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# DEVELOPMENTS IN SOCIAL LEGISLATION AND POLICY IN NEW ZEALAND

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# CONTENT OVERVIEW

## INTRODUCTION

2014 was an election year and Government was more focused on the development of policy proposals to take to the electorate than on implementing major new changes to social policy and social law. There were however two significant pieces of legislation, which are discussed in detail later in the report. First, the Vulnerable Children Act 2014, and the associated Children's Action Plan, represents the legislative culmination of the Government's work programme around the White Paper for Vulnerable Children issued in October 2012. The overall objective is to improve outcomes for vulnerable children, especially those at risk of abuse or neglect. Second, the Government passed legislation to progressively extend paid parental leave from 14 to 18 weeks, although it rejected a Private Member's Bill to extend paid leave to six months.

At the 20 September election the National Party won a third term of office and has formed a minority government by negotiating confidence-and-supply agreements with the same three small parties that it was allied with in the previous Parliament. Its social policy and law programme for the coming three years is expected to focus on three main areas signalled in its election manifesto. These are the ongoing implementation of the Children's Action Plan, measures to reduce poverty and low living standards among children and continuation of social housing reforms. This last is likely to be controversial and involves the sale of up to 2,000 existing State housing units to third sector social housing providers.

Poverty and inequality both featured in the election to a degree and figured in the top five in public opinion polling of 'most important election issues', although it is not clear that either issue altered many voters' final voting decisions. It is expected that the National-led Government's policy actions, to be announced in the 2015 Budget, will be more tightly targeted and involve less new expenditure than would have been the case under a Labour/Green Party Government.

2014 was a good year economically. GDP growth was relatively strong, owing to high dairy-export prices in the preceding season, strengthening domestic demand and higher investment especially associated with the post-earthquake Christchurch re-build. The result was strong employment growth (albeit somewhat uneven regionally), although real wage growth has remained modest. Forecasts are for 2015 to also be relatively strong with some slowing of growth thereafter.

The welfare reforms that dominated the Government's social policy agenda in 2011 - 2013 were consolidated in 2014. While welfare rolls have fallen, it is not clear how much of this is due to the reforms rather than a strengthening labour market. Neither are the wider impacts in terms of employment and earnings outcomes known yet.

In May 2015 New Zealand is due to submit its fifth report to the United Nations Committee on the Rights of the Child on progress to implement the UN Convention on the Rights of the Child (UNCROC). In December, the Government released its draft report for public consultation and comment.[1]

[1] Available at http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/monitoring/uncroc/public-consultation.html

# 1. CURRENT SITUATION OVERVIEW

This section summarises the political, economic and social situation prevailing in 2014. New social policy and legislative initiatives are discussed in Section 2.

## 1.1. The Political Situation

The general election was held on Saturday 20 September 2014, slightly earlier than the 'traditional' November election date. The outcome was to return the National-led minority government, and Prime Minister John Key, for a third term of office. Allocation of seats in Parliament was little changed by the election. The National Party gained one to hold 60 of the 121 seats; the Labour Party lost two to 32 (its 25.1% of the vote was its lowest result since 1922) and the Greens maintained their 14 seats. Among the other parties, the centrist New Zealand First Party have 11 seats (up three), the Maori Party have two (down one) and ACT and the United Future Party have one seat each. The Mana Party, which broke away from the Maori Party in 2012, lost its only seat. The right-of-centre Conservative Party fell just short of the five percent needed to gain Parliamentary representation. Following the election defeat, the Labour Party held a leadership vote and replaced David Cunliffe with ex-Party president Andrew Little as leader.

As in 2011, National has negotiated confidence-and-supply agreements with the United Future, ACT and Maori parties involving policy agreements and ministerial appointments outside Cabinet for the United Future and Maori parties. The sole ACT MP, who is new to Parliament, has been appointed as a Parliamentary Under-Secretary.

There were a number of high-profile controversies and political scandals in 2014. The ACT party's leader and only MP resigned from Parliament in June after being found guilty of electoral fraud relating to his 2010 Auckland Mayoralty campaign. (The Court of Appeal subsequently overturned the conviction and ordered a re-trial.) Two other Ministers also resigned from Cabinet over un-related matters. Perhaps the biggest controversy centred on the revelations contained in the book *Dirty Politics: How attack politics is poisoning New Zealand's political environment* by investigative journalist Nicky Hager (Hager, 2014). The book released details of email correspondence obtained (illegally) from a right-wing blogger and activist and gave evidence of close contact between him, the Prime Minister's Office (and the Prime Minister) and some other Cabinet Ministers (including Judith Collins, one of the Ministers who was subsequently forced to resign). It alleges an 'under-belly' of 'attack politics' by people associated with the current government. Despite the fact that the authenticity of the emails was never questioned, in the end it appears the controversy around *Dirty Politics* caused the ruling National Party little or no harm at the ballot box.

