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Towards Wellbeing?

Developments in Social Legislation and Policy in New Zealand

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CONTENT OVERVIEW

LIST OF ABBREVIATIONS

ACC	Accident Compensation Corporation
CPI	Consumer Price Index
GDP	Gross Domestic Product
FTC	Family Tax Credit
IWTC	In-Work Tax Credit
MFTC	Minimum Family Tax Credit
MP	Member of Parliament
MPISOC	Max Planck Institute for Social Law and Social Policy
NEET	Not in Employment, Education or Training
NZ$	New Zealand dollar
p. a.	per annum
PM	Prime Minister
PTC	Parental Tax Credit
RBNZ	Reserve Bank of New Zealand
WFF	Working for Families (Tax Credits)

1. INTRODUCTION[1]

The 2018 calendar year has been marked by considerable government work on social policy and social law, although the results of most of this work have yet to become apparent. After implementing its pre-election and 'First 100 Days' promises (see Fletcher, 2018), the new Labour-led Government opted for an approach of setting up various independent working parties, taskforces and reviews of key policy areas to provide advice on options for change. The intention is that this necessary policy development work will bear fruit in 2019 and 2020 ahead of the next election which must be held no later than 21 November 2020.

In terms of social policy, the most significant of these reviews was the establishment in May of the Welfare Experts Advisory Group tasked with reviewing the welfare system, family tax credits and associated policies (see Section 4.3). This review had been proposed by the Green Party and became part of their Confidence and Supply Agreement negotiated with Labour at the time of the formation of the Government in 2017[2]. It is required to report back to the Minister for Social Development by 28 February 2019. A parallel, but separate, review is also being conducted into the tax system.

A central feature of the Government's agenda is the development of what it calls a 'wellbeing approach' and a commitment that, from 2019, governments' annual Budget legislation will be required by law to report on wellbeing measures, not just fiscal and economic ones. The approach, coupled with the establishment of annual mandated child wellbeing reporting and formal Child Poverty Reduction targets, has the potential to create a quite radical departure from traditional fiscal expenditure-setting processes, although just how different it proves to be will not become clear until the 2019 'Wellbeing Budget'. The emerging framework for the new approach is discussed in Section 4.1.

As discussed in last year's report, the Labour Party had campaigned on a 'Families Package' of additional assistance for low- and middle-income families delivered mostly through the Working for Families (WFF) family tax credits. These were passed into law last year and came into effect on 1 July 2018. Details of the changes are set out in Section 4 below.

[1] This report was drafted, although not finalised, before the shootings at the two Christchurch mosques on 15 March 2019. Next year’s report will cover the social and social law consequences of those events.

[2] A confidence and supply agreement allows the minor party to vote as it chooses in Parliament but commits it to support the Government on any no-confidence motions and on financial supply votes. A defeat on either of these would usually require a government to resign. In the current Government, the Green Party has two Ministers outside Cabinet in exchange for this support.

2. CURRENT POLITICAL, ECONOMIC AND SOCIAL SITUATION

2.1. The Political Situation

The Government has proven very stable over its first 15 months in office. Some commentators had doubted the durability of a three-party government comprising a coalition between the Labour Party and the centrist New Zealand First Party, with a confidence-and-supply support agreement from the Green Party, but it has successfully negotiated political differences and has shown itself to be cohesive. Jacinda Ardern, who became party leader only seven weeks before the election and who has no previous experience as a Cabinet member, has grown rapidly into a respected and effective Prime Minister. The Deputy Prime Minister, New Zealand First leader, Winston Peters has provided support and experience. Occasional differences between the three parties have been worked through behind closed doors and without causing dissent or rancour. From late June to early August Peters was Acting Prime Minister while Ardern took six weeks' parental leave after the birth of her first child, a daughter she and partner, Clarke Gayford, have named Neve.

The Government's political situation has been made easier by a relatively weak and poorly co-ordinated opposition National Party. After the party's defeat at the election, ex-Prime Minister Bill English stepped down and was replaced by 42-year-old Simon Bridges. Although the Party has remained popular in opinion polls throughout 2018, its new leader has polled poorly. By year's end some pundits were predicting that he will remain in the role only until such time as sufficient support coalesces behind an alternative.

Political opinion polls have been reasonably consistent throughout the year: the National and Labour Parties have run neck and neck at around 40 to 45 percent support, while Labour's two support parties, the Greens and New Zealand First have been well below that at about six or seven percent and three to five percent respectively. The only other party in parliament, the neo-liberal ACT Party, has consistently polled under one percent.

2.2. Economic and Fiscal Conditions

The Government has been aided by the continuation of moderately strong economic growth, although there are predictions of a slow-down due partly to slowing domestic demand and partly to external risks such as lower growth forecasts for China and the possible impacts for New Zealand of Britain leaving the European Union.

Gross Domestic Product (GDP) grew by 2.6 percent (production measure) in the year to September 2018, slightly lower than in the previous year. The Reserve Bank's assessment is that this slowing is due to weaker domestic demand, primarily from slower growth in construction and a softening of housing prices increases (Reserve Bank of New Zealand, 2019 p10). GDP per capita grew by 0.7 percent, only half its 2017 increase (New Zealand Treasury, 2018a).

One concerning economic indicator is the very negative level of business confidence. In September, the New Zealand Institute of Economic Research's Quarterly Survey of Business Opinion reported the lowest level of business confidence since 2009 (negative 28 percent). There was a slight improvement (to negative 18 percent) in the December quarter, described by the Institute as “best summarised as 'less gloomy' rather than 'more happy'”.[3] In addition to expectations of falling demand and increasing skill shortages, businesses reported uncertainty over the Labour Government's policy direction as a factor contributing to lower confidence.

