Child Support Amendment Bill

Officials' report to the Social Services and Community Committee on submissions on the Bill

February 2021

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CONTENTS

Overview 7

Overview of the Bill 9
Previous consultation on proposals in the Bill 10
Summary of the key themes from submissions on the Bill 10
Recommended changes to the Bill 12

General submissions 13

Support for proposed amendments 15
Issue: Support for proposed amendments 15
Application dates for the proposals 16
Issue: Application dates for the proposals in the Bill 16
Objectives of the Child Support Act 1991 17
Issue: Child Support Act 1991 should prioritise the best interests of children and young people 17
Definition of "social security beneficiary" 18
Issue: Support for proposed amendment – definition of "social security beneficiary" 18
Issue: Retrospective application date for the new definition of "social security beneficiary" 18
Issue: Numbering 19
Liability to pay child support under formula assessment 20
Issue: Support for proposed amendment – minimum age financially independent 20
Issue: Support for proposed amendment – maximum age qualifying child 20
Issue: Oppose proposed amendment – maximum age qualifying child 20
Issue: Schooling of child 21
Issue: Child support should cease if the child is not attending school 22
Shared care 23
Issue: 50:50 care 23
Issue: Ongoing daily care 25
Issue: Access 25
Issue: Recognising changes in care when the change is the result of one parent withholding access 26
Issue: Removal of children from New Zealand 27
Issue: Recognised care 27
Timeframes for providing orders of parentage 29
Issue: Support for proposed amendment – introduction of timeframe 29
Issue: Extending time limits for establishing paternity 29
Child leaving state care 30
Issue: Inland Revenue should inform carer of application process 30
Issue: Aim of the proposal 30
Amount of child support payable under formula assessment 32
Issue: Rationale for repeal of mixed age expenditure table 32
Issue: Clarifying when no child expenditure table applies 32
Issue: Discretion to adjust expenditure calculations 33
Issue: Expenditure table 36
Issue: Increase when child turns 13 37
Issue: Child expenditure 38
Issue: Exceptional circumstances – disability and health-related costs 38
Definition of "income" 40
Issue: Support for proposed amendment – changes to definition of "income" 40
Issue: Object to move to "net income" 40
Issue: Income should be after tax 41

Issue: Income should not be based on gross earnings 41
Issue: Inclusion of investment income widens the gap of child poverty 42
Issue: Widen the definition of "income" further 42
Issue: Use of actual income 44
Issue: Proposal should be retrospective 44
Issue: Income used in assessments 45
Issue: Cap or fix the amount of child support 46
Issue: Child support when calculating taxable income 47
Issue: Child support abating government assistance 48
Issue: Recognition of opportunity costs 48
Issue: Receiving carer's lifestyle 49
Living allowance 50
Issue: Living allowance is inadequate 50
Dependent child allowance 52
Issue: Possible drafting error 52
Issue: Cost of children 52
Issue: Children of paying parent and new spouse should be included 53
Estimations 55
Issue: Section 40AA (Interpretation for purposes of sections 40 to 45) 55
Issue: 15 percent threshold for estimations 55
Issue: Aligning back-dating estimations and grace period timeframes 56
Issue: COVID-19 and estimations 56
Issue: Definition of "election period" for the purposes of backdated estimations 57
Issue: Definition of "year-to-date income" 59
Circumstances at time of assessment 61
Issue: Support for proposal 61
Issue: Timeframe for advising of existing circumstances 61
Time bar 63
Issue: Support for proposal 63
Issue: Alignment of time bar with other Inland Revenue Acts 63
Issue: Time bar limitations 63
Issue: Children applying for child support 64
Exemptions 66
Issue: Support for amendment 66
Issue: Proposed exemption for people suffering from long-term illness or injury is not child-centric 66
Administrative reviews 67
Issue: Support for amendments 67
Issue: Exchange of information during an administrative review 67
Issue: Retrospective administrative reviews decisions 68
Issue: Administrative reviews should be evaluated 68
Issue: Costs of access to children and travel cost 69
Issue: Support for proposed amendment – removal of offsetting administrative review ground 69
Jurisdiction of courts 70
Issue: Court proceedings 70
Urgent maintenance orders 71
Issue: Oppose repeal of urgent maintenance orders 71
Issue: Oppose the repeal of rules setting out order payments are applied 71
Automatic deductions 73
Issue: Support for proposal 73
Issue: Compliance costs 73
Penalties and write-offs 75
Issue: Support for proposal – changes to penalty rules 75
Issue: Incorporate the Supplementary Order Paper into the Bill 75
Issue: Existing penalties should not be written off 75
Issue: Debt collection practice 76

Issue: Penalties or interest paid to receiving carers 76
Issue: Consistency of administrative regimes across Inland Revenue Acts 77
Issue: Greater compliance tools 78
Issue: Grace period 79
Issue: Government guarantee of child support 80
Issue: Transitional provision to cover the period between the repeal of section 135GB and enactment of grace period 80
Issue: Provision to write-off penalties when it would be an inefficient use of Inland Revenue's resources to collect the penalty 81
Issue: Redundant amendment to correct cross-reference in the definition of "relevant payments" 82
Offsetting 83
Issue: Oppose amendment 83
Issue: New due date when reversal of offsetting results in new amounts to pay 83
Residence 85
Issue: Consistency with Income Tax Act 2007 rules 85
Issue: Clarify the draft amendment 86

Other submissions 87

Other issues raised by submitters 89
Issue: Pass-on of child support to sole parent beneficiaries 89
Issue: Data 90
Issue: Write-offs 91
Issue: Compliance 92
Issue: Integrity of the child support system 92
Issue: Non-disclosure of income and assets 93
Issue: Comments on sole parent support 94
Issue: Information 94
Issue: Cross-reference error 95
Issue: Child support spent on the children 95
Issue: The child support scheme should be repealed 96
Issue: Applications for past periods 96
Issue: Liable parent payment schedule 97
Issue: Children should be considered financially independent at a set income threshold 98

Legislative process submissions 99

Legislative process issues raised by submitters 101
Issue: Submission process and engagement 101
Issue: Child impact analysis 102
Issue: Plain language 102
Issue: Human rights-based approach 103

Overview

OVERVIEW OF THE OFFICIALS' REPORT

This report has four parts:

1. A short overview of the Child Support Amendment Bill (the Bill), and a brief background on previous consultation on the proposals (pages 9–10).
2. A high-level summary of key themes of submissions received on the Bill (pages 10–11).
3. A table showing Inland Revenue's recommended changes to the Bill, including matters raised by officials (page 12).
4. Comment on each of the issues raised by submitters. The ordering of issues in this report follows the relevant order in the Child Support Act 1991 (pages 13–104).

Overview of the Bill

The proposals in the Bill are aimed at reducing complexity, improving fairness, increasing compliance with the Child Support Act 1991, and improving Inland Revenue's administration of the scheme. These changes are made possible by the move of child support to Inland Revenue's new systems and processes as part of Inland Revenue's Business Transformation programme. This Bill therefore supports that move.

The proposals:

- simplify the penalty rules
- introduce automatic deductions of financial support from source deduction payments made by employers to newly liable parents
- introduce a time bar of four years on reassessments of child support for past years
- include interest and dividends in child support assessments for salary and wage earners; and move from taxable income to net income, preventing carried forward tax losses lowering income for child support purposes, and
- make technical amendments to assist with the administration of the scheme.

Inland Revenue's regulatory impact assessment and commentary on the Bill are available on the tax policy website.[1] The commentary is intended to provide background information, explanations of the proposals, and examples of how the proposals (if enacted) would be expected to apply.

On 9 July 2020, the Minister of Revenue released Supplementary Order Paper No 538 to the Bill (the SOP). The SOP proposes to repeal incremental penalties on overdue child support and simplify the penalty write-off rules. Inland Revenue's supplementary analysis report and commentary on the SOP are available on the tax policy website.[2]

[1] *Child support bill introduced*, Inland Revenue (11 March 2020), Tax policy news item with links to the supporting documents, available at https://taxpolicy.ird.govt.nz/news/2020/2020-03-11-child-support-bill-introduced

[2] *Repeal of child support incremental penalties proposed*, Inland Revenue (9 July 2020), Tax policy news item with links to the supporting documents, available at https://taxpolicy.ird.govt.nz/news/2020/2020-07-09-repeal-child-support-incremental-penalties-proposed

Previous consultation on proposals in the Bill

Between 2015 and 2017, the then Government released a series of discussion documents. These documents considered options to improve tax administration, as part of developing Inland Revenue's multi-year Business Transformation (BT) programme. This transformation has largely been completed. Child support will move to the new platform in 2021.

Most of the key proposals in this Bill were originally proposed in the 2017 Government discussion document *Making Tax Simpler – Better administration of social policy*.[3]

Targeted consultation on the proposal to introduce a time bar was undertaken in 2019 with:

- National Beneficiary Advocacy Consultative Group
- The Federation of Budget Advisors
- Citizens Advice Bureau, and
- Chartered Accountants Australia and New Zealand.

The Legislative Design and Advisory Committee was consulted in relation to the proposed discretionary power for Inland Revenue to modify an aspect of the child support assessment calculation when unintended outcomes are reached by the formula.

Summary of the key themes from submissions on the Bill

This report covers 50 submissions on the Bill and the SOP.

Eight submitters were organisations:

- Birthright New Zealand
- CCS Disability Action
- Child Advocacy New Zealand
- the National Beneficiary Advocacy Consultative Group
- National Council of Women of New Zealand
- New Zealand Law Society
- the Office of the Children's Commissioner, and
- the Office of the Privacy Commissioner.

The other submissions were from individuals, or the submitter did not identify whether they were an individual or a group. Many submitters indicated that they had personal experience of the child support scheme, usually as a receiving carer or liable parent.

[3] *Making Tax Simpler – Better administration of social policy* (July 2017), A Government discussion document, available at https://taxpolicy.ird.govt.nz/publications/2017/2017-dd-mts-9-social-policy An extensive engagement strategy was developed to support the release of the discussion document, including online public consultation which provided a vehicle for the public to comment on the proposals. It included an online forum with views sought on specific questions, short summaries of the key proposals, a simplified online survey, and animated videos of the proposals. The summaries, surveys and videos were available in te reo Māori and nine languages other than English, and the video was also available in New Zealand Sign Language. Officials also met with key interest groups around New Zealand, for example, the National Beneficiary Advocacy Consultative Group.

Submissions on proposals in the Bill

Four submitters indicated that they generally supported the intent of the Bill.

Some submissions commented on the process of the Bill and the development of legislation, and Inland Revenue's provision of information about the proposed changes. These are discussed on pages 97–102 of this report.

Other submissions commented on the:

- maximum age of a qualifying child (pages 20–21)
- definition of income (pages 40–49)
- time bar (pages 63–65)
- exemption from paying child support due to long term illness (page 66)
- automatic deductions from wage and salary (pages 73–74), and
- grace period (page 79).

Submissions on child support issues not contained in the Bill

Many of the submissions raised issues with child support policy that are not related to the proposals in the Bill. The proposals in this Bill are focussed on supporting the move of child support to Inland Revenue's new system. Fundamental changes to the child support scheme were not proposed as part of this Bill.

The issues raised by submitters that were not related to the proposals in the Bill include submissions on how child support is calculated.

A number of issues raised by submitters were based on misunderstandings of the current legislation. These misunderstandings occurred particularly about the child support formula. For example, some submitters were not aware that the formula now takes into account both parents' income. The formula was comprehensively revised by the Child Support Amendment Act 2013. The revised formula takes into account both parents' income, up-to-date costs of raising children, and a greater range of care levels.

When applicable, we have commented on these issues, addressing misunderstandings and explaining the reasoning behind the policy.

Submissions on issues not related to child support

Some submitters commented on issues related to the separation of parents but not related to child support. These included Family Court and legal cost issues. These are not within the scope of Inland Revenue's functions and we have not commented on them.

Recommended changes to the Bill

Table 1 lists the changes to the Bill recommended by Inland Revenue following consideration of submissions and includes matters raised by officials.

Table 1: Changes to the Bill recommended by Inland Revenue

Number	Clause(s)	Recommendation	Page number in this report
1	2	Change the start date for the Bill from 1 April 2021 to 1 April 2022 or an earlier date as set by Order in Council.	16
2	4	Ensure that the new definition of "social security beneficiary" applies retrospectively from 26 November 2018, which is when the previous definition was repealed from the Child Support Act 1991.	18
3	4	Correct the cross-reference in clause 4(2).	19
4	6	Change "reasons outside a person's control" to "reasonable cause" to align wording with other similar provisions.	29
5	8, 10	Clarify the wording of "no child expenditure table applies".	32
6	14	Amend the definition of "election period" so that an election period covers the correct span of time.	57
7	14	Amend the definition of "year-to-date income" so that year-to-date income is derived from the correct period.	59
8	18	Ensure that the integrity exceptions in sections 82(2)(a)(i) and (ii) apply to new section 81A (timeframe for notification of existing circumstances).	61
9	44	Remove the amendment to the definition of "relevant payments" in section 135JA(1) as it is redundant.	82
10	46	Give a person 30 days in which to pay when offsetting reverses and results in an additional amount to pay, and the reversal is not due to a reassessment.	83
11	48	Correct the cross-reference in clause 15(2) of schedule 2 of the Bill to section 5(3) of the Child Support Act 1991 to refer to section 5(4).	95
12	-	Include the Supplementary Order Paper in the revision tracked Bill.	75
13	-	Introduce a transitional provision (until the grace period comes into effect) allowing for the write-off of penalties in the same circumstance as the current section 135GB.	80
14	-	Allow for the write-off of penalties when child support assessed has also been written off as it is an inefficient use of Inland Revenue's resources to collect the amounts.	81

General submissions

SUPPORT FOR PROPOSED AMENDMENTS

Issue: Support for proposed amendments

Submissions

(Anonymous D, Estella Carmichael, National Beneficiary Advisory Consultation Group, National Council of Women of New Zealand)

The submitters expressed support for the aims and many provisions of the Bill.

Recommendation

That the submissions be noted.

APPLICATION DATES FOR THE PROPOSALS

Clause 2

Issue: Application dates for the proposals in the Bill

Submission

(Matter raised by officials)

Child support was intended to move to Inland Revenue's new system (START) in April 2021. However, due to COVID-19 this has been delayed until the second half of 2021. Because of this delay, the majority of the proposals in the Bill require new application dates.

As the following changes need to be implemented in START, officials recommend that they apply from 1 April 2022 or an earlier date as set by Order in Council

- changes which relate to the administration of the scheme (such as the time bar for reassessing child support) will need to be delayed, and
- changes which relate to how child support is assessed (for example, the inclusion of interest and dividend income in the income used to assess child support). These need to apply from the beginning of the child support year to align with the annual assessment run for child support.

The 1 April 2021 application date can remain unchanged for:

- the proposals in the Supplementary Order Paper which repeal the imposition of incremental penalties and simplify the penalty write-off rules, and
- proposals which either align the law with current practice, or do not require systems changes to be implemented.

Recommendation

That the submission be accepted.

OBJECTIVES OF THE CHILD SUPPORT ACT 1991

Section 4

Issue: Child Support Act 1991 should prioritise the best interests of children and young people

Submissions

(Child Advocacy New Zealand, National Council of Women of New Zealand, Office of the Children's Commissioner, Tamika McCallum)

The child should be placed first and foremost. (*Child Advocacy New Zealand*)

The Bill should include a statement that the best interests, rights and welfare of children underpin the legislation. (*National Council of Women of New Zealand*)

We encourage the Government to reassess the impact of the Bill on children, and to align the Bill with the Child and Youth Wellbeing Strategy and the Child Poverty Reduction targets. (*Office of the Children's Commissioner*)

Amendments should be considered with a full scope of other recommendations made by the public to ensure the Child Support Act 1991 focuses solely on the best interests of the child. (*Tamika McCallum*)

Comment

The Bill has not reconsidered the objectives of the Child Support Act 1991. The current settings for the Child Support Act 1991 are fundamentally about the payment and receipt of child support. This objective is to ensure that children are appropriately supported by both their parents even when they are not living together as a family.

The focus of the Bill is on improving the administration of the child support scheme, including encouraging liable parents to comply. This is expected to help the timely collection and transfer of child support to the receiving carer. A child support scheme that collects and distributes financial support in an effective manner can contribute to these children's material wellbeing.

Introducing overarching objectives in the Child Support Act 1991 that are specifically centred on the welfare and best interests of the child would require significant consideration that is outside the scope of the Bill.

Recommendation

That the submission be declined.

DEFINITION OF "SOCIAL SECURITY BENEFICIARY"

Clause 4, section 2

Issue: Support for proposed amendment – definition of "social security beneficiary"

Submission

(Jo Ellen Pethers)

Support for reinstating the definition of "social security beneficiary".

Recommendation

That the submission be noted.

Issue: Retrospective application date for the new definition of "social security beneficiary"

Submission

(Matter raised by officials)

The definition of "social security beneficiary" was repealed from the Child Support Act 1991 following changes made as a result of the Social Security Act 2018 rewrite. However, the definition is still referred to as being specifically defined in the Child Support Act 1991 in various sections of that Act.

