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Michael Fletcher

# **Developments in Social Legislation and Policy in New Zealand**

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Max Planck Institute for Social Law and Social Policy

Amalienstrasse 33, D-80799 Munich, Germany

Tel.: +49 (0)89 38602-0

Fax: +49 (0)89 38602-490

E-mail: [info@mpisoc.mpg.de](mailto:info@mpisoc.mpg.de)

<http://www.mpisoc.mpg.de>

## LIST OF ABBREVIATIONS

- ACC ----- Accident Compensation Corporation
- CIRP----- COVID-19 Income Relief Payment
- GDP----- Domestic Product
- IWTC ----- Work Tax Credit
- MP----- Member of Parliament
- MPISOC -----Max Planck Institute for Social Law and Social Policy
- NZ\$ ----- New Zealand dollar
- PM----- Prime Minister
- RBNZ -----Reserve Bank of New Zealand
- RNZ ----- Radio New Zealand
- StatsNZ ----- Statistics New Zealand
- WFF----- Working for Families (Tax Credits)

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## 1. INTRODUCTION

In New Zealand, as in the rest of world, 2020 was dominated by the impacts of the COVID-19 coronavirus pandemic. The New Zealand Government's response to the pandemic has, so far, been highly successful in terms of public health. As at January 2021, the death toll stands at 25 or a per capita ratio of 0.51 per 100,000 population, the 10<sup>th</sup> lowest national death rate in the world (Johns Hopkins University, 2021). The majority of the 25 deaths were associated with outbreaks in two aged-care homes. All except three occurred before the end of May.

The first case of COVID-19 in New Zealand was confirmed on 28 February; a New Zealander who had returned from Iran.<sup>1</sup> Travel to and from China had already been restricted by the Government and this was immediately extended to Iran. Borders were fully closed to non-New Zealanders on 19 March at which point we had 28 identified cases. The Government also introduced a four-tier alert level system, with differing rules and restrictions at each level. On 25 March, when case numbers had reached 205, the country was put into the highest 'Alert Level 4' lockdown restrictions as part of a policy Prime Minister Jacinda Ardern described as 'going hard and going early'. The objective of the border controls and the lockdown was to achieve elimination of the virus from within the New Zealand resident population. Under the Level 4 lockdown only people deemed to be essential workers were permitted to go to their workplaces; schools and other educational facilities were closed, as were bars, cafes, and most shops and services. Supermarkets, petrol stations, medical facilities and small local convenience stores remained open, with strict two-metre social distancing rules applied in these places and all public spaces. (New Zealand authorities did not, however, promote or require mask-wearing until much later in the year). In addition, most travel was forbidden, other than local trips for necessities and the entire population was required to remain in their household 'bubble' without contact outside that small group. Outdoor exercise was permitted as long as it was local and social distancing rules were maintained. After some initial confusion, the legal authority of the Director-General of Health and the Police to issue and enforce these rules was clarified.

After 5 weeks, restrictions were relaxed slightly on 29 April by shifting to Alert Level 3, which included allowing schools to reopen, as well as takeaway food services. By this date, confirmed cases had reached almost 1,500 and there had been 19 deaths from COVID-19. However, new cases had dropped to two or three per day and these were all able to be linked to existing clusters rather than being untraceable community transmission. Restrictions were lifted (to Level 1) two weeks later and this remained the case throughout 2020 except for a two-week lockdown in the Auckland region in August following a small second outbreak there. The

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<sup>1</sup> Although, in September an historical case of a person who returned from Italy with the disease on 21 February was identified.

borders have, however, remained closed to all except returning New Zealanders and a small number of special cases.

At the time of writing (January 2021), there have been no deaths from COVID-19 since 15 September and the only positive cases have been among people arriving from other countries and undergoing the compulsory 14-day quarantine in one of the network of hotels being used for this purpose.

The political and economic impacts of the pandemic are discussed in the relevant sections below.

