

Social Security (Commencement of Benefits) Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill amends the Social Security Act 1964 to correct, with retrospective effect to 3 June 1998, an error in the legislation that does not give effect to the policy intent that a benefit commences on the day after a stand down period ends as opposed to the day on which the stand down period ends. It also provides that certain people are protected from the effect of retrospective amendment, including those who apply for a review of decision of their commencement date before or (in the case of a benefit that commenced on or after 20 May 2014) within 6 weeks after the Bill comes into force.

Departmental disclosure statement

The Ministry of Social Development is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2015&no=72>.

Clause by clause analysis

Clause 1 is the title clause.

Clause 2 is the commencement clause and provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Social Security Act 1964 (the **principal Act**).

Clause 4 amends section 80BA(4)(a)(i) and (b) of the principal Act so that the commencement of a benefit on the end of a stand down period occurs on the day after the end of that period and not on the day on which the period ends, as currently provided.

Clause 5(1) provides that the “day after” amendment effected by *clause 4* applies with retrospective effect to and including 3 June 1998. However, *clause 5(2)* carves out exceptions to the “day after” amendment in certain cases. *Clause 5(2)(a) and (b)* preserves the position of the appellants in 2 appeals already brought under the principal Act. *Clause 5(2)(c)* effectively allows decisions to continue to be made that benefits commence on the day on which the stand down period ends. *Clause 5(2)(d) and (e)* disapply the “day after” amendment in 2 instances where a decision or determination as to the commencement of a benefit is the subject of an application for a review under the principal Act. Those instances are:

- decision relating to the commencement of a benefit on or after 20 May 2014, application for a review made at any time within 6 weeks after the commencement of the Bill (*clause 5(2)(d)*);
- decision relating to the commencement of benefit on or after 3 June 1998, application for a review made at any time before the commencement of the Bill (*clause 5(2)(e)*).

Clause 6 provides that applications for a review in the 2 instances referred to in *clause 5(2)(d) and (e)* are to be treated as if they had been brought within the time limit of 3 months from notice of the decision. That is, an application is taken to comply with the time limit prescribed by section 10A(1B) of the principal Act even though it is made outside that 3-month time limit.

Hon Anne Tolley

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Social Security (Commencement of Benefits) Amendment Act **2015**.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Social Security Act 1964 (the **principal Act**).

4 Section 80BA amended (Calculation of stand down)

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(1) In section 80BA(4)(a)(i), replace “on which” with “after”.

(2) In section 80BA(4)(b), replace “on the day on which” with “on the day after”.

5 Retrospective effect of amendments to section 80BA

- (1) The principal Act must be read as if the amendments to section 80BA(4)(a)(i) and (b) made by **section 4** of this Act had come into force on 3 June 1998.
- (2) However, **subsection (1)** does not apply in the case of any decision or determination made before the commencement of this Act— 5
- (a) that affects the appellant in Social Security Appeal No. SSA 001/14 and SSA 002/14 ([2014] NZSSAA 39); or
 - (b) that affects the appellant in Social Security Appeal No. SSA 115/14 and SSA 134/14 ([2014] NZSSAA 106); or
 - (c) that is a decision to commence a benefit on the day on which the stand down period ends; or 10
 - (d) that relates to the commencement of a benefit on or after 20 May 2014 and is the subject of an application for a review under section 10A of the principal Act made at any time within 6 weeks after the commencement of this Act; or 15
 - (e) that relates to the commencement of a benefit at any time on or after 3 June 1998 and is the subject of an application for a review under section 10A of the principal Act made at any time before the commencement of this Act.

6 Application for review not out of time 20

Any application for a review referred to in **section 5(2)(d) or (e)** must, for the purpose of section 10A(1B) of the principal Act, be taken to have been made within 3 months after the applicant received notice of the decision.