Net permanent and long-term migration has moderated somewhat but remains high by historical standards. In the year to December 2018, there were an estimated 145,800 arrivals and 97,500 departures, meaning a net migration inflow of 48,300, a decrease of 8.3 percent on 2017. By far the largest group of arrivals and departures are New Zealand citizens. The next largest groups of permanent and long-term arrivals are, in order of size, from China, India, the UK, the Philippines and Australia.[4]

New Zealand's labour market remains strong although, at 2.3 percent for the year to December, employment growth was less than in 2017. The employment rate[5] remained at a historically high 67.8 percent, while the unemployment rate fell 0.2 percent over the year to 4.3 percent.[6] The number of youth who are not in employment, education or training (NEET) continues to be a concern. In the December quarter 2018, the Youth NEET rate was an estimated 14.1 percent, the highest since 2011.[7]

The skill shortages referred to in last year's report have further increased through 2018. Difficulty finding appropriately skilled staff is now reported across most industries, although it is particularly strong in construction, manufacturing, transport and some service industries. Notably however, persistent skill shortages have still not resulted in the sort of wage growth that would normally be expected. One reason for this is that immigration has been used as a tool to meet skill demands. The Government's tightening of immigration rules, especially around temporary work visas, had only just begun to have an effect during 2018 but is expected to have more impact in 2019.

The Government's own books continue to be in good shape. The main measure used by the Treasury, the 'operating balance before gains and losses' is now forecast to be slightly lower than last year but is still expected to reach a surplus of $8.4 billion (2.3 percent of GDP) by

[3] https://nzier.org.nz/media/nziers-qsbo-shows-an-improvement-in-sentiment-and-demand
[4] Stats NZ, https://www.stats.govt.nz/information-releases/international-migration-december-2018.
[5] Defined as the proportion of the population aged 16 or over that is in employment
[6] Stats NZ, https://www.stats.govt.nz/information-releases/labour-market-statistics-december-2018-quarter.
[7] Although Stats NZ recommends caution in using this figure due to survey methodological issues.

2022/23. Net core Crown debt is forecast by Treasury to decline to $63.5 billion by the same year (New Zealand Treasury, 2018a). The Government has therefore kept within its 'Budget Responsibility Rule' agreed with the Green Party before the election of maintaining core government expenditure at below 30 percent of GDP. This voluntarily imposed fiscal restraint has attracted growing criticism during 2018 from those who think social (and other) spending should be increased (see, for example, Edwards, 2018; Poletti, 2018).

2.3. Social Conditions

Changes in social conditions during 2018 were mixed. Despite a small decline in the official unemployment rate, the number of welfare beneficiaries increased slightly. Homelessness and housing affordability also remained serious problems, spreading beyond Auckland to other areas. At the same time, however, the Government's Families Package came into effect mid-year, increasing many low- and middle-income families' disposable incomes.

At the end of the year 299,345 (9.9 percent) working age people were receiving a welfare benefit, up about 10,000 or 0.1 percent on December the year before and about the same as in December 2016.[8] The increase was due to a rise in numbers receiving the unemployment benefit, Jobseeker Support. The other two main benefit categories, Sole Parent Support and the Supported Living Payment, which is for people with serious disabilities or long-term illnesses, both declined slightly (Ministry of Social Development, 2018).

The number of Hardship Assistance grants increased dramatically from 290,000 in the December quarter 2017 to 385,000 in the December quarter 2018. These grants are intended to assist people to meet immediate costs which they cannot meet from their benefit or other income. The increase in payments during 2018 most probably reflected growing cost pressure from private sector rent increases, the inadequate level of the core benefit and possibly also some relaxation in acceptance of claims by Work and Income New Zealand, the branch of the Ministry of Social Development that is responsible for the administration of benefits.

New data for poverty rates are not available this year as the Ministry of Social Development, which publishes the annual *Household Incomes in New Zealand* report reached the conclusion that sample bias problems with the Statistics New Zealand data for 2016 and 2017 mean that the estimates were not robust enough to be published (Perry, 2018). Other sources of information, including food-bank usage suggests that there has been little or no reduction in the prevalence of poverty across the country.

Inequality has also not lessened. In fact, there has been no significant upward or downward trend in income inequality over the last twenty-five years following the very large and sudden increase in inequality at the end of the 1980s. The Ministry of Social Development

[8] 'Working-age' is defined by the Ministry of Social Development as 16 to 64 years inclusive.

report estimates the before-housing-cost Gini coefficient to be 34.3 for 2017, with an after-housing-cost Gini of 39.8 (Perry, 2018 p94.) New Zealand is in the top third of the OECD in respect of income inequality – below the United States, but higher than Australia and most European countries.

Homelessness continued to be a growing problem during 2018, especially in Auckland. The Auckland Council attempted a survey to count the number of 'rough sleepers' and those sleeping in cars or temporary accommodation. While accurate numbers are hard to obtain the Council estimates that almost 3,000 people are living in emergency or temporary accommodation and a further 800 are without shelter at all. An earlier report had noted that over 80 percent of those who sought community emergency housing were turned away because no housing could be found for them (Johnson, Howden-Chapman, & Eaqub, 2018).