In last year's report I covered the horrific March 2019 terrorist attack on two Christchurch mosques in which 51 people were killed and 40 others wounded (Fletcher, 2020). In August this year, Brenton Tarrant, a 28-year-old Australian citizen, pleaded guilty to 91 charges of murder and attempted murder and one of committing a terrorist act. He was sentenced to life imprisonment without parole. A lifelong sentence without parole is the most severe punishment possible in New Zealand and it is the first time in New Zealand's history that it has been handed down.<sup>2</sup>

The Royal Commission established to inquire into the mosque attacks reported back in December. It confirmed that the terrorist had acted alone, that he had the intention of committing an attack when he came to New Zealand, and that he had spent most of the twenty months since he arrived here planning it. At the time, semi-automatic weapons were more readily accessible in New Zealand than in Australia, which may be one reason why he chose to carry out the attack in this country. The Commission acknowledged the difficulties facing public authorities in identifying 'lone-wolf' terrorists but was also critical of the Police for accepting gun-licence character references from two people who did not know the man very well. The report made 44 recommendations covering improvements to New Zealand's counter-terrorism systems and effort, improving firearms licensing, ongoing support for the needs of those directly affected by the mosque attacks, and improving social cohesion and responses to New Zealand's population diversity.

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<sup>2</sup> New Zealand abolished capital punishment in 1989, having not used it since 1957.

## 2. CURRENT POLITICAL, ECONOMIC AND SOCIAL SITUATION

### 2.1. The Political Situation

2020 was an election year. Originally set down for 19 September, the election day was deferred to Saturday 17 October because of the impact of travel and meeting restrictions on political campaigning.

Unquestionably, the coronavirus pandemic and the Government's handling of it was a central factor in the election, and the outcome was a resounding endorsement of the Labour Party and Ms Ardern. Labour won the majority of votes (just over 50 percent) giving it 65 seats in the 120-seat House, 19 more than it had previously. This is the first time any party has achieved an outright majority since the introduction of proportional representation in 1996. The main opposition party, National, who changed leaders twice during 2020, received only 25.6 percent of the vote and its number of seats fell by 20 to 33.

Fortunes were very mixed among the minor parties. Labour's previous coalition partner, the New Zealand First party, failed to get re-elected at all; while its other support party, the Green Party of Aotearoa New Zealand did relatively well, and now has 10 seats. The libertarian ACT party, went from having one MP to having 10, partly due to the popularity of its leader and partly because disillusioned National voters switched their support to ACT. Finally, the Māori party regained representation in Parliament as a result of winning one of the six Māori seats.<sup>3</sup>

Despite winning an outright majority, Labour opted to enter into a Cooperation Agreement with the Green Party similar to the 'confidence-and-supply' agreement between the two parties in the previous parliamentary term. Under the new agreement, the two Green Party co-leaders are Ministers Outside Cabinet with responsibilities in the areas of climate change, biodiversity, family violence and homelessness. The new Deputy Prime Minister is Labour's Finance Minister, Grant Robertson.

Two referenda were held at the same time as the general election. The first was whether to confirm the coming into force of the End of Life Choice Act permitting doctor-assisted euthanasia (see Section 6). It received 65 percent support from voters. The second concerned cannabis legalisation and was narrowly defeated 50.7 percent to 48.4 percent.

### 2.2. Economic and Fiscal Conditions

The economy was, unsurprisingly, severely affected by the pandemic. As well as the economic impact of the lockdown periods themselves, New Zealand's second biggest export earner, international tourism, ground to a complete halt from April onwards when the borders were

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<sup>3</sup> In the New Zealand system, a party is allocated its party vote share of seats if either it wins at least five percent of the vote, or at least one of the 72 electorate seats.

closed. The education sector has also been seriously affected by the loss of foreign fee-paying students. Gross Domestic Product (GDP) fell by 1.2 percent in the March quarter and 11 percent in the June quarter, however the bounce-back in September was stronger than many commentators expected (+14 percent), with the overall impact being a decline for the year to September of -2.2 percent. This compares with a growth of +2.8 percent in the year to September 2019 (StatsNZ, 2020). The Treasury's *December Half-Yearly Economic and Fiscal Update* reports a fall in real GDP per capita of -4.0 percent for the year to June 2020 (annual average change), and they are forecasting a further -1.0 percent fall in the year to June 2021 (New Zealand Treasury, 2020a).

The labour market has also been adversely affected by the pandemic, although less so than many people (this author included) had earlier predicted. The statistics paint a mixed picture but overall it is clear that stimulatory fiscal and monetary policies have, at least so far, been reasonably successful in protecting people's employment. Between the March and September quarters there was a decline of 43,500 in the number of people employed (1.6 percent). However, a strong recovery in the December quarter meant that, by year's end, the total number of people employed was actually 18,200 higher than in the December 2019 quarter. Similarly, the unemployment rate, which had jumped up mid-year, was an unexpectedly healthy 4.9 percent by the end of the year, although the underutilisation rate which is a wider measure of labour market slack, had risen from 10.4 percent to 12.3 percent. On all these labour market measures, women have fared relatively worse than men, and people under 25 years old worse than older workers. Although the increase in unemployment on a percentage basis was similar across ethnic groups, pre-COVID disparities mean that the unemployment rates for the Māori and Pacific peoples groups remain more than double the Pākehā/European rate (8.8 percent and 8.1 percent respectively compared to 4.3 percent for the Pākehā group).

