



**MINISTRY OF SOCIAL  
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA

**19 JAN 2016**

Mr Andrew Geddis

[fyi-request-3382-fcc37aa1@requests.fyi.org.nz](mailto:fyi-request-3382-fcc37aa1@requests.fyi.org.nz)

Dear Mr Geddis

On 19 November 2015 you emailed my office requesting, under the Official Information Act 1982, the following information:

- *Information regarding the internal estimates on the potential financial Crown costs that have been provided to Cabinet on the Social Security (Commencement of Benefits) Amendment Bill?*

In May 2014, the Social Security Appeal Authority alerted the Ministry to an error in an amendment of section 80BA of the Act made on 3 June 1998 that meant a benefit should commence on the day that a stand down period ends (as opposed to the day after the stand down period ends).

In September 2015, Hon Anne Tolley, Minister for Social Development, directed Work and Income to change its practice so that it technically aligns with the letter of the law and last year's court decision, ahead of an upcoming law change which clarified the policy intent.

This saw all benefits granted after 29 September 2015, paid on the last day of their stand down period thus receiving an additional day of benefit. In May 2015, Cabinet agreed that the legislative error needed to be corrected with full retrospective effect to 3 June 1998.

The Government's policy intent has always been that a benefit commences on the day after the stand down period ends (e.g. for a 7 day stand down a benefit commences on day 8). The purpose is to encourage people to make provision for a short period without income before relying on state assistance. On 23 November 2015, the Bill to have the amendment corrected to align the legislation with the Government's policy received Royal Assent.

You will find enclosed the following documents relating to the benefit commencement stand down period and addresses your requests for internal estimates to the Crown:

1. *Social Security Amendment Bill No 3*, dated 13 March 2015
2. *Technical Amendments to the Social Security Act 1964 in the Youth Service Extension Bill* (Cabinet paper), dated 6 May 2015
3. *Commencement date of benefit after a stand down period* (memo), dated 22 September 2015
4. *Options – Benefit commencement date after stand down*, dated 22 September 2015
5. *Correcting the Social Security Act 1964 in relation to the benefit commencement date after a stand down period* (Cabinet paper), dated 24 September 2015
6. *Correcting the Social Security Act 1964 in relation to the benefit commencement date after a stand down period* (revised recommendations), dated 25 September 2015
7. *Social Security (Commencement of Benefits Amendment Bill: Approval for Introduction* (Cover Report), dated 6 October 2015

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8. *Social Security (Commencement of Benefits) Amendment Bill: Approval for Introduction* (Cabinet paper), dated 6 October 2015
9. *Social Security (Commencement of Benefits) Amendment Bill: October 2015* (Notes for the Minister for the House), dated 12 October 2015
10. *Social Security (Commencement of Benefits) Amendment Bill: November 2015* (Notes for the Minister for the House), dated 17 November 2015

You will note that some information is withheld from the Cabinet Paper '*Correcting the Social Security Act 1964 in relation to the benefit commencement date after a stand down period*', dated 24 September 2015, under section 9(2)(h) of the Act in order to maintain legal professional privilege. The greater public interest is in ensuring that government agencies can continue to obtain confidential legal advice.

Information that does not relate to the benefit commencement date is considered out of scope and is not provided.

Two letters titled '*Consistency with the New Zealand Bill of Rights Act 1990: Social Security (Commencement of Benefits) Bill*', dated 5 October 2015, and *Crown Law Stand down periods*, dated 22 September 2015 are within scope of your request, however these documents are withheld under section 9(2)(h) of the Act in order to maintain legal professional privilege. The greater public interest is in ensuring that government agencies can continue to obtain confidential legal advice.

The two Aide Memoires titled '*Correcting the Social Security Act 1964 in relation to the benefit commencement date after a stand down period*', dated 25 September, and '*Social Security (Commencement of Benefits) Amendment Bill: Approval for Introduction*', dated 9 October 2015 are withheld under section 9(2)(g)(i) of the Act to protect the effective conduct of public affairs through the free and frank expression of opinions.

I hope you find this information helpful. You have the right to seek an investigation and review of my response by the Ombudsman, whose address for contact purposes is:

The Ombudsman  
Office of the Ombudsman  
PO Box 10-152  
WELLINGTON 6143

Yours sincerely



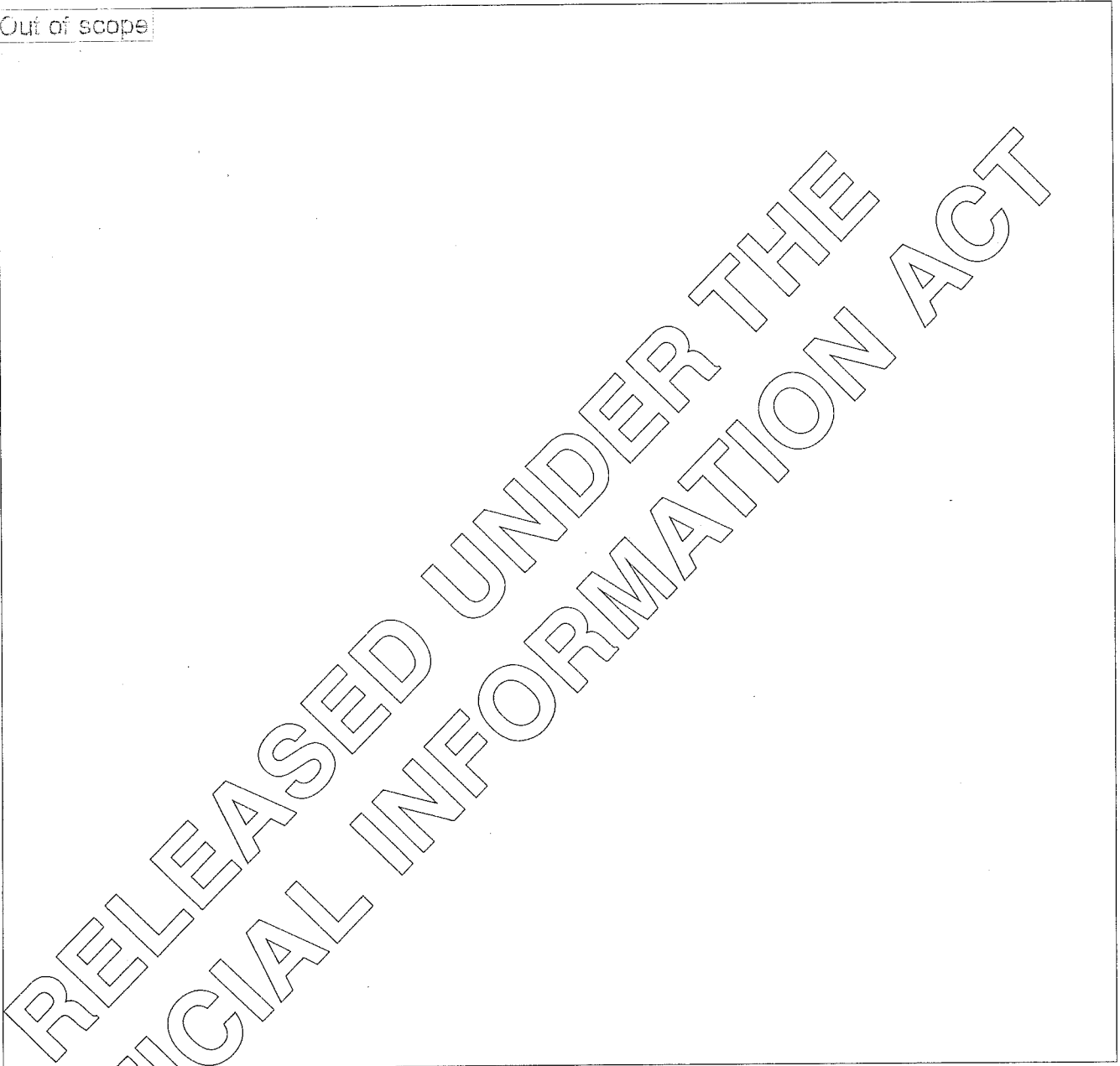
**Ruth Bound**  
**Deputy Chief Executive, Service Delivery**

Social Security Amendment Bill No 3

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**The Social Security Amendment Bill (No 3) aims to clarify the operation of the Act**

Out of scope



*Officials seek your agreement to progress three additional issues, via SOP as well*

The proposed amendments relate to:

Out of scope

- aligning legislation with the current and intended practice and policy to commence a benefit is the day after the stand down ends – current legislation states that it is from the date the stand down ends i.e. one day earlier than intended.

Out of scope

These proposed amendments ensure that policy intent is clear in the legislation and remove the risk of legal challenge to MSD and unintended financial costs to the Crown.

Out of scope

**The No 3 Bill is an appropriate vehicle for the proposed amendments**

*MSD recommends progressing the SOPs through the No 3 Bill, rather than another vehicle*

The proposed SOPs will address areas in the current Act that expose the Ministry to litigation risk and the Crown to financial risk. Officials' advice is that it is important to amend the Act at the earliest opportunity in order to minimise these risks.

As the No 3 Bill is awaiting its second reading and could be passed as soon as April 2015, it is the most expedient legislative vehicle to progress the issues identified. The Office of the Clerk has indicated that the proposed amendments are in scope for the No 3 Bill.

Out of scope

Out of scope

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### **Proposal to correct section 80BA of the Social Security Act 1964 to clarify that a benefit commences 10 the day after a stand down period**

To encourage people to make provision for a short period without income before relying on state assistance, a person eligible for a main social security benefit is generally subject to a 7 or 14 day stand down period during which they do not receive any benefit payment. This means, for example, that a person granted a benefit but subject to a stand down of 7 days from the date at which they became eligible, will have their benefit commence on day 8 (the day after the stand down period ends).

However, the benefit commencement date after a stand down (as it is set out in section 80BA of the current legislation) sets the commencement date of benefit as the day the stand down period ends, instead of the day *after* the stand down ends. This wording entitles a person with a stand down to receive benefit a day earlier than intended.

Operational practice is, and has always been, to commence benefit on the day after the stand down period ends (eg, for a 7 day stand down a benefit commences on day 8). In June 2014, the High Court confirmed that, using a plain reading of the legislation, benefit payments should commence on the day the stand down ends.<sup>11</sup> This decision has not been appealed by MSD, as Crown Law advised an appeal is unlikely to be successful.

If the legislation implemented instead of corrected, people subject to a stand down on a benefit would receive an additional \$33.08 to \$41.40 that they were never intended to receive (based on benefit rates as at 1 April 2014) and the Crown would incur an additional \$6 million per annum in benefit expenditure (based on 2014 benefit data).

Until a change comes into effect, any retrospective complaints will be dealt with on a case by case basis through existing procedures. Where a beneficiary is outside the three month timeframe for lodging a review, MSD will follow its usual process for out of time reviews. Although difficult to substantiate, if the client has suffered hardship MSD may need to consider the possibility of making ex-gratia payments.

<sup>9</sup> As noted earlier, *Brosnahan*, 9 October 2013.

<sup>10</sup> That is, the date the benefit is backdated and paid from (benefits are paid in arrears).

