Departmental Disclosure Statement

Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;

- some of the key quality assurance products and processes used to develop and test the content of the Bill;

- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Inland Revenue.

Inland Revenue certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

19 November 2021.

Contents

Part One: General Policy Statement

This Bill amends the Tax Administration Act 1994 and the Income Tax Act 2007.

The amendments proposed by the Bill relate to the COVID-19 resurgence support payments (CRSP) scheme (the **CSP framework amendments**), and to Working for Families tax credit settings (the **WFF amendments**).

The CSP framework amendments adapt the existing CRSP scheme into a more general COVID-19 support payments framework (the **CSP framework**). These changes will provide the Government with the flexibility to continue supporting businesses under a variety of scenarios.

The WFF amendments provide for increases to the family tax credit and Best Start tax credit rates, the minimum family tax credit threshold, and the family credit abatement rate. These proposed increases will apply from 1 April 2022.

The WFF amendments also include a minor remedial change to the indexation settings for the family tax credit and Best Start tax credit.

COVID-19 support payments framework

The existing CRSP scheme legislation contains specific references to supporting eligible businesses if there is a "resurgence in New Zealand of COVID-19", or an escalation in "COVID-19 alert levels". However, the CRSP scheme needs to be amended to reflect the shift from the COVID-19 Alert Level Framework to the COVID-19 Protection Framework, and the move from a COVID-19 elimination strategy to a strategy focusing on minimisation and protection.

The Bill proposes amendments that adapt the current CRSP scheme into the CSP framework. The CSP framework will retain the overall objective of the CRSP scheme, namely supporting eligible businesses affected by COVID-19 restrictions, but it will not be specifically linked to the COVID-19 Alert Level Framework or limited to "an escalation in COVID-19 alert levels". Instead, the CSP framework will allow the Governor-General, by Order in Council, to authorise grants to be made to eligible persons financially affected by a public health measure, a business circumstance, or a matter related to COVID-19. This flexibility will allow the Government to continue to support businesses under a variety of scenarios.

As with the CRSP scheme, the CSP framework is to be provided for in primary legislation. This will allow the Commissioner of Inland Revenue to use her existing tax administration powers for the purposes of administering the CSP framework. The amendments in this Bill do not make available any powers that are not already available for the administration of the CRSP scheme.

Similar to the existing CRSP scheme, the CSP framework will allow for payment activation criteria, eligible persons, circumstances of the payment, and calculation of payment amounts to be set by Order in Council.

Working for Families amendments

Family tax credit increase

To support the reduction of child poverty and the alleviation of financial pressure and hardship brought on by COVID-19 restrictions, the Bill proposes a $5 per week per child increase to the family tax credit from 1 April 2022. This increase is to be made on top of an inflation-indexed increase to the family tax credit scheduled for 1 April 2022.

An inflation-indexed increase to the family tax credit (and the Best Start tax credit) is required once the cumulative increase in the Consumers Price Index (CPI) reaches 5% since rates were last adjusted (1 July 2018). Cumulative CPI increases have now reached 8.57%, triggering a corresponding increase in the family tax credit (and Best Start tax credit) rates from 1 April 2022.

The Bill therefore proposes a combined adjustment of the family tax credit, increasing the eldest child rate from $5,878 to $6,642 per year, and the subsequent child rate from $4,745 to $5,412 per year.

Family credit abatement rate increase

In addition to the family tax credit increase, the Bill proposes an increase in the family credit abatement rate from 25% to 27%. The family credit abatement rate determines the rate at which family tax credit and in-work tax credit payments reduce once family income exceeds the family credit abatement threshold of $42,700.

Best Start tax credit increase

The inflation-indexed increase that is required for the family tax credit is also required in relation to the Best Start tax credit. The Bill therefore proposes to increase the Best Start tax credit rate from $3,120 to $3,388 per year, applying from 1 April 2022.

Minimum family tax credit threshold increase

The minimum family tax credit is adjusted annually to maintain its policy intent of ensuring sole-parent families are better off in work and off benefit. The Bill proposes to increase the minimum family tax credit threshold from $31,096 to $32,864 from 1 April 2022 to reflect main benefit increases applying from that date.

Working for Families indexation settings

Inflation-indexed increases to the family tax credit and Best Start tax credit rates are triggered once cumulative increases in the CPI reach 5% since rates were last adjusted. Currently, the cumulative CPI increases are calculated by reference to the CPI (all groups excluding cigarettes and other tobacco products) measure. It was intended that the CPI (all groups excluding cigarettes and other tobacco products) measure would be used until annual tobacco excise tax increases ceased, at which point indexation would revert to using the CPI (all groups) measure. Annual tobacco excise tax increases ceased at the end of 2020. The Bill therefore proposes a remedial amendment to update the CPI measure accordingly.

The remedial indexation settings amendment also includes a new start date (1 October 2021) for the purposes of calculating when the cumulative increases in the CPI next reach 5%.

