

House of Representatives

Supplementary Order Paper

Thursday, 9 June 2016

Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill

Proposed amendments

Hon Anne Tolley, in Committee, to move the following amendments:

Clause 2

Replace *clause 2(1)* (page 3, lines 6 and 7) with:

- (1) **Sections 4(2) and (3), 10, 11, 14 to 16, 17(3), 18(2) and (3), 24(1), 25, 26, 27(1) to (4), 28 to 31, 33(3), 34, 36 to 38, and 39 to 43** come into force on a date appointed by the Governor-General by Order in Council.

In *clause 2(2)*, replace “The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more orders may be made” (page 3, lines 8 and 9) with “One or more orders may be made under **subsection (1)**”.

After *clause 2(2)* (page 3, after line 10), insert:

- (3) The rest of this Act comes into force on the day after the date on which this Act receives the Royal assent.

Clause 4

Replace *clause 4* (page 4, lines 1 to 20) with:

4 Section 3 amended (Interpretation)

- (1) In section 3(1), insert in their appropriate alphabetical order:

NCEA level 2 means a level 2 National Certificate of Educational Achievement issued by the New Zealand Qualifications Authority established under Part 20 of the Education Act 1989

young person,—

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- (a) in sections 1A(ca) and 123E, means a person who is aged at least 15 years but is under the age of 18 years; and
- (b) in all other cases, means a person who is aged at least 16 years but is under the age of 20 years
- (2) In section 3(1), replace the definition of **young person** with:
- young person,—**
- (a) in sections 1A(ca) and 123E,—
- (i) means a person who is aged at least 15 years but is under the age of 18 years; and
- (ii) includes a person aged 18 years or over who continues to receive services under **section 123E(2)**; and
- (b) in all other cases,—
- (i) means a person who is aged at least 16 years but is under the age of 20 years; and
- (ii) includes—
- (A) a person aged 20 years or over in respect of whom a young parent payment continues under section 168; and
- (B) a person aged 20 years or over to whom obligations in section 170(1) continue to apply under **section 171(5)**
- (3) In section 3(1), definition of **young person**, **paragraph (b)(ii)(B)**, after “**section 171(5)**”, insert “or **171A(3)**”.

New clause 19A

After *clause 19* (page 8, after line 5), insert:

19A Section 125A amended (Chief executive may contract with service providers)

- (1) In section 125A(1), replace “provider of services—” with “provider of all or any of the following:”.
- (2) Replace section 125A(1)(a) to (b) with the following:
- (a) services of a kind or description specified for the purposes of this paragraph by regulations under this Act and that are—
- (i) services of a kind referred to in section 123E(a) (services to encourage and help young persons to move into or remain in education, training, and employment); or
- (ii) services in relation to Part 5 (financial support for young people):

- (b) services in relation to all or any of Parts 1 to 1P and 2 (which may be, but need not be, services of a kind or description specified for the purposes of this paragraph by regulations under this Act).

New clause 21A

After *clause 21* (page 8, after line 12), insert:

21A Section 125G amended (Actions of contracted service providers to be treated for certain purposes as if actions of department)

- (1) In the heading to section 125G, after “**providers**”, insert “**in relation to young persons**”.
- (2) After section 125G(3), insert:
- (4) In this section, **contracted service provider** means a contracted service provider assigned to a young person under section 181.

Clause 24

In *clause 24* (page 8, after line 24), insert as subclause (2):

- (2) After section 162(2)(a), insert:
 - (ab) a supported living payment on the ground of caring for a patient requiring care, under section 40D:

Clause 27

After *clause 27(4)* (page 9, after line 3), insert:

- (5) After section 168(2)(a), insert:
 - (ab) a supported living payment on the ground of caring for a patient requiring care, under section 40D:

New clause 27A

Before *clause 28* (page 9, before line 4), insert:

27A Section 170 amended (Youth support payments: obligations)

- (1) After section 170(1)(e), insert:
 - (ea) to give to the department or to a contracted service provider assigned to the young person (within 20 working days starting on the day after the date on which the chief executive informs the young person of the requirement) the following information:
 - (i) details of the young person’s accommodation costs and service costs and other lawful debts and liabilities; and

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- (ii) any other information reasonably required by the chief executive to effect money management under section 179:

(2) In section 170(1)(g)(ii), replace “information on” with “details of”.