<sup>11</sup> As noted earlier, *Crequer*, date TBC.

The proposal will amend the Act to correct the commencement date of a benefit so that a benefit commences on the day after a stand down period ends. The amendment will be retrospective to 3 June 1998 (the date the error should have been corrected) in order to validate MSD's practice and decisions made relying on the current understanding of section 80BA since this period and avoid any unintended expenditure.

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Chair  
Cabinet Social Policy Committee

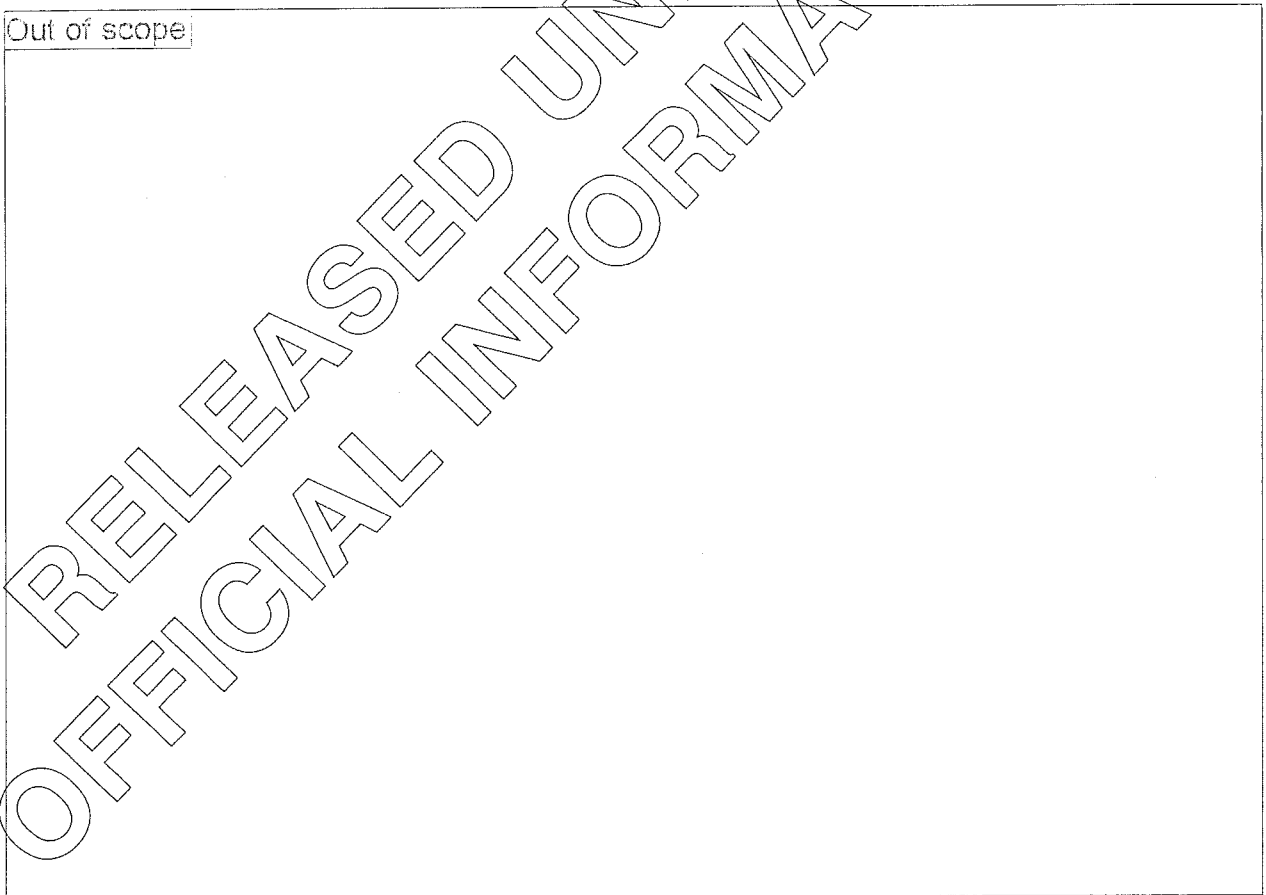
**TECHNICAL AMENDMENTS TO THE SOCIAL SECURITY ACT 1964 IN THE YOUTH SERVICE EXTENSION BILL**

**Proposal**

- 1 This paper seeks agreement to make technical amendments to the Social Security Act 1964 (the Act) to align legislation with the policy intent, following recent rulings from the Social Security Appeal Authority (the Authority) and the High Court, and legal advice.
- 2 I will progress the technical amendments together with the Youth Service extension in the proposed Social Security Amendment Bill (the Youth Bill), which I intend to introduce in June 2015.

**Executive Summary**

Out of scope



<sup>1</sup> National Party, Welfare Reform Election Policy 2014 <https://www.national.org.nz/docs/default-source/PDF/2014/policy/welfare-reform-policy.pdf>

- 8 A number of rulings have been received on cases being progressed through the Authority and the High Court in recent years that show that the current legislation is incorrect or unclear in four distinct areas:

Out of scope

- An error in the current legislation means benefit payments should start a day earlier than intended after a stand down. While operational practice follows the policy intent, the legislation needs to be clarified. Not doing so (implementing the legislation as currently worded) would incur additional benefit expenditure of \$6 million per annum, and open the Crown to a potentially significant liability in respect of previous benefit grants.

Out of scope

- 9 If the Act is not amended as proposed above, there is potential to expose MSD to legal challenge, and a financial cost to the Crown. It is therefore important to amend the Act at the earliest opportunity in order to minimise these risks.

Out of scope

Out of scope

### Technical Amendments to the Social Security Act 1964

- 15 I am seeking agreement to amend the Act to ensure the legislation is clear about the intent and administration of Government welfare policy in four distinct areas, which arise from recent rulings of the Authority and the High Court, and legal advice.

Out of scope

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<sup>2</sup> Skeet, 11 September 2012.

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***Proposal to correct section 80BA of the Social Security Act 1964 to clarify that a benefit commences the day after a stand down period***

26 To encourage people to make provision for a short period without income before relying on state assistance, a person eligible for a main social security benefit is generally subject to a seven or 14 day stand down period during which they do not receive any benefit payment. This means, for example, that a person granted a benefit but subject to

<sup>3</sup>So long as the surviving partner or child is not entitled to an ACC survivor's grant.

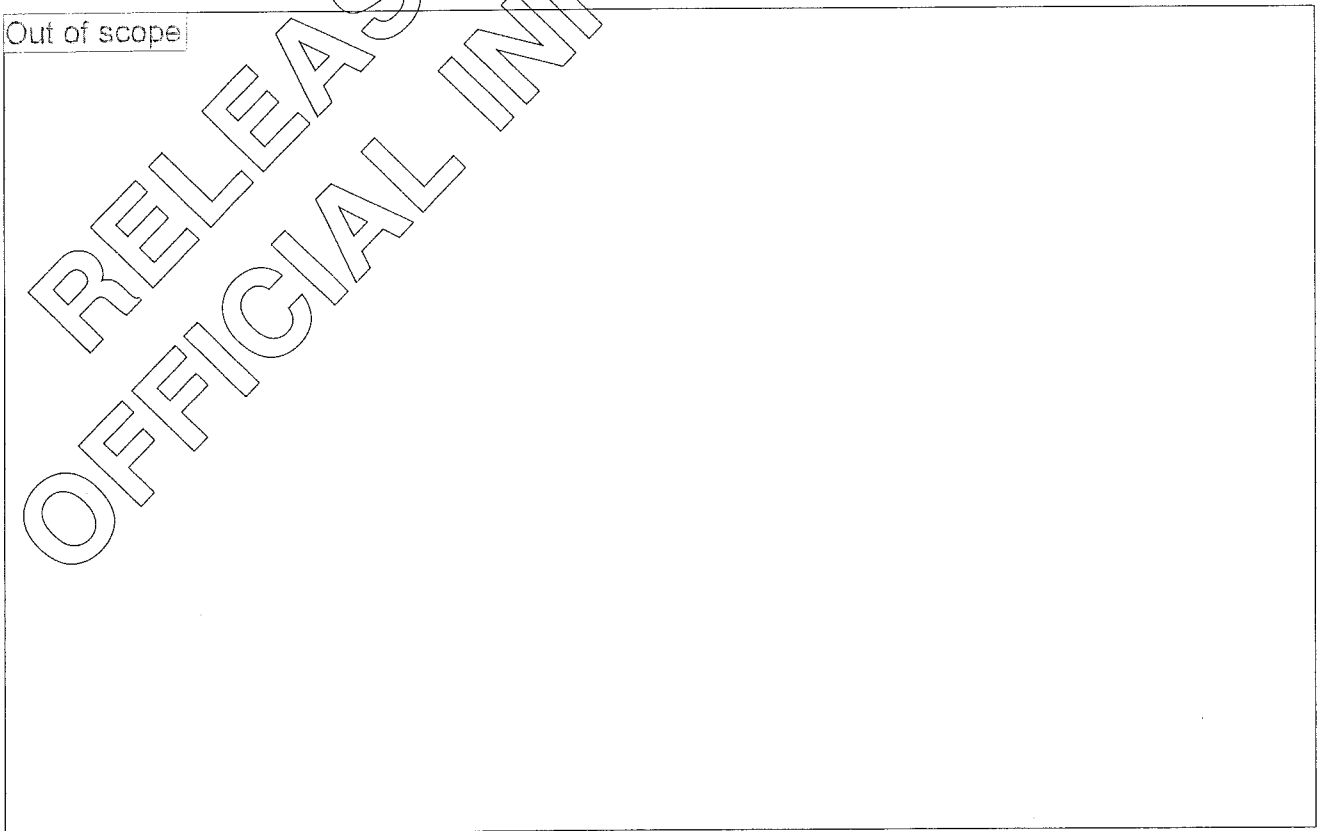
<sup>4</sup>Around 7,000 terminal benefits are paid each year.

<sup>5</sup>Brosnahan, 9 October 2013.

a stand down of seven days from the entitlement date<sup>6</sup> at which they became eligible will have their benefit commence on day eight (the day after the stand down period ends).

- 27 However, the benefit commencement date<sup>7</sup> after a stand down (as it is set out in section 80BA of the current legislation) sets the commencement date of benefit as the day the stand down period ends, instead of the day *after* the stand down ends. This wording entitles a person with a stand down to receive benefit a day earlier than intended.
- 28 Operational practice is, and has always been, to commence benefit on the day after the stand down period ends (eg, for a 7 day stand down a benefit commences on day 8). In June 2014, the High Court confirmed that, using a plain reading of the legislation, benefit payments should commence on the day the stand down ends.<sup>8</sup> This decision has not been appealed by MSD, as Crown Law advised an appeal is unlikely to be successful.
- 29 If the legislation was implemented as read instead of corrected, people subject to a stand down would receive an additional \$33.08 to \$41.40 that they were never intended to receive (based on benefit rates as at 1 April 2014) and the Crown would incur an additional \$6 million per annum in benefit expenditure (based on 2014 benefit data).
- 30 Until a change comes into effect, any retrospective complaints will be dealt with on a case by case basis through existing procedures. Where a beneficiary is outside the three month timeframe for lodging a review, MSD will follow its usual process for out of time reviews. Although difficult to substantiate, if the client has suffered hardship MSD may need to consider the possibility of making ex-gratia payments.
- 31 I seek approval to amend the Act to correct the commencement date of a benefit so that a benefit commences on the day after a stand down period ends. I also propose the amendment is retrospective to 3 June 1998 (the date the error should originally have been corrected<sup>9</sup>) to validate MSD's practice and decisions made relying on the current understanding of section 80BA since this period, and avoid any unintended expenditure.