Clause 4 of the Bill contains a proposal to reintroduce a definition of "social security beneficiary" into the Act. The current application date for the proposal is 1 April 2021. This means that there would be a period from 26 November 2018 (when the definition of "social security beneficiary" was repealed) to 1 April 2021 during which there would be no definition in the Act.

Officials consider that the new definition of "social security beneficiary" should apply retrospectively from 26 November 2018 being the date the previous definition was repealed from the Act.

Recommendation

That the submission be accepted.

Issue: Numbering

Submission

(New Zealand Law Society)

There is a minor numbering error in clause 4(2).

Comment

As a result of amendments made in the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020, the numbering in the clause needs to be updated.

Recommendation

That the submission be accepted.

LIABILITY TO PAY CHILD SUPPORT UNDER FORMULA ASSESSMENT

Clause 5(1)

Issue: Support for proposed amendment – minimum age financially independent

Submission

(Jo Ellen Pethers)

Support changing the age at which a child can be considered financially independent.

Recommendation

That the submission be noted.

Clause 5(2)

Issue: Support for proposed amendment – maximum age qualifying child

Submission

(Anonymous D)

Support changing the maximum age of "qualifying child" as it provides consistency with and alignment to concepts used in other social policy products which will assist compliance and understanding.

Recommendation

That the submission be noted.

Issue: Oppose proposed amendment – maximum age qualifying child

Submission

(Child Advocacy New Zealand, Graham Howell, National Beneficiary Advocacy Consultative Group)

Child Advocacy New Zealand opposes section 5(4) of the Child Support Amendment Bill because it disadvantages particular groups of vulnerable children. Child Advocacy New Zealand recommends that section 5(4) read "children to the age of 20 will qualify for child support if they are enrolled at and attending an approved education or training establishment." This will ensure that children are supported up to the age of 20 if they are enrolled at or attending an approved education or training establishment. This reduces the barrier of limited access to financial support. (*Child Advocacy New Zealand*)

Do not lower the maximum age of qualifying child. Education is important, and reducing the age goes backwards. (*Graham Howell*)

We believe this provision is substantively unfair and unjustified. We believe the provision is inconsistent with, and breaches, New Zealand's obligations under international human rights law to which it is a state party, principally the United Nations Convention on the Rights of the Child. (*National Beneficiary Advocacy Consultative Group*)

Comment

The intention behind this proposal is to align the "maximum qualifying age" of a child for child support purposes with similar rules in the Working for Families legislation. Administrative consistency across these social policy products will make the rules easier for customers of both the Ministry of Social Development and Inland Revenue to understand and comply with.

The proposed amendment does not completely align the rules as the Working for Families rule also applies when the dependent child is in tertiary education. The rule for child support would not be extended to cover qualifying children who are in tertiary education because government support may be available in respect of the child.

This is similar to the current rules which mean a child is no longer a qualifying child if they become financially independent, by starting full-time work, for example.

The United Nations Convention on the Rights of the Child (UNCROC) defines a child as a person under the age of 18 years unless under the law appliable to them they attain majority earlier. The proposal to change the maximum age of a qualifying child for child support purposes only affects those over the age of 18.

Recommendation

That the submissions be declined.

Issue: Schooling of child

Submission

(Liz Boyd)

Children can be forced to stay at school by the receiving carer just so they can receive child support.

Comment

To qualify for child support, the child must be:

- under 18 years of age or 18 years of age and enrolled at and attending a registered school in New Zealand or an overseas school
- a New Zealand citizen or ordinarily resident in New Zealand
- not married, in a civil union or de facto relationship, and
- not financially independent.

The Bill proposes that the maximum age of a qualifying child be aligned with similar tests for Working for Families and main benefit recipients. However, the Bill does not propose any changes to the existing requirement for children over 18 to be at school. This requirement to be at school ensures that they are financially supported by their parents while they are finishing the school year.

For children under the age of 18 there is no requirement to be at school.

Recommendation

That the submission be noted.

Issue: Child support should cease if the child is not attending school

Submission

(Anonymous G)

Child support should cease when a child turns 16 and leaves school or is not attending school regularly.

Comment

An objective of the Child Support Act 1991 is to affirm the right of children to be maintained by their parents. A child ceases to qualify for child support at age 18, reflecting that for children, guardianship ends when they turn 18. There is a small extension for children aged 18 and still attending school.

If a child under the age of 18 is financially independent, they will cease to qualify for child support reflecting their ability to maintain themselves.

Recommendation

That the submission be declined.

SHARED CARE

Section 14

Issue: 50:50 care

Submissions

(Amy Burling, Andreas Ola, Anonymous B, Anonymous C, Anonymous E, Anonymous G, Caine Mead, John Barr, John Clarkson, Joshua Colgan, Liz Kelly, Malcolm Halcrow, Nadja McKellow, Rose Carruthers)

When child custody is 50:50 shared care, child support should not be implemented. An equity plan where income differences between either parent are vastly different could be applied – for example, a $25,000 difference between parents could be a good milestone to consider applying an equity plan in 50:50 shared care arrangements. (*Amy Burling*)

Child support should be prorated according to visitation and then should subsequently be prorated according to the number of days the parent with most to lose has been allowed to see the children. (*Andreas Ola*)

If care 50:50 then there should be no mandatory payments. If it is not 50:50 care, the parent who has less care should pay support payments to cover the days that they do not have the child up to 50 percent only. (*Anonymous B*)

The maximum a parent should have to pay is 50 percent of the cost of raising a child. (*Anonymous C*)

Custody should be 50:50 with no exchange of child support, except in proven cases of abuse, not alleged cases. (*Anonymous E*)

Child support should only ever be 50 percent to prevent the custody of a child being used for financial gain. If there is 50:50 shared care, there should be no child support. (*Anonymous G*)

Change child support so that when there is 50:50 care there is no money exchanged. I understand your theory on why it is as it is but it costs the same in each household to raise a child. Often the paying parent has extra costs relating to childcare as they are the working parent. (*Caine Mead*)

The first rule must be 50:50 custody required and enforceable via Oranga Tamariki and social services unless there is proof and conviction that would show the child would be at risk. This must be the starting rule. If either party takes off, there must be no requirement to pay for the child until they are in the 50:50 arrangement. (*John Barr*)

That a principle is brought into the Act that the best form of child support is time spent with the child. Where equal shared care is in place, no child support should be paid to the other parent. This would encourage parents to advance their careers and not punish them for working hard. Where equal shared care is opposed by a parent, they are not entitled to child support. (*John Clarkson*)

Automatic 50:50 custody (if no abuse conviction). (*Joshua Colgan*)

Calculations need to be calculated by time spent in each home, shared care arrangements and parental orders. (*Liz Kelly*)

During the lockdown my children were in my care for seven weeks. In this situation I should not need to pay child support. (*Malcolm Halcrow*)

When sharing care equally, child support should not be paid as expenses at both houses are the same and it puts half siblings in the paying home at a disadvantage. (*Nadja McKellow*)

If 50:50 care, there should be no liable parent. The Government should be aiming for 50:50 shared care as that is what is best for children and the best way to make that happen is by taking away the financial incentive to go for full custody. (*Rose Carruthers*)

Comment

The matter raised in these submissions is outside the scope of the proposals in the Bill.

The submissions are based on the premise that if parents are sharing the care of the child equally, there is no need for any financial adjustment to be made between parents.

The approach of no child support payable when there is 50:50 care ignores the possibility of parents having materially different incomes and, therefore, materially different expenditures to support their children. An objective of the Child Support Act 1991 is that parents with a like capacity to provide financial support should provide like amounts of financial support.

Different levels of care have different costs which is why it is a factor in the assessment formula. The child support rules are intended to follow the care arrangements. If parents cannot agree between themselves, the Family Court can determine care arrangements. Inland Revenue does not determine levels of care. A consequence of taking care levels into account may be that there is an incentive to have a higher level of care.

In 2013, the child support formula was amended. It is intended to replicate, as far as possible, the financial arrangements that would exist if the parents were living together. This means that both parents' incomes and care arrangements are considered as part of the child support assessment.

Example 1

Yukio and Anastasia share 50:50 care of their daughter Ilsa (aged 13), with each parent caring for Ilsa on alternating weeks. Yukio has a new partner and no children with the new partner. For the 2019 calendar year, Yukio received $12,050 during the year through a jobseeker support benefit. Anastasia was employed and earned $65,000 over the same period.

For the child support year 1 April 2020 – 31 March 2021, Anastasia would be the liable parent and the child support amount would be $423.70 per month.

If no child support were payable because 50:50 shared care were in place, Yukio would receive no child support.

Example 2

Felix and Cecilia share 50:50 care of their son Lucius (aged 7), with each parent caring for Lucius on alternating weeks. Felix earns $60,000 per annum, and Cecilia earns $65,000 per annum. Neither parent has any other children.

Based on these details, Cecilia would be the liable parent, and the child support amount for the child support year 1 April 2020 – 31 March 2021 would be $79.50 per month.

If no child support were payable because 50:50 shared care were in place, Felix would receive no child support.

Recommendation

That the submissions be declined.

Issue: Ongoing daily care

Submission

(Jo Ellen Pethers)

During the 2013 changes, a passage defining over what period of time an ongoing daily care percentage is calculated was removed. I suggest an addition to section 15(6) which would apply when establishing proportions of care:

> *the Commissioner –*
>
> *(c) must assess the care provided for a period within the relevant child support year, where a child is qualifying and an assessment is active under the formula assessment scheme.*
>
> *(d) subsection (b) applies regardless of the implementation of subsection (c).*

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

Recommendation

That the submission be declined.

Issue: Access

Submissions

(Anonymous E, Chris Renau, Greig Giblin, John Barr, Liz Boyd, Mason Keats, Patrick Mulligan, Rose Carruthers)

In the case of parental alienation, where one parent is doing everything he can to see his child and the other parent will not allow it, there should be no exchange in child support. (*Anonymous E*)

Inland Revenue made me a liable parent without access rights or decision making. I would like to see a fair system; this one penalises parents. (*Chris Renau*)

Link child support with access. If the receiving parent does not allow the liable parent to see the child/children, the receiving parent should be financially penalised. (*Greig Giblin*)

Contact with the children must determine a part of child support money. If the father is denied contact and cannot get contact, child support money should not be required. (*John Barr*)

There are parents in this country who are kept from their children due to parental alienation regardless of the court orders for shared care. One of the reasons that parents do this is so they no longer have to pay any child support. (*Liz Boyd*)

I am penalised not only for having to pay a court system to see my own child, I will be forced to pay even more than I can afford. I have not seen my son in over three years. (*Mason Keats*)

If the ex-partner does not allow access (with no reasonable grounds), no child support should be paid (this would act as a penalty for not allowing access). (*Patrick Mulligan*)

If the receiving parent stops contact with paying parent, the child support liability should be reduced. (*Rose Carruthers*)

Comment

The matter raised in these submissions is outside the scope of the proposals in the Bill and is not within the scope of Inland Revenue's functions.

While recognising the difficulties associated with levels of care, and the disincentive that a lack of contact can have on making child support payments, the child support scheme is fundamentally about establishing the amount of financial support that parents living apart have to pay towards raising their children. Officials consider, therefore, that the two issues are separate.

Recommendation

That the submissions be declined.

Issue: Recognising changes in care when the change is the result of one parent withholding access

Submission

(Anonymous D)

If a receiving carer breaches a care agreement with the liable parent to restrict that liable parent's care of the children to levels below the recognised care threshold, Inland Revenue should be very cautious in making a determination that a change in care has occurred.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

If a change of care occurs because one parent withholds access, Inland Revenue does not automatically reduce the other person's care from when it occurred. Before making a decision, Inland Revenue considers:

- what the care arrangement was before the change, and
- what the other person is doing to enforce any agreement or order.

If active steps are being taken (for example, through the courts), Inland Revenue may consider that the change is just temporary and that a change to care levels has not occurred.

If a court hearing or mediation is imminent, Inland Revenue may wait for the outcome before making a decision.

However, if no steps have been taken to enforce any arrangement or order, or the Court case has been prolonged for a period of time, Inland Revenue may decide that the change is not temporary and that a change to the "ongoing daily care" has occurred.

The Child Support Act 1991 provides that parents have objection rights to the decision Inland Revenue made.

Recommendation

That the submission be declined.

Issue: Removal of children from New Zealand

Submission

(John Barr)

The borders should be tightened to reduce the chances of a child being removed from the country. Better enforcement of court orders is needed. The Police and Oranga Tamariki need to have access to a register of court orders that get updated on the day any changes get made through the court. Even if it is only a note to say that the courts/child's lawyer need to be contacted before any action can be taken.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill and is not within the scope of Inland Revenue's functions.

Recommendation

That the submission be declined.

Issue: Recognised care

Submissions

(Anonymous C, Anonymous D, John Clarkson, Joshua Keizer)

There is no recognition for having less than 28 percent care, but there are still costs. (*Anonymous C*)

It is ridiculous that a liable parent should potentially have to pay as though they had 0 percent care to a receiving carer even if they share the care of the child/children (but do not reach the 103-night care threshold). (*Anonymous D*)

The 28 percent threshold for recognised care should be removed. This threshold is a ridiculous method to use, encourages parental alienation, and judges abusing their positions. The Judge in this case, admitted in a later hearing that she ensured I would pay maximum child support by reducing the time I got to spend with my child to less than 27 percent. With the existing calculator,

care under 27 percent pays the maximum possible. The calculation used is unjust and unfair and being abused. (*John Clarkson*)

Not recognising a reasonable level of contact or even custody (such as one to two nights each weekend) disadvantages the payer. The children have costs during this time, which liable parents are already paying for in child support. Currently, the two best solutions are to have the children all the time or never spend any time with them. The mechanism to administer care should be made more flexible by lowering the 28 percent recognised care threshold or by allowing deductions to represent other expenses incurred. (*Joshua Keizer*)

Comment

The matter raised in these submissions is outside the scope of the proposals in the Bill.

The child support formula assessment recognises that a parent provides for their child if they provide ongoing daily care for at least 28 percent of the time. However, a person must care for a child at least 35 percent of the time to be entitled to receive child support payments.

The 28 percent threshold to recognise care was implemented as part of the major changes to the child support scheme as part of the 2013 child support reforms. In developing the 28 percent threshold a number of factors were considered, including:

- the level of regular and shared care that starts to give rise to dual costs
- how the extra costs are borne by each parent
- the degree of complexity that the child support scheme should bear
- the financial impact of any change, as it affects paying parents, receiving parents, children, and when the child support offsets benefit payments, the Government
- the degree to which the approach encourages paying parents to comply, and
- the costs involved in implementing the approach.

Various levels of care were considered, in addition to the current thresholds, to provide recognition to those paying parents who provide high levels of care:

- care in excess of 14 percent of care (on average one night a week)
- care in excess of one-third of care (to align with Working for Families tax credits), and
- retaining the 40 percent of care threshold that applied at the time.

It was determined that the 28 percent threshold was, on balance the preferred option based on analysis of available research and consideration of the factors outlined above.

Recommendation

That the submissions be declined.

TIMEFRAMES FOR PROVIDING ORDERS OF PARENTAGE

Clause 6, section 19

Issue: Support for proposed amendment – introduction of timeframe

Submissions

(Anonymous D, Jo Ellen Pethers)

I fully support any amendment that requires a receiving carer or a liable parent to act in a proper and timely manner. (*Anonymous D*)

I support the proposed amendments. (*Jo Ellen Pethers*)

Recommendation

That the submissions be noted.

Issue: Extending time limits for establishing paternity

Submission

(New Zealand Law Society)

New sections 19(4)(b) and (6)(b) use the term "outside the applicant's control", in relation to circumstances justifying Inland Revenue's exercise of discretion to extend the specified time limits for establishing paternity.

The New Zealand Law Society recommends that clause 6 is amended to provide greater clarity and certainty for applicants and Inland Revenue. Section 135B(2)(a) of the Act might provide a useful model; that section defines "reasonable cause" for delay as an event or circumstance that "is beyond the control of the liable person, including a serious illness, an accident, or a disaster".

Comment

Officials consider that clause 6 should be amended to provide greater clarity around circumstances justifying Inland Revenue's exercise of discretion to extend the specified time limits for establishing paternity.

Recommendation

That the submission be accepted.

CHILD LEAVING STATE CARE

Clause 7, section 25

Issue: Inland Revenue should inform carer of application process

Submission

(Anonymous D)

The proposals appear sound, taking into account the observation regarding safety concerns.

However, Inland Revenue should be obliged to inform and assist the parent into whose care the child is placed to ensure that they are fully informed of the ability to apply for the formula assessment and how to do so. If not already in place, the respective government departments should be enabled to share contact information for the parent in order to ensure that Inland Revenue can make contact on a timely basis.

Comment

When a child moves from being in the care of Oranga Tamariki to the care of one of their parents, Inland Revenue will not necessarily know into whose care the child has gone. Inland Revenue will only know the date the child left Oranga Tamariki's care.