The 2014 election campaign was also notable for the involvement of Kim Dotcom, a German-born New Zealand resident who is currently fighting extradition to the US on copyright infringement charges relating to his now-closed Megaupload website. Mr Dotcom helped form a new party, the Internet Party, led by a left wing ex-MP. The party formed an alliance with left-of-centre Mana Party in the hope of getting MPs from both parties elected under the MMP voting system.[2] In the end,

[2] Under New Zealand's Mixed Member Proportional (MMP) voting rules a party that fails to reach the threshold of five percent of the vote is still able to gain its proportional share of MPs if it wins one electorate seat.

voters rejected the strategy and Mana's sole MP lost his seat in the northern Maori electorate of Te Tai Tokerau.

Social welfare was a moderately significant election issue, although it generally attracted less attention than confidence in economic management. The three main parties all made explicit proposals around poverty issues. Labour put forward a 'Best Start' package of additional assistance for children under three years of age. The Greens' package included a policy that would in effect extend the current employment-conditional In-work Tax Credit to children whose parents were on social security benefits. National focused on extending free primary health care to children under 13 and a modest increase in the duration of paid parental leave. It has also signalled a major focus on social housing policy for this term of government (see discussion in Section X below).

### 1.2. Economic and Fiscal Conditions

Economic activity has been relatively strong over the period with Gross Domestic Product increasing by 2.9 percent in the year to September 2013. This follows 2.6% growth in the 12 months prior to that. Consumer price inflation has been muted, rising by 1.0% in the year to September (and 0.8% in the year to December), approximately 80% of the increase to September was due to increases in housing and housing utilities prices. Over the first half of 2014, the Reserve Bank progressively increased the Overnight Cash Rate (OCR) from an historically low rate of 2.5 percent to 3.5% by July. With little apparent inflationary pressure (outside of the Auckland housing market) the OCR is expected to remain at this level well into 2015.

The labour market improved strongly during 2014. In the year to September employment grew by 3.2%, and the number of unemployed fell 9.6%. Despite some growth in labour force participation (up 04 percentage points to an historically high 69%), the unemployment rate fell to 5.4 percent, the lowest rate since mid-2009. The expansion in employment was strongly led by the Canterbury region, which grew by over 10% and accounted for over half of the national increase. This growth was due largely to the continuing reconstruction activity following the Christchurch earthquakes in 2010 and 2011. The retail and accommodation sectors also grew in Canterbury, reflecting the broadening of the recovery in the region.

In its latest Half-Yearly Economic and Fiscal Update, released on 16 December 2014, The Treasury revised down its forecast for the 2014/15 "operating balance excluding gains and losses" (OBEGAL). It is now forecasting that Government will fail to meet its earlier target of achieving a Budget surplus by the 2014/15 year and is predicting a small deficit of $572 million, followed by a surplus of $565 million in 2015/16. Treasury forecasts the surplus to rise to $4.1 billion in 2018/19. The forecasts do not include any changes due to Government's planned social housing reforms (see Section X below), although it does note these as a 'specific risk'. The impacts of the welfare reforms are included and it is assumed that decreases in beneficiary numbers (whether due to reforms or the stronger labour market) mostly offsets higher government expenses resulting from inflation-adjustment of benefit rates.

### 1.3. Social Conditions

2014 saw improvements in a number of social indicators, due primarily to the strengthening economy.

Net permanent and long-term migration continued its strong growth and reached a record high of 50,900 for the year to December. The increase is the result of both fewer departures and more arrivals (including New Zealanders returning from overseas).