Residential rents have also continued to rise considerably faster than overall consumer prices or incomes. In the year to June, average rents rose by 5.2 percent ($22 per week) compared to a 1.1 percent increase in consumer prices.[9] At the same time, there has been some slight improvement in the housing shortage in Auckland: in the year to June, the number of new residential building consents almost reached the number of new dwellings needed to match population growth. In other words, the shortfall in the number of additional homes needed has stopped increasing, although it remains high, at approximately 25,000.[10]

3. CASE LAW DEVELOPMENTS

A Social Security Act case known as the “Ms F case” reached its culmination in the Auckland High Court in July this year, more than seven years after it began.[11] Ms F (her name has been permanently suppressed by the Court) is a sole parent with two dependent children. In 2010, after a tip-off from her ex-partner, a Ministry of Social Development investigation concluded that she had been overpaid benefits because she had not declared income that would have affected the amount she was entitled to. The Ministry sought repayment of approximately $120,000. Ms F applied to the Benefits Review Committee for a review of that decision but the original decision was upheld. Ms F then appealed to the Social Security Appeal Authority, which heard the case in 2013/14, and the result of the appeal was that a revised debt of approximately $110,000 was established against Ms F.

[9] Interest.co.nz: https://www.interest.co.nz/property/94733/average-rent-has-increased-22-week-52-last-12-months

[10] https://thespinoff.co.nz/auckland/25-10-2018/the-auckland-housing-shortage-may-be-on-the-verge-of-receding/

[11] CIV-2017-485-000047 [2018] NZHC 1607.

Both Ms F and the Ministry of Social Development appealed the Authority's decision to the High Court. The question of law at the heart of each side's appeal was whether the Authority erred in its interpretation of what constitutes 'income' for the purposes of the Social Security Act 1964. Ms F's appeal was against the decision that money she received from her mother should be viewed as a gift, and therefore as income, rather than as a loan (which would not have affected her benefit entitlement). The Ministry, for its part, sought a determination from the Court that the Authority was wrong not to regard bank borrowings used to meet living costs as income.

The judge, Davison J., found in favour of Ms F on both counts: neither the money received from her mother, nor the credit card and mortgage borrowings used to meet living costs 'truly add[ed] to Ms F's resources as she was required to repay the funds she received' and they are not therefore 'income' in terms of the Social Security Act 1964, and should not have been applied to reduce Ms F's entitlement to welfare assistance.[12] The Ministry of Social Development has subsequently announced that it will not appeal the decision.

The decision is significant because, if it had been upheld, the Authority's ruling would have meant that any beneficiary who borrows to meet living costs as a means of supplementing their benefit payments would have been caught in the Catch 22 situation that the borrowing itself further reduced their benefit. Ms F was reported as saying the long-running case had left her feeling broken; that she had already been dealing with an abusive relationship and the Ministry had taken 'that abuse to a whole other level.'[13] Following the decision, the Child Poverty Action Group called for an independent review of all existing beneficiary debt and of the operation of the Ministry's investigation and prosecution units, although this has not happened.[14]

In addition to the Ms F case, two Court cases discussed in previous reports have continued to reverberate. The first of these is the Kristine Bartlett/Terranova equal-pay case (Fletcher, 2015, 2016, 2017). That case, which resulted in large pay increases for workers in the home-based and residential care sector, has flowed on to other female-dominated occupations. Most notably, the main State sector workers' union, the Public Service Association, reached a pay equity settlement with Oranga Tamariki in September. Oranga Tamariki[15] – the Ministry for Children – is the agency that employs statutory social workers. The settlement affects approximately 1,300 staff with an average increase of 31 percent over two years, and is estimated to cost the State $114 million over five years. A similar-size increase has also been agreed for a smaller group of education support workers. It is expected that both these

[12] Davison, J. did find that some money Ms F received from unknown sources could be regarded as income.
[13] RNZ, 3 July 2018. https://www.radionz.co.nz/news/national/360960/solo-mum-s-loans-were-not-income-high-court-ruling .
[14] https://www.cpag.org.nz/news/cpag-calls-for-an-independent-review-of-all/
[15] *Oranga Tamariki* is the agency's te reo Māori name and the one in common usage. It translates approximately as 'children's wellbeing'.

settlements will influence future pay negotiations for social workers employed by non-government organisations and by the 20 district health boards.

The second issue concerns government financial support for people caring for disabled family members, and particularly disabled adult children. In last year's report (Fletcher, 2018) I discussed the case of Chamberlain v Ministry of Health. Diane Moody is a 76 year old caring full-time for her severely intellectually disabled son, 51 year-old Shane Chamberlain. Mrs Moody (and Mr Chamberlain) won their High Court case against the Ministry's decision to pay her for only 17 hours of support per week. The Ministry subsequently offered 37 hours support under their Family Funded Care policy. The case has subsequently taken a somewhat bizarre twist in that it is unclear whether the terms of the policy mean that Mr Chamberlain may in fact be his mother's employer and be responsible for all the obligations of an employer. Mrs Moody is now in the process of seeking Employment Court clarification and a determination that the contractual relationship is between her and the Ministry of Health.

4. SOCIAL POLICY AND SOCIAL LAW DEVELOPMENTS DURING 2018

A number of the most significant social policy developments during 2018 involved the newly-elected Labour-led Government putting in place the public policy and public administration framework for its agenda and establishing policy reviews. This section therefore begins by discussing five such developments before summarising changes in each main area of social law and social policy in Sections 4.6 to 4.14.