Out of scope



Out of scope

### ***Progressing the proposed technical amendments***

- 35 It is important to amend the Act at the earliest opportunity in order to minimise the risks of legal challenge to MSD and financial costs to the Crown.
- 36 As I intend to introduce the Youth Bill in June 2015 to extend the Youth Service, it provides the most expedient legislative vehicle to progress the issues identified in this paper.
- 37 I seek approval to progress these technical amendments via the Youth Bill.

### **Consultation**

- 38 The Treasury and the Ministry of Justice were consulted during the preparation of the sections of this paper regarding technical amendments. The Department of the Prime Minister and Cabinet has been informed.

### **Financial Implications**

Out of scope

- 41 There are no financial implications associated with the other proposals in this paper, as the technical amendments are consistent with current operational practice and avoid any unintended expenditure. However, there is a need for several of the proposals to be retrospective, in order to remove any potential liability.

### **Human Rights Implications**

Out of Scope

The additional changes proposed in this paper in respect to the technical amendments are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### **Legislative Implications**

- 43 The technical changes proposed are straightforward. Any delay in pursuing an amendment would increase the risk of legal challenge. I propose to submit the Youth Bill



to include the Youth Service extension and the technical amendments outlined in this paper to Cabinet Legislation Committee in June 2015, with a view to it being introduced that same month.

### Regulatory Impact Analysis

- 44 The proposals regarding the technical amendments are necessary to amend the Act in order to give effect to recognised policy intent and longstanding administrative practice. I consider that the proposed amendments are technical revisions that re-enact current law to improve legislative clarity and are therefore exempt from the Regulatory Impact Analysis requirements.

Out of scope

### Gender Implications

- 45 The technical amendments in this paper will not materially alter the gender implications associated with the current legislation.

Out of scope

### Disability Implications

- 46 The technical amendments in this paper do not have disability implications.

Out of scope

### Publicity

- 47 The technical amendments only confirm current policy, no public announcement is required.

### Recommendations

Out of Scope

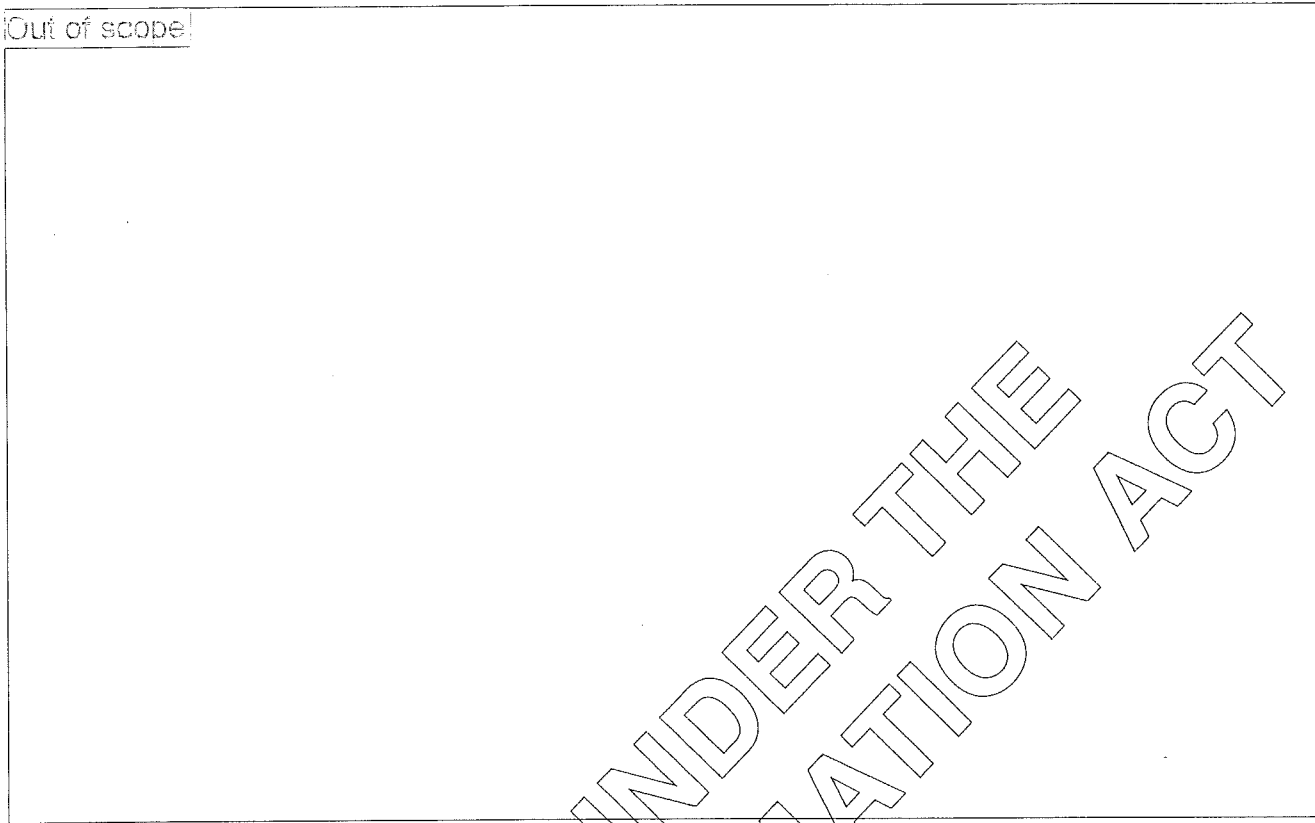
Out of scope

*Proposal amend the Social Proposal amend the Social Security Act 1964 to correct section 80BA so a benefit commences on the day after a stand down*

- 9 **note** that section 80BA of the Social Security Act 1964 as currently worded appears to entitle a person who is eligible for a main social security benefit after an initial stand down period to receive the benefit one day earlier than intended;
- 10 **agree** to amend section 80BA of the Social Security Act 1964 to provide that a benefit commences on the day after a stand down period ends;
- 11 **agree** that the amendments proposed in recommendation 10 have retrospective effect to 3 June 1998;

Out of scope

Out of scope



Hon Anne Tolley  
**Minister for Social Development**

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# Memo

**To:** Section 9(2)(a) Privacy of Natural Persons

**From:** Anna Butler, General Manager Housing Income Support and Employment

**Date:** 22 September 2015

**Security level:** IN CONFIDENCE

## Commencement date of benefit after a stand down period

### Background

The Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill corrects a previous drafting error in the commencement date of a benefit in relation to a stand-down period with retrospective effect.

Government's policy intent, and the Ministry's practice, is and has always been to commence a benefit on the day after the stand-down period ends.

### Legal advice

The Minister asked for Crown Law advice to be sought on the Ministry's legal obligation to clients affected by the drafting error that provides for a benefit to commence on the day that a stand down period ends. This advice is attached.

### Decisions

The attached A3 provides the Minister with a range of options for remedying the commencement date error for your consideration, alongside the Crown Law advice.

There are a number of decisions to be made. The Minister will need to consider:

- whether, until legislative change comes into effect, the Ministry should continue with its current practice (based on policy intent) or change its practice (to align with current legislation and pay people an additional days benefit)
- what form any retrospective application of the legislative change should take (i.e. fully retrospective, retrospective until May 2014 when the error was found, or forward only)
- the scope of the legislative remedy (i.e. defined parameters and process for lodging and completing reviews of previous Ministry decisions)
- the legislative vehicle (i.e. current Bill and timing, or using urgency to pass the relevant legislative change either separately or through a new Bill).

Chair  
Cabinet

## **CORRECTING THE SOCIAL SECURITY ACT 1964 IN RELATION TO THE BENEFIT COMMENCEMENT DATE AFTER A STAND DOWN PERIOD**

### **Proposal**

- 1 This paper seeks your agreement to expedite amendments to the Social Security Act 1964 (the Act) in relation to the benefit commencement dates after a stand down to align the legislation with Government policy intent and avoid unintended Crown costs.
- 2 I also seek your agreement that the legislation provide for a limited period in which people affected by the error in the period since it was discovered can seek recompense.

### **Executive Summary**

- 3 The Government's policy intent, and operational practice, is and has always been that a benefit commences on the day after the stand down period ends (e.g. for a 7 day stand down a benefit commences on day 8). The purpose is to encourage people to make provision for a short period without income before relying on state assistance.
- 4 In May 2014 the Social Security Appeal Authority alerted the Ministry to an error in an amendment of section 80BA of the Act made on 3 June 1998 that means a benefit should commence on the day that a stand down period ends (e.g. for a 7 day stand down period, on day 6). In May 2015 we agreed that the legislative error needs to be corrected with full retrospective effect to 3 June 1998 [CAB Min (15) 15/2 refers].
- 5 As the ongoing legal and financial risk to the Crown was perceived to be relatively low, Cabinet decided to progress the required amendments through the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill. This Bill is currently at the Social Services Select Committee.
- 6 However, I have received further legal advice and the financial risk is now increasing. A promotional campaign has begun, encouraging clients to seek a review of benefit in order to receive an additional day(s) benefit for any post stand down benefits granted since 1998. This could significantly increase the risk of unintended financial costs for the Crown and have operational impacts for the Ministry of Social Development (the Ministry).
- 7 It is therefore important to amend the Act with urgency. I seek to expedite the legislative change to ensure the Government's intended policy is properly enacted. I am proposing to make this change by way of a new bill, to be passed under urgency in early- to mid-October.
- 8 In the interim, I will direct officials to amend operational practice as of tomorrow, so that it reflects the current legislation and people subject to a stand down receive an additional day of benefit. This will incur additional expenditure of approximately \$0.6 million, assuming the legislative correction is enacted in 4 weeks.
- 9 To acknowledge that practice should have changed when the error was discovered, I also want to provide a limited opportunity for clients whose benefits were affected by the error from 20 May 2014 onwards to be able to seek recompense (via a provision to

accept and allow reviews of decisions for a period of 6 weeks after the legislative correction is made). I also propose that any applications for reviews in relation to the period back to 3 June 1998, which are lodged prior to the legislative amendment coming into effect, be protected from the effect of the retrospective validation. Assuming we agree to both these provisions, the back-dated payments are estimated to incur expenditure in the region of \$3.5 million.

- 10 Treasury officials have confirmed that all payments (ongoing and back-dated) can be made, without further adjustment or decision, from current appropriations.

### **There is an error in the legislation in relation to the day on which a benefit should commence after a stand down period**

- 11 I am seeking agreement to expedite an amendment to the Act to ensure the legislation reflects the policy intent in relation to a benefit commencement date after a stand down.

