

# **Social Security (Financial Assistance for Caregivers) Amendment Bill**

Government Bill

As reported from the Social Services and Community Committee

## **Commentary**

### **Recommendation**

The Social Services and Community Committee has examined the Social Security (Financial Assistance for Caregivers) Amendment Bill and recommends that it be passed with the amendments shown.

### **About the bill as introduced**

This bill would amend the Social Security Act 2018 to extend financial assistance for caregivers of children who are unable to be cared for by their parents and who are outside the State care system. It would make two changes to remove disparities between the types of financial assistance available for caregivers.

Caregivers can receive one of three main types of financial assistance: the Orphan's Benefit (OB), the Unsupported Child's Benefit (UCB), or the Foster Care Allowance (FCA). The first two are for children living with caregivers outside the State care system. These allowances are administered by the Ministry of Social Development (MSD) under the Social Security Act. The OB supports children whose parents have died, are missing, or have a long-term serious disability. The UCB supports children where there has been a breakdown in their family, so the child cannot be cared for by their parents or their parents cannot fully provide support to the child.

The FCA, in contrast, is for those caring for a child in State care. It is administered by the Ministry for Children—Oranga Tamariki under the Oranga Tamariki Act 1989.

The bill's changes aim to reduce disparities within the caregiver payment system by bringing the OB and UCB in line with the financial assistance provided by the FCA. For caregivers to be eligible for the OB or UCB at present, alongside other criteria, it must be likely that they will be the child's principal caregiver for at least one year (the

12-month rule). The bill would remove the 12-month rule. This would allow caregivers to receive the OB or UCB when the expected period of care was short-term, unknown, or uncertain. The bill would also establish a Christmas allowance and birthday allowance for caregivers receiving the OB or UCB. At present, they do not get these allowances. In contrast, the FCA is not subject to the 12-month rule, and includes Christmas and birthday allowances.

### **Legislative scrutiny**

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

### **Proposed amendments**

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

### **Extending eligibility to a “principal temporary caregiver”**

The Social Security Act requires that recipients of the OB or UCB must be considered the child's principal caregiver.<sup>1</sup> MSD must believe that the person has “the primary responsibility for the day-to-day care of the child, other than on a temporary basis”.<sup>2</sup> We see some difficulty with this provision as it requires that the period of care must be long-term or permanent. It could prevent caregivers from being eligible for the OB or UCB if they are caring for a child who is unable to be cared for by their parents for a short-term, unknown, or uncertain period of time. This goes against the policy intent of the bill to extend eligibility to short-term caregivers (achieved by removing the 12-month rule).

We recommend amending the bill to ensure that eligibility for the OB and UCB includes caregivers who are caring for a child who is unable to be cared for by their parents for a short-term, unknown, or uncertain period of time. The caregiver would still need to have primary responsibility for the day-to-day care of a dependent child. However, we decided not to suggest amending the definition of “principal caregiver” in Schedule 2 of the Social Security Act. This is because a definition change could create confusion when interpreting eligibility for other assistance available in the welfare system.

Our recommendation would insert a new subclause (1) in clauses 4 and 5 of the bill. Clauses 4(1) and 5(1) would add “or principal temporary caregiver” in sections 44(d) and 47(d) of the Social Security Act. These sections set out the eligibility criteria for a person to receive the OB or UCB. We also recommend inserting clause 5A into the bill to define “principal temporary caregiver” in Schedule 2 of the Act.

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<sup>1</sup> Social Security Act 2018, sections 44 and 47.

<sup>2</sup> Social Security Act 2018, Schedule 2.

Our change would not extend eligibility for the OB and UCB to voluntary additional care arrangements made by the caregiver—where the caregiver retains the primary responsibility for the day-to-day care of the child. For example, situations that may be excluded are:

- private arrangements for care while the parents are employed overseas or in another region
- arrangements where a child is being raised by family members or extended family
- care where the child is staying for short-term visits with friends or family members
- care related to school holiday programmes and early childhood education.

We understand that MSD would provide guidance to frontline staff about how this change would work in practice.