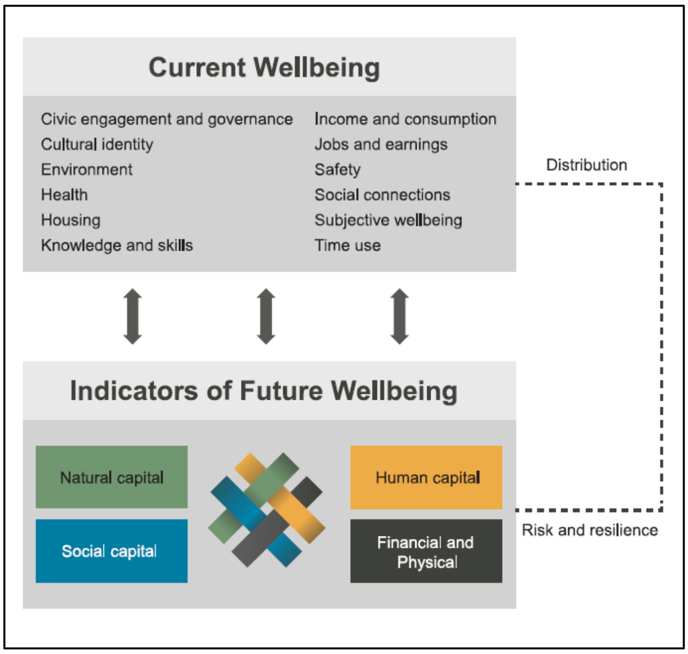
4.1. Treasury Living Standards Framework and Planned 'Wellbeing Budget'

In December the Minister of Finance released his *2019 Budget Policy Statement* (Robertson, 2018). The document is significant in that it lays out the Government's intentions for how it plans to broaden the governmental budgetary and expenditure-setting processes to incorporate what it calls its Wellbeing Approach. The fundamental idea behind the approach is that government spending (and non-financial) decisions should take explicit account of the impacts on people's wellbeing across multiple life domains.

Underpinning the process by which this is to be operationalised is a conceptual and measurement framework developed by the Treasury and known as the Living Standards Framework (see Figure 1). The Framework is not original in the sense that it draws on the United Nations Sustainable Development Goals, and work by the OECD (2017) and many others, but it is adapted for implementation in New Zealand.

The Living Standards Framework is based around 12 domains relating to different aspects of current wellbeing, with 38 statistical indicators used to measure these. These are linked to what the Treasury refers to as 'the four capitals' – natural, financial and physical, human, and social – that together are the capital stocks that generate current and future wellbeing. The objective of the Framework can therefore be thought of as seeking to evaluate wellbeing by looking both across different current domains and at changes over time. Statistics New Zealand is developing a set of wellbeing indicators, 'Indicators Aotearoa New Zealand – Ngā Tūtohu Aotearoa' to support the application of the Framework. A full description of the framework can be found in New Zealand Treasury (2018b).

Figure 1: Treasury Living Standards Framework



Source: New Zealand Treasury (2018b)

The Treasury's *Budget 2019: Guidance to Agencies* document sets out how the new framework is to be operationalised for application to departmental Budget bids for the 2019 'Wellbeing Budget'. The process includes a requirement for agencies seeking funding for new initiatives to identify and, as far as possible, to quantify a proposed initiative's impact on relevant wellbeing domains and on the four capitals. Initiatives must, as usual, also fit with the Government's announced priority areas for the Budget. What is unclear to date is the extent to which this new framework and process will be genuinely different from the previous approach. In the past, spending prioritisation included the use of cost-benefit analysis tools and, at its best, this would take into account a wide range of social and economic costs and benefits. It remains to be seen whether the new approach is simply a more explicit way of doing the same thing or is indeed something more radically new.

4.2. Child Wellbeing and Child Poverty

The Government has set up a Child Wellbeing Unit, funded by Oranga Tamariki, the Ministry for Children. Its first task is to develop a Child Wellbeing Strategy, which is now required under law as one of the changes introduced in the Children's Amendment Act (see Section 6.2.).

The amendment in the Act is deliberately prescriptive. It requires the Responsible Minister to develop and adopt a strategy based on specified principles, to report annually on progress towards achieving the strategy's outcomes, and to fully review the strategy every three years. The strategy is required to address: the wellbeing of all children; the wellbeing of children with greater needs; the reduction of child poverty; and the improvement of the wellbeing of 'core populations of interest'.

Public forums were held in May with community group representatives to discuss what should be covered in the Strategy. Later in the year a decision was made to rename the planned strategy the 'Child and Youth Wellbeing Strategy' to reflect its inclusion of young people up to the age of 24. The first strategy will be published in 2019.

Last year's report discussed the Government's intention to enshrine child poverty reduction targets in legislation. The Child Poverty Reduction Act was passed into law in December 2018. Under the Act governments are required to set short-term (three year) and long-term (ten-year) child poverty reduction targets and to measure and report progress towards the targets annually. The Act specifies four primary poverty measures and six 'supplementary' measures. Targets must be set against the primary measures, although the fourth of these – a measure of persistent poverty – does not come into force until 2024 due to a lack of adequate data.

The Prime Minister, who is also the Minister for Child Poverty Reduction, announced the Government's 10-year targets in January, and in June announced the decision to set the three-year targets immediately, one year earlier than would have been required by the new law. The effect of this was to bring forward the baseline year against which the targets are measured. This had the benefit of including the impacts of the Families Package within the timeframe, but the targets are ambitious, nonetheless. The measures, and the Government's targets, are set out in Table 1.