#### ***Government policy intent has always been clear and is reflected in operational practice***

- 12 To encourage people to make provision for a short period without income before relying on state assistance, a person eligible for a main social security benefit is generally subject to a 7 or 14 day stand down period during which they do not receive any benefit payment. For example, this policy means that a person granted a benefit, but subject to a stand down of 7 days from the day of entitlement,<sup>1</sup> will have their benefit commence on day 8 – that is, the day after the stand down period ends.

- 13 Operational practice is, and has always been, to commence benefit on the day after the stand down period ends (eg, for a 7 day stand down a benefit commences on day 8).

#### ***However, legislation does not reflect the policy intent and Cabinet has previously agreed to remedy this***

- 14 Section 80BA of the Act, which sets out the calculation of stand down periods, first came into effect on 1 April 1997. In reading the original explanatory note to the Bill, it is clear that a stand down period is to be considered in terms of a full calendar week, that is, a week stand down is 7 days with no benefit payment.

- 15 On 20 May 2014 the Social Security Appeal Authority alerted the Ministry a legislative amendment made on 3 June 1998 created an error in section 80BA of the Act. The change set the commencement date<sup>2</sup> of benefit after a stand down as the day the stand down period ends, instead of the day *after* the stand down ends. This wording entitles a person with a stand down to receive benefit a day earlier than intended, after 6 days with no benefit payment. The May 2014 decision of the Social Security Appeal Authority was not appealed by the Ministry, but accepted as correct after discussion with Crown Law.

- 16 In May 2015, Cabinet agreed the legislation needs to be corrected, with full retrospective effect to 3 June 1998 - with exceptions for two people who appealed their cases to the Social Security Appeal Authority [CAB Min (15) 15/2 refers].

- 17 In May, the ongoing legal and financial risk to the Crown was perceived to be relatively low. As such, Cabinet decided to progress the required amendments through the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill. This Bill is currently at the Social Services Select Committee.

<sup>1</sup> The entitlement date is generally the date of the event that led the client to apply for a main benefit (e.g. the day after employment ceased, the date of arrival in New Zealand or the date of release from prison).

<sup>2</sup> That is, the date the benefit is backdated and paid from (benefits are paid in arrears).

***The level of risk associated with this error is now increasing***

- 18 I have received further legal advice on how the Ministry should be responding to this issue (see below), which has led me to reconsider our agreed response.
- 19 In addition, the financial risk is now increasing. In the past few weeks, a promotional campaign has begun, encouraging clients to seek a review of decision (about entitlements in relation to stand down periods) to receive an additional day(s) of benefit for any post-stand down benefit grants since the 1998 error.
- 20 This new activity could significantly increase the risk of unintended financial costs for the Crown and have operational impacts for the Ministry.
- 21 Initial data suggests that, since 3 June 1998, around 2,700,000 benefits were commenced after a stand down. Based the benefit rates paid in the 2014 calendar year, people who were subject to a stand down could receive an additional \$33.08 to \$41.40 per stand down that they were never intended to receive.

s 9(2)(h) OIA Legal professional privilege

***Refining the proposal to correct section 80BA of the Social Security Act 1964***

- 23 Cabinet agreed, in May 2015, to use the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill as the vehicle to:
  - amend the Act to correct the commencement date of a benefit so that a benefit commences on the day after a stand down period ends
  - make the amendment retrospective to 3 June 1998 (the date the error was made) to validate MSD's practice and decisions made relying on the current understanding of section 80BA since this period.
- 24 As noted earlier, I sought further legal advice and the financial risk is increasing. I am now proposing a quicker and more nuanced response.

- 25 First, although this Bill is currently with the Social Services Select Committee, I propose to expedite the amendments to ensure the intended policy is properly enacted, reduce litigation risks that would be heightened by a delay and avoid unintended Crown expenditure. I propose to do this by way of a new bill, to be passed under urgency in early- to mid-October.
- 26 Second, in the interim, I have directed officials to amend operational practice so that it reflects the current legislation and clients subject to a stand down period receive an additional day of benefit. This will incur additional benefit expenditure of approximately \$0.6 million assuming that the legislative correction is enacted in 4 weeks.
- 27 Third, to acknowledge that operational practice should have been amended when the error was found I want to provide a limited opportunity for clients whose benefits were commenced on or after 20 May 2014 to seek recompense. I propose to do this by way of a provision to allow applications for a review of decision to be lodged for a period of 6 weeks after the legislative correction is made. This timeframe balances the legal interests of clients compromised by the decision not to amend practice with the operational impact and financial cost of this provision.
- 28 Lastly, I propose any reviews relating to the period back to 3 June 1998, which are lodged prior to the legislative amendment coming into effect, should be allowed.
- 29 Both of these back-dated payments (for clients whose benefits were commenced on or after 20 May 2014 who lodge a review in the 6 week period after the legislative change and for those who lodge any review before the change) are estimated to incur expenditure in the region of \$3.5 million.
- 30 I have also written to the Ministry to instruct them to ensure that current beneficiaries receive the correct amount of benefit due to them under the current legislation and future beneficiaries are granted the correct amount of benefit, once the legislation is corrected.

### **Consultation**

- 31 The Treasury was consulted during the preparation of this paper. The Department of the Prime Minister and Cabinet has been informed.

### **Financial Implications**

- 32 Back-dated payments, potentially back to 3 June 1998 in some instances, require an increase to appropriations. Cabinet's agreement is sought to confirm my intended approach, and to adjust the affected Benefit or Related Expenses at the 2016 Budget and Economic Fiscal Update as part of that round of forecast adjustments.
- 33 Under the fiscal management approach the net impact of changes to forecasts will be counted against future operating allowances. The net impact will be determined once all between-budget economic and fiscal updates, baseline updates of forecasts of benefits, and all other expenses are finalised. There is a significant degree of uncertainty over the cost – not all clients will seek to lodge an application for a benefit review on the basis of this stand down issue. All figures shown in this paper are tentative estimates only.
- 34 Officials have estimated the total cost of back-dated payments to be in the region of \$3.5 million (for clients whose benefits commenced on or after 20 May 2014 who lodge a review in the 6 week period after the legislative change). I seek Cabinet's agreement to include a more accurate reflection of this cost in the 2016 Budget and Economic Fiscal Update.



- 35 Until legislative change takes effect, the Ministry will begin paying benefits consistent with current legislation. This will increase benefit expenditure. The effect of this change to current operating practice has been estimated at \$0.6 million. I seek Cabinet's agreement to adjust the affected Benefit or Related Expenses appropriation by the estimated amount, and that this adjustment be incorporated at the Budget Economic and Fiscal Update once the impacts are fully known.

### **Human Rights Implications**

- 36 The proposal in this paper is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### **Legislative Implications**

- 37 Amendment to the Social Security Act 1964 will be required to give effect to the policy proposals in this paper. Given that the issue of stand downs has received some media coverage, it is important that the Ministry's clients, past and present, are given clarity as to the rules applicable to stand down periods as quickly as possible. It is also important that the Crown's contingent liability for current and past benefit liability is clarified.
- 38 My officials have spoken with Parliamentary Counsel Office, who advise that a bill could be drafted within a few days of them receiving instructions. I propose to seek approval from Cabinet for the introduction of the Bill within two weeks. I will be looking to have the Bill passed as a matter of urgency.
- 39 I am seeking Cabinet's agreement to include a Social Security (Commencement of Benefits) Amendment Bill for the above purpose in the 2015 Legislation Programme with a priority of 2 (must be passed in 2015).

### **Regulatory Impact Analysis**

- 40 The proposals are necessary to amend the Act in order to give effect to recognised policy intent and longstanding administrative practice. I consider that the proposed amendments are technical revisions that re-enact current law to improve legislative clarity and are therefore exempt from the Regulatory Impact Analysis requirements.

### **Gender Implications**

- 41 The amendments in this paper will not materially alter the gender implications associated with the current legislation.

### **Disability Implications**

- 42 The amendments in this paper do not have disability implications.

### **Publicity**

- 43 The Ministry will ensure clients have access to information about the review processes for commencement dates, and the additional one day payment that will apply until legislation is passed.
- 44 Role-specific training will be provided to contact centre, service centre and processing staff so that the Ministry can proactively advise clients, respond to questions and manage the interim payment and review processes. In addition, information will be

provided through the Work and Income website, and on digital signage and posters in service centres. Regional commissioners will engage with relevant stakeholders and the Ministry will work collaboratively with beneficiary advocates to share information.

- 45 The Ministry will work with my office on the wider communications approach including media.

## Recommendations

- 46 It is recommended that the Committee:

Legislation does not reflect policy intent

- 1 **note** that on 20 May 2014 the Social Security Appeal Authority alerted the Ministry that benefits should commence on the last day of a stand down period under section 80BA(4) of the Social Security Act 1964, contrary to longstanding Government policy and Ministry practice of commencing benefits the day after the stand down period ends;
- 2 **note** that on 11 May 2015 Cabinet agreed to confirm the existing policy and practice of commencing benefits the day after the stand down period ends and those decisions were given effect through the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill [CAB Min (15) 15/2 refers];
- 3 **note** that Cabinet also agreed to validate the Ministry practice retrospectively to 3 June 1998 (being the date the error occurred) and the Bill contains a validating provision to give effect to this decision;
- 4 **note** that the Minister for Social Development has given further consideration to this issue and proposes a quicker and more nuanced response;

Proposed legislative amendments

- 5 **confirm** the previous Cabinet decision to amend section 80BA of the Social Security Act 1964 to provide that a benefit commences on the day after a stand down period ends;
- 6 **vary** the previous Cabinet decision that the amendment have retrospective effect to 3 June 1998 so that it is subject to the exceptions in recommendations 7 to 10;
- 7 **agree** that until the date the amending legislation comes into force, benefits will commence on the last day of stand down and that the retrospective application will not apply to these decisions;
- 8 **agree** that decisions made about a commencement date following a stand down period after 3 June 1998 will not be affected by the retrospective application of the amendment if applications for review of those decisions are lodged prior to amending legislation coming into force;
- 9 **agree** that decisions made about a commencement date following a stand down period from 20 May 2014 onwards can be reviewed within a period of 6 weeks after the amending legislation comes into force and the retrospective application of the amendment not apply to those decisions;
- 10 **agree** that no application for review of decision unaffected by the retrospective application of the amendment shall be dismissed for being out of time;

Cost of change in operation practice (until legislative amendments are passed)

- 11 **note** that the estimated cost of changing current practice until legislative amendment takes effect is \$0.6 million;
- 12 **agree** to adjust the affected Benefit or Related Expenses appropriation to reflect recommendation 7 above, and that this will be incorporated at the Budget Economic and Fiscal Update once the impacts are fully known;

*Cost of back-dated payments*

- 13 **note** that the estimated cost of back-dated payments is in the region of \$3.5 million;
- 14 **agree** to adjust the affected Benefit or Related Expenses appropriation to reflect recommendations 8 and 9 above, and that this will be incorporated at the Budget Economic and Fiscal Update once the impacts are fully known;
- 15 **note** that under the fiscal management approach the net impact of changes to forecasts are counted against the next Budget's operating allowance - the net impact will be determined once between-budget economic and fiscal updates, baseline updates of forecasts of benefits, and all other expenses are finalised;

*Progressing the legislative amendments*

- 16 **agree** to include a Social Security (Commencement of Benefits) Amendment Bill in the 2015 Legislation Programme with a priority of 2 (must be passed in 2015);
- 17 **agree** that it is necessary to amend legislation to reflect the Government's policy intent as quickly as possible to clarify how the commencement date of benefit after a stand down will apply in the future for the Ministry's clients, how historic circumstances are to be managed and to manage the Crown's contingent liability;
- 18 **invite** the Minister for Social Development to issue drafting instructions to the Parliamentary Counsel Office to enable amendments to the Social Security Act 1964 to give effect to the policy decisions above;
- 19 **invite** the Minister for Social Development to seek approval to introduce the new amendment Bill within the next two weeks and discuss timing and priority for the Bill with the Leader of the House;
- 20 **authorise** the Minister for Social Development, in consultation with other Ministers as appropriate, to make any implementation, technical, policy, administrative and ancillary changes required to finalise the legislation.