### **Access to supplementary assistance for principal temporary caregivers**

Under the bill as introduced, a principal temporary caregiver who is entitled to and receiving the OB or UCB may not be entitled to supplementary assistance that is available to principal caregivers. The types of supplementary assistance are Childcare Assistance, Child Disability Allowance, and Temporary Additional Support in respect of the OB or UCB child.

We propose some amendments to ensure that a principal temporary caregiver who is entitled to and receiving the OB or UCB can also receive the supplementary assistance that principal caregivers currently receive. To do this, we recommend inserting clause 6A and Part 1 of Schedule 3 into the bill, to amend sections 77, 78, 82, and 424 of the Act. We also recommend inserting clause 6F and Part 2 of Schedule 3, to amend the Social Security Regulations 2018. This would ensure that a principal temporary caregiver who is entitled to and receiving the OB or UCB could also receive the supplementary assistance that principal caregivers currently receive. We also recommend inserting clause 5A into the bill, to define “temporary OB or UCB caregiver” in Schedule 2 of the Act.

### **Renaming the Christmas allowance as the holiday allowance**

We recommend changing the name of the Christmas allowance to the holiday allowance. This would more appropriately recognise that Christmas is not celebrated by all families, and would be more inclusive of other cultural and religious celebrations. We note that the payment of the holiday allowance would still be linked to the date of 25 December and paid in advance of that date.

We understand that MSD would communicate with OB and UCB recipients about when they would receive the holiday or birthday allowance, the amount that they would receive, and what the allowance is intended to cover. Recipients would be told that if they do not celebrate Christmas or birthdays, they can use the money in other

ways that benefit the child. We note that the payment could be saved for other holidays that the family celebrates, such as Matariki (Māori New Year) or Chinese New Year.

Our recommendation would amend clause 6 of the bill to change “a Christmas allowance” to “a holiday allowance” in clause 3(b) of Parts 4 and 5 of Schedule 4 of the Act.

### **Allowances are linked to the entitlement date**

The bill as introduced specifies that the birthday and Christmas allowances (which we propose renaming as the holiday allowance) would be payable for the month of the entitlement date, or the month before. We recommend clarifying that entitlement for the allowances is linked to the date of the child’s birthday or 25 December, and is not based on the whole month. For example, if a child’s birthday was 25 August, only the caregiver who was eligible for the OB or UCB on 25 August would be entitled to receive the birthday allowance.

Therefore, we recommend amending clause 6 of the bill to remove clauses 3(b)(i) to (iii) and 3(c)(i) to (iii) in Parts 4 and 5 of Schedule 4 of the Act. We also recommend inserting clauses 6, 9, and 10 into both of those Parts. These amendments would make it clear that eligibility for the birthday allowance is linked to entitlement to the OB or UCB on the date of the child’s birthday, and eligibility for the holiday allowance is linked to entitlement to the OB or UCB on 25 December.

### **Ensuring that debt is recoverable**

The bill as introduced is not clear about MSD’s ability to recover debt, if necessary. There may be situations when the birthday or holiday allowance has been paid, but the caregiver is not actually entitled to it on the child’s birthday or 25 December. This is because payments for these allowances are made in advance of the entitlement date. For example, if a child’s birthday is 25 August, MSD might pay the allowance two weeks before, on 11 August. However, if the child left the caregiver’s care on 18 August and the caregiver was not entitled to receive the OB or UCB on the child’s birthday, that caregiver would not have been entitled to receive the birthday allowance. We think that changes should be made so that MSD can recover this debt.

Therefore, we recommend amending clause 6 of the bill to insert clauses 8 and 13 into Parts 4 and 5 of Schedule 4 of the Act. We also recommend inserting clause 6D into the bill, to amend the Social Security Regulations. This would make it clear that if a person received the birthday or holiday allowance but was not entitled to it, they would need to repay this debt.

### **Clarifying the expectation of entitlement to payments**

In the bill as introduced, entitlement to the holiday and birthday allowances is based on “a caregiver who is entitled, or is expected to be entitled”. We recommend clarifying that it is the expectation of MSD that is relevant to eligibility for the entitlement, and not the expectation of the caregiver.

