

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

AMENDMENT TO APPLICATION DATES IN THE CHILD SUPPORT AMENDMENT ACT 2021 AND THE TAXATION (BUDGET 2021 AND REMEDIAL MEASURES) ACT 2021

Proposal

1. This paper seeks the Cabinet Legislation Committee's to agree to the submission of the two accompanying Orders in Council to the Executive Council: the *Child Support Amendment Act 2021 Commencement Order 2021* and the *Taxation (Budget 2021 and Remedial Measures) Act Commencement Order 2021*. The Orders will amend the commencement dates of specific amendments in the Child Support Amendment Act 2021 and the Taxation (Budget 2021 and Remedial Measures) Act 2021.

Relation to government priorities

2. The amendments will align the commencement dates for recent child support amendments with the move of child support to Inland Revenue's new technology platform, START. This is an operational amendment that requires Cabinet approval.

Background

3. The Child Support Amendment Act 2021 was enacted on 24 March 2021. Its purpose was to make amendments to the principal Act in order to improve the administration of the child support scheme. This took advantage of the opportunity offered by the modernisation of Inland Revenue's system as part of Business Transformation.
4. When the Child Support Amendment Bill was introduced, it was intended that the child support scheme would move to Inland Revenue's START system in April 2021. However, due to COVID-19, this move was delayed until the second half of 2021. Because of this delay, the commencement dates of many of the proposals in the Child Support Amendment Act were changed to 1 April 2022 or an earlier date set by Order in Council (as were the child support amendments in the Taxation (Budget 2021 and Remedial Measures) Act 2021).

Policy

5. Moving child support to START is now set for Labour Weekend 2021. As such, commencement dates for provisions relating to the administration of the scheme will need to be amended. I recommend the following:
 - 5.1 for provisions relating to the administration of the scheme their commencement dates be amended to 26 October 2021 to align with the move; and

- 5.2 for provisions relating to penalty changes, such as the introduction of the grace period, it is preferable that they apply from the beginning of a month. Therefore, I propose these provisions apply from 1 November 2021.
6. The affected sections and the commencement date for each are listed in Appendix A to this report.
 7. Amending the commencement dates will be done by way of two Orders in Council – the Child Support Amendment Act 2021 Commencement Order 2021 and the Taxation (Budget 2021 and Remedial Measures) Act Commencement Order 2021.
 8. Provisions relating to the annual assessment of child support, such as the changes to what is included as income, will continue to apply from 1 April 2022, being the start of the next child support year.

Financial implications

9. There are three provisions where amending the commencement date will have fiscal implications. These are:
 - the introduction of the grace period,
 - the repeal of the rule which requires that the penalty be at least \$5, and
 - the imposition of the second stage of the penalty (formerly known as the initial penalty) from the 7th day after the due date to the 27th day after the due date.

The costs of these changes are immaterial, -\$25,000. The fiscal impact of the new commencement dates falls within rounding of annual forecasts.

Timing and 28-day rule

10. If Cabinet agrees to the recommendations in this paper at the Cabinet meeting on 30 September 2021, the amendments will come into force on 26 October 2021 and 1 November 2021.
11. To achieve commencement dates for provisions relating to the administration of the child support scheme to coincide with the move of child support to START, I recommend that the 28-day rule, which requires regulations be notified in the *New Zealand Gazette* 28 days prior to their coming into effect, be waived.

Impact analysis

Regulatory Impact Assessment

12. The Regulatory Impact Analysis Team at the Treasury has determined that the regulatory proposal to amend the application dates in the Child Support Amendment Act 2021 is exempt from the requirement to provide a Regulatory Impact Statement on the basis that it has no or minor impacts on businesses, individuals or not-for-profit entities.

Climate Implications of Policy Assessment

13. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Communications

14. I propose to issue a media statement once the Order in Council is made by the Executive Council. Inland Revenue will publish an article about these changes in its *Tax Information Bulletin*.

Proactive release

15. I propose to proactively release the policy report, this Cabinet paper and associated Orders in Council in full shortly following the publication of the signed Orders in Council in the *New Zealand Gazette*, subject to redactions under the Official Information Act 1982.

Consultation

16. The Treasury has been consulted on the amendments to the commencement dates.
17. The Treasury and the Parliamentary Counsel Office have been informed of the contents of this paper.