Hon Anne Tolley  
**Minister for Social Development**

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## CORRECTING THE SOCIAL SECURITY ACT 1964 IN RELATION TO THE BENEFIT COMMENCEMENT DATE AFTER A STAND DOWN PERIOD

### Revised recommendations to reflect updated costing estimates

It is recommended that the Committee:

#### *Legislation does not reflect policy intent*

- 1 **note** that on 20 May 2014 the Social Security Appeal Authority alerted the Ministry that benefits should commence on the last day of a stand down period under section 80BA(4) of the Social Security Act 1964, contrary to longstanding Government policy and Ministry practice of commencing benefits the day after the stand down period ends;
- 2 **note** that on 11 May 2015 Cabinet agreed to confirm the existing policy and practice of commencing benefits the day after the stand down period ends and those decisions were given effect through the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill [CAB Min (15) 15/2 refers];
- 3 **note** that Cabinet also agreed to validate the Ministry practice retrospectively to 3 June 1998 (being the date the error occurred) and the Bill contains a validating provision to give effect to this decision;
- 4 **note** that the Minister for Social Development has given further consideration to this issue and proposes a quicker and more nuanced response;

#### *Proposed legislative amendments*

- 5 **confirm** the previous Cabinet decision to amend section 80BA of the Social Security Act 1964 to provide that a benefit commences on the day after a stand down period ends;
- 6 **vary** the previous Cabinet decision that the amendment have retrospective effect to 3 June 1998 so that it is subject to the exceptions in recommendations 7 to 10;
- 7 **agree** that until the date the amending legislation comes into force, benefits will commence on the last day of stand down and that the retrospective application will not apply to these decisions;
- 8 **agree** that decisions made about a commencement date following a stand down period after 3 June 1998 will not be affected by the retrospective application of the amendment if applications for review of those decisions are lodged prior to amending legislation coming into force;
- 9 **agree** that decisions made about a commencement date following a stand down period from 20 May 2014 onwards can be reviewed within a period of 6 weeks after the amending legislation comes into force and the retrospective application of the amendment not apply to those decisions;
- 10 **agree** that no application for review of decision unaffected by the retrospective application of the amendment shall be dismissed for being out of time;

#### *Cost of change in operation practice (until legislative amendments are passed)*

- 11 **note** that the estimated cost of changing current practice until legislative amendment takes effect is \$0.4 million;

- 12 **agree** to adjust the affected Benefit or Related Expenses appropriation to reflect recommendation 7 above, and that this will be incorporated at the Budget Economic and Fiscal Update once the impacts are fully known;

*Cost of back-dated payments*

- 13 **note** that the estimated cost of back-dated payments is in the region of \$8 million;
- 14 **agree** to adjust the affected Benefit or Related Expenses appropriation to reflect recommendations 8 and 9 above, and that this will be incorporated at the Budget Economic and Fiscal Update once the impacts are fully known;
- 15 **note** that under the fiscal management approach the net impact of changes to forecasts are counted against the next Budget's operating allowance - the net impact will be determined once between-budget economic and fiscal updates, baseline updates of forecasts of benefits, and all other expenses are finalised;

*Progressing the legislative amendments*

- 16 **agree** to include a Social Security (Commencement of Benefits) Amendment Bill in the 2015 Legislation Programme with a priority of 2 (must be passed in 2015);
- 17 **agree** that it is necessary to amend legislation to reflect the Government's policy intent as quickly as possible to clarify how the commencement date of benefit after a stand down will apply in the future for the Ministry's clients, how historic circumstances are to be managed and to manage the Crown's contingent liability;
- 18 **invite** the Minister for Social Development to issue drafting instructions to the Parliamentary Counsel Office to enable amendments to the Social Security Act 1964 to give effect to the policy decisions above;
- 19 **invite** the Minister for Social Development to seek approval to introduce the new amendment Bill within the next two weeks and discuss timing and priority for the Bill with the Leader of the House;
- 20 **authorise** the Minister for Social Development, in consultation with other Ministers as appropriate, to make any implementation, technical, policy, administrative and ancillary changes required to finalise the legislation.

Hon Anne Tolley  
**Minister for Social Development**

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# Report



MINISTRY OF SOCIAL  
DEVELOPMENT  
TE MANATŪ WHAKAHIATO ORA

**Date:** 06 October 2015

**Security Level:** IN CONFIDENCE

**To:** Hon Anne Tolley, Minister for Social Development

## **Social Security (Commencement of Benefits) Amendment Bill: Approval for Introduction**

### **Purpose of the report**

- 1 Attached for your signature is a paper for Cabinet seeking approval for the introduction of the Social Security (Commencement of Benefits) Amendment Bill (the Bill), along with a final draft copy of the Bill and the Disclosure Statement.
- 2 The paper needs to be signed and submitted to the Cabinet Office by 10am on 8 October so the Bill can be approved for introduction by Cabinet on 12 October.

### **Recommended actions**

It is recommended that you:

- 1 **note** that the attached Bill gives effect to decisions made by Cabinet on 28 September 2015, to expedite the correction of an error in the Social Security Act 1964 in relation to commencement dates for benefits [CAB-15-MIN-0122]

**YES/NO**

- 2 **note** that the paper recommends the Bill be introduced on or after 13 October and passed through all stages under urgency by 22 October 2015

**YES/NO**

- 3 **note** that the Bill is in the process of being finalised by Parliamentary Counsel Office and will be provided to Cabinet Office prior to the Cabinet meeting on 12 October

**YES/NO**

- 4 **sign** the attached Cabinet paper *Social Security (Commencement of Benefits) Amendment Bill* and CAB 100

**AGREE/DISAGREE**

- 5 **arrange** for your Office to submit the signed Cabinet paper to the Cabinet Office by 10am on 8 October, along with the attached disclosure statement, so that the Bill can be approved for introduction by Cabinet at its meeting on 12 October

**AGREE/DISAGREE**

6 **note** that the Ministry of Social Development will provide you with an aide-memoire on 9 October to support your discussion at Cabinet

**YES/NO**

7 **note** that the Ministry of Social Development will provide you with a set of documents and speech notes on 12 October, to support you in the House at each stage of the Bill

**YES/NO**

8 **agree** to send a copy of the report to the Associate Minister for Social Development.

**YES/NO**

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Bede Hogan  
Team Manager  
Housing, Income Support and Employment

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Date

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Hon Anne Tolley  
Minister for Social Development

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Date

File ref: REP/15/10/1047

Chair  
Cabinet

## **SOCIAL SECURITY (COMMENCEMENT OF BENEFITS) AMENDMENT BILL: APPROVAL FOR INTRODUCTION**

### **Proposal**

- 1 This paper seeks approval for the introduction of the Social Security (Commencement of Benefits) Amendment Bill (the Bill) on or after 13 October 2015. The Bill amends the Social Security Act 1964 (the Act).
- 2 The Bill has a priority 2 (must be passed in 2015) on the 2015 Legislation Programme.

### **Policy**

- 3 In May 2014, the Social Security Appeal Authority alerted the Ministry to an error in an amendment of section 80BA of the Act made on 3 June 1998 that meant a benefit should commence on the day that a stand down period ends (as opposed to the day after the stand down period ends).
- 4 In May 2015, Cabinet agreed that the legislative error needs to be corrected with full retrospective effect to 3 June 1998 [CAB Min (15) 15/2 refers]. As the Crown risk was perceived to be relatively low, Cabinet decided to progress the required amendments through the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill, currently before the Social Services Select Committee.
- 5 The attached Bill gives effect to decisions made by Cabinet, on 28 September 2015, in particular to expedite amendments addressing the error in the Social Security Act 1964 in relation to commencement dates for benefits. Cabinet also varied its previous decisions in approach to the retrospective application of the policy so that the following decisions are excluded from being affected retrospectively:
  - any decision made before the amending legislation comes into force to commence a benefit on the last day of a stand down period
  - any decision about commencement date following a stand down period made after 3 June 1998 that is subject to an application for review lodged prior to the amending legislation coming into force
  - any decision about a commencement date following a stand down period made from 20 May 2014 that is subject to an application for review lodged within six weeks after the amending legislation comes into force [CAB-15-MIN-0122 refers].
- 6 The Bill contains the amendments required to the Act to give effect to the policy and to the variations referred to in paragraph 5. I will write to the Social Services Committee withdrawing the provisions of the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill that address the error regarding the commencement of benefits.



- 7 The Minister for Social Development was given the delegated authority, in consultation with other Ministers as appropriate, to make any implementation, technical, policy, administrative and ancillary changes required to finalise the legislation.
- 8 I propose that this Bill be passed under urgency in October and that the measures proposed come into force by the end of October 2015.
- 9 Amendments to the Act always attract public scrutiny and comments. The retrospective application of the proposal in this Bill will attract publicity, and has already done so in its present form in the Social Security (Extension of Young Persons Service and Remedial Matters) Amendment Bill.

### **Regulatory Impact Analysis**

- 10 The Bill gives effect to proposals that recognise the policy intent and longstanding administrative practice in relation to benefit commencement dates. As such it is exempt from the Regulatory Impact Analysis requirements.

### **Compliance**

- 11 The Bill complies with each of the following:
  - the principles of the Treaty of Waitangi
  - the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
  - principles and guidelines set out in the Privacy Act 1993
  - relevant international standards and obligations
  - *LAC Guidelines on Process and Content of Legislation*, a publication by the Legislation Advisory Committee

### **Consultation**

- 12 The Treasury was consulted. The Department of Prime Minister and Cabinet was informed.
- 13 Consultation with government caucus and other parliamentary parties will occur.

### **Binding on the Crown**

- 14 The Act is not binding on the Crown. The nature of the amendments proposed does not change this position.

### **Associated regulations**

- 15 No regulations are required to bring the Bill into operation.

### **Other instruments**

- 16 The Bill contains no provisions which empower the making of regulations or instruments.

### **Definition of Minister/department**

- 17 The Bill does not contain a definition of Minister, department or chief executive of a department.