Even if Inland Revenue did have the parent's contact information, Inland Revenue will not have the background information to know when it would or would not be appropriate to contact the new carer.

Further, as the parent is likely to have been liable to pay child support while their child was in Oranga Tamariki care, they are likely to already have familiarity with the child support scheme.

Recommendation

That the submission be declined.

Issue: Aim of the proposal

Submission

(Jo Ellen Pethers)

I feel neutral about this amendment, it only seems to simplify the wording and shift the placement of a provision.

Comment

The proposed amendment is not a simplification of the provision. Rather, the purpose of the proposed amendment is to clarify that child support should end when a child leaves State care which would reinforce the current practice and protect the safety of the child.

Currently, when a child leaves State care and is placed with one of the parents, Inland Revenue's practice is to stop child support. This practice is followed due to safety concerns for the child and carer – if child support were not ended, a notice would be issued to both parents which would include the name of the carer. However, Inland Revenue's approach is not consistent with the current legislative provisions. This amendment would align the legislation with operational practice.

Recommendation

That the submission be noted.

Clause 8, section 30, schedule 3

Issue: Rationale for repeal of mixed age expenditure table

Submissions

(Jo Ellen Pethers)

I feel neutral about this amendment as I struggle to envision a circumstance where one of the three mixed age expenditure tables will not be applicable.

Comment

If a child support calculation includes at least two children in the same child support calculation and they fall into different age brackets, the use of the mixed age table can lead to an inequitable outcome. For example, if the children do not live in the same household (for example, one child lives with the mother and the other with the father), the use of the mixed age table does not allocate costs appropriately to each child (although the total expenditure for all children is correct), with the result that the parent with the older child is not receiving the appropriate amount of child support.

The amendment would repeal the mixed age expenditure table to ensure that costs of children are allocated appropriately between younger and older children.

Recommendation

That the submission be noted.

Issue: Clarifying when no child expenditure table applies

Submissions

(New Zealand Law Society)

If the phrase "no child expenditure table applies" means that schedule 3 does not apply because the combination and ages of children living in the household do not fit within the categories in schedule 3, then this should be clearly stated. If something else is meant by the phrase, then new subsection (3) should be amended to provide clarity. The same recommendation regarding the unclear meaning of "if no child expenditure table applies" is made in respect of clause 12, which similarly amends section 35B (dependent child allowance).

Comment

The amendment would repeal the mixed age expenditure table to ensure that costs of children are allocated appropriately between younger and older children.

An expenditure table would not apply in a situation when at least two children in the same child support calculation fall into different age brackets. That is, at least one child is 12 or under, and

at least one other child is 13 or older. Officials consider that the meaning of "if no child expenditure table applies" should be clarified in the drafting of the Bill.

Recommendation

That the submission that the provision be clarified be accepted.

Issue: Discretion to adjust expenditure calculations

Submission

(Jo Ellen Pethers)

I strongly oppose the amendment as it undermines the integrity of the formula assessment scheme. It is a more or less an underhanded, unrestrained addition to the legislation which allows Inland Revenue to interfere with the core principles of the formula assessment scheme at its discretion. Where Inland Revenue is exercising discretion, it has lost its impartiality and eroded certainty in law.

I further oppose this amendment as a liable parent can currently have their assessment contested by way of review. This review seeks exceptional circumstances for departure and the situations of the liable parent, the receiving carer and the child are considered before a departure order can be made.

If it is necessary for Inland Revenue to make decisions departing from assessments, we should ask ourselves is the formula correct.

Comment

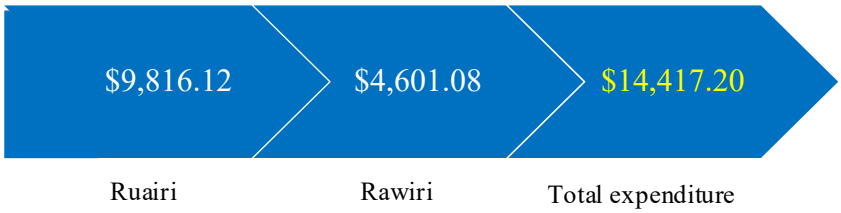
The objective of the proposed discretion is to address situations in which the application of expenditure calculations results in an unintended and unjust outcome. The proposed discretion would therefore allow Inland Revenue to modify the expenditure amount used in child expenditure calculations in certain situations.

This can occur in situations where the care arrangements for children are particularly complex. For example, if a parent has two dependent children in their care full time, and a third dependent child enters their care on a shared care basis, that parent's dependent child allowance can decrease, when it might otherwise be expected to increase or at least stay the same.

Example 3

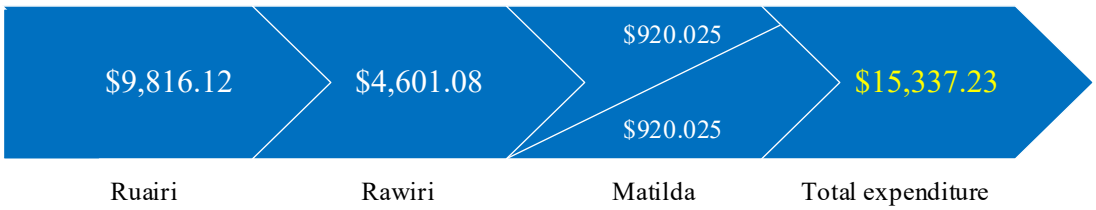
Caoimhe earns $61,351 and has two dependent children in her care, Ruairi and Rawiri. Caoimhe has a dependent child allowance of $14,417.20.

Figure 1



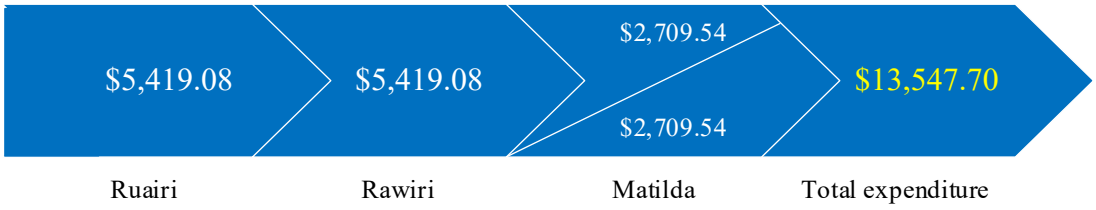
Caoimhe's daughter Matilda comes to live with her fifty percent of the time. It could be reasonably expected that Caoimhe's dependent child allowance would increase by fifty percent of the expenditure permitted for Matilda (in this instance, around $920).

Figure 2



However, this is not the outcome reached under current rules. Since the formula for the dependent child allowance divides expenditure equally amongst the children, Matilda is allocated an equal third of total expenditure, of which Caoimhe is permitted only fifty percent (in this instance, $2,709.54). As such, Caoimhe's dependent child allowance decreases from $14,417.20 to $13,547.70, even though there is an additional child in her care.

Figure 3



The administrative review process is not a suitable mechanism to address this problem because administrative reviews enable factors outside of the standard child support formula to be taken into account. This problem is not the result of a factor beyond what the formula ordinarily considers but is the result of complex interactions within the current formula.

Officials considered whether the child support formula itself should be amended. However, this would introduce significant complexity that would have to be built into Inland Revenue's new IT system, and since the formula currently caters for the vast majority of circumstances, a discretion would be preferable.

Before drafting the Bill officials sought advice from the Legislation Design and Advisory Committee (LDAC) on two options:

1. A more clearly delineated (and less flexible) power to identify within the total expenditure the actual marginal cost of dependent children (using information based on the formula) for the purposes of calculating the dependent child allowance in situations when dependent children do not share the same care arrangement.

2. A broader discretion permitting Inland Revenue to modify expenditure calculations when complex care arrangements for children in the same calculation are not adequately accounted for by the usual method.

The narrower discretionary power (option 1) would allow Inland Revenue to identify the actual marginal cost of dependent children per the child expenditure table, instead of simply dividing total expenditure by the number of children. However, this offers less flexibility for Inland Revenue in determining the correct position and may lead to unfair outcomes in unusual circumstances.

The broader power (option 2) would permit Inland Revenue to deal with cases like, and including, the example above by modifying expenditure calculations in an appropriate manner when perverse outcomes are reached. The advantage of such an approach is that it would allow Inland Revenue to resolve unanticipated, complex and unusual cases that might otherwise require intricate legislative fixes each time a new situation is identified. The expenditure calculations do serve the vast majority of cases, and so such instances would be infrequent. Moreover, perverse outcomes would require technical and particular changes, and so due to their specificity are appropriate to delegate.

A person would have the right to object to any assessments or reassessments resulting from the application of this discretion under the Child Support Act 1991.

LDAC's advice on the proposed discretion is included below:

> *3. LDAC does not object to the proposed discretionary power for the Commissioner. LDAC notes Inland Revenue's advice that the more clearly delineated power may "lead to unfair outcomes in unusual circumstances," and that the broader power would allow the Commissioner "to resolve complex and unusual cases."*
>
> *4. LDAC does, however, recommend that the Bill include a test for the exercise of the discretion to modify calculations. This would keep the exercise of the discretion within proper boundaries. Inland Revenue notes that "[t]he expenditure calculations do serve the vast majority of cases, and so such instances would be infrequent." The legislation should reflect this – namely, that the discretion only applies in exceptional or unusual situations. The inclusion of factors that the Commissioner may or must "have regard to" may assist in limiting the scope of the discretion. Such factors could include whether applying the formula would lead to an unfair outcome, or result in an unintended outcome, or whether the care arrangements are complex.*
>
> *...*
>
> *6. LDAC notes that there will be the safeguard of a statutory right to object to the expenditure calculations. The right to object under section 91 is, however, limited to objections on specified grounds. This safeguard will be less effective if there are no criteria for the Commissioner's proposed discretion to modify expenditure calculations. A parent who wishes to object to an assessment needs to know how the Commissioner has made that assessment. Otherwise, the parent will find it difficult to formulate grounds for an objection. Section 92(3) states that every notice of objection "shall state fully and in detail the grounds of the person's objection." A parent may not even have grounds to object if the discretion is without the limits suggested above in paragraph 4, as the Commissioner would be giving effect to the provisions of the Act in exercising a broad discretion.*

7. A statutory test will also help the person assessing an objection to determine whether the objection should succeed. In the first instance this will be the Commissioner, but if that objection does not succeed, the parent may then appeal to the Family Court. A statutory test will support transparent decision making and effective appeal rights. A person affected by a statutory decision should have an adequate pathway to challenge the decision.

The Bill as currently drafted reflects the broad discretion. Reflecting LDAC's advice, it contains a statutory test limiting the use of the discretion to when there are exceptional circumstances and the outcome would be unjust or inequitable if the calculations were not modified (clauses 8 and 12).

Recommendation

That the submission be declined.

Issue: Expenditure table

Submission

(Jo Ellen Pethers)

If expenditure relevant to the formula is calculated using an average weekly earnings figure and this is translated into formula derived from average income, would it not be sensible to standardise the relationship between expenditure, average income and taxable income. Then, compare the relationship at a start point of gross not net amounts. A percentage drawn from a comparison of a person's income to the income of the other parent has a direct effect on the liability or entitlement calculated by the formula assessment.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

The expenditure table is based on research which measured the expenditure for raising children in New Zealand for the purposes of the child support assessment formula.[4] The results of the research showed that the average expenditure for raising children in New Zealand varies according to the age of the child, the household's level of income and the number of children in the household.

As such, the expenditure table considers the combined income of both parents once any allowances have been deducted, and the age and number of children. This produces an expenditure figure which is an estimate of the amount that would be spent on the upkeep of the children if both of the parents and the children lived together as a family.

The expenditure figure is compared against each parent's income and the care they provide to determine how much, and by whom, child support is payable.

[4] *Costs of raising childre*n, Iris Claus, Paul Kilford, Geoff Leggett and Xin Wang (June 2009), available at https://www.nzae.org.nz/wp-content/uploads/2011/08/Costs_of_raising_children_NZAE_paper_v2.pdf

The income that factors into this calculation is a gross amount (that is, it has not had tax deducted). The formula does not compare parents' income against each other, but instead combines them to represent the household income as if the parents and children were living together as a family. This approach provides a figure which represents the cost of raising the children in question, and which can be compared against each parent's capacity to provide financial support and the care they provide to determine a fair child support amount.

Recommendation

That the submission be declined.

Issue: Increase when child turns 13

Submission

(Anonymous E)

Child support should not increase when a child turns 13. Child support receiving parents are the only people in New Zealand who get a pay rise when their children turn 13. This is stated to be because the child will cost more to raise at 13. Yet no boss in New Zealand will give their employees a raise because they now have a teenager.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

As part of the changes to the child support formula in the 2013 reforms, officials considered a variety of domestic and international research on child support matters.

New Zealand research was specifically undertaken to support the development of the proposals and to understand the cost of raising children in New Zealand. The findings are available on the New Zealand Association of Economists' website.[5]

One of the factors the researchers considered was the cost of children by age. The results indicated that, on average, the costs of teenagers were higher than those of children aged 12 years and under. This was true for both high- and low-income households.

Recommendation

That the submission be declined.

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[5] *Costs of raising children*, Iris Claus, Paul Kilford, Geoff Leggett and Xin Wang (June 2009), available at https://www.nzae.org.nz/wp-content/uploads/2011/08/Costs_of_raising_children_NZAE_paper_v2.pdf

Issue: Child expenditure

Submission

(National Council of Women of New Zealand)

The Council supports the General Policy Statement in the Explanatory Note that:

> *providing Inland Revenue with a discretion to adjust child expenditure calculations in situations where complex care arrangements for children in the same calculation are not adequately accounted for by the usual method.*

We believe this is important for families of a child with severe or complex disability needs because parents report that the financial support from Ministry of Health, Ministry of Social Development and Ministry of Education never fully cover the true costs incurred. It is very common for families to contribute their own funding top-up, and this should be included as a shared cost in the assessment calculations.

Comment

The purpose of this amendment is not to increase the expenditure used in child support formula calculations to reflect situations when parents face greater costs for their children (for example, because those children have severe or complex disability needs).

The discretion is designed to address situations in which the application of expenditure calculations results in an unintended and unjust outcome. This can occur in situations when the care arrangements for children are particularly complex.

If a parent does have additional expenses due to the specific needs of a child or person in their care (for instance, the circumstances set out in the submission), they are able to apply for an administrative review of their child support assessment to have the additional expenses factored into their assessment.

Recommendation

That the submission be noted.

Issue: Exceptional circumstances – disability and health-related costs

Submission

(CCS Disability Action)

We want to raise the importance of child support assessments taking into account a child's disability and/or health-related care needs. In line with this, we recommend a new section 30(4a) that explicitly mentions disability and/or health-related care needs as a potential exceptional circumstance.

Comment

If a person considers that they have circumstances which are not taken into account in the child support formula (such as a child's disability or health-related care needs), they are able to apply for an administrative review of the assessment.

An administrative review is a means of having a child assessment reviewed if a parent has a cost or circumstance which is not taken into account by the standard formula.

Inland Revenue manages the administrative review process, but the actual review is carried out by a Review Officer who is an independent person, usually a lawyer, contracted to Inland Revenue to carry out hearings.

In this way, there is an existing capability to take specific situations into account in the child support assessment.

Recommendation

That the submission be declined.

DEFINITION OF "INCOME"

Clauses 9 and 10, sections 34 and 35

Issue: Support for proposed amendment – changes to definition of "income"

Submissions

(Anonymous D, Dean Hyde)

I support the inclusion of investment income and the move to net income. (*Anonymous D*)

I would like to express my support for the move from a position of assessing liability on the current basis of taxable income to that of net income, thereby removing the ability of the liable parent to offset their current liability by losses from previous financial years. I would further like to express my support for the proposed inclusion of interest and dividends from investments to be included within the definition of "income" for the purpose of assessing a parent's liability. (*Dean Hyde*)

Recommendation

That the submissions be noted.

Issue: Object to move to "net income"

Submission

(Jo Ellen Pethers)

The definition of "taxable income" should remain. I oppose the use of net income rather than taxable income. The alteration of the formula assessment in this way, as the expenditure on children is estimated using average incomes (earning before tax) and the use of net income, is simply a method to reduce liability without justified reasoning. An expenditure amount would then be read from the expenditure table resulting in a significant decrease in child support payable. But for what reason? The proposal is unnecessarily complicated and would usually provide more administrative complications than they are worth.

Comment

Currently, the Child Support Act 1991 uses taxable income as the basis for child support assessments and the Bill proposes moving to net income.

Taxable income is a person's income after losses carried forward from an earlier year have been taken into account. Net income is a person's income before these losses have been taken into account. These terms are defined in the Income Tax Act 2007. "Net income" as defined is **not** income after tax has been deducted, it is the person's gross earnings.

Moving from a "taxable" to a "net" income base will mean that tax losses carried forward would no longer reduce the income used to calculate child support obligations.