Therefore, we recommend amending clause 6 of the bill to insert clauses 7 and 12 into Parts 4 and 5 of Schedule 4 of the Act. Our amendment would ensure that entitlement to the OB and UCB would be based on “a person whom MSD expects to be entitled”.<sup>3</sup> This would make it clear that the expectation of entitlement to payments is that of MSD, and not of the caregiver.

MSD may also decide, under section 329(b) of the Act, to continue paying the OB or UCB up to 28 days after a child ceases to be eligible for the benefit. We recommend making it clear that a person being paid under section 329(b) is entitled to the allowances. Therefore, we recommend inserting clause 14 into Parts 4 and 5 of Schedule 4 of the Act. Similarly, we recommend that a temporary OB or UCB caregiver (as defined in our new clause 5A of the bill) would also include a person who is paid under section 329(b) of the Act.

### **Entitlement to the birthday allowance for children born on 29 February**

The bill as introduced is unclear about entitlement to the birthday allowance for children born on 29 February in a leap year. We recommend clarifying that the entitlement date for these children would be 1 March. This would help ensure that MSD can make such payments.

Our recommendation would amend clause 6 of the bill by inserting clause 11 into Parts 4 and 5 of Schedule 4 of the Act.

### **When allowances are paid out**

The bill as introduced sets out that the birthday and holiday allowances are payable in advance of the entitlement date. This includes specifying that the allowances are payable for the month of, or the month before, the entitlement date. We believe that this specific wording could cause confusion between the entitlement date of allowances and when allowances are paid out. Therefore, we recommend simplifying the language in the bill to provide for payments of the allowances to be paid in advance.

Allowances are paid in advance so that caregivers can make any purchases or organise celebrations ahead of time.

Our recommendation would amend clause 6 to insert clauses 7 and 12 into Parts 4 and 5 of Schedule 4 of the Act. These clauses would enable MSD to pay holiday and birthday allowances in advance of the child’s birthday or 25 December.

We note that the Social Security Act already provides for birthday and holiday allowance payments to be made after the entitlement date. For example, this might happen if an application for the OB or UCB is pending on the entitlement date.

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<sup>3</sup> MSD is defined in the Social Security Act, Schedule 2.

## **Renaming the Orphan's Benefit**

The OB supports children whose parents have died, are missing, or have a long-term serious disability. We suggest that the name of this benefit be reconsidered. This is because some recipients of the OB are caring for children whose parents are still alive.

## **Consultation with Māori**

The bill was developed in response to a 2019 review of financial assistance for caregivers by Oranga Tamariki. The review identified a range of issues that caregivers face, including Māori caregivers. The bill intends to address the key issues identified by the review.

The review involved consultation with Māori caregivers, as well as iwi and Māori organisations. We were advised that Oranga Tamariki will continue to consult with Māori as part of its long-term work to reform the system of financial assistance and support for caregivers. This long-term work will include consideration of how the system can be designed to take account of the needs and interests of Māori, and the importance of Māori being cared for safely within their whānau, hapū, or iwi.

We are interested to hear how consultation with Māori on this issue looks in practice and we are keen to follow the progress of this long-term work.

## **Appendix**

### **Committee process**

The Social Security (Financial Assistance for Caregivers) Amendment Bill was referred to the committee on 8 December 2020.

The closing date for submissions on the bill was 22 February 2021. We received and considered 31 submissions from interested groups and individuals. We heard oral evidence from 8 submitters.