### Commencement of legislation

- 18 The Bill will come into force on the day after Royal assent. It is proposed that the Bill be enacted to allow Royal assent by the end of October 2015.

### Parliamentary Stages

- 19 The Bill should be introduced on or after 13 October 2015 and passed through all stages under urgency by 22 October 2015.

### Recommendations

- 20 The Minister for Social Development recommends that the Committee:
1. **note** that the Social Security (Commencement of Benefits) Amendment Bill has a priority 2 (must be passed in 2015) on the 2015 legislation programme;
  2. **note** that the Social Security (Commencement of Benefits) Amendment Bill provides the legislative change necessary to clarify the rules for commencement of benefits in the future, and the terms of retrospective application;
  3. **note** that it is proposed that provisions in the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill that deal with commencement of benefits will be withdrawn from that Bill;
  4. **note** it is proposed that that the Social Security (Commencement of Benefits) Amendment Bill come into force by the end of October 2015;
  5. **approve** the introduction of the Social Security (Commencement of Benefits) Amendment Bill, subject to the final approval of the government caucus;
  6. **agree** that the Social Security (Commencement of Benefits) Amendment Bill be introduced on or after 13 October 2015;
  7. **agree** that the Government propose that the Bill be passed under urgency and be enacted by the end of October 2015.

Hon Anne Tolley  
Minister for Social Development

Date: ...../...../.....

# Social Security (Commencement of Benefits) Amendment Bill

October 2015

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# Changes the Bill will make

## Overview of the Bill

- 1 It has always been Government's policy that a benefit will commence the day after a stand down period ends. However, in 1998 an error was made in the legislation that means a benefit commences on the day on which the stand down period ends.
- 2 The Social Security (Commencement of Benefits) Amendment Bill (the Bill) proposes amendments to the Social Security Act 1964 (the Act) to ensure that:
  - a benefit commences the day after a stand down period ends, with retrospective effect to 3 June 1998
  - decisions made as a result of a current change in operational practice (commencing benefits on the day the stand down period ends) are protected when the legislative change comes into effect
  - decisions about commencement of benefit back to 3 June 1998 are protected if an application of review is lodged prior to the change coming into effect
  - decisions about commencement of benefit back to 20 May 2014 are protected if an application of review is lodged within 6 weeks of the change coming into effect
  - the cases of the two successful appellants to the Social Security Appeal Authority are protected
  - any application for review lodged prior to the legislative change is considered to have been lodged within the 3 month time limit<sup>1</sup>.

**The Bill provides that:**

- a benefit will commence on the day after a stand down period ends, and the change will have retrospective effect to 3 June 1998
- the cases of certain people whose benefit commences (through grant, or review or appeal decision) on the day on which a stand down period ends are protected from the effect of the retrospective amendment.

<sup>1</sup> Client can apply for a Review of Decision at any time within 3 months of the original decision being advised. When a client has applied for a hearing outside the 3 month time limit, the Benefits Review Committee must decide whether or not to accept the application before it considers the decision under review.

## Why is the legislative change needed?

### *Legislation does not reflect policy intent*

- 3 The stand down provisions in section 80BA of the Social Security Act 1964 came into effect on 1 April 1997, through the 1996 Tax Reduction and Social Policy Bill. In that Bill's explanatory note it is clear that stand down periods are meant to comprise full calendar weeks (i.e. a 1 week stand down means 7 days, without a benefit).
- 4 The Government's policy intent, and Work and Income operational practice, has always been that a benefit commences on the day after the stand down period ends (e.g. for a 1 week or 7 day stand down, a benefit commences on day 8 – so there is a 7 day period without a benefit).
- 5 In May 2014, the Social Security Appeal Authority alerted the Ministry of Social Development to an error in section 80BA, created by an amendment on 3 June 1998. The error means a benefit should commence on the day a stand down period ends (e.g. for a 7 day stand down, on day 7), instead of the day after a stand down period ends (e.g. for a 7 day stand down, on day 8) as is the policy intent.

### *The subsequent solution*

- 6 In May 2015, Cabinet agreed the legislation needs to be corrected, with full retrospective effect to 3 June 1998 – with exceptions for two cases where successfully appealed to the Social Security Appeal Authority. At this stage, the ongoing legal and financial risk to the Crown was seen to be relatively low.
- 7 Amendments to correct the error were previously included in the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill, which is currently before the Social Services Committee.
- 8 Ministry practice was to continue to reflect the policy intent until the legislative correction was passed, as it was considered that people should only be able to get the assistance they were intended to have.

### *Recent changes in context*

- 9 The level of risk, and the potential financial impact, of the error have changed since Cabinet decisions were taken in May 2015.
- 10 Crown Law have advised that operational practice should have changed from 20 May 2014 (when the legislative error became apparent). This means that Work and Income can no longer deliver on the Government's policy intent.
- 11 As of 29 September 2015 (until the legislation is passed) Work and Income's operational practice has been changed to align with the legislation. That is, a benefit will commence on the day a stand down period ends - and people will receive an additional day of benefit payment that they were not intended to have.
- 12 Additionally, a promotional campaign has begun in the past few weeks, encouraging clients to seek reviews about their entitlements in relation to stand down periods. This will have the effect of increasing the financial cost of the error.

13 The Government's financial exposure cannot remain unchecked. It will continue to increase until a legislative amendment is passed.

- Initial data suggests that since 3 June 1998 around 2,700,000 benefits were commenced after a stand down.
- Based the benefit rates paid in the 2014 calendar year, people will receive an additional \$33.08 to \$41.40 per stand down they were not intended to receive.

14 The estimated cost of the response could be as much as \$8.4 million, comprised of:

- \$8 million in back-dated payments (for around 87,000 clients – those lodging a review before the change and those able to lodge in the 6 weeks after)
- \$0.4 million for the change in practice (if legislation passed by 22 October).

*A quicker and more nuanced solution*

15 This Bill expedites the amendment already being progressed, to ensure legislation reflects the policy intent, so that the change occurs earlier and risks are mitigated.

16 The Bill will include 2 additional exceptions to the retrospective effect.

- People granted an additional day of benefit after a stand down period, due to the change in practice from 29 September until legislation is passed, will be protected from the retrospective effect of the amendments.
- People who have received an additional day(s) of benefit for a previous grant, as a result of seeking a review of decision at any time until legislation is passed, will be protected from the retrospective effect of the amendments.

17 The Bill will also provide a special exception to the retrospective effect, for people granted a benefit after a stand down period from 20 May 2014 until 29 September 2015. These people will have a 6 week period after the legislation comes into effect in which they can lodge a review of decision, receive an additional day(s) of benefit and be protected from the retrospective effect of the amendments.

18 The Bill also ensures that any review of decisions relating to the period back to 3 June 1998 lodged prior to the legislative amendment coming into effect, are not considered to be outside of the regular 3 month review lodgement deadline.

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## First reading speech

Mr Speaker, I move *that the Social Security (Commencement of Benefits) Amendment Bill now be read a first time.*

Mr Speaker, the Government has a long established policy position on benefit stand downs – as a way to encourage people to make provision for a short period without income before relying on state assistance.

The policy intent has always been that stand down periods are full calendar weeks, without state income. To be very clear, this means that a 1 week stand is 7 days and a benefit would commence on day 8.

Operational practice has always reflected the policy intent. Work and Income commences benefits on the day after the stand down period ends.

However, Mr Speaker, there is a technical error in the Social Security Act that allows a benefit to commence on the day that a stand down period ends, instead of the day after.

The error occurred as a result of an incorrect amendment on 3 June 1998 but unfortunately, was not discovered until May 2014.

This Bill corrects that error so a benefit will commence on the day after a stand down period ends. This change has retrospective effect to 3 June 1998. The error needs to be corrected quickly, to:

- uphold the Government's policy intent
- ensure previous Ministry practice is validated, and
- avoid any unintended financial costs to the Crown.

The Bill protects people from the effect of the retrospective validation, if they have had a benefit commence on the day that a stand down period ended before the amendment is enacted – whether through a new grant or a review or appeal process commenced before the Bill comes into force.

The Bill also provides an opportunity for people to seek a review of decision about their commencement date, if their benefit was commenced incorrectly since the error was detected on 20 May 2014 onwards. They can do this 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.

Mr Speaker, I commend this Bill to the House.

## Second reading speech

Mr Speaker, I move that the *Social Security (Commencement of Benefits) Amendment Bill* be now read a second time.

Mr Speaker, I want to reiterate the Government's consistent and long-standing position on benefits and stand down periods.

The current stand down provisions in section 80BA of the Act first came into force in 1997. These provisions were based on the policy agreed in 1996 - that benefits commence on the day after a stand down period ends. This policy has never changed.

The legislative error created on 3 June 1998 is a technical mistake, not a policy change. However, the result is that it provides for people to have an additional day of benefit payment that they were not entitled to have.

The legislation needs to be changed to avoid unintended Crown costs - but we are doing this in a fair way. There are three separate provisions protecting people who have been able to receive this additional day, or want to lodge a review to receive it. This is a very reasonable compromise - which provides a balance between client's interests and the financial cost of the error.

Mr Speaker, I want to be clear that these protection provisions are a measure of the Government's good faith and do not negate the original policy intent - that a benefit should commence on the day *after* a stand down period ends.

I commend this Bill to the House.

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# Committee of the Whole House

## Officials supporting you at the committee stage

Ministry officials will be present to support you at the Committee of the whole House.

Location	Role	Name	Mobile Phone	Desk Phone
<b>In the House</b>	Policy Team Manager	Section 9(2)(a) Privacy of Natural Persons		
	Principal Solicitor Legislation			
<b>Back Room</b>	Policy support			
	Legal support			

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## Amendments clause by clause, for committee stage

### *Title, commencement, and principal Act amended*

Clause	Subject	Description	Comment
1	Title	Provides for the title to be the Social Security (Commencement of Benefits) Amendment Act 2015.	
2	Commencement	Provides for the Act to come into force on the day after the date on which it receives Royal assent.	
3	Principal Act	Provides for the bill to amend the Social Security Act 1964.	