In light of the stronger than expected recovery in the second half of 2020, the Treasury has reduced its forecast of future unemployment from a peak of 7.8 percent to a peak of 6.9 percent, expected to occur in the last quarter of 2021. However, it is also now predicting a slower reduction, with unemployment still averaging 4.0 percent for the year to June 2025.

Government's fiscal position, which had been strong prior to the beginning of the year, has taken a big hit as a result of the pandemic. On 17 March, the Minister of Finance set out a NZ\$ 12.1 billion support package and this was followed in May by the establishment of a NZ\$ 50 billion COVID-19 Response and Recovery Fund. By December, the Treasury's estimates were that a total of NZ\$ 52.8 billion of these two funds had been allocated for spending up to the 2025 June year, leaving NZ\$ 10.3 billion in reserve in case of further COVID outbreaks (New Zealand Treasury, 2020a). Social support aspects of this spending are discussed in the relevant sections below.



The overall fiscal impact of this additional expenditure is that net Crown debt is forecast to rise from under 20 percent of GDP to a peak of 53 percent in the 2023 year. Although high by recent New Zealand standards, this figure is considerably lower than many other OECD countries.

### 2.3. Social Conditions

The biggest impacts on social conditions during 2020 were the pandemic and house and rental costs. While there are clear connections between the two, the housing market has also been affected by influences that pre-date COVID-19.

New poverty and child poverty data have not yet been released by Statistics New Zealand (they are due out in late February 2021). However, at the time of Budget in May 2020, the Treasury released forecasts indicating that it believed Government was on track to meet its self-imposed targets for the two income-based measures of child poverty by 2021. This assessment was perhaps rather optimistic in one case. The measure of relative poverty, 50 percent of median income before housing costs, was, by their figures, only just within the margin for error by 2021 (and not trending anywhere near the long-term target of 5 percent by 2028) (New Zealand Treasury 2020b). Officials' post-election briefing to the incoming Minister for Child Poverty Reduction<sup>4</sup> in November advised that they expected COVID-19 to have had a negative effect on the 'fixed-line' (i.e. inflation-adjusted) income measure and the direct material hardship measure, and an uncertain impact on the relative poverty rate depending on how the pandemic affects median incomes (Department of the Prime Minister and Cabinet, 2020). Whatever the final out-turn, policy changes during 2020 will have blunted the worst effects of COVID-19, but there have been no new initiatives that will have dramatically lowered longer-run child or adult poverty trends.

The number of working age people receiving a welfare benefit increased by 23.9 percent over the year to December 2020. This figure, which does not include beneficiaries' spouses or partners, means that one in eight (12.4 percent) of all people aged 18 – 64 are receiving a benefit. Unsurprisingly, given the impacts of the pandemic, the biggest increase has been in the number of people unemployed and receiving the Jobseeker Support benefit. Numbers on this benefit rose 44 percent during the year to 212,468 by 31 December 2020. The two other main benefit categories, Supported Living Payment (for people with disabilities or serious health conditions) and Sole Parent Support rose 0.9 percent and 10.4 percent respectively. By the end of the year, there were 94,420 people on Supported Living Payment, and 67,560 on Sole Parent Support.

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<sup>4</sup> The Prime Minister has retained this portfolio, but it is standard practice in New Zealand for officials to prepare a 'Briefing for the Incoming Minister' for each portfolio irrespective of whether it turns out that a new person is given the portfolio or not.

The growth in beneficiary numbers reflects the impact of COVID-19 as a cause for concern because of the high rate of poverty amongst those reliant on welfare in New Zealand. Forecasters are expecting welfare rolls to continue to rise throughout 2021 (and the number of long-term unemployed to increase), although as noted in the previous section, the most recent unemployment forecasts are less gloomy than earlier ones had been.