We received advice on the bill from Oranga Tamariki—Ministry for Children, and the Ministry of Social Development. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

### **Committee membership**

Angie Warren-Clark (Chairperson)

Glen Bennett

Karen Chhour

Dr Emily Henderson

Anahila Kanongata'a-Suisuiki

Ricardo Menéndez March

Terisa Ngobi

Maureen Pugh

Hon Louise Upston



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**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted unanimously

~~text deleted unanimously~~



*Hon Kelvin Davis*

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Government Bill

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<b>The Parliament of New Zealand enacts as follows:</b>	
<b>1 Title</b>	
This Act is the Social Security (Financial Assistance for Caregivers) Amendment Act <b>2020</b> .	
<b>2 Commencement</b>	5
This Act comes into force on <b>1 July 2021</b> .	
<b>3 Principal Act</b>	
This Act amends the Social Security Act 2018 ( <del>the principal Act</del> ).	
<b>Part 1</b>	
<b><u>Substantive and consequential amendments</u></b>	
<b>4 Section 44 amended (Who is eligible caregiver)</b>	10
(1) <u>In section 44(d), after “principal caregiver”, insert “or principal temporary caregiver”.</u>	
(2) Repeal section 44(e).	
<b>5 Section 47 amended (Who is eligible caregiver)</b>	15
(1) <u>In section 47(d), after “principal caregiver”, insert “or principal temporary caregiver”.</u>	
(2) Repeal section 47(e).	
<b>5A Schedule 2 amended</b>	
<u>In Schedule 2, insert in their appropriate alphabetical order:</u>	
<u><b>principal temporary caregiver</b>, for the purposes of eligibility for the orphan’s benefit or unsupported child’s benefit in relation to a dependent child, means a person who, in MSD’s opinion,—</u>	
(a) <u>has the primary responsibility for the day-to-day care of the child—</u>	
(i)	25
<u>on a temporary basis; or</u>	

- (ii) for such an unknown or uncertain period that the person is not a principal caregiver; and
- (b) retains the primary responsibility for the day-to-day care of the child under **paragraph (a)**, even if the person makes additional care arrangements for the child; and
- (c) is not a body of persons (whether incorporated or unincorporated); and
- (d) is not a proprietor of, or employed in,—
- (i) a residence established under the Oranga Tamariki Act 1989; or
- (ii) any other institution in which the child is being cared for
- temporary OB or UCB caregiver**, in relation to a dependent child, means a person who—
- (a) is the principal temporary caregiver of the child; and
- (b) is entitled to and receiving an orphan's benefit or an unsupported child's benefit for the child (including under section 329(b))

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**6 Schedule 4 amended**

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- (1) In Schedule 4, Part 4, replace clause 3 with:

*Allowances*

3 The following allowances in respect of the child:

- (a) on and after 1 July 2018, a clothing allowance; and
- (b) on and after ~~1 December 2021~~, a Christmas allowance that is payable—  
**1 December 2021**, an annual holiday allowance; and
- (i) for the month of December; and
- (ii) for ~~December 2021~~ and every December after that; and
- (iii) to a caregiver who is entitled, or is expected to be entitled, to the orphan's benefit for the child on Christmas Day in the applicable year; and
- (c) on and after ~~1 December 2021~~, a birthday allowance that is payable—  
**1 December 2021**, a birthday allowance for the child's birthday in **2022** and every year after that.
- (i) for the month of, or the month before the month of, the child's birthday; and
- (ii) for the child's birthday in **2022** and every year after that; and
- (iii) to a caregiver who is entitled, or is expected to be entitled, to the orphan's benefit for the child on the child's birthday in the applicable year.

4 The allowances are in the same amount or at the same rate as the clothing, Christmas, and birthday allowances specified under section 363 of the Oranga Tamariki Act 1989 for the rates of payment to persons or organisations in whose charge a child or young person is placed under section 362 of that Act.

4 The allowances are in the same amount or at the same rate as the rates of payment determined under section 363(1) of the Oranga Tamariki Act 1989 for—

- (a) any clothing allowance;
- (b) any Christmas allowance (or any subsequent annual holiday allowance);
- (c) any birthday allowance.