### *Amendments to principal Act*

Clause	Subject	Description	Comment
4	Calculation of stand down	<p><b>Clause 4(1)</b> amends section 80BA(4)(a)(i) to make it clear that a benefit commences on the day after the stand down period ends.</p> <p><b>Clause 4(2)</b> amends section 80BA(4)(b) to make it clear that a benefit commences on the day after the stand down period ends.</p>	<p><i>The changes make clear that a benefit that is subject to a stand down period will commence on the day after the stand down period ends. References to "the day <u>on which</u> the stand down ends" are amended to read "the day <u>after</u> the stand down ends" and "on the day <u>on which</u>" to read "on the day <u>after</u>" respectively.</i></p>
5	Validation and savings	<p><b>Clause 5(1)</b> provides that the Social Security Act must be read as if the amendments made by clause 4 had come into force on 3 June 1998. This amendment validates the past practice of commencing a benefit on the day after the stand down period ends on and after 3 June 1998 to the commencement of this Act.</p>	<p><i>The amendment in clause 4 needs to apply retrospectively in order to validate the past practice of commencing a benefit on the day after the stand down period ends.</i></p>

**Amendments to principal Act (cont...)**

<b>Clause</b>	<b>Subject</b>	<b>Description</b>	<b>Comment</b>
5	Validation and savings (cont.)	<p><b>Clauses 5(2)(a) and 5(2)(b)</b> states that the retrospective amendment does not apply to the cases of the two people who successfully challenged the practice, of commencing a benefit on the day on which the stand down period ends, before the Social Security Appeal Authority.</p> <p><b>Clause 5(2)(c)</b> states that the retrospective amendment does not apply to any decision made to commence a benefit on the day on which the stand down period ends, up to the commencement of this Act.</p> <p><b>Clause 5(2)(d)</b> states that the retrospective amendment does not apply to any decision made on or after 20 May 2014 in which a benefit was commenced on the day after the stand down period if an application for review of the decision is made within a period of 6 weeks after the commencement of this Act.</p> <p><b>Clause 5(2)(e)</b> states that the retrospective amendment does not apply to any decision at any time on or after 3 June 1998 to commence a benefit on the day on which the stand down period ends if an application for review of the decision is made before the commencement of this Act.</p>	<p><i>These amendments mean that the successful SSAA appellants do not have the decisions of the Authority overturned by the provisions of this Bill.</i></p> <p><i>This amendment means that any decisions taken, before the commencement of this Act, to commence benefits on the day on which a stand down period ends will not be reversed.</i></p> <p><i>This means applications for review of decision about a benefit commencement date following a stand down period after 20 May 2014 will not be affected by the retrospective application, if those reviews are lodged within a 6 week period of this Act coming into force.</i></p> <p><i>This amendment means applications for review of decisions about a benefit commencement date following a stand down period after 3 June 1998 will not be affected by the retrospective application, if those reviews are lodged prior to the commencement of this Act.</i></p>
6	Applications for review	<p><b>Clause 6</b> provides that applications for review referred to in clauses 5(2)(d) or 5(2)(e) are to be considered to have been brought within 3 months after the applicant received notice of the decision.</p>	<p><i>This amendment means that reviews lodged in relation to clauses 5(2)(d) and 5(2)(e) cannot be dismissed for being out of time.</i></p>

## Third reading speech

Mr Speaker, I move that the *Social Security (Commencement of Benefits) Amendment Bill* now be read a third time.

The welfare system delivers assistance to over one million New Zealanders each year and it is important people are treated consistently, and as intended by Government.

The Government's policy that benefits commence on the day *after* a stand down has always been clear.

This technical error discovered in the legislation last year is providing people with an additional day of benefit that they were not entitled to have. This is not right. The legislation needs to be changed to avoid unintended Crown costs.

The Bill validates previous Ministry practice – but also provides, as a measure of the Government's good faith, a reasonable opportunity for clients who feel their interests have been compromised to seek recompense.

The Bill corrects the technical error and ensures that legislation reflects Government's consistent and long-standing policy.

Mr Speaker, I commend this Bill to the House.

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# Social Security (Commencement of Benefits) Amendment Bill

November 2015

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# Changes the Bill will make

## Overview of the Bill

- 1 It has always been Government's policy that a benefit will commence the day after a stand down period ends. However, in 1998 an error was made in the legislation that means a benefit commences on the day on which the stand down period ends.
- 2 The Social Security (Commencement of Benefits) Amendment Bill (the Bill) proposes amendments to the Social Security Act 1964 (the Act) to ensure that:
  - a benefit commences the day after a stand down period ends, with retrospective effect to 3 June 1998
  - decisions made as a result of a current change in operational practice (commencing benefits on the day the stand down period ends) are protected when the legislative change comes into effect
  - decisions about commencement of benefit back to 3 June 1998 are protected if an application of review is lodged prior to the change coming into effect
  - decisions about commencement of benefit back to 20 May 2014 are protected if an application of review is lodged from the date of the change coming into effect up until 8 January 2016 (a 7 week window, depending on day of Royal Assent)

*(Minister's note: The Bill says they have a 6 week period from the date the Bill comes into force – you are amending this via SOP at the Committee stage).*

- the cases of the two successful appellants to the Social Security Appeal Authority are protected
- any application for review lodged prior to the legislative change is considered to have been lodged within the 3 month time limit<sup>1</sup>.

### The Bill provides that:

- a benefit will commence on the day after a stand down period ends, and the change will have retrospective effect to 3 June 1998
- the cases of certain people whose benefit commences (through grant, or review or appeal decision) on the day on which a stand down period ends are protected from the effect of the retrospective amendment.

<sup>1</sup> Client can apply for a Review of Decision at any time within 3 months of the original decision being advised. When a client has applied for a hearing outside the 3 month time limit, the Benefits Review Committee must decide whether or not to accept the application before it considers the decision under review.

## Why is the legislative change needed?

### *Legislation does not reflect policy intent*

- 3 The stand down provisions in section 80BA of the Social Security Act 1964 came into effect on 1 April 1997, through the 1996 Tax Reduction and Social Policy Bill. In that Bill's explanatory note it is clear that stand down periods are meant to comprise full calendar weeks (i.e. a 1 week stand down means 7 days, without a benefit).
- 4 The Government's policy intent, and Work and Income operational practice, has always been that a benefit commences on the day after the stand down period ends (e.g. for a 1 week or 7 day stand down, a benefit commences on day 8 – so there is a 7 day period without a benefit).
- 5 In May 2014, the Social Security Appeal Authority alerted the Ministry of Social Development to an error in section 80BA, created by an amendment on 3 June 1998. The error means a benefit should commence on the day a stand down period ends (e.g. for a 7 day stand down, on day 7), instead of the day after a stand down period ends (e.g. for a 7 day stand down, on day 8) as is the policy intent.

### *The subsequent solution*

- 6 In May 2015, Cabinet agreed the legislation needs to be corrected, with full retrospective effect to 3 June 1998 – with exceptions for two cases where successfully appealed to the Social Security Appeal Authority. At this stage, the ongoing legal and financial risk to the Crown was seen to be relatively low.
- 7 Amendments to correct the error were previously included in the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill, which is currently before the Social Services Committee.
- 8 Ministry practice was to continue to reflect the policy intent until the legislative correction was passed, as it was considered that people should only be able to get the assistance they were intended to have.

### *Recent changes in context*

- 9 The level of risk, and the potential financial impact, of the error have changed since Cabinet decisions were taken in May 2015.
- 10 Crown Law have advised that operational practice should have changed from 20 May 2014 (when the legislative error became apparent). This means that Work and Income can no longer deliver on the Government's policy intent.
- 11 As of 29 September 2015 (until the legislation is passed) Work and Income's operational practice has been changed to align with the legislation. That is, a benefit will commence on the day a stand down period ends - and people will receive an additional day of benefit payment that they were not intended to have.
- 12 Additionally, a promotional campaign has begun in the past few weeks, encouraging clients to seek reviews about their entitlements in relation to stand down periods. This will have the effect of increasing the financial cost of the error.

- 13 The Government's financial exposure cannot remain unchecked. It will continue to increase until a legislative amendment is passed.
- Initial data suggests that since 3 June 1998 around 2,700,000 benefits were commenced after a stand down.
  - Based the benefit rates paid in the 2014 calendar year, people will receive an additional \$33.08 to \$41.40 per stand down they were not intended to receive.
- 14 In October, it was estimated that the cost of the response could be as much as \$8.4 million, comprised of:
- \$8 million in back-dated payments (for around 87,000 clients – those lodging a review before the change and those able to lodge in the 6 weeks after)
  - \$0.4 million for the change in practice (if legislation passed was on 22 October).
- 15 As of 17 November:
- over 6,000 reviews have been lodged for the back-dated payments, and
  - updated estimates indicate the ongoing cost of the change in practice could be as much as \$6 million in the first year (if legislation is not passed with urgency).

*A quicker and more nuanced solution*

- 16 This Bill expedites the amendment already being progressed, to ensure legislation reflects the policy intent, so that the change occurs earlier and risks are mitigated.
- 17 The Bill will include 2 additional exceptions to the retrospective effect.
- People granted an additional day of benefit after a stand down period, due to the change in practice from 29 September until legislation is passed, will be protected from the retrospective effect of the amendments.
  - People who have received an additional day(s) of benefit for a previous grant, as a result of seeking a review of decision at any time until legislation is passed, will be protected from the retrospective effect of the amendments.
- 18 The Bill will also provide a special exception to the retrospective effect, for people granted a benefit after a stand down period from 20 May 2014 until 29 September 2015. These people will have the period from the date the legislation comes into effect up until 8 January 2016 (a 7 week window, depending on day of Royal Assent) in which they can lodge a review of decision, receive an additional day(s) of benefit and be protected from the retrospective effect of the amendments.
- (Minister's note: The Bill says they have a 6 week period from the date the Bill comes into force – you are amending this via SOP at the Committee stage).*
- 19 The Bill also ensures that any review of decisions relating to the period back to 3 June 1998 lodged prior to the legislative amendment coming into effect, are not considered to be outside of the regular 3 month review lodgement deadline.



## First reading speech

Mr Speaker, I move that the Social Security (Commencement of Benefits) Amendment Bill now be read a first time.

Mr Speaker, the Government has a long established policy position on benefit stand downs – as a way to encourage people to make provision for a short period without income before relying on state assistance.

The policy intent has always been that stand down periods are full calendar weeks, without state income. To be very clear, this means that a 1 week stand is 7 days and a benefit would commence on day 8.

Operational practice has always reflected the policy intent. Work and Income commences benefits on the day after the stand down period ends.

However, Mr Speaker, there is a technical error in the Social Security Act that allows a benefit to commence on the day that a stand down period ends, instead of the day after.

The error occurred as a result of an incorrect amendment on 3 June 1998 but unfortunately, was not discovered until May 2014.

This Bill corrects that error so a benefit will commence on the day after a stand down period ends. This change has retrospective effect to 3 June 1998. The error needs to be corrected quickly, to:

- uphold the Government's policy intent
- ensure previous Ministry practice is validated, and
- avoid any unintended financial costs to the Crown.

The Bill protects people from the effect of the retrospective validation, if they have had a benefit commence on the day that a stand down period ended before the amendment is enacted – whether through a new grant or a review or appeal process commenced before the Bill comes into force.

The Bill also provides an opportunity for people to seek a review of decision about their commencement date, if their benefit was commenced incorrectly since the error was detected on 20 May 2014 onwards. They can do this before or (in the case of a benefit that commenced on or after 20 May 2014) after the Bill comes into force up until the 8th of January 2016.

*(Minister's note: The Bill says they have a 6 week period from the date the Bill comes into force – you are amending this via SOP at the Committee stage)*

This is a fair and balanced approach which allows beneficiaries to claim what they were entitled to under the law, while mitigating the financial risk to the taxpayer.

Initial data suggests that since June 1998 when the error occurred, 2.7 million benefits have commenced after a stand down.

We also know that if this is not corrected, the ongoing additional cost is likely to be around \$6 million a year.

The fiscal risk to the taxpayer cannot remain unchecked, which is why we have separated out this change from the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Bill.