Clause 28

Replace *clause 28(8) and (9)* (page 9, lines 25 to 33) with:

- (8) Repeal section 171(3).

In *clause 28(10)*, *new section 171(7)* (page 10, line 31), replace “section 179 applies” with “sections 170(1)(g)(ii) and 179 apply”.

Clause 29

In *clause 29*, after *new section 171A(2)* (page 11, after line 8), insert:

- (2AA) In exercising the discretion under **subsection (2)**, the chief executive may consider factors that affect the ability of the department to provide the young person with youth services (for example, funding and capacity to provide the services in the young person’s area).

In *clause 29*, after *new section 171A(4)(b)* (page 11, after line 31), insert:

- (ba) section 176(4):

Clause 31

Replace the heading to *clause 31* (page 12, lines 5 and 6) with “**New sections 174AA and 174A inserted**”.

In *clause 31*, before *new section 174A* (page 12, before line 8), insert:

174AA Sanctions for failure by young spouse or partner of specified beneficiary to comply with obligations

- (1) **Subsection (2)** applies to a young person—
 - (a) who is—
 - (i) aged 16 or 17 years, without dependent children, and is the spouse or partner of a specified beneficiary; or
 - (ii) aged 16 to 19 years, with a dependent child or children, and is the spouse or partner of a specified beneficiary; and
 - (b) whose benefit is subject to money management.
- (2) If a young person to whom this subsection applies fails, without good and sufficient reason, to comply with an obligation under section 170 placed on him or her by section 171(1)(a), the sanctions in section 173 apply (and sections 175 and 176 apply) as if the young person’s benefit were a youth support payment.

- (3) **Subsection (4)** applies to a young person—
- (a) who is—
 - (i) aged 16 or 17 years, without dependent children, and is the spouse or partner of a specified beneficiary; or
 - (ii) aged 16 to 19 years, with a dependent child or children, and is the spouse or partner of a specified beneficiary; and
 - (b) whose benefit is not subject to money management.
- (4) A failure, without good and sufficient reason, by a young person to whom this subsection applies to comply with any of the obligations placed on the young person under section 171(1) or (2),—
- (a) for a young person who would, but for section 171(1)(b) or (2)(b), be subject to the work test, is a failure to comply with the work test for the purposes of section 117; and
 - (b) for a person who would, but for section 171(1)(b) or (2)(b), be subject to obligations under section 60Q, is a failure to comply with section 60Q(2) for the purposes of section 116B; and
 - (c) for a young person who is subject to a sanction under section 117, also results in—
 - (i) suspension of the young person’s incentive payments (if any) (if that sanction is a reduction or suspension of the young person’s benefit) until the young person re-complies; or
 - (ii) cancellation of the young person’s incentive payments (if any) (if that sanction is the cancellation of the young person’s benefit).

In *clause 31*, new *section 174A(2)*, replace “section 173 applies accordingly” (page 12, lines 19 and 20) with “the sanctions in 173 apply (and sections 175 and 176 apply) as if the young person’s benefit were a youth support payment”.

Clause 32

In *clause 32* (page 13, after line 4), insert as subclause (1):

- (1) Repeal section 179(4)(b).

Clause 35

Replace *clause 35(2)* (page 17, lines 21 to 35) with:

- (2) In regulation 3(1), revoke the definition of **young person**.

New clause 38A

After *clause 38* (page 19, after line 12), insert:

38A Regulation 7 amended (When money management applies)

- (1) Replace regulation 7(1)(b) with:
 - (b) the young person has given to the department or to his or her contracted service provider the information required under **section 170(1)(ea)** of the Act; and
- (2) Replace regulation 7(2) with:
 - (2) Until the information required under **section 170(1)(ea)** of the Act has been given, a benefit or payment referred to in subclause (1)(a) must be paid to or on account of the young person entitled to it in accordance with section 82(3) of the Act.

Clause 39

In the heading to *clause 39*, replace “**Regulations**” (page 19, line 13) with “**Regulation**”.

Explanatory note

This Supplementary Order Paper amends the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill (the **Bill**), which in turn amends the Social Security Act 1964 (the **principal Act**) and other enactments.

Clause 2 of the Bill (commencement) is amended by this Supplementary Order Paper so that provisions that will commence by Order in Council are specified and the remaining provisions will commence on the day after Royal assent.