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- 5 The allowances are in addition to the applicable rate in clause 1.  
*When caregiver is entitled to and paid holiday allowance*
- 6 A person is entitled to the holiday allowance if the person is entitled to the orphan's benefit for the child on 25 December.
- 7 The holiday allowance is payable before 25 December to a person whom MSD expects to be entitled to that allowance.
- 8 Payment of the holiday allowance before 25 December is subject to the condition that the person is liable to repay the whole of the allowance if the person is not entitled to the allowance on 25 December.  
*When caregiver is entitled to and paid birthday allowance*
- 9 A person is entitled to the birthday allowance if the person is entitled to the orphan's benefit for the child on the entitlement date.
- 10 The entitlement date for the birthday allowance is the date of the child's birthday.
- 11 However, 1 March is the entitlement date for a birthday that occurs, or would otherwise occur, on 29 February.
- 12 The birthday allowance is payable before the entitlement date to a person whom MSD expects to be entitled to that allowance.
- 13 Payment of the birthday allowance before the entitlement date is subject to the condition that the person is liable to repay the whole of the allowance if the person is not entitled to the allowance on that date.  
*Effect of section 329*
- 14 For the purposes of this Part, a person is considered to be entitled to the orphan's benefit for the child if the person is being paid that benefit for the child under section 329(b).

(2) In Schedule 4, Part 5, replace clause 3 with:

- Allowances*
- 3 The following allowances in respect of the child:
- (a) on and after 1 July 2018, a clothing allowance; and
  - (b) on and after ~~1 December 2021~~, a ~~Christmas allowance that is payable—~~  
**1 December 2021**, an annual holiday allowance; and
    - (i) ~~for the month of December; and~~
    - (ii) ~~for December 2021 and every December after that; and~~
    - (iii) ~~to a caregiver who is entitled, or is expected to be entitled, to the unsupported child's benefit for the child on Christmas Day in the applicable year; and~~
  - (c) on and after ~~1 December 2021~~, a birthday allowance that is payable—  
**1 December 2021**, a birthday allowance for the child's birthday in **2022** and every year after that.
    - (i) ~~for the month of, or the month before the month of, the child's birthday; and~~
    - (ii) ~~for the child's birthday in 2022 and every year after that; and~~
    - (iii) ~~to a caregiver who is entitled, or is expected to be entitled, to the unsupported child's benefit for the child on the child's birthday in the applicable year.~~
- 4 ~~The allowances are in the same amount or at the same rate as the clothing, Christmas, and birthday allowances specified under section 363 of the Oranga Tamariki Act 1989 for the rates of payment to persons or organisations in whose charge a child or young person is placed under section 362 of that Act.~~
- 4 The allowances are in the same amount or at the same rate as the rates of payment determined under section 363(1) of the Oranga Tamariki Act 1989 for—
- (a) any clothing allowance;

	(b) any Christmas allowance (or any subsequent annual holiday allowance):	
	(c) any birthday allowance.	
5	The allowances are in addition to the applicable rate in clause 1.	
	<i>When caregiver is entitled to and paid holiday allowance</i>	
6	<u>A person is entitled to the holiday allowance if the person is entitled to the unsupported child's benefit for the child on 25 December.</u>	
7	<u>The holiday allowance is payable before 25 December to a person whom MSD expects to be entitled to that allowance.</u>	
8	<u>Payment of the holiday allowance before 25 December is subject to the condition that the person is liable to repay the whole of the allowance if the person is not entitled to the allowance on 25 December.</u>	
	<i>When caregiver is entitled to and paid birthday allowance</i>	
9	<u>A person is entitled to the birthday allowance if the person is entitled to the unsupported child's benefit for the child on the entitlement date.</u>	
10	<u>The entitlement date for the birthday allowance is the date of the child's birthday.</u>	
11	<u>However, 1 March is the entitlement date for a birthday that occurs, or would otherwise occur, on 29 February.</u>	
12	<u>The birthday allowance is payable before the entitlement date to a person whom MSD expects to be entitled to that allowance.</u>	
13	<u>Payment of the birthday allowance before the entitlement date is subject to the condition that the person is liable to repay the whole of the allowance if the person is not entitled to the allowance on that date.</u>	
	<i>Effect of section 329</i>	
14	<u>For the purposes of this Part, a person is considered to be entitled to the unsupported child's benefit for the child if the person is being paid that benefit for the child under section 329(b).</u>	

**6A Further amendments in relation to temporary OB or UCB caregiver**

Amend the principal Act as set out in **Part 1 of Schedule 3.**

*Amendments to Social Security Regulations 2018*

**6B Principal regulations**

**Sections 6C to 6F** amend the Social Security Regulations 2018.

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**6C Regulation 20 amended (Interpretation)**

(1) In regulation 20(1), definition of **total income**, paragraph (c), replace “care-giver” with “caregiver; but”.