Table 1: Primary child poverty measures as specified in the Child Poverty Reduction Act 2018, and Government's three- and ten-year reduction targets

Measure **Number of dependent children in households whose:**	**Best estimate of 2017/18 baseline-year rate**	**3-year target (2018/19 – 2020/21 period)**	**10-year target (2018/19 – 2028/29 period)**
Equivalised disposable income before housing costs is below 50% of current median	14-15 percent	Reduce by 6 percentage points	5 percent
Equivalised disposable income after housing costs is below 50% of constant value median	19-20 percent	Reduce by 4 percentage points	10 percent
Household is in material hardship based on a direct living standards measure of being unable to afford a specified number of items deemed as essential needs	13-15 percent	Reduce by 3 percentage points	7 percent
Households are in poverty in successive years (measure yet to be fully specified)	n/a	n/a	n/a

4.3. Welfare Reform and Establishment of the Welfare Experts Advisory Group

In its Confidence and Supply Agreement with the Green Party, Labour committed to support the Green Party priority goal to '[o]verhaul the welfare system, ensure access to entitlements, remove excessive sanctions and review Working for Families so that everyone has a standard of living that enables them to live in dignity and participate in their communities, and lifts children and their families out of poverty.' This agreement led to the establishment in May of a review committee to provide advice to the Minister for Social Development, Carmel Sepuloni, on welfare reform. The committee, called the Welfare Experts Advisory Group, comprises 11 members with a range of backgrounds including welfare advocacy, the disability sector, trade unions, the business sector, Māori, Pacifica, youth and academics. The group is supported by a secretariat of officials seconded from the Ministry of Social Development, Inland Revenue and the Treasury. I was appointed by the Minister as the Group's independent Specialist Advisor and in this capacity have attended the Group's meetings and contributed to its deliberations providing technical and 'second opinion' advice.

The Terms of Reference for the Group require it to take a long-term view of welfare reform as well as to recommend more immediate changes. The introduction to the Terms of Reference emphasises the need to modernise the welfare system, noting that 'many of the main planks of the welfare system have been in place since the current Social Security Act was enacted in 1964', that there have been significant social and economic changes since then, and that today 'we experience pervasive and persistent inequities across a number of areas'. They also set out the Government's vision for the welfare system as one that 'ensures people have an adequate income and standard of living, are treated with and can live in dignity and are able to participate meaningfully in their communities.' The Group's task is to make recommendations on how to achieve that vision.

The scope of the review is broad, with the Group required to advise Government on:

- *amendments to the legislative purpose and principles of the Social Security Act that give effect to the vision and direction of the Government*
- *how any amendments to the purpose and principles in the Act could be implemented system-wide*
- *advice on other changes needed to ensure the system achieves the Government's vision for the Welfare System*
- *changes to obligations and associated sanctions applied to beneficiaries to ensure alignment with the Government's vision*
- *high level recommendations for improvements to Working for Families*
- *recommendations for areas where the interface between the welfare system and other systems need to be improved either because they are not functioning well or in light of the Group's work on giving effect to the future vision for the welfare system – for instance:*
- *ACC, education and training, housing, health and justice*

Minister for Social Development: Welfare Experts Advisory Group Terms of Reference

Such a broad mandate makes this the most far-reaching review of New Zealand's welfare system since the Royal Commission on Social Policy in 1987. It is certainly far wider in scope than the Welfare Working Group established in 2011 by the previous Government.

The Group is required to report back to the Minister by 28 February 2019 and the Minister has indicated she expects to respond to the report within a few months of that date.

4.4. Tax Reform and the Tax Working Group

A tax reform working group was established separately but more or less concurrently with the Welfare Experts Advisory Group. The origins of this group lay in a Labour Party election campaign promise to establish a review group to consider the fairness of the tax system and the question of whether New Zealand should introduce a comprehensive capital gains tax.

The Tax Review Group is chaired by former Deputy Prime Minister and Finance Minister Sir Michael Cullen and includes business and union representatives as well as tax experts. Its Terms of Reference require it to consider the fairness, efficiency and integrity of the tax system, and whether the tax system strikes 'the right balance between supporting the productive economy and the speculative economy'. It is specifically required to consider the taxation of capital gains and land, albeit excluding the family home and the land underneath the family home. Some important aspects of the tax system were explicitly excluded from its scope. These include increasing any income tax rate or the rate of Goods and Service Tax, inheritance tax, the adequacy of the personal tax system and its interaction with the transfer system including the Working for Families tax credits.

The Tax Working Group produced an interim report in November and will release its final report in February 2019. The interim report made clear that the Group, or at least the majority of the Group, is tending towards recommending some form of tax on capital gains beyond the limited capital gains taxation New Zealand currently has.

Some commentators have criticised the fact that taxation and welfare benefits (and other transfers) are being considered separately by different reviews when the two are so closely interrelated (see, for example, Chapple, 2018).

4.5. Independent Panel Examining the 2014 Family Justice Reforms

The Minister of Justice, Andrew Little, has established a panel to review the family law reforms that came into effect in 2014. These reforms, which were discussed in earlier reports (Fletcher & Duncan, 2014), included the establishment of a system known as Family Dispute Resolution that was intended to reduce the role of lawyers and to make it easier for people to resolve parenting disputes without court involvement. However, the changes have not been wholly successful and have had the unintended consequence of a dramatic increase in the number of 'without notice' applications to the Family Court, because people are allowed legal representation in such proceedings.

The panel has completed its consultation process and is scheduled to report back to the Minister by May 2019.

4.6. Social Welfare Benefits

The Government's Families Package discussed in last year's report came into force on 1 July 2018. Most of the changes affect family tax credits and housing assistance and are covered in the relevant sections below. It did however have flow-on effects to some core Ministry of Development assistance rates, specifically the Orphan's Benefit, Unsupported Child Benefit and the Foster Care Allowance. Orphan's Benefit and Unsupported Child Benefit are non-taxable, non-income-tested payments to help care for a child whose parents have died or who cannot support them for health, incapacity or family-breakdown reasons. Foster Care Allowance is payable to people caring for children who are in the care of the State for care and protection reasons. The flow-on effects occurred because recipients of these benefits are not entitled to the Family Tax Credit and so would not gain from the increases in that assistance. The new rates of the benefits are set out in Table 2.