The number of working age welfare recipients declined 4.0% in 2014 to 309,145 by December. The fall was due primarily to reductions in the numbers of Jobseeker Support and Sole Parent Support recipients. The number of working age beneficiaries is now 10.5% lower than it was in December 2009. Actuarial valuation to June 2013 of the estimated cost of current and recent beneficiaries that is now being carried out by the Ministry of Social Development as part of its "investment approach" to welfare showed a decline of $4.4 billion or 5.1% in the 'future liability' not including factors outside the Ministry's control. The decline comprised $1.8 billion (2.1%) due to lower beneficiary numbers with the remainder due to 'improvement in future forecasts'. The large gap between the number of 'work-ready' Jobseeker Support recipients and the number recorded in the Household Labour Force Survey as unemployed has continued, with the former being only 51.5% of the latter in September 2014.

As discussed in last year's report, child poverty was a significant public issue in 2013 and this continued to be so in 2014. A major book on the topic *Child Poverty in New Zealand* was published in May, jointly authored by the co-Chair of the Children's Commissioner's Expert Advisory Group (EAG) on Solutions to Child Poverty and a member of the EAG Secretariat (Boston & Chapple, 2014). The book received considerable media publicity and generally favourable reviews, albeit debate continues about policy prescriptions. A central policy issue has been the role of employment-conditional tax credits and whether to reform or abolish New Zealand's current In-Work Tax Credit. Boston and Chapple argue strongly in favour of a reformed employment-conditional tax credit, which others, such as the Child Poverty Action Group believe the IWTC should be abolished (Dale, O'Brien, & St John, 2014). For a review of Boston and Chapple see Fletcher (2014).

In the meantime, the Ministry of Social Development published its annual report *Household incomes in New Zealand: Trends in indicators of inequality and hardship 1982 – 2013* (Perry, 2014) in July.[3] The report is a detailed, authoritative analysis of changes in incomes, inequality, poverty and hardship in New Zealand. The report found child poverty rates in 2013 of 19% and 24% respectively using the 50% and 60% after-housing cost relative poverty measures. These rates are about the same as their pre-GFC levels but about twice what they were in the late 1980s (8% & 13% respectively).

Housing was another prominent and ongoing social issue during 2014. Concerns focus on two different although overlapping issues. First is the rapid growth in house prices in Auckland. New valuations released late in the year showed an average increase in house values of over 30% in three years and in some suburbs increases over that period have exceeded 50%. In October 2013 the

[3] The report is available at http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/monitoring/household-incomes/index.html.

Reserve Bank had introduced loan-to-value ratio ("LVR") restrictions requiring banks to ensure that domestic mortgage loans did not exceed 80% of the house's value in at least 90% of their mortgage portfolio. These restrictions, aimed at ensuring financial stability, have continued throughout 2014. While the LVR regulations, coupled with rising prices, have made it difficult for many first-home buyers, the overall impact on Auckland house price growth appears to have been muted. Underlying the Auckland housing problem is that demand, driven by population growth and investment by overseas purchasers continues to exceed growth in the supply of housing by a wide margin. The Special Housing Areas Act (see 2013 Report) and the Auckland Housing Accord has resulted in 80 Special Housing Areas being designated across the city during 2014 with an expected 40,600 additional dwellings. However, by year's end only 350 new houses had been constructed and only 20 of these were under the provisions of the new Act.

The second area is Government's social housing reform agenda. Again, the legislation for this was passed in the 2013 year (see previous report). Some parts of the programme have been implemented, for example the transfer of housing needs assessment from Housing New Zealand Corporation to the Ministry of Social Development, but the major elements, including the sale of some State housing to other housing providers, are scheduled for this term of Government. This issue is discussed in more detail in Section 2.4.

## 1.4. Relevant Case-Law Developments

*Terranova Homes and Care Ltd v Service and Food Workers Union and Kristine Bartlett.* [4]

This significant case centred on the issue of equal pay for work of equal value in the low-paid, female-dominated aged-care sector. New Zealand is a signatory to the United Nations Covenant on Economic, Social and Cultural Rights, which includes in Article 7(a) a requirement for "equal remuneration for work of equal value". New Zealand has also ratified the United Nations Convention on the Elimination of (All Forms of) Discrimination against Women (CEDAW) which has a similarly worded article (Article 11).