(2) In regulation 20(1), definition of **total income**, after paragraph (c), insert:

(d) does not include the following allowances under Part 4 or 5 of Schedule 4 of the Act:

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(i) a clothing allowance received by the caregiver on or after 1 July 2018; or

(ii) a holiday allowance or birthday allowance received by the caregiver on or after **1 December 2021**

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**6D Regulation 206 amended (Debts due to the Crown)**

In the list of examples after regulation 206(b), after the last example, insert:

An amount repayable under **clause 8** of Part 4 or 5 of Schedule 4 of the Act (holiday allowance paid before 25 December to a person not entitled to it on 25 December).

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An amount repayable under **clause 13** of Part 4 or 5 of Schedule 4 of the Act (birthday allowance paid before the entitlement date to a person not entitled to it on that date).

**6E Schedule 8 amended**

In Schedule 8, clause 3, table, after item 8, insert:

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9	<u>A clothing, holiday, and birthday allowance to which Part 4 or 5 of Schedule 4 of the Act applies</u>	<u>Not chargeable income for the person to whom the payment was made</u>
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**6F Further amendments to principal regulations in relation to temporary OB or UCB caregiver**

Amend the principal regulations as set out in **Part 2 of Schedule 3**.

**Part 2**

**Transitional, savings, and related provisions**

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**7 Schedule 1 amended**

~~In Schedule 1, after Part 5, insert the **Part 6** set out in the **Schedule** of this Act.~~In Schedule 1,—

- (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

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*Amendment to Social Security Regulations 2018*

**8 Principal regulations**

**Section 9** amends the Social Security Regulations 2018.

**9 Schedule 1 amended**

In Schedule 1,—

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- (a) insert the Part set out in **Schedule 2** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

**Schedule 1**  
**New Part 6 inserted into Schedule 1**

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<b>Part 6</b>	
<b>Provisions relating to Social Security (Financial Assistance for Caregivers) Amendment Act 2020</b>	<b>5</b>
<b>83 Transitional provision relating to eligibility criteria for orphan's benefit or unsupported child's benefit</b>	
(1) <del>The repeal of section 44(e) amendments to section 44 and Schedule 2 that are made by the Social Security (Financial Assistance for Caregivers) Amendment Act 2020 applies apply to a person—</del>	<b>10</b>
(a) who makes an application for an orphan's benefit for a child on or after <b>1 July 2021</b> ; or	
(b) whose application for an orphan's benefit for a child was made, but not decided under section 301, before <b>1 July 2021</b> .	<b>15</b>
(2) <del>The repeal of section 47(e) by the Social Security (Financial Assistance for Caregivers) Amendment Act 2020 applies to a person—</del>	
(a) <del>who makes an application for an unsupported child's benefit for a child on or after <b>1 July 2021</b>; or</del>	
(b) <del>whose application for an unsupported child's benefit for a child was made, but not decided under section 301, before <b>1 July 2021</b>.</del>	<b>20</b>
<b>83A Transitional provision relating to eligibility criteria for unsupported child's benefit</b>	
<u>The amendments to section 47 and Schedule 2 that are made by the Social Security (Financial Assistance for Caregivers) Amendment Act 2020 apply to a person—</u>	<b>25</b>
(a) <u>who makes an application for an unsupported child's benefit for a child on or after <b>1 July 2021</b>; or</u>	
(b) <u>whose application for an unsupported child's benefit for a child was made, but not decided under section 301, before <b>1 July 2021</b>.</u>	<b>30</b>
<b>83B Transitional provision relating to eligibility criteria for childcare assistance</b>	
<u>The amendments to sections 77 and 424 that are made by the Social Security (Financial Assistance for Caregivers) Amendment Act 2020 apply to a person—</u>	<b>35</b>