The other Families Package change affecting benefit rates delivered by the Ministry of Social Development was the introduction of the Winter Energy Payment, which also came into force on 1 July 2018. This supplement, which is not taxable, is payable to all recipients of a working age benefit, Emergency Benefit, Veteran's Pension and New Zealand Superannuation.[16,17]

Table 2: Weekly Rates of Orphan's Benefit, Unsupported Child's Benefit and Foster Care Allowance.

Age of Child	**Weekly rate up to 30 June 2018**	**Weekly rate from 1 July 2018**
Under 5 years	$149.66	$169.97
5 – 9 years	$173.68	$193.99
10 – 13 years	$191.64	$211.95
14+ years	$209.52	$229.83
Living in family home (applies to Foster Care Allowance only)	$195.36	$215.67

In 2018, the Winter Energy Payment was payable on a weekly basis for the period from 1 July to 29 September; in future years it will be paid from 1 May to 1 October. The current rate, per week, is $20.46 for single persons with no dependent children and $31.82 for a couple or a single person with a dependent child living with them.

The Winter Energy Payment has been criticised as poorly targeted in two respects. First, it is payable to all over-65-year-olds because New Zealand Superannuation is universal; and, second, there is no regional variation despite the fact that winter heating costs are much lower in the warmer northern parts of the country than in other areas such as the Central North Island and the lower South Island.

4.7. Working for Families Family Tax Credits

'Working for Families' is the collective name for the various tax credits administered by Inland Revenue and available to people caring for dependent children who meet certain conditions. The tax credits are:

- *Family Tax Credit* (FTC). This is the main credit and is payable to all parents and carers with dependent children, subject to an income test.

[16] New Zealand Superannuation is universal for everyone over 65 years old who meets the residency requirements.
[17] It excludes those living in residential care.

- *In-Work Tax Credit (IWTC).* This is an additional payment for parents and carers who are not receiving a welfare benefit and meet a work-hours requirement of 20 hours work per week for a sole parent and 30 hours work per week (combined) for a couple with children. The payment is per family with an additional amount per child if the family has four or more dependent children.

- *Minimum Family Tax Credit (MFTC).* The MFTC is a 'top-up' payment the level of which is set each year such that a family is not worse off if they are working part-time and leave the benefit and take up the IWTC (i.e., they are working the 20 hours or 30 hours per week to meet the IWTC hours test).

- *Parental Tax Credit (PTC).* The PTC was a payment available to some new parents who did not qualify for Paid Parental Leave and were not receiving a benefit. As of 1 July 2018, it was discontinued and replaced by *Best Start*.

Best Start is a new payment payable in respect of children under three years old. It is universal (i.e., not income- or asset-tested) for children under one year old and is income-tested against family income for children aged one or two years.

The Families Package changes to the WFF credits described in last year's report were passed into law in December 2017 but came into effect on 1 July 2018. The main changes were to simplify the number of FTC rates and increase them, raise the abatement threshold and abatement rate for the tax credits, and to introduce Best Start. Table 3 on the following page sets out the parameters of the various assistance measures as from 1 July 2018.

Table 3: Design characteristics and parameters of Family Assistance programmes, 1 July 2018

Programme	Parameter setting
Family Tax Credit	
Eldest or only child	$5,878 p.a.
Subsequent child (each)	$4,745 p.a.
In-Work Tax Credit	
Family of 1, 2 or 3 children	$3,770 p.a.
Fourth and each subsequent child in family (each)	$780 p.a.
Work-hours test	Not receiving benefit and working 30+ hours per week (couple) or 20+ hours per week (sole parent).
WFF abatement threshold (FTC and IWTC combined)	$42,700 p.a.
WFF abatement rate	25%
Minimum Family Tax Credit	
Cut-out point	$26,156 p.a.
(i.e., after-tax family income is topped up to this level and abated dollar for dollar on earnings below the cut-out point):	
Work-hours test	As per In-Work Tax Credit
Best Start	
Per child under three years old	$3,120 p.a. (no payment if family is receiving Paid Parental Leave; $60 per week maximum weekly payment thereafter)
Abatement threshold	No income test for children under one year $79,000 p.a. for children aged one or two years
Abatement rate (one- and two-year olds)	21%

4.8. Child Support

There were no significant child support law or policy changes during 2018. The minimum child support payment level was adjusted for price inflation to be set at $936 per annum, per child.

In the year to 30 June 2018, Inland Revenue collected $473 million from 164,000 paying parents. Approximately 60 percent of this money, $287 million, was distributed to parents with care of children while the remaining 40 percent was retained by the State, under the long-standing policy of not passing child support payments on to parents in receipt of a Sole Parent Support benefit.[18] The Labour Government has signalled that it may change this policy in the 2019 Budget.

Child support debt continues to be very high – $2.3 billion – although it fell in 2018. Over 70 percent of the total debt is penalties for late payment.

New Zealand and Australia have an agreement to collect child support on behalf of each other in cases where the liable parent lives in the other country. In 2018, New Zealand received $51 million collected by the Australian child support agency and disbursed $14.6 million to Australia. New Zealand also collects maintenance on behalf of other countries under both the United Nations Convention on the Recovery Abroad of Maintenance and a Commonwealth Nations scheme. The total amount collected under these provisions is relatively small – less than $1 million in 2018.

4.9. Social Housing and Accommodation Benefits

The Government's 'KiwiBuild' programme got off to a slow and politically difficult start during 2018. The commitment is to build 100,000 'affordable' homes over 10 years, half of which in Auckland where the greatest need is. The homes are to be built in partnership with private developers and be sold to first-home buyers. Government has committed $2 billion to the programme, with the intention of recycling the funding as homes are sold.