One of the objectives of child support is that the level of financial support that parents provide for their children is determined according to their relative financial capacity. Reducing a person's income by deducting tax losses that have been occurred in earlier periods is at odds with that objective.

Because both parents' net incomes are used in the child support assessment, relativity would be maintained, even if after tax income were used rather than net income.

Recommendation

That the submission be declined.

Issue: Income should be after tax

Submissions

(Anonymous A, Patrick Mulligan)

The legislation should be tested on the net income not gross income. (*Anonymous A*)

Child support should be calculated after tax, not before. (*Patrick Mulligan*)

Comment

Income for child support purposes is based on gross income. No deduction is given for taxes. This is consistent with the other social policy products administered by Inland Revenue, that is, Working for Families tax credits and student loans.

Recommendation

That the submissions be declined.

Issue: Income should not be based on gross earnings

Submission

(Anonymous G)

Child support is based on gross earnings and this means that the paying parent is paying taxes for both parents.

Comment

Currently, the Child Support Act 1991 uses taxable income as the basis for child support assessments and the Bill proposes moving to net income.

Taxable income is a person's income after losses carried forward from an earlier year have been taken into account. Net income is a person's income before these losses have been taken into

account. These terms are defined in the Income Tax Act 2007. "Net income" as defined is **not** income after tax has been deducted, it is the person's gross earnings.

This approach is consistent with the other social policy products administered by Inland Revenue, that is, Working for Families tax credits and student loans.

Recommendation

That the submission be declined.

Issue: Inclusion of investment income widens the gap of child poverty

Submission

(Tamika McCallum)

Basing child support on income levels rather than a true account of the cost of basic living and child-related expenses further widens the gap of child poverty. Therefore, although including investments within an individual's income may increase their child support liability, it further widens the gap of child poverty.

Comment

Currently, for parents whose only income is income that has had tax deducted at source, only their employment income is included in their child support assessment. That is, interest and dividends subject to resident withholding tax are excluded. This is because, in the past, interest and dividend income was not generally known until the end of the tax year. However, from 1 April 2020 interest and dividend income information has been reported to Inland Revenue on a monthly basis. Therefore, the Bill proposes that this income now be taken into account in child support assessments.

The child support formula takes into account both parents' income in order to ensure that the amount of child support calculated reflects parents' ability to provide financial support. It is important that the definition of income used accurately reflects a parent's financial ability to support their children. Including investment income will help achieve this.

Recommendation

That the submission be noted.

Issue: Widen the definition of "income" further

Submissions

(Anonymous D, Julie MacClure)

The Committee should amend the definition further by enacting the amendments that were contained in earlier reforms. (*Anonymous D*)

PIE income should be included in child support assessments. (*Julie MacClure*)

Comment

The wider definitions of "income" used for Working for Families tax credits and student loans purposes are generally aligned.

During the 2013 child support reforms it was agreed to widen the definition of "income" for child support to include most of the other adjustments used in the Working for Families tax credits and student loan definitions of income.[6] However, this was not implemented, due to issues with Inland Revenue's FIRST system and compliance costs. Appendix 2 to the 2017 discussion document *Making Tax Simpler – Better administration of social policy* set out a comparison of the key income definitions for Working for Families tax credits, child support (the current rules and the 2013 reform proposal) and student loans.[7]

The definition of "income" has a big impact on the amount of support or extent of liability for payments. Determining what is included as income is a significant policy decision. The current approach for social policy is to use a common definition of income, such as the Income Tax Act 2007 definition of "net income", and to make adjustments to include or exclude other specific types of income as appropriate – for example, types of exempt income, portfolio investment entity income, a person's share of the undistributed income of a closely held company.

This Bill proposes that the definition of "income" used for child support purposes be more closely aligned with those other wider definitions by incorporating interest and dividend income and no longer offsetting losses from earlier years. These proposed changes would mean that the definition of "income" used better reflects a parent's financial capacity to pay child support.

Interest and dividend information is now reported to Inland Revenue on a monthly basis. It is, therefore, easy for Inland Revenue to include these amounts as income. Widening the definition further to include, for example, non-locked in PIE income which is not provided to Inland Revenue on a monthly basis, would mean that parents would need to provide this information each year. In order to keep compliance costs to a minimum it is proposed that these other factors are not included as income for child support formula assessment purposes.

Recommendation

That the submission be declined.

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[6] *Supporting children – a summary of feedback on the discussion document* (July 2011), available at http://taxpolicy.ird.govt.nz/publications/2011/2011-other-supporting-children-feedbacksummary

[7] *Making Tax Simpler – Better administration of social policy* (July 2017), available at https://taxpolicy.ird.govt.nz/publications/2017/2017-dd-mts-9-social-policy

Issue: Use of actual income

Submissions

(Anonymous D, Jo Ellen Pethers)

I consider that a better approach to income would be to fully review the first child support year(s) in all cases, once actual income amounts can be confirmed from filed tax returns and actual proportions of care for the period can be calculated and confirmed. *(Anonymous D)*

Instead of a past year's income, current income and current care should be used to assess current ability to pay. *(Jo Ellen Pethers)*

Comment

The income components of the child support formula (which draw on both the receiving carer's and the liable parent's incomes) are based on a parent's income from a previous year. Because Inland Revenue assesses child support for the current year – that is, before the income a parent will earn is confirmed – it is necessary to use a proxy for what a parent will earn. Using a past year's income provides a low-cost proxy for a person's income for the coming year, which has a low compliance burden for parents because Inland Revenue will, in most cases, hold this information and not need to seek it from them.

The parent's actual income in the current year will flow through and be included in a future year's child support assessment.

Using lagged income provides a degree of certainty for parents that the amount they are paying or receiving is less likely to change over the year. If every child support assessment were squared up at the end of the year, there would be no certainty and greater potential to cause over- and under-payments.

Recommendation

That the submissions be declined.

Issue: Proposal should be retrospective

Submission

(Anonymous D)

The proposed amendment to the definition of "income" should be retrospective (at least for the proposed statute bar period if not right back to 1992).

Comment

If every child support assessment were amended to take into account both parents' investment income and move to net income, there would be changes to many child support assessments which could result in over- and under-payments. There would be no certainty for parents. In some cases, the parents will have left the child support scheme.

Recommendation

That the submission be declined.

Issue: Income used in assessments

Submissions

(Andreas Ola, Anonymous A, Anonymous G, John Clarkson, John Dunlop, Joshua Keizer, Liz Kelly, Mason Keats, Patrick Mulligan, Rose Carruthers)

Both parents should contribute based on combined monthly income of both parties less a percentage of total monthly household income. Child support assessments should be based on the actual amount incurred by the receiving carer for essential costs. (*Andreas Ola*)

The amount of child support paid should be assessed on the receiving parent's income and halved. (*Anonymous A*)

The income used for the child support assessment should be based on the basic 40-hour wage and should not include overtime or secondary income. This prevents the new family from being able to get ahead, do repairs to a property or to treat their family. (*Anonymous G*)

This system was based on a 1950's household, where typically the man went to work, and the woman stays at home with the kids. In 2020 that is no longer the case. Typically, both parents work and are involved with the child. (*John Clarkson*)

If the child support assessment is based on the former partner's income it should be when they were living together and only increase with inflation and the mother also should have to provide for the child. (*John Dunlop*)

The incremental cost of child support only increases as our income does. I only received half my pay increase this year. (*Joshua Keizer*)

In phone calls Inland Revenue says it is not the new partner on the receiving end's responsibility to support the children, so why is it the new partners responsibility on the paying parent's side? Where is the fairness in this? Do not use paying parents' spouses' details if you do not consider the receiving parents' spouses' income. (*Liz Kelly*)

Child support should be assessed by looking at the situations of each person. The one size fits all approach does not work. (*Mason Keats*)

Income of both parties should be assessed. The father should not be in poverty. I was a child of poverty due to child support. (*Patrick Mulligan*)

If the receiving parent has moved on and has a partner supporting them, their income should be taken into account for times like that. (*Rose Carruthers*)

Comment

The issues raised in these submissions are out of scope of the proposals in the Bill.

The formula for assessing child support was comprehensively revised in 2013. The changes were intended to achieve a more equitable outcome based on up-to-date costs of raising children, both parents' income and recognising a greater range of care levels.

The formula used to assess child support now takes into account both parents' income. The formula also takes into account the level of care parents provide for their children, and any other children of their own they might have in their care for whom child support is not paid (such as children from a new relationship).

In the case of blended families, the Child Support Act 1991 recognises the obligation that parents have towards their own children and not their new partner's children. Any new children from the relationship can be accounted for in child support assessments as dependent children.

Recommendation

That the submissions be declined.

Issue: Cap or fix the amount of child support

Submissions

(Anonymous C, Anonymous E, Anonymous G, John Clarkson, John Dunlop,)

Cap the amount of child support. I have been paying essentially a mortgage every month which has completely stunted my ability to get ahead. (*Anonymous C*)

Being income based, allows one parent to lie about their income. In some cases, it's the self-employed paying parent lying about their income to get out of paying child support. In our circumstance, it is the self-employed receiving parent lying about her income to receive more in child support. If it were a set amount, there would be no need for being dishonest. (*Anonymous E*)

Child support should be a set amount per child. It does not cost more to raise a child when you get a promotion, get back pay or do overtime. (*Anonymous G*)

That a fixed amount should be set for child support and not based on how much someone earns. How can one child cost $1,000 a month to bring up, yet another on $76 a month! It is an illogical argument for maintaining status quo. (*John Clarkson*)

Child support should have a ceiling. The ceiling should be a more realistic sum like $150 per week and only increase with inflation. (*John Dunlop*)

Comment

Taking the income of both parents into account reflects the parents' relative abilities to contribute financially towards the expenditure for raising their children.

It also reflects the likely expenditure on the children were the parents living together. Research has shown that as parents' incomes increase, the amount spent on children increases.

Capping or fixing the amount of child support not only dilutes this principle but it would also be less transparent and add a further layer of complexity to the formula. Further, if child support were a fixed amount, lower income parents might not have the financial capacity to pay the amount.

The income tax system requires details of everyone's income to be provided at the end of a tax year to ensure that income is taxed at the correct rate. If a person has income from which tax has not been deducted at source, they are required to advise Inland Revenue of this income. The child support scheme then uses this income as a basis for assessments. There are penalties for not declaring income to Inland Revenue.

If a person considers that the other parent has income that has not been taken into account in the child support assessment, they can apply for an administrative review of the assessment.

The changes to the definition of "income" proposed in this Bill will include interest and dividend income in child support assessments and prevent parents from using losses from prior tax years to lower their income for child support purposes.

Recommendation

That the submissions be declined.

Issue: Child support when calculating taxable income

Submissions

(Birthright New Zealand, Office of the Children's Commissioner)

A further complication for many care giving parents is that child support is included by Inland Revenue in a person's annual income, even if there is a track record of that child support not being paid. This results in further financial disadvantage when families should be receiving child support payments (but are not) and find themselves not being entitled to Working for Families tax credits or the in-work tax credit until the end of the financial year. This places them in even more of a financial struggle due to the non-payment of the paying parent. (*Birthright New Zealand*)

Child support received should not be included when calculating taxable income. (*Office of the Children's Commissioner*)

Comment

The matter raised in these submissions is outside the scope of the proposals in the Bill.

Child support is not included as income for income tax purposes.

Child support paid and received is taken into account for Working for Families purposes. This is because the wider income definition used for Working for Families reflects the family's capacity to cover its living costs and expenses.

Recommendation

That the submissions be declined.

Issue: Child support abating government assistance

Submission

(Tamika McCallum)

Currently, child support is recognised as income for determining Working for Families or benefit entitlements. It is not income. Child support is to pay for living costs and expenses.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

Income is a central factor when considering eligibility for government assistance which is intended to provide income support to families and individuals. As child support is money available to a family to cover its living costs and expenses, it is appropriate for child support to be taken into account for the purposes of determining entitlement to these types of assistance.

Recommendation

That the submission be declined.

Issue: Recognition of opportunity costs

Submissions

(Kathleen Lauderdale, National Council of Women of New Zealand)

Failing to account for, or accurately assess, the real costs of children's care, housing and pay foregone in care duties for (usually) mothers impacting on lifetime earnings, contributions to superannuation and lack of access or resources to seek and access equitable contributions in both time and money. I am concerned that the current Act has never been enforced equitably. The extra costs of care of children have consequently disproportionately fallen upon women and deprived children of the equitable support of both parents. A Royal Commission of Enquiry should be held investigating how the costs of care of children have disproportionately fallen on women and deprived children of the equitable support of both parents. (*Kathleen Lauderdale*)

The formula for assessing amounts of child support should take into account the monetary value of unpaid work and opportunity costs of the custodial parent. (*National Council of Women of New Zealand*)

Comment

The matter raised in these submissions is outside the scope of the proposals in the Bill.

The purpose of the child support scheme is to ensure that children are financially supported by both their parents even when they are not living together as a family. It is not intended to provide recognition for the opportunity costs associated with caring for children. Taking into account

unpaid work and opportunity costs would significantly increase the compliance and administration costs of the scheme.

Recommendation

That the submissions be declined.

Issue: Receiving carer's lifestyle

Submissions

(Anonymous G, Clinton Davis, Kevin Tutauha, Nadja McKellow, Rose Carruthers)

If the receiving carer decides not to work, child support should be worked out at 50 percent. If the receiving carer leaves work to have another baby with their new partner, the paying parent's child support rises to 100 percent. The paying parent should not be paying for circumstances outside their control. The paying parent's family is penalised because the receiving carer is having a baby. *(Anonymous G)*

The ex has just built a new house, I am paying for her lifestyle. The child support system cripples the paying person. *(Clinton Davis)*

Receiving parents need to try to find work during school hours and try to seek employment opportunities. *(Kevin Tutauha)*

When assessing child support, take into consideration why the receiving parent has a lower income. When it is due to, for example, maternity leave, the amount of child support should not be raised as it is penalising the paying parent. *(Nadja McKellow)*

It is not fair that two parents can have a child, then move on and have more children with a new partner and the paying parent has to pay through the roof for child support because the other parent chooses to stay at home with new children to a new partner instead of working, this creates unfairness for the new children to the paying parent. *(Rose Carruthers)*

Comment

The matter raised in these submissions is outside the scope of the proposals in the Bill.

The purpose of the Child Support Act 1991 is to ensure that parents who do not live with, or who share the care of, their children support their children financially.

Requiring a receiving carer to work is not within the scope of the Child Support Act 1991.

An objective of the Act is that parents with a like capacity to provide financial support for their children should provide like amounts of financial support. To this end, the child support formula considers the incomes of both parents. It is not an objective of the Act to influence a parent's capacity to provide financial support, but instead only to consider that capacity.

Recommendation

That the submissions be declined.

LIVING ALLOWANCE

Clause 11, section 35A

Issue: Living allowance is inadequate

Submissions

(Anonymous A, Anonymous E, Anonymous G, Clinton Davis, Greig Giblin, Liz Kelly)

Living allowance should be worked out with the liable parent and everything is considered – including, rent, food, power, vehicle expenses and financial commitments. The liable parent must provide evidence of living costs and then child support is assessed rather than using a common formula as every liable parent's circumstance is different. *(Anonymous A)*

The current living allowance is a set amount of $1,685 per month, regardless of what your income is. If child support is income based, the living allowance should be too. Someone on $30,000 a year will not have the same living costs as someone on $200,000 a year. *(Anonymous E)*

Living allowances should be realistic. The living allowance should include a recognition for paying parents who have to financially support their new spouse and step-children due to illness or redundancy. *(Anonymous G)*

The current living allowance is a joke as look at a median rent, that is over the living allowance, and I am meant to pay and also have a place to have my kids when I can see them. *(Clinton Davis)*

Previously, if you were in a relationship and your partner had children, your living allowance would be adjusted to cover this. The living allowance should cater for liable parents with other children and a partner in the home. *(Greig Giblin)*

The living allowance is unliveable. You cannot live on such a minimal amount there is no space with high child support payments to ever be able to progress in life or live. *(Liz Kelly)*

Comment

The matters raised in these submissions are outside the scope of the proposals in the Bill.

The Child Support Act 1991 upholds a child's right to be maintained by their parents even if they are not living with them. It also ensures that a child's right to be maintained by their parents is not affected by a new partner's children.

The formula for child support uses both parents' income but first deducts a living allowance, any dependent child allowance for children in a parent's care and any multi-group allowance where a parent is paying or receiving child support for children in other relationships. It also takes into account the care each parent provides for the children and the costs of raising them.

The living allowance component of the formula recognises basic living costs for parents, that is, it broadly represents an amount that the parent uses to support themselves and which is therefore not available to contribute towards the cost of raising their child.

It is important to note that the amount left after any allowances have been deducted is not the amount of child support paid to the carer. Instead, this is the amount of income which will feed

into the child support formula (together with the income of the other parent) to determine the amount of child support payable.

Recommendation

That the submissions be declined.