	(a) <u>who makes an application for childcare assistance for a child on or after <b>1 July 2021</b>; or</u>	
	(b) <u>whose application for childcare assistance for a child was made, but not decided under section 301, before <b>1 July 2021</b>.</u>	
<b>83C</b>	<b><u>Transitional provision relating to eligibility criteria for child disability allowance</u></b>	5
	<u>The amendments to sections 78 and 82 that are made by the Social Security (Financial Assistance for Caregivers) Amendment Act <b>2020</b> apply to a person—</u>	
	(a) <u>who makes an application for a child disability allowance for a child on or after <b>1 July 2021</b>; or</u>	10
	(b) <u>whose application for a child disability allowance for a child was made, but not decided under section 301, before <b>1 July 2021</b>.</u>	
<b>84</b>	<b><u>Transitional provision relating to <del>Christmas</del> holiday allowance</u></b>	
	<b><u><del>Clause 3(b)</del>Clauses <b>3(b), 4 to 8,</b> and <b>14</b> of Part 4 or 5 of Schedule 4 (as inserted by the Social Security (Financial Assistance for Caregivers) Amendment Act <b>2020</b>)—<del>applies</del> apply to a caregiver who becomes entitled to the orphan’s benefit or unsupported child’s benefit before, on, or after <b>1 December 2021</b>.</u></b>	15
<b>85</b>	<b><u>Transitional provision relating to birthday allowance</u></b>	20
	<b><u><del>Clause 3(c)</del>Clauses <b>3(c), 4, 5,</b> and <b>9 to 14</b> of Part 4 or 5 of Schedule 4 (as inserted by the Social Security (Financial Assistance for Caregivers) Amendment Act <b>2020</b>)—<del>applies</del> apply to a caregiver who becomes entitled to the orphan’s benefit or unsupported child’s benefit before, on, or after <b>1 December 2021</b>.</u></b>	25

**Schedule 2**  
**New Part 7 inserted into Schedule 1 of Social Security**  
**Regulations 2018**

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**Part 7**  
**Provisions relating to Social Security (Financial Assistance for**  
**Caregivers) Amendment Act 2020**

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**11** **Transitional provision relating to eligibility criteria for childcare assistance**

The amendments to subpart 6 of Part 2 and Schedule 2 that are made by the Social Security (Financial Assistance for Caregivers) Amendment Act 2020 apply to a person—

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(a) who makes an application for childcare assistance for a child on or after 1 July 2021; or

(b) whose application for childcare assistance for a child was made, but not decided under section 301 of the Act, before 1 July 2021.

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**12** **Transitional provision relating to eligibility criteria for temporary additional support**

The amendments to subpart 10 of Part 2 that are made by the Social Security (Financial Assistance for Caregivers) Amendment Act 2020 apply to a person—

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(a) who makes an application for temporary additional support for a child on or after 1 July 2021; or

(b) whose application for temporary additional support for a child was made, but not decided under section 301 of the Act, before 1 July 2021.

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**Schedule 3****Further amendments in relation to temporary OB or UCB caregiver****ss 6A, 6F****Part 1****Further amendments to Social Security Act 2018**

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In section 77, after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In section 78(1)(b)(i), after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In section 82, after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In section 424(2)(c), replace “the income of the principal caregiver and that caregiver’s spouse or partner,” with “the income of the principal caregiver or temporary OB or UCB caregiver, the income of that caregiver’s spouse or partner,”.

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In section 424(2)(e), after “principal caregiver’s”, insert “or temporary OB or UCB caregiver’s”.