The target for the first year was 1,000 homes, however, by December the Minister for Housing, Phil Twyford, had conceded that only about 100 homes were under construction and due for completion by mid-2019. It is becoming clear that Government will need to rethink its interim targets, if not the final 100,000 new homes figure.

The programme has been criticised as badly-targeted in that it is not intended to help low-income families, most of whom cannot afford the $600,000 price tag. It also appears that as well as some building firms being reluctant to participate in the scheme, there may also be difficulties in finding buyers who meet the criteria for the scheme and are willing to buy the homes.

The KiwiBuild situation was made worse by an employment dispute that resulted in the senior official in charge of the scheme leaving the role after only five months.

As reported last year, the Labour Government retained the increases in maximum Accommodation Supplement rates that had been proposed by the previous National-led Government. These new rates came into force on 1 April 2018, resulting in increases of between $20 and $80 per week in the maximum rates. There were also some adjustments to

[18] Except for any excess that is greater than the benefit being paid.

the four Accommodation Supplement zones (called "Areas") to reflect changing average rents in different locations.

In the Budget in May, the Government announced additional expenditure of $63.4 million over four years on the Housing First programme which is a programme to house and support people who have been homeless for a long time or who are homeless and face multiple or complex issues. The principle behind the programme is to provide the housing first and then provide the other supports they may need.

4.10. Parental Leave

Paid parental leave entitlements increased from 1 July as a consequence of changes enacted in the Parental Leave and Employment Protection Amendment Act which was passed on 1 December 2017 (see last year's report). The changes mean that the maximum duration of paid leave rises to 22 weeks for babies born or expected on or after 1 July 2018. In respect of babies born before that date the maximum was 18 weeks. Paid parental leave entitlements will increase to 26 weeks from 1 July 2020.

Paid parental leave entitlements are 100 percent of the person's actual average weekly earnings up to a cap which, for the 2018/19 tax year, is set at $564.38 per week before tax. There is a minimum payment (for those who qualify) of $165 per week.

4.11. Minimum Wages

The adult statutory minimum wage increased 75 cents to $16.50 per hour ($660 per 40-hour week) on 1 April. The Government is committed to a minimum wage of $20 per hour by April 2021 and, in line with this, announced in December that the minimum wage will increase by $1.20 per hour as from 1 April 2019.

There are three types of minimum wage. The adult minimum wage applies to all workers aged 16 or over who are not 'starting-out' workers or trainees. The starting-out minimum wage, which is set at 80 percent of the adult rate applies to 16- and 17-year olds who have not completed six months' continuous employment with their employer and to 18- and 19-year olds who have not completed six months' continuous employment and who had previously been on a welfare benefit for six months. It also includes 16- to 19-year olds doing 40 or more industry training credits. The training minimum wage (also 80 percent of the adult rate) applies to apprentices and other trainees aged 20 years or older who are undertaking at least 60 credits of training.

4.12. Kiwisaver

Kiwisaver is a contributions-based private superannuation scheme. Employers are required to match employee contributions up to three percent of annual wages. Government supports members' contributions by way of a 'member tax credit' of up to $521 per annum. The scheme has 2.8 million members.

There were no changes to Kiwisaver during 2018, however ongoing concerns at the level of administration fees charged by Kiwisaver providers has prompted the Government to announce that a review will take place in 2019 focusing on 'default providers' and including a review of fees charged. The average investment management fee during 2018 was $117, an increase of 19 percent on the previous year. Because of the planned review New Zealand First deputy leader, Fletcher Tabuteau, has withdrawn his private member's bill which would have regulated management fees.

4.13. Public Health

Health was seen as the 'big winner' in Budget 2018. Free General Practitioner visits were extended to all children under the age of 14 (previously the age was 13) and eligibility for the Community Services Card was broadened, making doctor visits $20 to $30 cheaper for approximately half a million people. The Budget also included substantial additional spending for hospital and other secondary-care services through the 20 district health boards (DHB). There was, however, a slight reduction in money allocated to Pharmac, the State-owned drug-purchasing agency.

The Government Inquiry into Mental Health and Addiction released its report in October. The report is titled *He Ora Oranga* which translates as 'Pathways to Wellness', reflecting the Inquiry Panel's emphasis on a holistic and all-of-society approach to improving mental health outcomes and reducing alcohol and drug addiction harm. *He Ora Oranga* is a long, detailed and well-argued report containing 40 recommendations. Key recommendations include substantially expanding access to specialist mental health services (from the current target of access for three percent of the population to about 20 percent); transforming primary health care to improve access to skilled help; and strengthening the NGO sector. With respect to drugs and alcohol, the report argues for much stricter regulations on the sale of alcohol and a replacement of the criminal sanctions relating to possession and use of drugs with civil and health-based responses. Government has not formally responded to the report yet but is expected to in 2019, including in the 2019 Budget.

4.14. Accident Compensation

There were no legislative changes to New Zealand's social-insurance-based system of accident compensation or to the Accident Compensation Corporation (ACC).

An important issue that remains unresolved concerns ACC's appeals process and access to justice for claimants whose claims are rejected or curtailed. ACC declines about 100,000 claims each year out of a total of about 1.9 million it receives annually. In the 2017-18 financial year, 7,600 claims were taken to the contracted disputes resolution service provided by the private company Fairway.[19] Concerns about the appeals process led to an independent review in 2016 conducted by Queen's Counsel Miriam Dean.