DEPENDENT CHILD ALLOWANCE

Clause 12, section 35B

Issue: Possible drafting error

Submission

(Jo Ellen Pethers)

The provision is not clear. I wonder if the reference to "dependent child" should in this amendment be "qualifying child".

Comment

The use of "dependent child" in this clause is correct as this clause relates to the dependent child allowance.

The dependent child allowance takes into account any children in a person's care other than the children for whom child support is paid (for example, children born in a new relationship). A child for whom child support is paid is referred to as a "qualifying child". If the provision referred to a "qualifying child" instead of a "dependent child", the allowance would be based on any qualifying children in a person's care, and so would not function correctly.

Recommendation

That the submission be declined.

Issue: Cost of children

Submissions

(Anonymous C, Anonymous D, Anonymous G, Kevin Tutauha)

Details on what is in the basket and how is it calculated should be provided. It should be done on the marginal costs of raising a child (the base costs of a single person should be deducted from costs of a single parent with one child). That is, only the costs of the child, not the costs of the other parent. There is a given amount of alimony worked into child support after a given point. (*Anonymous C*)

What makes up the child expenditure costs is unclear. (*Anonymous D*)

The basket of goods used for calculating child expenditure needs to be reviewed and needs to be more realistic. (*Anonymous G*)

Payments need to be fair and reasonable. Currently I pay $800 a month and this amount keeps climbing year after year. I do not spend $800 on my child who lives with me. The amount of child support assessed seems disproportionate. (*Kevin Tutauha*)

Comment

The matter raised in these submissions is outside the scope of the proposals in the Bill.

The formula for calculating child support payments is based on a number of factors. One of the factors is the amount of money that families, on average, spend on their children.

The child support formula was updated in 2013 to more accurately reflect the costs of raising a child. This followed research into the costs of raising children.[8]

The research used statistical information from the Household Economic Survey (HES) on amounts that households spend on living costs. The research estimated what parents spend on raising their children at different levels of household income by looking at the additional expenditure that households *with* children incur compared to households with an equivalent living standard but *without* children.

The items that make up the basket of goods being compared were housing costs, energy consumption, food, clothing and footwear, household goods and services, childcare, health, transport, leisure, personal care and possibly education.

Recommendation

That the submissions be declined.

Issue: Children of paying parent and new spouse should be included

Submission

(Anonymous G)

The children of the paying parent and their new spouse should be included in the child support assessment. The same child expenditure amounts should be applied to these children.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

The Child Support Act 1991 upholds a child's right to be maintained by their parents even if they are not living with them. It also ensures that a child's right to be maintained by their parents is not affected by a new partner's children. This is because a new partner's children are supported by their own parents.

The formula does recognise other dependent children that each of the parents may have in their care, by way of the dependent child allowance. The dependent child allowance takes into account any children in a person's care other than the children for whom child support is paid, for example, children born in a new relationship.

[8] *Costs of raising children*, Iris Claus, Paul Kilford, Geoff Leggett and Xin Wang (June 2009), available at https://www.nzae.org.nz/wp-content/uploads/2011/08/Costs_of_raising_children_NZAE_paper_v2.pdf

Recommendation

That the submission be declined.

ESTIMATIONS

Clause 16, section 44

Issue: Section 40AA (Interpretation for purposes of sections 40 to 45)

Submission

(Jo Ellen Pethers)

I have no objections to an alteration of notification periods.

Recommendation

That the submission be noted.

Issue: 15 percent threshold for estimations

Submission

(Anonymous D)

The 15 percent estimation threshold should be entirely removed (now that Inland Revenue systems are improved) or at least reduced, so that potential overpayment amounts are not so unreasonable and unfair.

Comment

In order to be able to submit an estimate of income, a person needs to expect to experience a drop in income of 15 percent or more. By estimating, the person is assessed for the ongoing period on what they expect to earn in the rest of the child support year. At the end of the child support year, a person's estimated income is reconciled with their actual earnings to ensure they have paid the correct amount of child support. This can result in under- or overpayments if a person's estimated income is different to their actual income.

If a parent believes their estimate is no longer accurate, they are able to revoke the estimate or submit a new one.

The 15 percent threshold exists to prevent unnecessary estimations. Estimations create uncertainty for the other parent because their child support will be reassessed based on a change on the other side of the assessment, which they may have been unaware of. As such, it is desirable to ensure that individuals are only able to estimate in situations where there is genuine need.

If the threshold did not exist, it would increase the potential for the estimating parent to under- or overpay their child support, because they would be able to submit an estimate even if their income were not likely to change much. If this estimate were significantly lower than their estimated income, this would be reconciled when the assessment is squared up, resulting in further amounts to pay.

Because child support is based on a past year's income, if a parent is unable to submit an estimate because their income is within 15% of the past year's income they have been assessed on, the current year's income will be taken into account in a future year.

Recommendation

That the submission be declined.

Issue: Aligning back-dating estimations and grace period timeframes

Submission

(Anonymous D)

The timeframe proposed in relation to the start-date of an estimate should be aligned with the 60-day period of the proposed "grace period".

Comment

Inland Revenue's standard processing timeframe for child support applications is ten working days. Once an application has been processed, an attempt will be made to contact the relevant parties, usually on the same day. A purpose of this call is to educate people new to the scheme, including on how estimations work.

This means that within ten working days of Inland Revenue receiving a child support application, if it is accepted, an attempt to contact the person should have been made. Therefore, for a person new to the scheme who is able to estimate, the 28-day timeframe is adequate.

The 28-day timeframe will apply from initial notification. The 28-day timeframe is intended to help ensure that child support is assessed correctly from the start and reflects that contact attempts will have been made soon after the application is processed. Further, it is consistent with other timeframes to notify Inland Revenue of changes in details on which the assessment is based.

Extending the timeframe for estimating income when child support is first assessed to 60 days would risk undermining certainty in the amount of child support assessed. If child support has been paid when the estimation is given, it could result in the receiving carer being put into debt.

Recommendation

That the submission be declined.

Issue: COVID-19 and estimations

Submission

(National Beneficiary Advisory Consultation Group)

We recommend to the Committee that it reconsiders the "estimation square up" provisions to make sure it is fit for purpose in the light of changed circumstances.

Comment

If a parent expects to earn less than 85 percent of the income they have been assessed on, they can estimate their income based on what they expect to earn in the remainder of the year and have their child support liability reassessed.

When a customer estimates, their child support obligation is squared up at the end of the year. That is, their estimate is compared to the actual income earned in the period to ensure their child support obligation is not under- or over-paid.

The estimation provisions recognise that when a person's income reduces by a significant amount, regardless of the reason for the reduction, this will have an effect on their capacity to financially support their children. Although more people may have income reductions and fluctuations due to COVID-19, the existing provisions cater for this.

Recommendation

That the submission be noted.

Issue: Definition of "election period" for the purposes of backdated estimations

Submission

(Matter raised by officials)

The current definition of "election period" as per clause 14(1) of the Bill does not result in the correct outcome for backdated estimations. This is because the wording of clause 14(1)(c) which states in relation to backdated estimations that the election period:

> *"… starts on the first day of the month in which the notice is given…"*.

A backdated estimation relates to an earlier period than the month in which it is given. Therefore, if the relevant election period were to begin in the month in which the estimation is given (as currently drafted), it would begin later than the estimation itself.

Example 4

On 1 January, Calliope applies for child support naming Oeagrus as the father of Orpheus.

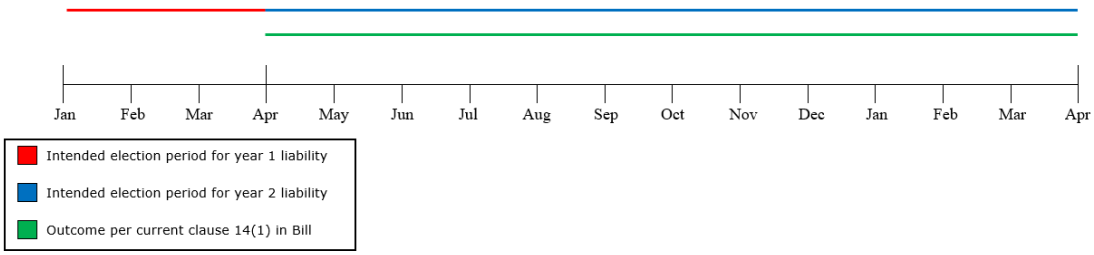
Calliope needs to establish paternity, and so also applies for a paternity order on 1 January which is granted on 1 April. This is supplied to Inland Revenue, which subsequently accepts the application from the original application date (1 January).

Oeagrus is identified as the liable parent and notified of his liability on 2 April. Not only was Oeagrus' income for the year relating to the period 1 January – 31 March (year 1 liability) less than 85% of the income on which he was assessed, he also expects to earn less than 85% of the income on which he has been assessed in child support year beginning 1 April (year 2 liability).

Under the proposal, he would now have 28 days to apply for a backdated estimation for the period 1 January – 31 March (year 1 liability); and until the end of April to estimate for the child support year beginning 1 April (year 2 liability). Oeagrus submits his estimations in April.

In figure 4, the red and blue lines show the periods which each estimation is intended to cover. However, because the current wording states that a backdated estimation is effective "from the first day of the month in which notice is given and ends on the last day of that child support year", Oeagrus' backdated estimation is effective not from 1 January as intended. Instead, as the backdated estimation was given in the month of April, it begins on 1 April (the green line in figure 4).

Figure 4: Periods for which election periods apply (intended election period compared to outcome per current clause 14(1))



Officials consider that a backdated estimation given under the new section 40(8) should begin on the first day of the month in which the assessment begins.

Recommendation

That the submission be accepted.

Issue: Definition of "year-to-date income"

Clause

Submission

(Matter raised by officials)

In relation to a backdated estimation made under section 40(8), the current definition of "year-to-date" income as per clause 14(3) of the Bill does not specify the correct period from which year-to-date income should be derived.

As currently drafted, when an election is made which is to be backdated to a previous year, the beginning of the year-to-date period would be tied to the month in which the election is given. As such, it would begin in the current year, and not the previous year to which the estimation is to be backdated. Further, it would end with the end of the month immediately preceding the month in which the election were given – that is, the year-to-date period would end on the last day of the month before the month in which it begins.

Example 5

Arjun and Gita have a daughter together, Siva. Gita provides full time care for Siva. On 1 January, Gita applies for child support naming Arjun as the other parent.

Gita needs to establish paternity, and so also applies for a paternity order on 1 January which is granted on 1 May. This is supplied to Inland Revenue, which subsequently accepts the application from the original application date (1 January).

Arjun is identified as the liable parent and notified of his liability on 2 May. Not only was Arjun's income for the period 1 January – 31 March less than 85% of the income on which he was assessed, he also expects to earn less than 85% of the income on which he has been assessed in child support year beginning 1 April.

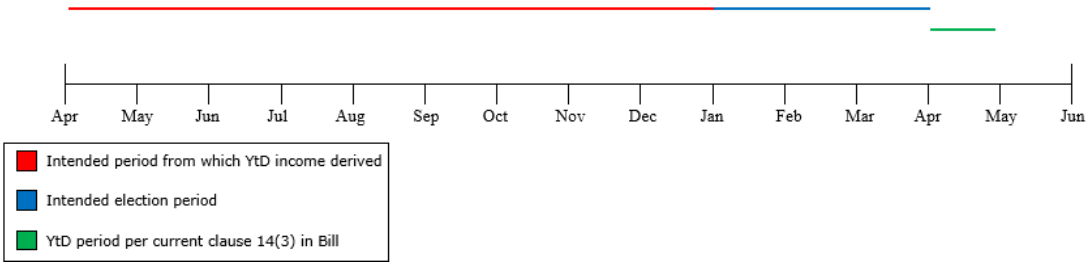
Under the proposal, he would have 28 days to apply for a backdated estimation for the period 1 January – 31 March, and for the child support year beginning 1 April. Arjun submits his estimation on 2 May.

Arjun's estimation is composed of two parts: year-to-date income, which should cover the period 1 April – 31 December; and his estimated income for the period 1 January – 31 March.

However, per the current clause 14(3) of the Bill, the year-to-date income is not derived from the period 1 April – 31 December. Instead, the period ends on the last day of the month immediately preceding the month in which the election is given (31 April), and begins on the first day of the child support year (1 April).

This is shown in figure 5.

Figure 5: Year-to-date income when backdating an estimation to a previous child support year (intended year-to-date period compared to outcome per clause 14(3))



For estimations which are backdated within the current year, the result is that the year-to-date period begins in the correct year but extends over the beginning of the period being estimated for and ends in the month in which the estimation is given.

Example 6

Lauri and Rosa have a daughter together, Saara, but do not live together. Lauri provides full time care for Saara.

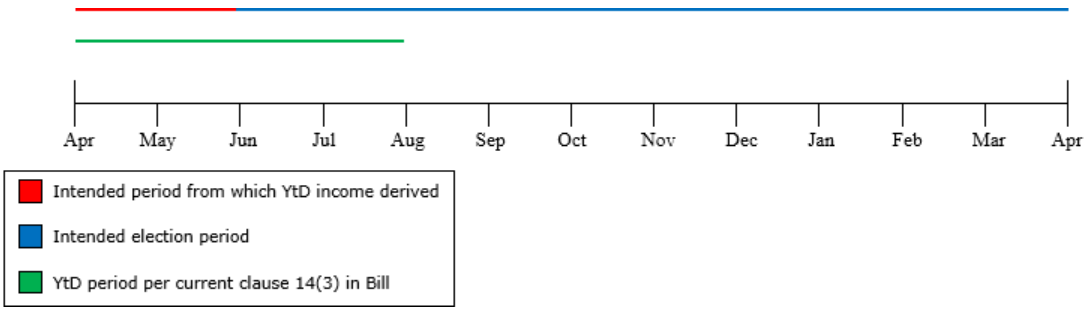
On 21 June, Lauri applies for child support naming Rosa as the other parent. The application is accepted, and Rosa is identified as the liable parent. Rosa is notified of her liability on 5 July.

Rosa believes that her earnings across the child support year will be less than 85% of the income that she has been assessed on. Under the proposal, she would have 28 days from 5 July to submit an estimation which will be backdated to the start of her liability on 21 June. Rosa submits this estimation on 1 August.

Rosa's estimation is made up of the income she has already earned through the year (year-to-date income), and what she expects to earn for the rest of the year (that is, what she expects to earn in the election period).

The figure below shows the period from which year-to-date income is intended to be derived, and the period which the election period is intended to span. It also shows the period from which year-to-date income would be derived per the current clause 14(3).

Figure 6: Year-to-date income when backdating an estimation within a child support year (intended year-to-date period compared to outcome per current clause 14(3))



Officials consider that the definition of year-to-date income should be tied to the month in which the election period begins. This would mean that the year-to-date period would end on the last day of the month immediately preceding the month in which the election period would begin and would begin on the first day of that child support year, as originally intended.

Recommendation

That the submission be accepted.

CIRCUMSTANCES AT TIME OF ASSESSMENT

Clause 18, new section 81A

Issue: Support for proposal

Submission

(Jo Ellen Pethers)

I have no objection to the inclusion of the section.

Recommendation

That the submission be noted.

Issue: Timeframe for advising of existing circumstances

Submissions

(Anonymous D, New Zealand Law Society)

The timeframe for advising of circumstances when child support is first assessed should be aligned with the grace period. (*Anonymous D*)

It may be reasonable to extend the limited exceptions from sections 82(2)(a)(i) and (ii) to new section 81A, as it is not apparent why those exceptions should not apply. (*New Zealand Law Society*)

Comment

The new section 81A, which establishes a timeframe for advising of circumstances when child support is first assessed, has a different policy intent to the proposed grace period, and so each amendment has a different timeframe. Currently, there is no timeframe for advising of circumstances which exist when child support is first assessed. This means that in these situations the assessment is considered incorrect and could be amended from the start of the assessment, which can create overpayments and uncertainty for receiving carers. The new section 81A is intended to address this and encourage timeliness in advising of circumstances. In contrast, the proposed grace period is intended to enable Inland Revenue to work with newly liable parents to help them understand how to comply with their obligation and get it right from the start.

Sections 82(2) of the Child Support Act 1991 provides for determining whether Inland Revenue should action a change of circumstances from the date on which it occurred or the date on which Inland Revenue was notified of the change. The provisions which the New Zealand Law Society suggest should be included in the new section 81A function so that if a parent notifies Inland Revenue of a change over 28 days after it happened, the change will only be backdated from the date on which it occurred if the effect is to increase their own liability or entitlement. This ensures that the other parent will not have debt from an overpaid entitlement or new liability amounts to pay because of the delay in notification. In this way, parents cannot benefit from delaying

notification of changes in circumstance to Inland Revenue and are incentivised to act in a timely manner.

Officials consider that the exceptions from sections 82(2)(a)(i) and (ii) should apply to new section 81A.

Recommendation

That the recommendation that the exceptions from sections 82(2)(a)(i) and (ii) apply to new section 81A be accepted.

TIME BAR

Clause 20, new section 87A

Issue: Support for proposal

Submission

(Jo Ellen Pethers)

I have no opposition to the proposed time bar.