The *Terranova* case involved an appeal by the employer against a decision by the Employment Court concerning section 3(1)(b) of the Equal Pay Act 1972, which in cases of occupations exclusively or predominantly carried out by women, requires the Court to consider the wage that would be paid to a 'hypothetical male'. The employer appealed the Court's ruling that:

> a) any evidence of systemic undervaluation of the work in question derived from current or historical or structural gender discrimination must be taken into account; and
> b) evidence of wages paid by other employers or in other industries may be taken into account if wages paid by the defendant employer or other employers in the same industry would be an inappropriate comparator.[5]

[4] TERRANOVA HOMES & CARE LTD v SERVICE AND FOOD WORKERS UNION NGA RINGA TOTA INC CA631/2013 [2014] NZCA 516 [28 October 2014]

[5] Service and Food Workers Union Nga Ringa Tota Inc v Terranova Homes and Care Ltd [2013] NZEmpC 157, (2013) 11 NZELR 78 [Employment Court judgment]

On 28 October 2014 the Court of Appeal released its decision upholding the Employment Court's decision. The import of the judgement is effectively to clarify that the wording of the Equal Pay Act 1972 does go beyond equal pay to include pay equity or equal pay for work of equal value.

It is expected that the decision will have significant implications for the rest-home and aged-care sector, which at present relies heavily on minimum or near-minimum wage pay rates and for the government which subsidises long-term aged-care. It is also expected to flow on to other female-dominated, low-paid occupations. The final outcome of the case is yet to be determined as the Employment Court has still to hear Ms Bartlett's substantive claim.

## 2. SOCIAL POLICY AND SOCIAL LAW DEVELOPMENTS DURING 2014

### 2.1. Welfare Benefits

New Zealand has a system of flat-rate, tax-funded welfare benefits, with no social insurance (except for Accident Compensation, which is discussed below). As reported last year a new simplified set of benefit categories was introduced in 2013. At 31 December 2014, 309,145 people or 11.2 percent of the working age population were receiving a welfare benefit, a reduction of 12,274 people (4%) compared to 12 months earlier.

*Jobseeker Support* (JSS) is for people who can usually work-full time and those who can only work part-time or are temporarily unable to work for health or disability reasons. The three main groups receiving this benefit are able-bodied unemployed, sole parents whose youngest child is 14 years or older and people with a short-term illness or injury. Those in this last group are usually given a temporary waiver from job-search obligations. 124,631 people were on JSS as at 31 December 2014 (an annual decrease of 4%). Of these, 69,156 were 'work-ready' and 55,475 had a health condition or disability meaning they were not fit for work (ie these people would mostly have been on the Sickness Benefit under the previous categorisation).

*Sole Parent Support* (SPS) is for sole parents without adequate income and who have a youngest child under the age of 14. Those whose youngest child is aged 6 – 13 years are subject to a part-time (15 hours per week) work test, while those with younger children are expected to undertake various 'work preparation activities'. As at 31 December 2014, 72,539 people (92% of them women) were receiving SPS, a reduction of 7% over the year.

*Supported Living Payment* (SLP) is available to people with long-term severely restricted work capacity due to ill-health or disability (90% of cases) and for those caring for someone who needs significant care. This benefit is not work-tested and is paid at a higher rate than JSS. There were a total of 93,867 SLP recipients as at 31 December 2014, an increase of 1% compared to December 2013.

*Youth Payment* and *Young Parent Payment* are for young people and teenage parents aged between 16 and 18 years (some are 19) and who are unable to be supported by their families due to 'exceptional circumstances'. Special case management conditions apply including compulsory income management in many cases and activity requirements are focused on learning and education rather than employment. As at 31 December 2014, there were 889 YP/YPP recipients aged 18 or over (a fall of 19% over the year) and a further, 1,967 aged 16 or 17 years.

The most significant legal change that occurred in 2014 in respect of social security benefits was the passage of the Social Security (Fraud and Debt Recovery) Amendment Act in April. The Act make the spouse or partner of a beneficiary jointly liable with the beneficiary for a debt “where he or she knowingly benefited or ought to have known they were benefiting from welfare payments being received by their spouse or partner in excess of entitlements and that were obtained by fraud” (Ministry of Social Development, 2014). It also creates a new criminal offence, subject to a maximum of 12 months imprisonment and a $5,000 fine where a person who is the spouse or partner of a beneficiary ‘knows, or are reckless as to whether, they are benefiting from their partner’s welfare fraud (ibid).