In 2018, ACC advised their Minister, Iain Lees-Galloway, that they had addressed the recommendations in Dean's report. Lawyers and advocates for ACC claimants, however, say that the complaints procedure is still unbalanced and unfair. The main issues raised by claimants are that it is difficult for them to get fair representation and reimbursement for its costs, and that the medical experts contracted to ACC tend to have fixed or biased views. The Government has deferred its Accident Compensation Legislative Modernisation Project until after it has received advice from other reviews which could have impacts for ACC policy, such as the Welfare Experts Advisory Group.

5. DEVELOPMENTS RELATING TO INTERNATIONAL SOCIAL SECURITY ARRANGEMENTS

On 1 May 2018, the United Nations Committee on Economic, Social and Cultural Rights released its Concluding Observations on New Zealand's fourth periodic report on compliance with the International Covenant on Economic, Social and Cultural Rights. The report recommended a number of areas where New Zealand could improve its compliance, including around justiciability of Covenant rights and the fact that New Zealand's Bill of Rights Act 'lacks supremacy' over other statutes. The Government has not indicated any intention to change the current arrangements.

There have been no changes in New Zealand's international reciprocal social security arrangements. There are currently agreements with Australia, Canada, Denmark, the Republic of Ireland, Jersey, Guernsey, Greece, Malta, the Netherlands, and the United Kingdom.

6. RELEVANT ACTS OF PARLIAMENT PASSED DURING 2018

6.1. Child Poverty Reduction Act

This Act, discussed in detail in Section 4.2. above, was passed on 20 December 2018. It specifies four primary and six supplementary measures of child poverty; requires governments to set and report on child poverty reduction targets; and requires the identification and monitoring of child-poverty-related indicators. The responsible Minister must set ten-year and three-year child poverty reduction targets and report to Parliament

[19] Stuff, 19 February 2019. https://www.stuff.co.nz/national/health/110789966/acc-tells-minister-justice-issues-have-been-fixed-but-advocates-not-so-confident.

on progress towards meeting these. It also requires that the Government Statistician produce annual reports measuring child poverty relating to the preceding financial year.

6.2. Children's Amendment Act

This Amendment Act, also discussed in Section 4.2, renames and amends the Vulnerable Children Act 2014. The new name is the Children's Act 2014. As discussed above, the main amendment is to replace the existing Part 1 of the Act with a Part requiring government to adopt, publish and review a 'strategy for improving children's wellbeing, and an oranga tamariki action plan.'

6.3. Domestic Violence – Victims' Protection Act

This Act, which was passed on 30 July 2018, enhances the employment rights of those who are affected by domestic violence. Those affected by domestic violence are defined as persons who have had domestic violence inflicted on them or who reside in house where a child has had domestic violence inflicted on them. The Act makes two principal changes. First, it amends the Holidays Act 2003 to provide for up to 10 days per year of domestic violence leave for employees with at least six months' continuous service. Second, it amends the Employment Relations Act 2000 to give employees the right to request a short-term (up to two months) variation in their working arrangements to help them deal with the effects of being affected by domestic violence.

6.4. Social Security Act 2018; Residential Care and Disability Support Services Act 2018; Artificial Limb Service Act 2018

These three Acts were created as a result of the passing into law of the Social Security Legislation Rewrite Bill. The purpose of the legislative rewrite was to simplify the legislation rather than to make policy changes. The Bill was introduced in 2016 under the previous government and some details were amended by the current Government to remove some policy changes in the earlier versions of the legislation.

The changes repeal the Social Security Act 1964, the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990, the Department of Social Welfare Act 1971, and the Employment Service and Income Support (Integrated Administration) Act 1988. The new Acts received Royal Assent on 28 September and most parts of the legislation took effect on 26 November.

6.5. Family Violence Act 2018 and Family Violence (Amendments) Act 2018

These two Acts are an overhaul of New Zealand's family violence legislation. The Family Violence Act, which comes into force in July 2019, replaces the Domestic Violence Act 1995. It is intended to give the various agencies involved in dealing with family violence a more consistent response. Its provisions include improvements to policy safety orders, increased inter-agency information sharing, extension of the definition of family relationship to cover the carer/recipient-of-care relationship, recognition of dowry-abuse as a form of family violence, and empowerment of the court to include any children of a victim in a protection order even if that child does not live with the victim.

The Family Violence (Amendments) Act makes changes to a number of Acts. The first stage of the Act came into force on 3 December 2018; the second stage will take effect on 1 July 2019. Among the provisions of the Amendments Act is the introduction of a specific offence of assault on a family member and the new serious offence of strangulation or suffocation. This latter provision follows evidence that strangulation is one of the most lethal forms of intimate-partner violence and is also an indicator of risk of future serious abuse.

The Amendments Act also includes changes to make it an offence to force someone into marriage in New Zealand or overseas, and to make breach of a protection order an aggravating factor in sentencing decisions.

6.6. Residential Tenancies (Prohibiting Letting Fees) Amendment Act 2018

This Amendment Act prohibits letting agencies, property management companies and landlords from charging tenants a 'letting fee' at the commencement of a tenancy. Such fees, which were most commonly set at one week's rent, had become increasingly widespread. They were charged in addition to the fee the agency charged the property owner.

The Amendment Act passed into law on 6 November and took effect from 12 December.

6.7. Minors (Court Consent to Relationships) Legislation Act

The purpose of this legislation is to require the consent of the Family Court for a person aged 16 or 17 years to marry or to enter a Civil Union. Previously, marriages or civil unions at this age only required parental consent. The legislation aims to prevent possible forced marriages by changing the consent requirement to a judge and requiring the judge to be satisfied the young person is entering the relationship freely and with full understanding of the implications. The change is expected to affect about 30 cases per year.

The legislation is the result of a private member's bill in the name of National MP Joanne Hayes but received support from both sides of the House.

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