Recommendation

That the submission be noted.

Issue: Alignment of time bar with other Inland Revenue Acts

Submission

(Anonymous D)

In general, the time bar should be aligned to be consistent with other Inland Revenue Acts.

Comment

The proposal to introduce a time bar for reassessment of child support is broadly aligned with the time bar that exists for income tax purposes which restricts reassessments to four years from the end of the tax year in which the taxpayer provided their income tax return.

Recommendation

That the submission be noted.

Issue: Time bar limitations

Submissions

(Kathleen Lauderdale, Julie MacClure, National Council of Women of New Zealand, Peter Read)

I would oppose any limitations to time frames to address the inequities and abuses the inequitable administration of the original Act has caused. (*Kathleen Lauderdale*)

The time bar should not proceed because once in effect it would void recourse when income has not been disclosed to Inland Revenue or a court order is made. (*Julie MacClure*)

The Bill should explicitly provide for an exception from the four-year rule where a child acquires or is diagnosed with a long-term illness or disability. (*National Council of Women of New Zealand*)

The time bar for reassessments should be limited to one year where the change would reduce the amount payable. The reason being that these cause overpayments to receiving carers. This is unfair as the receiving carer expects certainty in payments and is entitled to rely on the entitlements calculated by Inland Revenue. (*Peter Read*)

Comment

The current unrestricted timeframe for reassessments creates uncertainty for liable parents and receiving carers and possibly debt as a result of increased assessments (for liable parents) or overpayments (to receiving carers) which then needs to be repaid. Often the reassessment results in no change to the child support payment obligation but creates a notification to all parties that a reassessment has occurred, which can cause confusion and stress. In some cases, the liable parent and receiving carer have exited the child support scheme and the reassessment brings them back in.

In practice, most reassessments to a past year occur within four years of that child support year ending. Less than 2 percent of reassessments occur more than four years after the end of the child support year. A four-year time bar, applying from the end of the relevant child support year would allow for 98 percent of current reassessments to occur.

The proposal includes specific exceptions to allow reassessments outside the four-year time frame to balance equity concerns and to maintain the integrity of the child support scheme. For example, a reassessment could occur at any time if information provided by a person in the child support assessment is fraudulent or wilfully misleading or if information is missing, or a court order is received that applies to an earlier period.

There is no exception in this proposal for a time bar for cases when a child acquires or is diagnosed with a long-term illness or disability. In this situation a carer can apply for an administrative review of the child support assessment. There is a specific ground in the administrative review provisions that covers the special needs of a child.

Recommendation

That the submissions be declined.

Issue: Children applying for child support

Submission

(Tremayne Thompson)

When a carer has not received child support, a child should be able to make a claim for past periods.

Comment

This issue is outside the scope of the proposals in the Bill.

The purpose of the child support scheme is to recognise the costs incurred by carers in looking after a child.

When a child is able to support themselves independently, it is not the purpose of the child support scheme to provide support for previous periods when child support was not received.

Officials note that in situations where the child does not live with a carer other forms of support are available to the child, such as the Youth Payment which supports young people aged 16 or 17 who cannot live with their parents or guardian and are not supported by them or anyone else.

Recommendation

That the submission be declined.

EXEMPTIONS

Clauses 22 to 33, sections 89A to 89Z

Issue: Support for amendment

Submission

(Jo Ellen Pethers)

I have no objection to these amendments.

Recommendation

That the submission be noted.

Issue: Proposed exemption for people suffering from long-term illness or injury is not child-centric

Submission

(Nikita Leeks)

Clause 27 (which proposes an exemption for people suffering from long term illness or injury) should be removed due to the strong emphasis this clause places on the wellbeing of liable parents rather than the associated child.

Comment

The Bill proposes amendments to the hospital patient and prisoner exemptions so that the existing exemptions would be extended to liable parents who are overseas. The Bill also proposes a new exemption be introduced for people who have a long-term illness or injury who are unable to work, with similar income criteria to the existing exemptions.

Temporary exemptions from payment of child support for hospital patients and long-term prisoners exist to provide relief from payment on the grounds that a person has extremely limited income (and no capacity to earn an income) for a period of time.

One of the objectives of the Child Support Act 1991 is that the level of financial support to be provided by parents for their children be determined according to their relative capacity to provide financial support. The exemptions support this by recognising that, in some limited circumstances, people have no capacity to pay.

Recommendation

That the submission be declined.

ADMINISTRATIVE REVIEWS

Clauses 34 and 35, sections 96BA and 96D

Issue: Support for amendments

Submission

(Jo Ellen Pethers)

I have no objection to the amendments to sections 96BA (time period for certain applications that are time barred) to 96D (offsetting determination).

Recommendation

That the submission be noted.

Issue: Exchange of information during an administrative review

Submission

(Anonymous A)

Personal financial income statements should not be supplied to the other parent. This is a breach of privacy especially in circumstances of domestic violence.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

An administrative review is a means of having a child assessment reviewed if a parent has a cost or circumstance which is not taken into account by the standard formula. Inland Revenue manages the administrative review process, but the actual review is carried out by a Review Officer who is an independent person, usually a lawyer, contracted to Inland Revenue to carry out hearings.

Part of the administrative review process is to exchange the information provided by the parties. This is so that both parties know what matters the other person intends to raise and can prepare for the hearing.

Under the Child Support Act 1991, only information that is provided to Inland Revenue in the course of proceedings is shared. A relevant person is not entitled to receive any other information in Inland Revenue's possession. Personal information such as address or contact details, or bank account details, are not shared. As part of the wider child support process, carers and liable parents are able to request that their name be omitted to protect the safety of a parent, carer or child.

Recommendation

That the submission be declined.

Issue: Retrospective administrative reviews decisions

Submission

(Anonymous D)

There appears to be a tendency for administrative review decisions to only be granted for prospective periods. It is unfair that relief afforded through administrative reviews is not applied to the full, relevant, period as a liable parent therefore has no means of recovering excessive overpayments arising from assessments that have not yet been subject to proper rigour.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

Administrative reviews are administered by Inland Revenue, but the review itself is undertaken by a Review Officer, who is an independent person, usually a lawyer, contracted to Inland Revenue to carry out hearings. Review Officers will generally only look to recommend departures for a current period. This approach is based in the precedent set by the High Court decision of *Commissioner of Inland Revenue v Aspinall*.

Departures can be made for retrospective periods if considered just and equitable to do so after considering the facts of the case. For instance, the High Court decision in *IPD v KME & Anor* was that jurisdiction to make a departure order retrospective exists, but whether or not that discretion is exercised will depend upon an assessment of all the facts and circumstances (which may be infinitely different) so as to ultimately determine whether it is just and equitable and otherwise proper to make such order.

Recommendation

That the submission be declined.

Issue: Administrative reviews should be evaluated

Submission

(Anonymous G)

Administrative reviews need a complete overhaul. They are currently dishonest, biased and rude.

Comment

The matter raised in this submission is outside the scope of the Bill.

Administrative reviews are undertaken by a Review Officer, who is an independent person, usually a lawyer, contracted to Inland Revenue to carry out hearings.

Recommendation

That the submission be declined.

Issue: Costs of access to children and travel cost

Submissions

(Chris Renau, Greig Giblin Mason Keats, Liz Boyd)

I have been treated unfairly by Inland Revenue, mainly a decision to deny costs in relation to travel. (*Chris Renau*)

Child support is money that could have been used to fund a lawyer so that I could see my children (which I've only been able to see once in four years). There should be a new clause for child support reviews to cover legal expenses when trying to get a fair custody arrangement so one can see their children. (*Greig Giblin*)

I have taken part in many administrative reviews and I am told time and time again that "I just pay for the essentials" and that legal representation is a luxury item. (*Mason Keats*)

Parents that have been alienated often run up lawyer bills into the thousands or tens of thousands of dollars just to see their children. Access to children incurs many costs, in my personal case, the children have been moved four hours away, so to see them it is very expensive. (*Liz Boyd*)

Comment

The matter raised in these submissions is outside the scope of the proposals in the Bill.

An application for an administrative review can be made under the ground that a parent's contact costs are more than 5 percent of the income they are assessed on. Contact costs could include the cost of legal fees for maintaining contact with a child, or travel costs.

The reason for the 5 percent de minimis threshold is to provide a benchmark from which to determine if a contact cost is unusually high and consideration ought to be given to factoring it into the child support assessment.

Recommendation

That the submissions be declined.

Issue: Support for proposed amendment – removal of offsetting administrative review ground

Submission

(Jo Ellen Pethers)

I support the repeal of sections 105(2)(e) and 106B.

Recommendation

That the submission be noted.

Sections 97 to 127

Issue: Court proceedings

Submissions

(John Barr, John Clarkson)

You could consider child support not being required to be paid whilst court proceedings are ongoing. This would lessen the chance of one parent taking the other to court on their whim. If the parents want to take it to court they should both need to pay or both not need to pay. This is to stop abuse of being able to get legal aid when the other parent cannot and cannot afford a lawyer and being beaten over the head with court again and again. (*John Barr*)

That lawyers are not allowed to be used by either party or Inland Revenue in disputes. This creates an instant disadvantage to the paying parents, does not resolve issues and only adds further costs. (*John Clarkson*)

Comment

The matter raised in these submissions is outside the scope of the proposals in the Bill.

Recommendation

That the submissions be declined.

URGENT MAINTENANCE ORDERS

Clauses 38, 39 and 45, sections 116 and 137(a)

Issue: Oppose repeal of urgent maintenance orders

Submission

(Jo Ellen Pethers)

I oppose the removal of urgent maintenance orders. This is because an application to the Court will not necessarily result in the approval of the order but if the Family Court decides the child is in urgent need of financial assistance then with the welfare of the child in consideration, this should be granted.

Comment

The Child Support Act 1991 contains a provision for a person to apply to the courts for an urgent maintenance order if they have made an application for child support to Inland Revenue, but the child support application has not been processed.

It is believed the provision was included in the Child Support Act 1991 to cover the period of transition when child support moved to Inland Revenue in 1992 in case there were any unforeseen circumstances that could mean Inland Revenue was unable to raise an assessment. An order under this provision has never been granted because Inland Revenue can assess child support in a more timely manner than obtaining a decision from a court.

Recommendation

That the submission be declined.

Issue: Oppose the repeal of rules setting out order payments are applied

Submission

(Jo Ellen Pethers)

I strongly oppose the removal of section 137(a) which sets out the order in which payments are applied as I believe it is important that guidance and structure is applied when allocating money payable to an account.

Comment

Section 137 sets out the order in which payments are applied by Inland Revenue. Under section 137(a) a payment is first allocated to any urgent financial assistance payable under an urgent maintenance order. The Bill proposes that the provision which allows a person to apply to the Family Court for an urgent maintenance order be repealed.

The repeal of section 137(a) is a consequential amendment following the repeal of the urgent maintenance order provision.

Recommendation

That the submission be declined.

AUTOMATIC DEDUCTIONS

Clause 41, section 129A

Issue: Support for proposal

Submissions

(Jo Ellen Pethers, Office of the Privacy Commissioner)

I am not opposed to this proposed change. (*Jo Ellen Pethers*)

My comments on the Bill relate only to clause 41 and I do not recommend any changes. I consider the Bill's provision for compulsory automatic deduction of child support payments by newly liable parents is justified and includes a mechanism that can protect individual privacy. (*Office of the Privacy Commissioner*)

Recommendation

That the submissions be noted.

Issue: Compliance costs

Submission

(Anonymous D)

Every liable parent should be equally entitled to maintain their privacy and to not be subject to Inland Revenue sharing their personal circumstances with any of their employers. The proposed provision should not proceed. The current provisions are entirely sufficient and additional compliance costs should not be imposed on employers by forcing them to make child support deductions except as currently required. Compulsory deductions for newly liable parents would also be inconsistent with Inland Revenue's own research as outlined in the discussion in the *Commentary on the Bill* on the proposed grace period.

Comment

Automatic deductions would assist liable parents first entering the scheme by helping them get their payments right from the start and avoid them going into debt. Currently, compliance for new liable parents in the first few months is very low – less than a third pay on time.

Additional compliance burden on employers because of this amendment would be attenuated because deductions by employers become compulsory once a liable parent defaults on their payment, and so in many cases employers already make deductions. Additionally, a person can choose employer deductions as their payment method.

The discretion to allow payment by another method would provide flexibility to consider other options for payment when source deduction is not appropriate for a person, including for privacy reasons.

Before the introduction of the Bill, officials consulted with the Office of the Privacy Commissioner (OPC) on the proposal for compulsory payment of child support by automatic deduction for newly liable parents. It was noted that Inland Revenue would have a discretion to allow another payment method in cases when automatic deductions would be inappropriate, including for privacy reasons.

OPC advised that they supported the proposal for automatic deductions for newly liable parents as a measure consistent with applying good privacy values. They also suggested that it would be prudent to support operational practice of contacting the liable parent with a suitable provision in the Bill.

Before submitting on the Bill, OPC asked officials whether the operational practice of contacting the liable parent to discuss the payment of child support, before the automatic deduction takes effect, should be reflected in the Bill.

Inland Revenue provided OPC with information on the operational practice, confirming that Inland Revenue would attempt to contact the newly liable parent by phone before issuing the deduction notice to a liable parent's employer; and that if contact is made, the liable parent could ask Inland Revenue to use its discretion to pay by a different method. Inland Revenue confirmed that the operational practice of contacting the person to discuss the payment of child support, before the automatic deduction requirement takes effect, was not reflected in the Bill.

The Privacy Commissioner then submitted to the Committee on the Bill about the proposal for compulsory automatic deductions for newly liable parents.

Recommendation

That the submission be declined.

PENALTIES AND WRITE-OFFS

Clauses 42 to 44, Supplementary Order Paper, sections 134 to 135JA

Issue: Support for proposal – changes to penalty rules

Submission

(Nikita Leeks)

The submitter supports clause 42 and agrees that the use of enforcement tools provokes the required financial payments from liable parents in support of the wellbeing of the child.

The submitter supports clause 43 and agrees that a grace period complements the need to limit strain within the family unit and removes unnecessary enforcement actions within the beginning of the process.

Recommendation

That the submission be noted.

Issue: Incorporate the Supplementary Order Paper into the Bill

Submission

(Matter raised by officials)

The Supplementary Order Paper contains proposals to repeal child support incremental penalties and simplify the penalty write-off rules.

Officials consider that these proposed amendments should be incorporated into the Bill.

Recommendation

That the submission be accepted.

Issue: Existing penalties should not be written off

Submission

(Birthright New Zealand)

The proposal to wipe pre-2021 penalty debt without consideration of the impact of the unpaid child support on the intended recipients is not the right strategy. There is an opportunity for Inland Revenue to not only improve the efficiency and effectiveness with the administration of child support but to also shift the culture of the perception and attitudes around child support with the paying parents and debtors.

Comment

The Bill and Supplementary Order Paper do not propose that pre-2021 penalties be written off when child support moves to the new technology platform START.

To ensure parents who are charged penalties on or before 31 March 2021 are not worse off under the new rules, the Supplementary Order Paper proposes that a "fair and reasonable" penalty write-off provision be retained that would only be used to write-off penalties charged on or before 31 March 2021.

Inland Revenue would use this provision when something has occurred that, had the current legislation still existed, would have meant that the penalty would have been written off, for example, the person had entered into and complied with a payment arrangement.

Recommendation

That the submission be declined.

Issue: Debt collection practice

Submission

(Birthright New Zealand)

Debtors should be categorised based on the nature of the debt, level and attempts made to address the child support debt. For example, debtors could be grouped based on their compliance history and different rules applied.

Comment

The matters raised in this submission relate to Inland Revenue's debt practices and are outside the scope of this Bill.

Recommendation

That the submission be declined.

Issue: Penalties or interest paid to receiving carers

Submission

(Birthright New Zealand)

Rather than writing off penalties, we recommend that any penalties which are collected should be passed on to the receiving carer who has incurred the impact of the non-payment and the opportunity cost of using their own finances to meet the interim shortfall.

Alternatively, use-of-money interest could be charged and this passed on to receiving carers.

Comment

Penalties are used as a tool to enable Inland Revenue to collect a receiving carer's full entitlement. Historically, penalty write-off has been used as an incentive to encourage non-compliant liable parents to pay. If penalties were passed on to receiving carers, the problem would arise that should Inland Revenue write off an amount of child support debt to encourage a liable parent to be compliant, the receiving carer would lose out as they would no longer receive the written off penalties. Conversely, if the penalties were not written off to ensure that the full amount were passed on to the receiving carer, it would remove a key tool for Inland Revenue to encourage liable parents to meet their obligation to support their children financially. Ultimately, it is not clear that the approach of passing on penalties to receiving carers would improve compliance.

There are a variety of reasons why a parent might fail to meet their child support obligation. For example, a newly liable parent might not have a full understanding of how to meet their child support obligation, or an individual's employer might fail to deduct the correct amount of child support. In these cases, rules allowing penalties to be written off provide Inland Revenue more flexibility in collecting a receiving carer's entitlement.