This Supplementary Order Paper amends *clause 4* of the Bill to insert 2 new definitions into section 3 of the principal Act: a definition of NCEA level 2 and a definition of young person. The definition of young person will need to change on 3 occasions, as new provisions come into force. For this reason, the amendments to *clause 4* effectively contain 3 alternative definitions of young person, each contained in a different subclause, and each will commence in turn and replace or amend the definition that preceded it.

This Supplementary Order Paper inserts *new clause 19A* into the Bill, amending section 125A of the principal Act to provide that it is not necessary for regulations to state the kind or description of services in relation to Parts 1 to 1P and 2 in order for the chief executive to enter into a contract with a contracted service provider for the provision of those services.

New clause 21A is inserted into the Bill by this Supplementary Order Paper to amend section 125G of the principal Act to clarify that the section relates to the actions of contracted service providers in relation to young persons, and to insert an internal definition of contracted service provider.

The Supplementary Order Paper amends *clause 24* of the Bill to add a supported living payment under section 40D (on ground of caring for a patient requiring care) to the list of benefits in section 162(2) that a young person is not eligible to be granted while the young person is receiving a continued youth payment under section 162(1)

of the principal Act. It also amends *clause 27* of the Bill to achieve the same effect in relation to a young person receiving a continued young parent payment under section 168(2). Those amendments also serve to clarify that the requirement for young persons in receipt of a youth support payment to continue to receive youth services for at least 6 months does not apply to young persons who qualify for a supported living payment under section 40B of the principal Act (on ground of sickness, injury, disability, or total blindness).

New clause 27A, which inserts a *new paragraph (ea)* after section 170(1)(e) of the principal Act, is inserted by this Supplementary Order Paper. *New paragraph (ea)* creates an obligation on certain recipients of youth support payments to give to the department or to a contracted service provider details of the young person's accommodation costs and service costs and other lawful debts and liabilities, as well as other information reasonably required by the chief executive of the department in order to effect money management. A young person may already be required to provide this information under section 11D of the principal Act, but the inclusion of this requirement as an obligation under section 170 clarifies that the failure to provide the required information within 20 working days after the date on which the young person is notified that he or she is required to receive youth services is an obligations failure that may attract sanctions.

Clause 28 of the Bill is amended by this Supplementary Order Paper to remove from section 171 of the principal Act provisions relating to sanctions, because those provisions will now be located in *new section 174AA* (see changes to *clause 31* of the Bill). *Clause 28* of the Bill is also amended to update a cross-reference in *new section 171(7)*.

This Supplementary Order Paper amends *clause 29* of the Bill to insert *new section 171A(2AA)*, which provides that, in exercising the discretion to require referral of a young person to youth services, the chief executive of the department can consider factors such as funding and capacity to provide the services. *New section 171A(4)* in *clause 29* is also amended to include section 176(4) of the principal Act in the list of provisions that apply to a young person required to receive youth services under *new section 171A(2)*.

Clause 31 of the Bill is amended by this Supplementary Order Paper to insert *new section 174AA*, which relates to sanctions for failure by a young spouse or partner of a specified beneficiary to comply with obligations. The new provision effectively extends the youth sanctions regime to all young people on money management. It also provides that, if a young spouse or partner of a specified beneficiary who is not subject to money management fails to comply with an obligation placed on the young person under section 171, that failure is treated as failure to comply with the work test or with work preparation obligations and attracts the relevant sanctions.

The Supplementary Order Paper amends *clause 32* of the Bill to repeal section 179(4)(b), because that provision (which deals with how payment of certain benefits is to be effected when no money management method has yet been prescribed) is no

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longer required given that the Social Security (Criteria for Incentive Payments and Money Management) Regulations 2012 are in place.

Clause 35 of the Bill is amended by this Supplementary Order Paper to revoke the definition of young person from regulation 3(1) of the Social Security (Contracts and Information Sharing with Service Providers) Regulations 2012, because the regulations will now rely on the definition of young person inserted in section 3 of the principal Act by this Supplementary Order Paper (*see clause 4*).

The Supplementary Order Paper inserts *new clause 38A* into the Bill to amend regulation 7 of the Social Security (Criteria for Incentive Payments and Money Management) Regulations 2012 as a consequence of the insertion of the new obligation in *new section 170(1)(ea)* of the principal Act (*see new clause 27A*).

Departmental disclosure statement

The Ministry of Social Development considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.