform MSD of any change in their circumstances that impacts their entitlement to or rate of benefit, this does not always occur. This means MSD is unable to confirm whether clients are receiving the correct rate of assistance, or if they are eligible for that assistance, when clients have not made contact with MSD for some time.</p> <p>To determine if clients are entitled to and receiving the correct rate of benefit, this policy will require that MSD reviews clients' specified benefits at least once every 52 weeks.</p> <p>Completion of a suitable engagement can meet the requirements of a review in some situations, resetting the review period.</p> <p>In general, MSD will use Automated Decision-Making (ADM) to:</p> <ul style="list-style-type: none"> • trigger the review (i.e. send correspondence to the client asking them to confirm their circumstances) • process the review if a client confirms that the information MSD hold about them is correct (i.e. make a decision to continue the client's benefit at the current rate) or • suspend, and then cancel a client's benefit if they do not respond to the review within specified time periods. <p>If a client states that the information presented to them by MSD is incorrect or they have had a change in circumstances, a staff member will take the next steps. This will be either processing the review and:</p> <ul style="list-style-type: none"> • making changes to the client's payments (if any) and resetting the review date, or • stopping the benefit if the client is not eligible (including transferring to a different benefit, where appropriate). <p>Where a client declares the information presented to them is incorrect or they have had a change in circumstances, MSD will consider their circumstances on a case-by-case basis to decide the outcome of the review. MSD may request additional information or ask further questions and request that the client provides this information by a reasonable deadline in order for MSD to determine their entitlement.</p> <p>By regularly reviewing specified benefits at least once every 52 weeks, MSD can collect and update information to determine if clients are entitled to the assistance they are receiving and are being paid the correct rate.</p> <p>These changes are separate to the other policy changes that amend clients' assistance by operation of law, for example, the Annual General Adjustment.</p>	

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?
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No specific issues relevant to international obligations were identified in the development of the policy in this Bill. As such, there have been no formal steps to determine whether the policies to be given effect to by this Bill are consistent with New Zealand's international obligations.
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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?

Further analysis can be found on page 7 of the RIS (which can be found here).
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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?	TBC
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This process is currently underway and the Ministry of Justice advice to the Attorney-General will be publicly available at Advice on consistency of Bills with the Bill of Rights Act New Zealand Ministry of Justice upon the Bill's introduction to the House. It is MSD's understanding that the proposals in this Bill do not create any significant implications for the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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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
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Mandatory reviews will present clients with the information MSD holds about their circumstances and ask if this information is correct. If a client states that this information is incorrect (or they have had a change in circumstances), then the client will be required to provide correct information. A staff member will then review the information to determine the client's eligibility for and the rate of benefit and may request further information from the client if needed. Further information can be found on page 9 of the RIS.
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3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES
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The policy proposals in this Bill have been consulted on with the Office of the Privacy Commissioner (OPC).

The Privacy Commissioner supports a benefit system that both works for those people who have a genuine need, and which avoids abuse of the benefit system. The Privacy Commissioner expects that in operationalising the proposals, MSD will do so in line with their Automated Decision-Making Standard and their Privacy, Ethics and Human Rights Framework, to ensure appropriate human oversight is triggered where there is a risk of inaccurate decisions being made that will affect a client's benefit. This would help mitigate the risk of large-scale inaccuracies which would not only impact vulnerable clients but also the trust and confidence in the operation of automated systems and the benefit system generally.

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?

NO

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?

NO

MSD has undertaken high-level business analysis, risks analysis, and business process modelling.

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?	NO
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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 introduces a requirement that MSD must stop a person's benefit when they do not respond to a mandatory review by the prescribed date. Their benefit will be cancelled eight weeks after that if they do not respond (except for New Zealand Superannuation with a Non-Qualified Partner included, which can remain suspended for a period of up to two years before cancellation). There are no exceptions to this process, however, affected people can have their benefit restarted by responding to the review within the eight weeks before cancellation. Clients who respond after their benefit has been cancelled must complete a new application for assistance.	

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?	YES
<p>The Bill includes a regulation-making power in the Social Security Act 2018 that will allow the Governor-General, by an Order in Council, to prescribe the circumstances where mandatory reviews will not be required.</p> <p>The regulations will describe the reasons MSD would not be required to undertake or complete a mandatory review for a group of clients. Exception reasons will apply in the circumstances prescribed by regulations. Exemptions may also be applied on a case-by-case basis. Further information is included in the RIS on page 9 (which can be found here).</p>	

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
<p>The Bill includes a regulation-making power which sets out what specified benefits subject to mandatory reviews can be amended by the Governor-General through an Order in Council.</p>	

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
<p>This Bill will expand the current legislative authority in the Act to use Automated Decision-Making (ADM). The provisions in section 363A of the Social Security Act 2018 will be broadened to authorise the use of ADM for these proposals, as this currently only applies to the treatment of some child support payments as income. MSD has an ADM Standard to govern the development of any new MSD process that proposes to use ADM. It contains a range of appropriate safeguards that must be met when automating decisions.</p>	