There are three aspects to the current housing crisis: high and rising rents in many parts of the country, a rapid increase in the number of people in emergency accommodation or on the waiting list for State rental accommodation, and spiralling house prices that are creating severe affordability problems for first-home buyers. The median rental price rose 3.1 percent in the year to December 2020 (by comparison, overall consumer prices rose 1.4 percent). This is despite Government instituting a 6-month rent freeze from April to October as part of the response to COVID-19. By December, the median rent was NZ\$ 520 per week, equivalent to 49 percent of the average wage before tax, and 69 percent of the full-time minimum wage.

A lack of suitable housing plus high rents has resulted in a massive increase in the numbers of applicants on the Government Housing Register, which records all applicants assessed as meeting the criteria for priority need for State or community-provider<sup>5</sup> housing assistance. Between November 2019 and November 2020, the number on the register increased 55 percent to 22,409 individuals or families. This increase is despite Government's house-building programme which will result in approximately 2,500 additional social housing units built by mid-2021.

Meanwhile, house prices have also been continuing to rise dramatically. Nationally, the median prices of houses sold in December 2020 was 19.3 percent higher than the same month a year earlier (Chaston, 2021). By the end of the year, the median house sale price was NZ\$ 750,000, more than 13 times the gross median income from wages and salaries. High net migration from 2012 to 2019, very low interest rates, and minimal taxation of capital gains are driving forces behind the continuation of house price increases, with a cumbersome regulatory system governing new housing developments also contributing. Interest rates, which were already low by historical standards, were pushed lower by the Reserve Bank during 2020. This has successfully contributed to stimulating the economy during the pandemic but has fed through to higher demand for housing. Economists are predicting continued strong price growth in 2021 and beyond and pressure is mounting on Government to do more to restrain that growth.

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<sup>5</sup> "Community provider" refers to a non-profit organisation or iwi group that is recognised by government as a community housing provider.

### **3. CASE LAW DEVELOPMENTS**

In previous reports (Fletcher, 2018, 2019) I have discussed the problems arising from the Ministry of Health’s Funded Family Care programme, which provides a (low) wage payment to family members caring full-time for severely disabled adults. In most cases, it is a parent caring for an adult child who has been disabled since birth. The previous government had introduced a widely criticised amendment to the New Zealand Public Health and Disability Amendment Act which prevented care-givers from taking legal action for discriminatory pay or employment policies under the Family Funded Care programme. Labour repealed this amendment in August (see Section X) and, as well, raised the wage paid to carers, however problems continue to exist with the programme. Under the model used by the Ministry, the disabled person is deemed to be the employer and the carer his or her employee. This farcical charade is to avoid the Ministry, or its Minister, having legal responsibilities under the Employment Relations Act 2000. In December, Christine Fleming, who has cared for her son for 40 years, took the Minister of Health and the Minister for Disability Issues to the Employment Court seeking a declaration that rather than being employed by her disabled son she is in fact providing disability support services to the Ministry of Health. If successful – and the Court has not issued its decision yet – this would allow Mrs Fleming and other carers to pursue a case that the Ministry has failed in its duty as an employer.

There were no significant developments in Social Security Act case law during 2020.

### **4. SOCIAL POLICY AND SOCIAL LAW DEVELOPMENTS**

The major changes to social policies and social law during 2020 centred on special programmes and policies to respond to the impacts of the pandemic. Overall, these were focused around supporting employers and the self-employed with the aim of maintaining people’s attachment to their jobs even during periods when the business was closed, and no work could be done. A second objective was to cushion the blow for those people who did lose employment.

#### **4.1. Wage Subsidies and Social Welfare Benefits in Response to COVID-19**

The central plank in the Government’s COVID-19 response was a temporary wage subsidy scheme, which was announced on 17 March. The objective of the scheme was to provide workers with income support in a way which maintained attachment to their employer and kept permanent redundancies to a minimum. The scheme initially operated from 27 March to 9 June, with a slightly more targeted extension continuing until 1 September. The subsidy was available to employers who had experienced a 30 percent or greater loss of revenue due to the pandemic and who had taken ‘active steps’ to mitigate or absorb the losses. Employers

claiming the subsidy were required to keep the subsidised staff on the payroll, to pay them 80 percent of usual wages if possible and at least the amount of the subsidy if not. The subsidy, which was paid to employers in advance in a lump sum, was for 12 weeks at a rate of NZ\$ 585.80 per week for workers usually employed 20 hours or more per week and NZ\$ 350 per week for part-time staff.