The issue of ‘relationship fraud’ and the Ministry of Social Development’s interpretation of the law regarding relationships for welfare entitlement purposes has become increasingly vexed, due in part at least to the Ministry’s stricter approach and its introduction in 2013 of a ‘Relationship Status Verification Form’ to be completed by a third party who knows the applicant. In December 2014 the Child Poverty Action Group published an important report on the topic entitled *The complexities of ‘relationship’ in the welfare system and the consequences for children* (St John, MacLennan, Anderson, & Fountain, 2014). The report details the legal history of the issue and especially the 1997 Court of Appeal decision in the *Ruka* case[6] and subsequent report in 2000 by QC Frances Joychild (see Grant Duncan’s 2002 report to the Institute for a summary). The essential feature of the Court of Appeal’s 1997 decision was that the test of a relationship ‘in the nature of marriage’ as set out in the Social Security Act 1964 required both emotional commitment *and* financial interdependence. CPAG’s review of more recent data on relationship fraud cases and its concerns regarding the Social Security (Fraud and Debt Recovery) Amendment Act 2014 led it to argue for more comprehensive reform:

> A serious confusion about relationships in our system needs to be acknowledged. There are so many combinations and permutations of co-habitation, financial interdependence, emotional commitment, forward plans, and sexual/family patterns, it is no wonder that no one simple clear definition can be found. So much is at stake for those whose lives are already complex, stressed and difficult. Full welfare reform is well overdue, to reflect the changed nature of relationships in the 21st century and to better protect children. (St John et al., 2014, p. 37)

Last year we reported on the introduction of ‘social obligations’ – parenting-related conditions attached to benefit receipt – and of a ‘subsequent child policy’ imposing stricter work-test rules on mothers who have another baby while in receipt of a benefit. Although publicly-available data are limited, it appears that no-one has been sanctioned under either of these policies in their first six months of operation up to 31 December 2013.

[6] *Ruka v Department of Social Welfare [1997]* 1 NZLR 154.

## 2.2. Child Support (Child Maintenance)

As we reported last year, the introduction of the Child Support Amendment Act 2013 was delayed until 1 April 2015. The new Act is the most substantial reform of New Zealand's child support system since it began in 1992 and includes a very different formula for calculating child support liability, which is based very closely on that introduced in Australia in 2008. The new system takes into account both parents' incomes (less living allowances) and uses empirical estimates of expenditure on children. The formula also incorporates greater recognition of the costs associated with shared care with the threshold reducing from 40 percent to 28 percent (ie two nights per week) and rising progressively from there. Another significant change is the removal of a living allowance deduction in respect of new partners and their children. The new system retains 100% 'claw-back' of child support paid in respect of a parent on a sole parent benefit. That is, all child support received up to the value of the main benefit paid to the beneficiary is retained by the State.

Because of the deferral of the implementation date, there was little change in Child Support during 2014. Inland Revenue, which administers the scheme, is however gearing up for the change to the new system. A calculator, along with other information, is now on their website which allows parents to gain an estimate of the change in their liability or likely child support receipts under the new scheme (see http://www.ird.govt.nz/childsupport-changes/).

## 2.3. Working for Families (WFF) Family Tax Credits

WFF comprises four non-refundable, targeted tax credits payable to parents with dependent children. It is administered by Inland Revenue and is payable either through employers' wage payments or in an annual end-of-year lump sum. Beneficiaries can (and mostly do) receive their Family Tax Credit through their benefit payment paid by MSD's Work and Income.

The current system has been in place since 2004 and is described in detail in earlier reports. Current (December 2014) provisions are summarised in the table below.

<table>
<tr><th>Provision</th><th>Core eligibility provisions</th><th>Maximum amount ($ per week)</th><th>Abatement threshold and rate (family income pa)</th></tr>
<tr><td>Family Tax Credit</td><td>Caring for a dependent child.</td><td>Oldest child < 16 yrs: $92; 16-18 yrs: $101<br>Subsequent children < 13 yrs: $64; 13-15 yrs: $73; 16-18 yrs: $91.</td><td rowspan="3">21.25% abatement on gross family income over $36,350pa.<br><br>FTC, IWTC and PTC are abated sequentially.</td></tr>
<tr><td>In Work Tax Credit</td><td>As above plus also not receiving a welfare benefit and working 20 hrs/wk (sole) or 30 hrs/wk (couple combined).</td><td>$60.00</td></tr>
<tr><td>Parental Tax Credit</td><td>At time of birth (or adoption) of a baby. (see text re changes applying from 1 April 2015)</td><td>$150 per week for max of 8 weeks</td></tr>
<tr><td>Minimum Family Tax Credit</td><td>Caring for a dependent child, not on benefit, and working 20 hrs/wk (sole) or 30 hrs/wk (couple combined).</td><td colspan="2">Tops earned income up to $22,724 gross per annum (rate is for 2013/14 tax year). Abated at 100 percent.</td></tr>
</table>

Changes announced in Budget 2011 to the abatement regime for Working for Families tax credits are still being phased in. These will see the abatement threshold progressively lowered to $35,000pa and the abatement rate progressively increased to 25%. The changes will take a number of years as they are timed to occur with rate increases which only take place when consumer price inflation has risen by more than 5 percent since the last rate increase.