Departmental disclosure statement

The Inland Revenue Department is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at
http://disclosure.legislation.govt.nz/bill/government/2021/

Regulatory impact statement

The Inland Revenue Department and the Ministry of Social Development produced a regulatory impact statement on 28 October 2021 to help inform the policy decisions taken by the Government relating to the WFF amendments contained in this Bill.

A copy of this regulatory impact statement can be found at—

- https://taxpolicy.ird.govt.nz/publications
- https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	**NO**
-	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	**NO**
-	

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	**YES**
COVID-19 support payments framework In relation to the COVID-19 support payments framework amendments, the Treasury considered that a regulatory impact statement was not required on the grounds that they have no or only minor impacts on businesses, individuals, and not for profits entities. **Working for Families amendments** A regulatory impact statement, *April 2022 Working for Families changes* (28 October 2021), was prepared for the WFF amendments. The regulatory impact statement is available at https://taxpolicy.ird.govt.nz/publications	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	**NO**
Working for Families amendments The Quality Assurance reviewers at Inland Revenue formed the opinion that the information and analysis summarised in the regulatory impact statement prepared for the Working for Family amendments partially meets the quality criteria of the regulatory impact analysis framework.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	**NO**
-	

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	**NO**
-	

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	YES

Working for Families amendments

The regulatory impact statement, referred to at 2.3 above, contains analysis on the size of the potential costs and benefits, and the potential for any group of persons to suffer a substantial, unavoidable loss of income or wealth, arising from the Working for Families policy changes given effect by this Bill.

COVID-19 support payments framework

In relation to the COVID-19 support payments framework amendments, no further analysis is available.

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES

The effectiveness of taxation legislation is, by its nature, reliant on effective and voluntary compliance. The level of effective compliance or non-compliance with specific applicable obligations or standards and the nature of regulator effort, may have an impact on the potential costs or benefits of the policy to be given effect by the Bill.

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
No formal steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's obligations.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?
No formal steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	**YES**
Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, will be available on the Ministry's website at https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/	

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	**NO**
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	**NO**
-	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	**NO**
-	

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
Stakeholders, beyond government departments, were not consulted on the proposals in the Bill due to time constraints and the sensitive nature of the policies.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
The proposals in the Bill have been reviewed by internal operational subject matter experts under Inland Revenue's standard process for assessing the administrative impacts of any new policy initiatives and ensuring they are workable and complete. This involves assessing whether systems need to be changed and, if so, whether formal testing needs to be carried out.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	**NO**
-	

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	**NO**
-	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	**NO**
-	

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	**NO**
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	**NO**
-	

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	**NO**
-	

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	**NO**
-	

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES

Working for Families amendments

Clause 13 of the Bill amends section MF 7 of the Income Tax Act 2007, which determines what changes may be made by Order in Council to the Working for Families tax credit rules in that Act. Section MF 7(1)(a) and (db) enable the Governor-General, by Order in Council, to increase the family tax credit and the Best Start tax credit, respectively, to correspond to movement in the Consumers Price Index (CPI). Section MF 7(2B) specifies how the movement in CPI over a period is determined and is currently based on CPI (all groups excluding cigarettes and other tobacco products). Clause 13 makes minor remedial amendments to section MF 7 to change the measure used to calculate future inflation-indexed increases to the family and Best Start tax credit to CPI (all groups).

The existing empowering provisions being amended are necessary to allow the relevant tax credits to be periodically inflation-adjusted without requiring a Bill. The ability to adjust the tax credits is, and will continue to be, tightly constrained by the primary legislation, which specifies when such Orders in Council must be made and the amount by which the tax credits may be adjusted.

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES

COVID-19 support payments framework

Section 7AAC of the Tax Administration Act 1994 supports the administration of the COVID-19 Resurgence Support Payments scheme by allowing the scheme to be declared active by Order in Council following an escalation in alert levels. The Bill proposes to amend section 7AAC to allow a COVID-19 Support Payments Scheme to be activated by Order in Council in relation to a COVID-19 circumstance, or a group of COVID-19 circumstances, which affect eligible persons in New Zealand. This change provides greater flexibility to activate a scheme under the proposed CSP Framework.

The remaining powers of section 7AAC remain unchanged and will support the administration of the proposed COVID-19 Support Payments Framework. These powers include setting by Order in Council:

- the start and end date of each activation of a scheme
- the class or classes of persons may apply under a scheme
- the amount of the grant
- the eligibility requirements for a grant under a scheme

The power to make delegated legislation is necessary because this framework forms a part of the Government's response to the COVID-19 pandemic and needs to be able to be activated at short notice.

Because of the purpose of this framework and the circumstances under which it would be activated, it is likely that any Order in Council made under this provision will receive an exemption to the 28-day rule. The Order in Council made under this provision would need an exemption as waiting 28 days would reduce the effectiveness of the scheme.

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
-	