Recommendations

I recommend that the Cabinet Legislative Committee:

1. **agree** to bring forward the commencement dates for the specified sections of the Child Support Amendment Act 2021 and the Taxation (Budget 2021 and Remedial Measures) Act 2021 from 1 April 2022 to 26 October 2021 or 1 November 2021 as set out in Appendix A;
2. **note** that the *Child Support Amendment Act 2021 Commencement Order 2021* and the *Taxation (Budget 2021 and Remedial Measures) Act Commencement Order 2021* will give effect to the decision referred to in paragraph 1 above;
3. **note** that a waiver of the 28-day rule is sought so that the regulations can come into force to coincide with the move of child support to Inland Revenue's new technology platform START
4. **agree** to waive the 28-day rule so that the regulations can come into force on 26 October 2021 and 1 November 2021 to coincide with the move of child support to START;
5. **authorise** the submission to the Executive Council of the *Child Support Amendment Act 2021 Commencement Order 2021* and the *Taxation (Budget 2021 and Remedial Measures) Act Commencement Order 2021*;

Authorised for lodgement

Hon David Parker
Minister of Revenue

Appendix A: Sections of the Child Support Amendment Act 2021 and the Taxation (Budget 2021 and Remedial Measures) Act 2021 that require an Order in Council to amend the date of commencement

Section being amended in the Child Support Act 1991	Section in the Child Support Amendment Act 2021	Proposed new commencement date
Section 5 (Children who qualify for child support)	5	26 October 2021
Sections 19(3) to (7) (When liability to pay child support starts)	6	26 October 2021
Section 81A (Amendments of assessments arising from living circumstances existing at time initial assessment made)	18	26 October 2021
Section 87(7) (Amendment of assessments)	19	26 October 2021
Section 87A (Four-year time bar for amendment of certain assessments)	20	26 October 2021
Section 88(3A) (Notice of assessment of formula assessment of child support)	21	26 October 2021
Section 89A(1)(aa) (Outline)	22	26 October 2021
Section 89B (Definitions for this Part)	23(2) to (4)	26 October 2021
Subpart 2 heading in Part 5A – “persons suffering from long-term periods of illness”	24	26 October 2021
Cross-heading above section 89C - “persons suffering from long-term periods of illness”	25	26 October 2021
Section 89C(1)(a)(ii) (Exemption for long-term hospital patients)	26	26 October 2021
Section 89CA (Exemption for persons suffering from long-term periods of illness)	27	26 October 2021
Section 89D(1)(a)(ii) (Exemption for long-term prisoners)	28	26 October 2021
Sections 89F(1)(a)(i), (1)(a)(ia), (1)(a)(ii), (2A), (3)(aa) relevant period (Exemption does not apply at any time during child support year if income criteria not met at any time during relevant period)	29	26 October 2021
Sections 89G(1)(aa), (3)(aa) (Other restrictions on application of exemptions)	30	26 October 2021
Sections 89H(1)(b)(ia), (1)(ca), (2)(aa) (Applications for exemptions under this	31	26 October 2021

subpart)		
Subpart 3 heading in Part 5A “persons suffering from long-term periods of illness”	32	26 October 2021
Section 96BA (Four-month time limit for certain applications that are time-barred under section 87A)	34	26 October 2021
Section 96D(1)(bb) (Determinations that may be made)	35	26 October 2021
Section 105(2)(e) and heading (Matters as to which court must be satisfied before making order)	36	26 October 2021
Section 106B (Further provision on orders for offsetting of liabilities situations)	37	26 October 2021
Section 129(1) (Right to choose voluntary automatic deductions or other payment method)	40	26 October 2021
Section 129A (Newly liable persons to pay financial support by automatic deduction)	41	26 October 2021
Section 134AAA (Sixty-day grace period before penalties apply)	43	1 November 2021
Sections 152B(1), (1A), (2) to (4) (Offsetting child support payments)	55	26 October 2021

Section being amended in the Child Support Act 1991	Section in the Taxation (Budget 2021 and Remedial Measures) Act 2021	Proposed new commencement date
Sections 134(2) and (3) (Penalties for late payment of financial support debts)	8(2) and (4)	1 November 2021
Part 5 - Schedule 1 - Clause 23 (Amendments to section 134 (Penalties for late payment of financial support debts)	9(2)	1 November 2021