In Budget 2014 Government also announced extensions to the Parental Tax Credit, linked to extensions to Paid Parental Leave (see below). The Taxation (Parental Tax Credit) Amendment Act 2014 increases the maximum rate of PTC from $150pw to $220pw and extends the maximum duration to 10 weeks. The changes apply in respect of babies born on or after 1 April 2015. The amendment also aligned abatement of PTC with FTC and IWTC by annualising the total of all three for abatement-calculation purposes.

## 2.4. Social Housing

Government is part way through a large programme of reform of the social housing provisions. Our 2013 report outlined the legislative changes passed last year through the Social Housing Reform Act 2013. Some of these changes came into effect during 2014. In addition Government has signalled its intention to introduced further changes, including selling some State housing to other social housing providers. These further reforms – some of which are highly controversial – are scheduled for this term of Government and I anticipate reporting on them in more detail in next year’s report.

New Zealand has two forms of housing assistance. The Accommodation Supplement (AS) is an income- and asset-tested cash payment available to non-State tenants, private lodgers and some home-owners paying a mortgage. The maximum amount payable depends on location and family size.[7] The AS is paid by MSD’s Work and Income division. State housing tenants are not eligible for AS and instead pay an income-related rent (IRR) which, at low incomes, pegs their rent to 25 percent of their gross family income. State housing is administered by Housing New Zealand Corporation (HNZ).

In December 2014, there were 300,526 AS recipients. These numbers do not include family members also living in the same accommodation. As at 30 June 2013, HNZ administered 68,229 homes accommodating approximately 193,000 people (Housing New Zealand Corporation, 2013).

From April 2014, the Ministry of Social Development took over the function of managing all social housing applications, including assessing eligibility, calculating and reviewing IRR payments, reviewing tenancies and paying IRR subsidies to social housing providers. At the same time, access to the IRR subsidy (rather than AS) was extended beyond Housing New Zealand Corporation to other organisations if they become registered as community housing providers. The registration process is managed by a separate new body, Community Housing Registration Authority (CHRA) which is part of the Ministry of Business, Innovation and Employment. The intention behind this change is to expand third-sector provision of social housing. There are currently (December 2014) 37 registered community housing providers. When the Ministry of Social Development assesses an applicant as

[7] The Accommodation Supplement pays 70% of rent over an initial ‘entry threshold’ amount up to various maxima ranging from $45pw to $225pw.

eligible for social housing they refer them to one or more community providers or Housing New Zealand for allocation.

### 2.5. Family Court Reforms

The Family Court Proceedings Reform Bill was passed by Parliament in September 2013 and the new system came into force on 31 March 2014. As we described in last year's report the aim of the reforms is encourage parents to reach out-of-court agreements about care arrangements for their children and to 'reduce the stress on families and children by avoiding wherever possible the delays, conflict and expense that court proceedings can entail.'[8] The new provisions involve expanded access to a free "Parenting through Separation" course and the establishment of a Family Dispute Resolution service using mediators. In normal circumstances parents will be expected to have been through both these processes before Care of Children Act proceedings can be commenced. A targeted subsidy is available for low- to middle-income parents to meet the costs of the Dispute Resolution service. For those not eligible it is expected to cost $900 per couple. Where Care of Children Act cases do go to the Family Court, eligibility for civil legal aid (which pays legal costs) has been restricted to specified circumstances. A new Family Justice information website (http://www.justice.govt.nz/family-justice) has been established as part of the reforms. It is too soon to assess the impacts of the reforms but a team of academics from the Law Faculty and Children's Issues Centre at the University of Otago is being supported by the Ministry of Justice and the Law Foundation to conduct an evaluation. Results of this work should become available in late 2015 or early 2016.

