

Social Security (Clothing Allowances for Orphans and Unsupported Children) Amendment Bill

Member's Bill

As reported from the Social Services Committee

Commentary

Recommendation

The Social Services Committee has examined the Social Security (Clothing Allowances for Orphans and Unsupported Children) Amendment Bill and recommends that it be passed with the amendments shown.

Introduction

The Social Security (Clothing Allowances for Orphans and Unsupported Children) Amendment Bill seeks more parity between the financial entitlements for orphans and unsupported children and the financial entitlements for foster children. Under section 363 of the Children, Young Persons, and Their Families Act 1989, the chief executive responsible for the Act's administration has the discretion to determine rates of payment for foster children. At present this discretion has been used to determine a rate of payment for a clothing

allowance, for which orphans and unsupported children are not eligible.

The bill seeks to insert new section 29B into the Social Security Act 1964, to establish a clothing allowance for children whose caregivers receive an Orphan's Benefit or Unsupported Child's Benefit. The entitlement is intended to parallel the clothing allowance for foster children, available during any period when the chief executive uses their discretion under the Children, Young Persons, and Their Families Act to provide a clothing allowance.

Commencement date

In January 2014 the Government introduced an annual School and Year Start-Up Payment for carers in receipt of an Orphan's Benefit or Unsupported Child's Benefit. This payment ranges between \$250 and \$400 in 2014, and between \$400 and \$550 in 2015, and is intended to help cover costs arising at the start of each year, particularly school-related costs such as school fees, and the purchase of school uniforms and stationery. We understand that a one-off Establishment Grant of \$350 is also paid to carers when an Orphan's Benefit or Unsupported Child's Benefit is granted, and that carers may be entitled to Special Needs Grants and Advance Payments of Benefit if they meet certain eligibility criteria.

These existing measures along with the changes proposed in the bill should sufficiently address the issue of parity; but we recognise that the School and Year Start-Up Payment is a new policy initiative and funding is expected to fall back within baseline levels in 2018.

Therefore, we also recommend amending clause 2 to delay the commencement of this new legislation, should it be passed, until 1 July 2018. This would ensure parity in the payment of clothing-related allowances for foster children, and orphans and unsupported children, should the School and Year Start-Up Payment no longer be available.

Clarification of entitlement

We recommend amending clause 4 to clarify that an orphan or unsupported child would be entitled to a clothing allowance only if the chief executive used their discretion to set a rate of payment for a clothing allowance for foster children under section 363 of the Children, Young Persons, and Their Families Act.

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The clause as drafted may give the impression that the chief executive is required to determine such an allowance. However, section 363 of the Children, Young Persons, and Their Families Act relates to the chief executive's discretion to determine the rates of allowances payable to caregivers of foster children and makes no specific reference to a clothing allowance.

We believe the amendment would clarify that, although a clothing allowance is currently provided for foster children, the provision, as well as the amount provided, is at the chief executive's discretion, and it is not cemented in legislation. This amendment would not change the intent of the bill, which is to ensure parity between the clothing allowance entitlements for orphans or unsupported children and for foster children.

Appendix

Committee process

The Social Security (Clothing Allowances for Orphans and Unsupported Children) Amendment Bill was referred to the committee on 23 October 2013. The closing date for submissions was 5 December 2013. We received and considered 245 submissions from interested groups and individuals and we heard 11 submissions.

We received advice from the Ministry of Social Development.

Committee membership

Melissa Lee (Chairperson)

Hon Phil Heatley

Jan Logie

Le'aufa'amulia Asenati Lole-Taylor

Hon Peseta Sam Lotu-Iiga

Sue Moroney

Alfred Ngaro

Dr Rajen Prasad

Mike Sabin

Hon Chris Tremain

Louisa Wall

Tracey Martin was a non-voting member of the committee for this item of business.

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Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

text deleted unanimously

Tracey Martin

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Social Security (Clothing Allowances for Orphans and Unsupported Children) Amendment Act **2012**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent 1 July 2018.

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Principal Act

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

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New section 29B inserted (Clothing allowance for orphans and unsupported children)

After section 29A, insert:

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“29B Clothing allowances for orphans and unsupported children

“(1) A person who receives an orphan’s or unsupported child’s benefit in respect of a child is also entitled to receive a clothing allowance for that child at the same rate as is determined by the chief executive from time to time under section 363 of the Children, Young Persons, and Their Families Act 1989.

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“(2) In **subsection (1)**, **chief executive** has the meaning given to it in section 2(1) of the Children, Young Persons, and Their Families Act 1989.

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“29B Clothing allowance for orphans and unsupported children

“(1) This section applies if, under section 363 of the Children, Young Persons, and Their Families Act 1989, the rates of payment to persons or organisations in whose charge a child or young person is placed under section 362 of that Act include a clothing allowance.

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“(2) A person who receives an orphan’s or unsupported child’s benefit in respect of a child is entitled to receive a clothing allowance for that child in the same amount or at the same rate as the clothing allowance referred to in **subsection (1)**.”

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Legislative history

6 December 2012	Introduction (Bill 95–1)
23 October 2013	First reading and referral to Social Services Committee