Replace section 424(3)(a) with:

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- (a) the income of—
- (i) the principal caregiver or temporary OB or UCB caregiver; and
  - (ii) that caregiver’s spouse or partner:

Replace section 424(3)(c) with:

- (c) whether any of the following people has a disability or serious illness:
- (i) the dependent child:
  - (ii) the principal caregiver or temporary OB or UCB caregiver of the dependent child:
  - (iii) any of the other dependent children of that caregiver (whether that person is the principal caregiver or temporary OB or UCB caregiver of any of those other dependent children):

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In section 424(3)(e), after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

**Part 2****Further amendments to Social Security Regulations 2018**

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In regulation 20(1), replace the definition of **household income** with:

**household income—**

- (a) in relation to a child or the child’s principal caregiver, means the sum of—
- (i) the total income of the child’s principal caregiver; and

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- (ii) the total income of the spouse or partner (if any) of the child’s principal caregiver (whether or not that spouse or partner is also the child’s other caregiver); or
- (b) in relation to a child or the child’s temporary OB or UCB caregiver, means the sum of— 5
  - (i) the total income of the child’s temporary OB or UCB caregiver; and
  - (ii) the total income of the spouse or partner (if any) of the child’s temporary OB or UCB caregiver (whether or not that spouse or partner is also the child’s other caregiver) 10

In regulation 20(1), definition of **other caregiver**, paragraph (a), after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In regulation 25, after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In regulation 26(a), after “principal caregiver”, insert “or temporary OB or UCB caregiver”. 15

In regulation 30(1)(b), after “principal caregiver”, insert “temporary OB or UCB caregiver”.

In the heading to regulation 32, replace “**principal caregiver**” with “**caregiver**”.

Replace regulation 32(1)(c) with: 20

- (c) the child’s principal caregiver is also the principal caregiver or temporary OB or UCB caregiver of some other child, who is either in hospital or is a child for whom a child disability allowance is payable; or
- (d) the child’s temporary OB or UCB caregiver is also the principal caregiver or temporary OB or UCB caregiver of some other child, who is either in hospital or is a child for whom a child disability allowance is payable. 25

In regulation 32(3)(b), after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In regulation 32(4), after “principal caregiver”, insert “or temporary OB or UCB caregiver” in each place. 30

In regulation 33, after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In the heading to regulation 34, replace “**principal caregiver**” with “**caregiver**”.

In regulation 34(b), after “principal caregiver”, insert “or temporary OB or UCB caregiver”. 35

In the heading to regulation 35, replace “**principal caregiver**” with “**caregiver**”.

In regulation 35(b), after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In regulation 37(2), after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In regulation 40, after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In the heading to regulation 41, replace “**principal caregiver**” with “**caregiver**”. 5

Replace regulation 41(1)(c) with:

(c) the child’s principal caregiver is also the principal caregiver or temporary OB or UCB caregiver of some other child, who is either in hospital or is a child for whom a child disability allowance is payable; or

(d) the child’s temporary OB or UCB caregiver is also the principal caregiver or temporary OB or UCB caregiver of some other child, who is either in hospital or is a child for whom a child disability allowance is payable. 10

In regulation 41(3)(b), after “principal caregiver”, insert “or temporary OB or UCB caregiver”. 15

In regulation 41(4), after “principal caregiver”, insert “or temporary OB or UCB caregiver” in each place.

In the heading to regulation 42, replace “**principal caregiver**” with “**caregiver**”.

In regulation 42(b), after “principal caregiver”, insert “or temporary OB or UCB caregiver”. 20

In the heading to regulation 43, replace “**principal caregiver**” with “**caregiver**”.

In regulation 43, after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In regulation 59(1)(a), after “principal caregiver”, insert “or temporary OB or UCB caregiver”. 25

In regulation 59(1)(b), after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In regulation 59(3)(d)(ii), after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In Schedule 2, item 1, after “principal caregiver”, insert “or temporary OB or UCB caregiver”. 30

In Schedule 2, item 2, after “principal caregiver”, insert “or temporary OB or UCB caregiver”.

In Schedule 2, item 3, after “principal caregiver”, insert “or temporary OB or UCB caregiver”. 35

### Legislative history

30 July 2020  
8 December 2020

Introduction (Bill 308–1)  
First reading and referral to Social Services and Community  
Committee

**Social Security (Financial Assistance for Caregivers)  
Amendment Bill**

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