### 2.6. The Children's Action Plan and the Vulnerable Children Act 2014

The Government's consultation and policy development process in respect of children at risk culminated in June 2014 in the 'Children's Action Plan' and the passage of the Vulnerable Children Act (and associated amendments to other legislation). Implementation of the changes is being phased in over several years. A key element of the new policy is to make five core government agencies – Education, Health, Justice, Social Development and Police – plus District Health Boards and local School Boards jointly responsible for implementing the Plan and the Act. The Act also requires these agencies to develop 'vulnerable children plans' that include among other things processes for identification and reporting cases of suspected neglect or abuse.

The Act also introduces new vetting procedures for all paid staff in government-funded roles involving working with children and places restrictions on people with serious convictions from being employed in such roles. An amendment to the Children, Young People and Their Families Act alters foster care regulations and extends the concept of 'Home for Life' care, involving long-term care where the foster care parents usually become legal guardians of the child, often in addition to the birth parents.

[8] *Family Court Proceedings Reforms Bill FAQs* available at http://www.beehive.govt.nz/release/collins-leads-major-family-court-reforms.

Finally, to promote better financial outcomes for children in care once they are adults, the Kiwisaver Act 2006 has been amended so that the Ministry of Social Development, or other agency with guardianship can open a Kiwisaver account on behalf of children in care.

## 2.7. Parental Leave

Parental leave entitlements are administered by the Ministry of Business, Innovation and Employment (MBIE)[9]. Paid Parental Leave (PPL) payments are distributed by Inland Revenue. It provides qualifying parents with job protection for up to 12 months and up to 14 weeks paid parental leave. Adopting parents are entitled to leave if the child is under six years and can choose which parent has primarily eligibility. Where both parents qualify, the mother may transfer all or part of the 14 weeks' paid leave to her partner. Eligibility depends on the employment record immediately prior to the leave commencing – a minimum of 10 hours/week on average for the preceding six months, and for the preceding 12 months to qualify for the full 12 months job protection. Where the mother does not meet the eligibility criteria her partner cannot claim PPL. PPL, which is funded through general taxes, is paid at the rate of the person's ordinary time earnings up to a maximum which is currently $504.10. The minimum for qualifying self-employed is $142.50. By comparison the adult minimum wage for a 40-hour week is $570.00.

In Budget 2014 the Government announced extensions to paid parental leave entitlements. From 1 April 2015 the maximum duration of PPL will rise to 16 weeks and, from 1 April 2016, to 18 weeks. Also from 1 April 2016, eligibility for PPL will be broadened to include casual and seasonal workers, those with more than one employer and people with Home for Life and similar foster care arrangments. These changes to parental leave followed a campaign and Private Members Bill to extend PPL to 26 months, a proposal which the Government rejected as too costly.

## 2.8. Minimum Wages

A statutory minimum wage applies to all workers aged 16 years or older. There are three categories. A training minimum wage applies to employees aged 20 years or over who are engaged in a sufficient level of recognised industry training as part of their employment agreement. A 'Starting Out' minimum wage applies to some groups of 16-19 year olds who have less than 6 months' continuous work experience or who have been on benefit for more than six months or are doing some industry training. The adult minimum wage applies to all other workers except for people granted an exemption (and a specified lower rate for a specified job) on the grounds of disability. The current minimum wage is reviewed each December and may be increased, usually from 1 April the following year. The current adult minimum wage is $14.25 per hour ($570 gross per week) – a 50 cents per hour increase on the 2013 rate. The training and starting out minimum is $11.40 per hour ($456 per week).

Aside from the rate increases, there were no changes in minimum wage policy in 2014.

[9] MBIE was formed on 1 July 2012 and took over the functions of the Department of Labour which had previously administered parental leave.

## 2.9. KiwiSaver

KiwiSaver is a workplace savings scheme established in 2008. New employees are automatically enrolled in the scheme but may choose to opt out. Government provides an initial contribution of $1,000, pays an annual tax credit of 50 cent per dollar up to $521.43, subsidises scheme fees and maintains prudential oversight of scheme providers. Savings are not government-guaranteed. The minimum employee contribution and the compulsory employer contribution is 3 percent each.

Savings are normally locked in until age 65 but they can be drawn down earlier for the purchase of a first home or in cases of serious financial hardship or permanent emigration.

There were no significant changes to the Kiwisaver scheme during 2014, other than the provisions relating to children in State care as discussed in the Children's Action Plan section above..

## 2.10. Public Health

The Public Health and Disability Act 2000 established District Health Boards which administer provision of health and disability services in their region. The Act also provides for subsidies for primary care through Primary Health Organisations (PHOs).