Mr Speaker, I believe this Bill takes a fair and balanced approach to correcting an error in the legislation. Beneficiaries will have until January 8 to lodge an appeal for any benefits granted from when MSD became aware of the issue in May 2014.

*(Minister's note: The Bill says they have a 6 week period from the date the Bill comes into force - you are amending this via SOP at the Committee stage).*

I want to take this time to acknowledge Labour's Carmel Sepuloni, who came to me when the issue was raised at Select Committee with a constructive proposal for a review process.

We always want to be able to work across party lines on issues such as this. This error went undetected for 17 years, across a number of governments so it is fitting that we have been able to work together on a balanced and fair solution.

Mr Speaker, I commend this Bill to the House.

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## Second reading speech

Mr Speaker, I move that the Social Security (Commencement of Benefits) Amendment Bill be now read a second time.

Mr Speaker, I want to reiterate the Government's consistent and long-standing position on benefits and stand down periods.

The current stand down provisions in section 80BA of the Act first came into force in 1997. These provisions were based on the policy agreed in 1996 - that benefits commence on the day after a stand down period ends. This policy has never changed.

The legislative error created on 3 June 1998 is a technical mistake, not a policy change. However, the result is that it provides for people to have an additional day of benefit payment that they were not entitled to have.

The legislation needs to be changed to avoid further unintended Crown costs - but we are doing this in a fair way. There are three separate provisions protecting people who have been able to receive this additional day, or want to lodge a review to receive it. This is a very reasonable compromise - which provides a balance between client's interests and the financial cost of the error.

Mr Speaker, I want to be clear that these protection provisions are a measure of the Government's good faith and do not negate the original policy intent - that a benefit should commence on the day after a stand down period ends.

I commend this Bill to the House.

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# Committee of the Whole House

## Officials supporting you at the committee stage

Ministry officials will be present to support you at the Committee of the whole House.

Location	Role	Name	Mobile Phone	Desk Phone
In the House	Policy Team Manager	Section 9(2)(a) Privacy of Natural Persons		
	Principal Solicitor Legislation			
Back Room	Policy support			
	Legal support			

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## Amendments clause by clause, for committee stage

### Amendments in the Bill

#### Title, commencement, and principal Act amended

Clause	Subject	Description	Comment
1	Title	Provides for the title to be the Social Security (Commencement of Benefits) Amendment Act 2015.	
2	Commencement	Provides for the Act to come into force on the day after the date on which it receives Royal assent.	
3	Principal Act	Provides for the bill to amend the Social Security Act 1964.	

#### Amendments to principal Act

Clause	Subject	Description	Comment
4	Calculation of stand down	<p><b>Clause 4(1)</b> amends section 80BA(4)(a)(i) to make it clear that a benefit commences on the day after the stand down period ends.</p> <p><b>Clause 4(2)</b> amends section 80BA(4)(b) to make it clear that a benefit commences on the day after the stand down period ends.</p>	<p>The changes make clear that a benefit that is subject to a stand down period will commence on the day after the stand down period ends. References to "the day on which the stand down ends" are amended to read "the day after the stand down ends" and "on the day on which" to read "on the day after" respectively.</p>
5	Validation and savings	<p><b>Clause 5(1)</b> provides that the Social Security Act must be read as if the amendments made by clause 4 had come into force on 3 June 1998. This amendment validates the past practice of commencing a benefit on the day after the stand down period ends on and after 3 June 1998 to the commencement of this Act.</p>	<p>The amendment in clause 4 needs to apply retrospectively in order to validate the past practice of commencing a benefit on the day after the stand down period ends.</p>

Amendments to principal Act (cont...)

Clause	Subject	Description	Comment
5	Validation and savings (cont.)	<p><b>Clauses 5(2)(a) and 5(2)(b)</b> states that the retrospective amendment does not apply to the cases of the two people who successfully challenged the practice, of commencing a benefit on the day on which the stand down period ends, before the Social Security Appeal Authority.</p> <p><b>Clause 5(2)(c)</b> states that the retrospective amendment does not apply to any decision made to commence a benefit on the day on which the stand down period ends, up to the commencement of this Act.</p> <p><b>Clause 5(2)(d)</b> states that the retrospective amendment does not apply to any decision made on or after 20 May 2014 in which a benefit was commenced on the day after the stand down period if an application for review of the decision is made within a period of 6 weeks after the commencement of this Act.</p> <p><b>Clause 5(2)(e)</b> states that the retrospective amendment does not apply to any decision at any time on or after 3 June 1998 to commence a benefit on the day on which the stand down period ends if an application for review of the decision is made before the commencement of this Act.</p>	<p><i>These amendments mean that the successful SSAA appellants do not have the decisions of the Authority overturned by the provisions of this Bill.</i></p> <p><i>This amendment means that any decisions taken, before the commencement of this Act, to commence benefits on the day on which a stand down period ends will not be reversed.</i></p> <p><i>This means applications for review of decision about a benefit commencement date following a stand down period after 20 May 2014 will not be affected by the retrospective application, if those reviews are lodged within a 6 week period of this Act coming into force.</i></p> <p><i>This amendment means applications for review of decisions about a benefit commencement date following a stand down period after 3 June 1998 will not be affected by the retrospective application, if those reviews are lodged prior to the commencement of this Act.</i></p>
6	Applications for review	<p><b>Clause 6</b> provides that applications for review referred to in clauses 5(2)(d) or 5(2)(e) are to be considered to have been brought within 3 months after the applicant received notice of the decision.</p>	<p><i>This amendment means that reviews lodged in relation to clauses 5(2)(d) and 5(2)(e) cannot be dismissed for being out of time.</i></p>

*Amendment being made via the SOP*

Clause	Subject	Description	Comment
5	Validation and savings (cont.)	<p><b><u>AMENDED via SOP</u></b></p> <p><b>Clause 5(2)(d)</b> states that the retrospective amendment does not apply to any decision made on or after 20 May 2014 in which a benefit was commenced on the day after the stand down period if an application for review of the decision <u>is lodged after the commencement of the Act but on or before 8 January 2016.</u></p>	<p><i>This means applications for review of decision about a benefit commencement date following a stand down period after 20 May 2014 will not be affected by the retrospective application, if those reviews are lodged after the commencement of the Act but on or before 8 January 2016.</i></p>

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## Third reading speech

Mr Speaker, I move *that the Social Security (Commencement of Benefits) Amendment Bill now be read a third time.*

The welfare system delivers assistance to over one million New Zealanders each year and it is important people are treated consistently, and as intended by Government.

The Government's policy that benefits commence on the day after a stand down has always been clear.

This technical error discovered in the legislation last year is providing people with an additional day of benefit that they were not entitled to have. This is not right. The legislation needs to be changed to avoid unintended Crown costs.

The Bill validates previous Ministry practice – but also provides, as a measure of the Government's good faith, a reasonable opportunity for clients who feel their interests have been compromised to seek recompense.

The Bill corrects the technical error and ensures that legislation reflects Government's consistent and long-standing policy.

Mr Speaker, I commend this Bill to the House.

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**Options – Benefit commencement date after stand down**

	Status Quo	Other options		
<b>Legislative timing</b>	<p><b>Current process (no change)</b> Continue to progress the issue through the current Bill, under the current timeline</p> <ul style="list-style-type: none"> <li>Presents an unmanaged Crown risk (until legislation passed in early 2016)</li> </ul>	<p><b>Pass under urgency</b> Pull the commencement date issue out of the current Bill process, and progress separately under urgency (as part of current bill or a new bill).</p> <ul style="list-style-type: none"> <li>This would minimise the Crown's legal and financial risk exposure</li> <li>Would require support of Select Committee (to report back earlier), Leader of House (to support urgency) and House (to pass the Bill)</li> </ul>		
<b>Retrospective application of the change and management of reviews</b>	<p><b>Fully retrospective (no change)</b> Leave as fully retrospective. Establish a centralised process to manage and pay review cases filed before enactment (until change comes into effect in early 2016).</p> <ul style="list-style-type: none"> <li>Uncertain how many people will seek reviews in the next six months</li> <li>Maximum potential cost exposure (1998 – current) in the region of \$120 million</li> <li>Operational impact – potentially up to 4 million stand down decision reviews could be lodged for processing in the next six months.</li> </ul>	<p><b>Fully retrospective</b> Leave as fully retrospective. Establish a centralised process to manage and pay review cases filed before enactment (until change in effect)</p> <ul style="list-style-type: none"> <li>Reduces the number of people who may seek reviews (in the period before change)</li> <li>Maximum potential cost exposure (for claims from 1998-2014) would be reduced (shorter timeframe to apply for review)</li> <li>Reduced operational impact (shorter timeframe to apply for review – so fewer reviews lodged)</li> </ul>	<p><b>Retrospective from 1998 to May 2014 – short-term review provision for May 2014 onwards</b> Validate the practice to 20 May 2014 when the error was found - and create mechanism to allow people post May 2014 to potentially receive payment (e.g. a 'review register').</p> <p><b>Some decisions required in relation to the 'review register'. E.g. whether MSD should identify affected clients or should they self-identify by contacting MSD? When would the register close-off (e.g. 3 months)? And would still need a centralised process to manage and pay any review cases filed before enactment for the 1998-May 2014 period.</b></p> <ul style="list-style-type: none"> <li>Maximum potential cost exposure (May 2014 to change) in the region of \$8 million (register) and the maximum potential cost exposure (for claims from 1998-2014) would be reduced (shorter timeframe to apply for review)</li> <li>Operational impact – maximum of 230,000 stand down decision reviews to process (register) and reduced operational impact from other reviews (shorter timeframe to apply for review – so fewer reviews lodged)</li> </ul>	<p><b>Prospective change only</b> Remove the retrospective clause from the Bill. Establish centralised process to manage and pay all current and future review cases.</p> <ul style="list-style-type: none"> <li>Uncertain how many people will seek reviews</li> <li>Maximum potential cost exposure (back to 1998) in the region of \$120 million –no 'close off' facility</li> <li>Operational impact – potentially up to 4 million stand down decision reviews could be lodged for processing.</li> </ul>
<b>Ongoing operational practice (until change comes into effect)</b>	<p><b>Practice follows policy intent (no change)</b> Any new benefits granted will commence on day after stand down period ends</p> <ul style="list-style-type: none"> <li>No operational impact or fiscal cost.</li> </ul>	<p><b>Practice follows policy intent (no change)</b> Any new benefits granted will commence on day after stand down period ends</p> <ul style="list-style-type: none"> <li>No operational impact or fiscal cost.</li> </ul>	<p><b>Change practice to align with legislation</b> Any new benefits granted will commence on day after stand down period ends - but a manual process will occur to make payment of an additional day of benefit.</p> <ul style="list-style-type: none"> <li>Operational impact – manual centralised process required for around 14,000 stand downs imposed per month (to make payment of additional day's benefit – not done at frontline).</li> <li>Fiscal cost of additional day's benefit could be in the region of \$0.500 million per month.</li> </ul>	

Note: that numbers and amounts shown relate to main benefit grants/costs only. These are estimations only. Numbers could be less than the amounts shown - due to clients being represented multiple times in the data, and some clients will now be deceased or overseas.