Inland Revenue has finite resources to dedicate to collection. Passing on penalties would create an obligation to collect them on the receiving carer's behalf and would not allow Inland Revenue to prioritise collecting assessed child support.

Recommendation

That the submission be declined.

Issue: Consistency of administrative regimes across Inland Revenue Acts

Submission

(Anonymous D)

The Child Support Act 1991 is an Inland Revenue Act administered by Inland Revenue. Administrative regimes, such as for the imposition of penalties, should be aligned across all Inland Revenue Acts to aid consistency and understanding.

Comment

When appropriate, similar rules across the Inland Revenue Acts are aligned. This Bill contains proposals that align, or better align, definitions with similar rules in the Working for Families legalisation, for example, the amendment in clause 5(1) which aligns the minimum age a child can be considered independent.

However, in some cases it is not possible to align the rules. In the case of child support and penalties, often the debt is owed to the receiving carer rather than the Crown (as is the case with tax and student loans). In addition, child support is payable each month. There are proposals in this Bill aimed at getting things right from the start and engaging more quickly with parents when there is non-compliance. Therefore, imposing penalties and interest in line with the rules in the Tax Administration Act 1994 would not be appropriate.

Recommendation

That the submission be declined.

Issue: Greater compliance tools

Submissions

(Anonymous G, Estella Carmichael, Jasmine Bell, Nikita Leeks, Sarah McKenzie)

Perjury and fraud should be acted on. (*Anonymous G*)

That child support is enforced with harsher penalties for unpaid child support. *(Estella Carmichael)*

Make compulsory withdrawals from the liable parent's wages or bank account when it is due. (*Jasmine Bell*)

With the financial wellbeing of the child as the primary subject, it is therefore recommended that this section is amended to ensure that all measures are available for the enforcement of financial responsibility in support of the child within a family unit. (*Nikita Leeks*)

Paying parents returning to New Zealand they should be arrested at the border when owing over $10,000 and have to pay the full amount before leaving the country. When a paying parent receives an inheritance, Inland Revenue should deduct overdue child support. (*Sarah McKenzie*)

Comment

The child support scheme is intended to collect child support that has been assessed and pass it on to the receiving carer. It is in the best interests of the child that these payments are made in full and on time.

Inland Revenue helps parents to pay child support on time by contacting them early, talking to them when they are first assessed and sending a reminder text for their first due date. If a parent falls into debt, early intervention is a priority. Inland Revenue will try to contact the parent as soon as possible after their payment is missed. Regular repayments will be set up with parents who cannot pay the full amount.

A number of provisions in the Bill are aimed at ensuring that liable parents get things right from the start, for example, automatic deductions and the grace period.

Initial penalties will continue to be applied as they are important for compliance. However, incremental penalties compound and create further debt for liable parents, which can lead to disengagement with the scheme and spiralling debt.[9]

Inland Revenue has a suite of tools to collect overdue child support, including:

[9] Research undertaken by Inland Revenue shows that customers feel that the current penalty rules are overly punitive and complex.

- enforced deductions from New Zealand sourced employment income
- enforced deductions from New Zealand bank accounts
- legal action, for example a charging order over property
- use of overseas debt collectors or Government agencies to locate or collect debt in Australia
- information matching with Department of Internal Affairs upon renewal of New Zealand passport to obtain contact information
- Customs match informing of border crossings for certain debtors, and
- arrest at the border.

Inland Revenue does not receive information about inheritances.

Recommendation

That the submissions be declined.

Issue: Grace period

Submission

(Tamika McCallum)

The 60-day grace period without penalty should be allowed only on one instance.

Comment

The grace period is one of several proposals in the Bill that are aimed at people new to the scheme and at "getting it right from the start". It provides an opportunity for educating parents and gives them time to adjust to making regular payments. Inland Revenue considers that a more positive early experience with the child support scheme results in increased compliance.

The provision would apply whenever someone is new or re-joining the scheme. This means a person could qualify for a grace period more than once. There may be a long period of time between a person being a liable parent and there may also have significant changes to the child support scheme since the last time they were a liable parent. Allowing the grace period each time a person returns to the scheme better supports the policy intent of helping people to "get it right from the start".

Recommendation

That the submissions be declined.

Issue: Government guarantee of child support

Submission

(Tamika McCallum)

Child support should be paid in advance by Inland Revenue and then recouped, so that late payments by liable persons of child support do not affect the receiving carer or child.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

Recommendation

That the submission be declined.

Issue: Transitional provision to cover the period between the repeal of section 135GB and enactment of grace period

Submission

(Matter raised by officials)

The current section 135GB provides that if a liable parent falls into debt and enters into a payment arrange within the first three months of their liability, the initial penalties relating to this debt qualify to be written off. The proposed grace period will serve a broadly similar function as newly liable parents would not be penalised for the first three months of their liability.

It is proposed that section 135GB be repealed from 1 April 2021. With the delay of the child support Business Transformation changes, the grace period is now intended to apply from later this year. This means there would be a period during which neither provision would apply. As a result, customers who fall into debt when they are first assessed and come to a payment arrangement with Inland Revenue in a timely fashion would not be able to have their penalties written off.

Officials consider that the inability to write off penalties is contrary to the policy intent for Inland Revenue to work with newly liable parents to help them get it right from the start.

Officials recommend that a transitional provision be included in the Bill, until the grace period comes into effect, which would allow for the write-off of penalties in the first three months of a person's liability, provided that they enter into, and complied substantially or fully with, a payment arrangement within that time.

Recommendation

That the submission be accepted.

Issue: Provision to write-off penalties when it would be an inefficient use of Inland Revenue's resources to collect the penalty

Submission

(Matter raised by officials)

The Bill was to include a penalty write-off ground in the Supplementary Order Paper that would allow for write-off when it would be an inefficient use of Inland Revenue's resources to collect the penalty. However, the provision was mistakenly omitted from the Supplementary Order Paper. Officials have since reconsidered the scope of the write-off provision.

Many of the proposals in the Bill are aimed at improving compliance and "getting things right from the start". These include:

- automatic deductions of child support from salary and wages
- introducing a grace period, which will give Inland Revenue time to explain the rules and expectations to parents, and
- moving the second part of the initial penalty to give Inland Revenue the opportunity to seek payment and explain the consequences of not paying.

Additionally, the Supplementary Order Paper proposes that incremental penalties be repealed. These proposals should improve compliance.

Officials consider that fewer parents will be penalised and that, when they are penalised, the penalty should be paid to demonstrate that there is a consequence for non-compliance. The other write-off grounds deal with cases when the parent is not culpable. As such, we consider that a broad provision to write off penalties when it would be an inefficient use of Inland Revenue's resources is not consistent with the new approach to debt and penalties.

Currently, the Child Support Act 1991 allows child support that is owed to the Crown to be written off if recovering the debt would result in serious hardship for the person or be an inefficient use of Inland Revenue's resources. When these amounts are written off, any penalties associated with that amount can also be written off.

Officials recommend that a provision be included in the Bill allowing for penalties to be written off when it would be an inefficient use of Inland Revenue's resources to collect the penalty, when the penalties relate to child support owed to the Crown which has been written off for the same reason.

Recommendation

That the submission be accepted.

Issue: Redundant amendment to correct cross-reference in the definition of "relevant payments"

Submission

(Matter raised by officials)

The Bill contains a proposal to amend a cross-reference in the definition of "relevant payments" in section 135JA(1) of the Child Support Act 1991. The definition currently refers to a now repealed section of the Tax Administration Act 1994 for the definition of "earnings related compensation".

However, Supplementary Order Paper No 538 repeals section 135JA(1) from 1 April 2021. This means that the amendment to the definition of "relevant payments" will have no effect.

Officials consider that the amendment to the definition of "relevant payments" should be removed from the Bill.

Recommendation

That the submission be accepted.

OFFSETTING

Clause 46, section 152B

Issue: Oppose amendment

Submission

(Jo Ellen Pethers)

I strongly oppose an amendment that would allow Inland Revenue to offset child support amounts from the past that should already be payable. If an entitlement is due to a parent or carer in respect of a qualifying child under a formula assessment and changes occur, the amount of liability should be made payable before an assessment can be offset. Offsetting removes the liability from a time a child has been cared for and financial commitments for that time have potentially been made. An amendment such as that suggested could lead to potential conflict and upset.

Comment

Offsetting reduces administrative complexity in situations when both parents are liable to pay each other child support by offsetting one amount against an equal portion of the other amount. Offsetting results in no change to the amount of child support assessed for either parent.

Example 7

Dante and Beatrice have a child together, Virgil, but do not live together. Virgil used to live with Beatrice but has recently begun to live with Dante.

Now that Dante cares for Virgil, Beatrice is liable to pay $120 of child support per month. Dante owes $1,000 of child support arrears from the period when Beatrice cared for Virgil, which he pays in monthly instalments of $100.

Under the proposed amendment, Inland Revenue would offset Dante's entitlement of $120 per month by the $100 of arrears payments he makes monthly. The effect of this would be that Dante would not have to make any payments, and Beatrice would only have to pay $20. Neither parent would be materially affected by this offsetting but would end up in an identical financial position as they would if offsetting were not in place. However, the complexity of administering the child support arrangement would be reduced by eliminating one transaction.

Recommendation

That the submission be declined.

Issue: New due date when reversal of offsetting results in new amounts to pay

Submission

(Matter raised by officials)

When two persons are each liable to pay the other an amount of child support, the Child Support Act 1991 provides for Inland Revenue to offset one liability against the other. The person with the higher liability pays the difference.

In some cases, offsetting can reverse, resulting in new amounts of child support to pay. For example, if a person were found to have been a social security beneficiary during a period in which their liability was offset against their entitlement, because they were not entitled to receive that child support during the period, offsetting would be reversed.

If offsetting reverses due to a reassessment of child support, the Child Support Act 1991 provides for a new due date for payment within 30 days to be set. However, when offsetting reverses and it is not due to a reassessment (such as in the example above), there is no provision for a new due date to be set. As such, the additional amount would become due on the date that it would have been payable if the offsetting had not occurred. This means that the person is immediately placed into debt.

Officials consider that when offsetting reverses and results in an additional amount to pay, and the reversal is not due to a reassessment, a person should have 30 days in which to pay the new amount from the date notice of the amount is issued to them. This timeframe aligns with other instances when a new due date for payment is set for new amounts of child support.

Recommendation

That the submission be accepted.

Clause 47, section 218

Issue: Consistency with Income Tax Act 2007 rules

Submissions

(Anonymous D, Jo Ellen Pethers)

It would seem appropriate that residency rules are aligned to assure consistency and promote understanding. The desired outcomes would appear to be achieved by applying the Income Tax Act 2007 residency tests. (*Anonymous D*)

I strongly oppose the proposed amendment to section 218. Where a child is to reside should not be a discretionary measure to be implemented by Inland Revenue. It would be more appropriate for the Child Support Act 1991 to be consistent with similar rules in the Income Tax Act 2007. (*Jo Ellen Pethers*)

Comment

In order for a person to apply for child support to be administered by Inland Revenue, the liable parent, the child and the receiving carer must be a resident of New Zealand.

The criteria for the residency test in the Child Support Act 1991 are based on the equivalent residence test in the Income Tax Act 2007. The residency test in the Income Tax Act 2007 looks at whether a person has been resident for more than 183 days (which is relevant if the person is required to pay tax on income derived overseas). However, the Income Tax Act 2007 differs from the Child Support Act 1991 in that, for a new resident, income tax is calculated and paid **after the end** of the relevant income year. At that point in time, it is clear that the person has or has not met the residency criteria for that year. In contrast, child support payments are made from when the person first becomes resident.

To resolve this timing problem, Inland Revenue's current practice is therefore that child support residency decisions are usually based on a person's intended movements. This is because residency for child support purposes needs to be determined in order to accept a child support application or end a child support assessment in a timely manner. If this approach is not taken, a carer could have to wait up to 325 days before Inland Revenue could determine their residency status and then accept their application for support. The proposed amendment would better reflect the current operational practice that a person's intention to be ordinarily resident (or not) should be taken into account. One submitter raised a concern that the proposal introduces a discretionary power. The proposal does not introduce a discretionary power, but it requires Inland Revenue to look at a person's intended residence.

Example 8

Callum applies for child support through Inland Revenue as he intends to move with his child to New Zealand. However, under the legislation, Callum would not meet the residence test until he had been living in New Zealand for 325 days. If the legislation was followed, Inland Revenue would be unable to process the application for child support and Callum would be unable to receive child support through Inland Revenue for nearly a year. Susie, the liable parent, would be required to pay child support that is backdated from the time that Callum became resident, rather than payments being spread through the previous year.

Recommendation

That the submissions be declined.

Issue: Clarify the draft amendment

Submission

(New Zealand Law Society)

As currently drafted the amendment is unnecessarily lengthy and subjective. The New Zealand Law Society questions whether the new subsections will create unnecessary confusion and suggests that clearer and more concise drafting should be considered.

Comment

Officials have discussed this submission with the legislative drafter and consider that the provision as drafted is fit for purpose. Supplementary material will be provided in the *Tax Information Bulletin* item which will be prepared when the Bill is enacted.

Recommendation

That the submission be declined.

Other submissions

OTHER ISSUES RAISED BY SUBMITTERS

Issue: Pass-on of child support to sole parent beneficiaries

Submissions

(Anonymous B, CCS Disability Action, John Clarkson, Kathleen Lauderdale, National Beneficiary Advisory Consultation Group, National Council of Women of New Zealand, Office of the Children's Commissioner, Tamika McCallum)

It is unjust that one of two people can be held financially responsible for the other when the other is on a sole parent benefit. *(Anonymous B)*

Child support should be passed on to sole parent beneficiaries at least for disability related costs associated with the care of children. *(CCS Disability Action)*

That child support is not used to cover the benefits bill. This should be paid from the normal tax take. Working parents should not be forced to pay for those that choose to sit on their backsides because they know the other parent will be made to pay for them. This is spousal support, not child support. *(John Clarkson)*

Mothers are not told that the legal right to child support will be taken away from them if they accept a benefit under any circumstances (which I propose breaches their Human Rights and right to access Justice). *(Kathleen Lauderdale)*

We are disappointed the Government did not take account of the Welfare Expert Advisory Group (WEAG) report and its recommendations relating to child support, notably passing on child support payments from liable parents to parents who are on the sole parent benefit. In particular, the WEAG recommended *"passing on" child support received by Inland Revenue to the adults actually caring for dependent children, including those receiving Unsupported Child Benefit*. We believe this recommendation must be acted upon and implemented as a matter of priority, such as via a supplementary order paper attached to this Bill. *(National Beneficiary Advisory Consultation Group)*

The Bill should include a pass-on provision for sole parents on a benefit. *(National Council of Women of New Zealand)*

We are disappointed by the omission of the WEAG recommendation specific to the Bill. WEAG recommendation 27 states *Pass on all child support collected to receiving carers, including for recipients of Unsupported Child's Benefit*. *(Office of the Children's Commissioner)*

It should not be used to offset Government assistance and it should not be used to place individuals into a lower standard of living. *(Tamika McCallum)*

Comment

The matter raised in these submissions is outside the scope of the proposals in the Bill.

One of the objectives of the Child Support Act 1991 is to "ensure that the costs to the State of providing an adequate level of financial support for children and their carers is offset by the collection of a fair contribution from liable parents". Therefore, a proposal to pass on child support payments to sole-parent beneficiaries would be a fundamental change to the Child Support Act 1991.

Recommendation

That the submissions be declined.

Issue: Data

Submission

(Kathleen Lauderdale, Peter Read)

I would like to see the median and average amounts paid per child to (usually) mothers. This analysis needs to be investigated thoroughly and published. Causal and contributing factors to involvement of other agencies needs assessing. How much resource was provided to mothers and children in Oranga Tamariki care for example by fathers. How much was provided by fathers to children suffering child abuse? How much child support was provided to youth made homeless or suffering mental health issues? How much time and resource did mothers have available to them to support themselves and then their children? An analysis covering matters such as this and what proportion of housing a child was covered by child support (collected and passed on) per child for example will give insight into the crisis this mis- or non-application of this Act has caused. (*Kathleen Lauderdale*)

The Select Committee should request the following information from Inland Revenue:

- the number of default assessments issued each year
- the amount of overpayments generated
- the value written off each year, and
- details of audit processes in place to ensure section 152 is being correctly administered. (*Peter Read*)

Comment

The matter raised in these submissions is outside the scope of the proposals in the Bill. Data used to inform the proposals in the Bill can be found in the regulatory impact assessment.[10]

Additional statistical information about child support amounts collected can be found on Inland Revenue's website[11] and its annual reports.[12] Some of the other information referred to in the submissions is not collected by Inland Revenue, such as figures on amounts provided by children suffering from child abuse.