In its 2014 Budget the Government announced that free health care (i.e. primary General Practice consultations) and free medical prescriptions would be extended to all children under the age of 13. The current age limit for free care is six years. The new policy comes into effect on 1 July 2015.

There were no other major changes in public health policies during 2014. Note though that the Ministry of Health, which provides government funding for aged-care, was a party to the aged-care equal pay case discussed above in Section 2.4 and the outcome of the case is likely to have substantial budget implications for Vote: Health.

## 2.11. Accident Compensation and Workplace Injuries

Accident compensation (known as 'ACC') covers all personal injury caused by accident on a universal, no-fault basis. Coverage includes workers' compensation, motor vehicle accidents, non-work-related accidents and medical misadventure as well as mental injury caused by sexual crimes. The main entitlements are medical treatment, compensation for loss of earnings (mostly at 80 percent of prior earnings), vocational and social rehabilitation and attendant care. Once assessed as fit for work, claimants' earnings-related compensation can be discontinued and the claimant transferred to a welfare benefit if eligible.

There were no significant changes to ACC law or policy during 2014.

# 3. DEVELOPMENTS RELATING TO INTERNATIONAL SOCIAL SECURITY AGREEMENTS

New Zealand has reciprocal social-security agreements with Australia, the United Kingdom, Canada, Denmark, Greece, Ireland, Jersey and Guernsey, and the Netherlands. In late 2013 a reciprocal agreement was also signed with Malta. Negotiations for agreements with Cyprus, Hungary and Croatia are on the Ministry of Social Development's work programme but have yet to be finalised. Superannuation can be remitted to pensioners who move back to one of 22 Pacific Islands nations for retirement.

In our 2012 and 2013 reports we reported on the discriminatory treatment of New Zealanders resident in Australia in regard to their lack of entitlements to social protection in that country. There has been no change in this situation during 2014.

# 4. IMPORTANT ACTS OF PARLIAMENT PASSED IN 2014

## 4.1. The Vulnerable Children Act 2014

For discussion of this Act see Section 2.6 above.

The Vulnerable Children Act is part of the Government's wider Children's Action Plan. The Act, signed into law in June 2014, comes into effect in phases. The Act has three key elements.

Part 1 of the Act establishes certain States agencies as 'children's agencies' and the relevant Ministers as 'children's Ministers' for the purposes of the Act. As Section 2.6 above describes, it requires these agencies to jointly develop Vulnerable Children Plans to be approved by the respective accountable Ministers and be formally published. Part 2 of the Act requires prescribed State services, District Health Boards and School Boards to develop and implement Child Protection policies that must include policies for the identification and reporting of child abuse and neglect. The third part of the Act covers safety checking in respect of all workers employed in State organisations or organisations that receive state funding and which provide services to children. This part also sets out the process for determining what constitutes 'safety checking'. The Act is accessible at http://www.legislation.govt.nz/act/public/2014/0040/latest/DLM5501618.html

As part of the same suite of initiatives, Parliament also passed the Children, Young Persons and their Families (Vulnerable Children) Amendment Act. This amendment establishes new provisions relating to subsequent children of adults who have been convicted of the murder or manslaughter of a child in their care or have had a child removed from their care because of abuse or neglect. It also includes special guardianship provisions for permanent carers of children placed in their care.

### 4.2. Social Security (Fraud Measures and Debt Recovery) Amendment Act 2014

For discussion of this Act see Section 2.1.

This amendment makes the spouse or partner of a beneficiary liable for an apportioned amount of any welfare debt where that person knew or should have known that the payments were received fraudulently by the beneficiary.

It also makes it a criminal offence, subject to a maximum of 12 months imprisonment and a $5,000 fine, where a person who is the spouse or partner of a beneficiary 'knows, or are reckless as to whether, they are benefiting from their partner's welfare fraud.

The Act is available at http://www.legislation.govt.nz/act/public/2014/0021/latest/DLM5024948.html .

### 4.3. Parental Leave and Employment Protection Amendment Act 2014

For discussion of this Amendment see Section 2.7.

This amendment extends paid parental leave entitlements from 14 to 16 weeks from 1 April 2015 and from 16 to 18 weeks from 1 April 2016.

The Act is available at http://www.legislation.govt.nz/act/public/2013/0022/latest/whole.html.

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