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[10] *Child support Business Transformation* (August 2019), Regulatory impact assessment prepared by Inland Revenue, available at https://taxpolicy.ird.govt.nz/publications/2020/2020-ria-child-support

[11] *Child support customers and collection 2008 to 2017*, Inland Revenue, available at https://www.ird.govt.nz/about-us/tax-statistics/social-policy/child-support-customers-collection

[12] Inland Revenue annual reports, available at https://www.ird.govt.nz/about-us/publications/annual-corporate-reports/annual-report

Recommendation

That the submission be declined.

Section 152

Issue: Write-offs

Submission

(Peter Read)

Overpayments of child support are usually written off under section 152 of the Child Support Act 1991 (relief in cases of serious hardship) as this is easier than addressing the many causes of them occurring such as retrospective changes in circumstances. Further, the other causes of overpayments should be analysed. Take the opportunity of this Bill to have Inland Revenue review the problem and cost of overpayments.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

A change in the details on which child support is assessed can cause child support to be reassessed. This can result in the child support amount changing. If the liable parent's liability is reduced, and they have paid the original amount, they will have a credit and the receiving carer will have a corresponding debt relating to the overpaid amount.

Inland Revenue is unable to identify a retrospective change in circumstance before it happens because it is based on information which it did not know at the time. However, the way that the rules for notifying of changes of circumstances work ensure that if the information is not provided to Inland Revenue in a timely manner, the change will only be applied retrospectively if it would not impact on the other parent by reducing their entitlement or increasing their liability.

Two amendments in the Bill relate to receiving carer overpayments by improving certainty that child support will not be reassessed after a significant period of time.

The first is the proposed 28-day timeframe to advise of circumstances when child support is first assessed. Currently, there is no time limit on when an assessment can be reassessed due to circumstances which existed at the start of the assessment. In these situations, the assessment is considered incorrect and should be corrected from the start of the child support assessment. This can cause overpayments to carers. The proposed amendment would ensure consistency with the rules governing changes of circumstances, encourage parents to notify circumstances in a timely manner and improve certainty.

The second is the proposed time bar for reassessing child support. This would restrict reassessment of a child support year to four years from the end of a relevant child support year (subject to specific legislative exceptions). By providing a limited time period for reassessments, the time bar will improve certainty for parents and carers.

Recommendation

That the submission be declined.

Issue: Compliance

Submission

(Kevin Tutauha)

Australia child support and New Zealand child support need to work closer. I should not have to try and track down the mother who lives in Australia. When information is provided on a parent, it should be followed up on, not left for six years. After all, she is a citizen of that country and has an equivalent of an IRD number one would assume?

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

There is a child support reciprocal agreement with Australia which allows for the enforcement of payments when a liable parent moves to Australia or a parent liable under the Australian child support scheme moves to New Zealand. The agreement outlines which agency has the responsibility to assess the child support obligation and collect the child support payments. Generally, this is dependent on the child's country of residence.

Recommendation

That the submission be declined.

Issue: Integrity of the child support system

Submission

(Anonymous D)

Due to the current inability for a liable parent to automatically recover amounts of overpaid child support, even when a receiving carer has actively misled Inland Revenue as to the care arrangements, Inland Revenue needs to do more to ensure the integrity of the child support system. Any undue delay by a receiving carer which results in that parent's unjust enrichment should be penalised to no lesser degree than a liable parent is penalised for late payments and the liable parent should be immediately be refunded any previous overpaid amounts.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

When a liable parent overpays child support, Inland Revenue can refund the overpayment to the liable parent. Inland Revenue will not refund the overpayment if the liable parent has arrears; the money has either not been paid to the receiving carer, or if it has been paid, then the liable parent

has no future liability; or there are no missing income details that could impact on the child support assessment. These rules are in place to avoid causing unnecessary debts to receiving carers due to overpayments.

If the overpayment is refunded, but had already been paid to the receiving carer, this will be fully refunded to the liable parent and become a debt to the receiving carer.

Reassessments can occur for a number of reasons. To avoid overpayments or underpayments occurring both receiving carers and liable parents should advise Inland Revenue of changes in circumstances in a timely manner. Many of these changes are not otherwise visible to Inland Revenue.

When a liable parent overpays child support, Inland Revenue automatically refunds the overpayment to the liable parent and the receiving carer then owes the amount to Inland Revenue.

Recommendation

That the submission be declined.

Issue: Non-disclosure of income and assets

Submissions

(Estella Carmichael, Kathleen Lauderdale, Liz Boyd)

It has been really hard to get child support enforced by Inland Revenue, and we have provided them with the details of the business we believe she is contracting to and income information is followed up. (*Estella Carmichael*)

Non-disclosure of all resources available and superficial analysis of budgets have preferred (usually) a non-custodial father. Failure to check income, assets and support available to them or even require disclosure has been a failure effecting 100,000s of children consequently living in poverty in New Zealand. (*Kathleen Lauderdale*)

In my personal case, the alienator left a high paying job to work for himself and is able to structure his income. Thus, his income is minor officially, but much more unofficially. (*Liz Boyd*)

Comment

The matter raised in these submissions is outside the scope of the proposals in the Bill.

If a person believes that the child support assessment does not take into account the income, earnings capacity, property and financial resources of either parent or the child (or children), they are able to apply for an administrative review of their child support assessment.

Recommendation

That the submissions be declined.

Issue: Comments on sole parent support

Submissions

(Chantall Sumner, John Clarkson, National Council of Women of New Zealand)

In some cases, grandparents have taken the full responsibility of caring for and raising their grandchildren. This is because the children's parents are not able to care for their children. The grandparents struggle along as they want to do the best for their grandchildren. The parents may be in receipt of a single parent benefit. (*Chantall Sumner*)

The term "primary carer" should be is abolished and both parents should be able to claim for childcare subsidies and other benefits, which are related to the child. (*John Clarkson*)

The Council wishes to see in this section, or elsewhere appropriate in the Bill, an account taken of the impact of receiving child support payments on a parent who is receiving the "*Supported Living Payment – Care of the Sick and Infirm*" from Work and Income. This payment is for parents who cannot work due to the caring responsibilities of their disabled child. It is income-tested, and child support payments are treated as income by Work and Income. In such a case, there can be ineligibility or an indenting of the benefit payment to the parent based on the amount of child support funding the parent receives. (*National Council of Women of New Zealand*)

Comment

The matter raised in these submissions is outside the scope of the Child Support Act 1991 and the proposals in the Bill and is not a matter within the scope of Inland Revenue's functions.

Recommendation

That the submissions be declined.

Issue: Information

(Kathleen Lauderdale)

Mothers are not given the information they require at any time that they are entitled to child support.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

Inland Revenue does not hold the information to proactively identify people who would qualify for child support.

Inland Revenue produces guidance documents on general and specific child support topics,[13] including *Helping you to understand child support*.[14]

Recommendation

That the submission be declined.

Issue: Cross-reference error

Submission

(Matter raised by officials)

The cross-reference in clause 15(2) of schedule 2 to the Bill refers to section 5(2) of the Bill amending section 5(3) of the Child Support Act 1991. However, the reference should be to section 5(4) of the Child Support Act 1991.

Officials recommend that the cross-reference be corrected.

Recommendation

That the submission be accepted.

Issue: Child support spent on the children

Submission

(Anonymous A)

The money paid should be spent on the children not used as a source of extra income which does not benefit the children.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

One of the objectives of the Child Support Act 1991 is to "affirm the right of the child to be maintained by their parents". The amount payable is intended to approximate the average amount spent on a child according to their parents' incomes.

How child support received is used by the receiving carer is outside the scope of the Child Support Act 1991. If the Act were to prescribe how the payments should be spent, the compliance costs

[13] *How child support works*, Inland Revenue, available at https://www.ird.govt.nz/child-support/how-child-support-works

[14] *Helping you to understand child support (IR100 April 2020)*, Inland Revenue, available at https://www.ird.govt.nz/-/media/project/ir/home/documents/forms-and-guides/ir100---ir199/ir100/ir100-2020.pdf

and administration costs of the scheme would increase. This would also limit parents' choices in determining the best use of the child support received.

Recommendation

That the submission be declined.

Issue: The child support scheme should be repealed

Submission

(Jim Boyd)

Get rid of child support altogether and let parents decide how to cater for the needs of their children. If they cannot reach agreement, let them go to mediation.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

The child support scheme is a mechanism for determining the amount of child support payable when parents are unable to come to an agreement between themselves. The Child Support Act 1991 provides a formula to determine the amount of child support payable or receivable.

When a relationship has ended it can be difficult for parents to agree how to support their children financially. A formula assessment provides an objective method to determine the amount.

Inland Revenue does provide other options which allow customers, who are not sole parent beneficiaries, to elect the child support arrangement most suitable for their circumstances. If parents want to negotiate the amount of child support payable but would still like Inland Revenue to administer payments, they can opt for a voluntary agreement.

Alternatively, if parents would like to arrange child support entirely between themselves, they are able to make their own private arrangement which does not involve Inland Revenue.

Recommendation

That the submission be declined.

Issue: Applications for past periods

Submission

(Tremayne Thompson)

I recommend that a provision should be amended to this Bill making it easier for parents to be able to make a claim for the 17 years (or however long in other people's cases) that a parent has not made child support payments. A back-payment system, if you like.

Comment

The matter raised in this submission is outside the scope of the proposals in the Bill.

There is a variety of reasons why a person might not have applied for child support, for example, the parents may have negotiated a private arrangement between themselves. Private arrangements can be agreed at any time and are outside the Child Support Act 1991. If a parent were able to apply for child support for past periods, officials consider that it would be necessary for reasons of fairness to allow for any child support paid under a private arrangement during that period to be taken into account. This could create a substantial compliance and administrative burden in verifying what was paid under a private arrangement. This problem could be intensified if a substantial period of time had elapsed.

There is nothing in the Child Support Act 1991 preventing most people (except for those who are required to apply for a formula assessment such as beneficiaries) from entering into a private arrangement at any time, including in the circumstances outlined by the submitter.

Recommendation

That the submission be declined.

Issue: Liable parent payment schedule

Submission

(Greig Giblin)

I am a wage earner who works on a four on four off schedule, so there is quite a difference between one fortnight and the next. Paying child support monthly is unrealistic. There should be more flexibility for the liable parent's payment schedule.

Comment

Child support is an annual assessment that is divided up into monthly instalments. A liable parent must ensure the full payment is made by the relevant due date. However, there is flexibility in that a liable parent can make full or partial payments towards this.

Recommendation

That the submission be declined.

Issue: Children should be considered financially independent at a set income threshold

Submission

(Anonymous G)

Once a child is earning $150 per week child support should not be paid. It is impossible to find out the information to know if a child should be considered financially independent, such as whether they work 30 hours a week.

Comment

The submission is outside the scope of the proposals in the Bill.

Financial independence is currently based on a number of hours worked test.

Secrecy provisions prevent Inland Revenue from disclosing information about a child's work hours or earnings to parents. However, a parent could provide information they hold to Inland Revenue who could follow up to ensure that the information Inland Revenue holds is correct.

Recommendation

That the submission be declined.

Legislative process submissions

LEGISLATIVE PROCESS ISSUES RAISED BY SUBMITTERS

Issue: Submission process and engagement

Submissions

(Birthright New Zealand, Jo Ellen Pethers, Tamika McCallum)

The engagement that Inland Revenue has undertaken with paying and receiving parents is not sufficient to support the recommendations in the Bill. Before any further changes are made, research on a representative sample size should be undertaken. (*Birthright New Zealand*)

The changes proposed in the amendment Bill have far greater financial implications than the wording of the Bill lets on. Proper notice of the proposal should be implemented before modifications to legislation begins. The financial impacts of these amendments should be disclosed. And the public should be given time to react and respond. The Bill should be clear about the overall reduction of provisions offered to support children from broken families. instead of writing explanatory notes which disguise these changes as "procedural". (*Jo Ellen Pethers*)

Appropriate time should be given to the public for consultation and feedback and clear notification of the amendment Bill should be provided to the public. This has not been done, as such the submitter requests that there be an extension of time for further submissions from the public. (*Tamika McCallum*)

Comment

Most of the key proposals in this Bill were originally proposed in the 2017 Government discussion document *Making Tax Simpler – Better administration of social policy*. This document contained proposals aimed at improving the way social policy entitlements and obligations, including child support, are administered by Inland Revenue.

Extensive public consultation took place on the proposals in the discussion document. Following public feedback, the Government made decisions on the proposals and these have been incorporated into this Bill.

Because of time constraints, consultation on the proposal to introduce a child support time bar was limited to interest groups rather than parents and carers.

Some of the minor or technical changes were not consulted on because of their minor nature. However, the use of discretion for those in unusual circumstances was included in the 2017 discussion document *Making Tax Simpler – Better administration of social policy*.

Research was also conducted with a small number of liable parents and receiving carers to gauge their attitudes towards the penalty rules and how they see penalties affecting compliance.

As part of the normal process a regulatory impact assessment (the RIA) was completed and is publicly available, on both Inland Revenue's tax policy website and the Treasury's website. The RIA provides:

- a high-level summary of the problem being addressed
- the options considered
- an analysis of the costs and benefits of the options

- the consultation undertaken, and
- the proposed arrangements for implementation and review.

In addition, Inland Revenue has produced a Commentary on the Bill, which is intended to provide background information and explanations of the proposals, and examples of how the proposals (if enacted) would be expected to apply. The Commentary is also available on the tax policy website.

The Bill has followed the usual legislative process, including the select committee process for receiving public submissions on the Bill.

Recommendation

That the submission be declined.

Issue: Child impact analysis

Submission

(Office of the Children's Commissioner)

A child impact assessment should be undertaken on all Bills considered by Select Committees.

Comment

Although impacts of the proposals in the Bill on children was not specifically identified, much of the analysis contained in the RIA relates to the financial impacts on the carers of children for whom child support is payable. As the proposals in the Bill are primarily related to improving administration, rather than fundamentally changing the child support assessment formula, the impacts on carers (and therefore children) are expected to be positive but minimal.

To ensure that impacts on children are more directly considered in future bills, Inland Revenue officials intend to undertake child impact assessments for future Inland Revenue bills that are likely to impact on children.

Recommendation

That the submission be declined.

Issue: Plain language

Submissions

(Child Advocacy New Zealand, Liz Boyd, National Council of Women of New Zealand)

Law should be accessible and understandable. *(Child Advocacy New Zealand)*

The Bill should be translated to plain everyday language so that it is completely clear what the specific changes are, regardless of your education. *(Liz Boyd)*

Public information and advice about the new requirements and methods of assessment should be produced in plain language and in a range of languages and accessible formats. *(National Council of Women of New Zealand)*

Comment

Complexity in the Bill reflects the technical nature of many of the amendments. Inland Revenue has provided guidance explaining the amendments in the form of the Commentary on the Bill. This includes examples of how the rules would work in practice.

When legislation has been enacted, Inland Revenue produces a *Tax Information Bulletin* item setting out the changes.

Inland Revenue also produces guidance documents on general and specific child support topics on its website.[15] As part of producing this information, Inland Revenue applies guidelines on web accessibility standards, including using plain language.

Inland Revenue is currently planning how it will communicate the proposed changes to child support customers (liable parents and receiving carers), and to employers (for automatic employer deductions).

This will involve considering the impacts on different groups of customers and the channels that will be used to make sure that messages reach the target audiences. This may include translation of some content into different languages, including te reo Māori. The range of channels is expected to include emails and letters, digital advertising, and website updates. Inland Revenue will also be working closely with other government agencies (including Oranga Tamariki and the Ministry of Social Development), and community and advocacy groups.

Recommendation

That the submission be noted.

Issue: Human rights-based approach

Submission

(National Beneficiary Advisory Consultation Group)

We wish to draw the committee's attention to the benefits of a human rights-based approach to social welfare, recommended by Māmari Stephens and other informed commentators. We believe this approach should be applied to all social policy legislation and express our disappointment that it was not applied in the course of this Bill.

Comment

The proposals in this Bill were developed in accordance with the Generic Tax Policy Process (GTTP). One of the key components of the GTTP is consultation with stakeholders. Many of the elements of a human-rights based approach to social welfare, as suggested by Māmari Stephens,

[15] Available on Inland Revenue's website at https://www.ird.govt.nz/child-support

are incorporated into the GTTP, for example, participation in policy development and ongoing engagement.

Many of the key proposals contained in the Bill were originally proposed in the 2017 discussion document *Making Tax Simpler – Better administration of social policy*. Key stakeholders and government agencies were consulted during the development of the proposals.

An extensive engagement strategy was developed to support the release of the discussion document, including online public consultation which provided a vehicle for the public to comment on the proposals. It included an online forum with views sought on specific questions, short summaries of the key proposals, a simplified online survey and animated videos of the proposals. The summaries, surveys and videos were available in eleven languages including in New Zealand Sign Language. Officials also met with key interest groups around New Zealand.

As previously noted, the proposed amendments in the Bill support the move of child support to new systems and processes as part of Inland Revenue's Business Transformation programme. They do not change the fundamentals of the scheme, including the amount of child support assessed. The assessment of child support is a function of factors such as income and care percentages and reflects that children should be appropriately supported by both their parents, even when they are not living together as a family.

Recommendation

That the submission be noted.