In terms of both people and money, this wage subsidy programme was many, many times larger than any comparable scheme in New Zealand's history. At its peak it was supporting almost 1.7 million jobs and by end September a total of NZ\$ 14 billion had been paid out (Ministry of Social Development, 2020). While there has been no formal evaluation of the programme, it appears that it was effective in protecting many jobs which would otherwise have been lost through business closures or reductions in staff numbers. There have been a few accusations in the media that some firms claimed the wage subsidy when they were not entitled to it, or – slightly differently – when they may have been technically entitled to it but morally should not have claimed because they had the resources to pay their staff without Government assistance. By the end of the year, some 17,600 businesses (2.3 percent of subsidy recipients) had voluntarily opted to repay all or part of the payments received.

Also in the March package, the Government announced a permanent increase of NZ\$ 25 per week in main welfare benefit rates to take effect from 1 April 2020. The rise was in addition to the annual adjustment to match the previous year's increase in average wages. While significant, the NZ\$ 25 benefit increases are substantially less than those recommended in 2019 by the Welfare Expert Advisory Group.

A third component of the initial March package of responses to the pandemic was a one-off doubling of the Winter Energy Payment. The Winter Energy Payment is paid from May to September each year to beneficiaries and National Superannuation recipients. The rates for 2020 were increased to NZ\$ 40.91 per week for single people and NZ\$ 63.64 per week for couples and families.

Later in the year, the Government introduced the temporary COVID-19 Income Relief Payment (CIRP). This came into effect on 8 June (the day the wage subsidy was originally intended to end) and ended on 14 November. CIRP was targeted at those who had been working at least 15 hours per week for the preceding 12 weeks and had lost their job because of COVID-19. The logic behind the CIRP was to provide short-term (12-week) income replacement assistance for people made unemployed by the pandemic and, in particular, people whose jobs ended once the wage subsidy ran out. As such, the rate of payment was set equal to the after-tax equivalent of the wage subsidy (NZ\$ 490 net per week), which is considerably higher than the single rate of Jobseeker Support benefit. Also unlike the benefit, it was not subject to a spousal income test, except in the case of a very high-earning spouse.

These features made the CIRP unusual – and controversial – for New Zealand in that it temporarily introduced a two-tier welfare structure into a framework based around a single-tier, flat-rate benefit system. Although nothing concrete has emerged, Government and its employer and trade union social partners have expressed some interest in further developing a two-tier structure with some form of permanent unemployment insurance scheme for New Zealand workers. Others have urged action to raise the welfare floor first before introducing insurance schemes (see for example Rosenberg (2020) and Fletcher (2020) for contributions to this debate).

Take-up of the CIRP turned out to be lower than initially expected – approximately 38,000 people in total – mainly, it seems, because of the better than expected unemployment out-turn.

#### **4.2. Working for Families Family Tax Credits**

The only policy change affecting the Working for Families family tax credits was the removal in March of the minimum hours-worked requirement for receipt of the In-Work Tax Credit (IWTC). This was removed to recognise the disruption to people’s work hours caused by the pandemic. Its effect was that any person previously entitled to the IWTC could continue to receive it as long as they still had a job.

The usual indexation of the Minimum Family Tax Credit took effect from 1 April 2020, raising the threshold from NZ\$ 534 per week to NZ\$ 566 per week.

#### **4.3. Child Support**

The Child Support (child maintenance) system remained unchanged throughout 2020 except for the uprating from 1 April of the minimum payment threshold and the maximum cap on liable income. The former rose to NZ\$ 954 per annum and the latter to NZ\$ 153,376 per annum.

A Bill is currently before the Parliament that will, among other things, widen the definition of income for the purposes of assessing child support liabilities (income hiding has been a problem) and extend the circumstances when Inland Revenue can make automatic deductions from wages to meet child support payments. I will report on this legislation next year once it is enacted.

#### **4.4. Social Housing and Accommodation Benefits**

Despite the increasing severity of the housing crisis and rising rents, there were no changes to the Accommodation Supplement, the principal housing benefit in New Zealand, nor in the Income Related Rent Subsidy, which is received by those living in State or social housing. The most recent data show that more than one in three of the lowest-income quintile of

households pay in excess of 40 percent of their income in rent (Fallow, 2021). As mentioned above, by November there were 22,400 applicants on the social housing waiting list. By comparison, the equivalent figures were 14,000 one year earlier and 3,500 five years ago. By September 2020 there were also 4,000 families with children being accommodated in emergency housing in motel units (Blake-Persen, 2021).

#### **4.5. Paid Parental Leave**

There were no changes in paid parental leave policy during 2020 and the maximum and minimum rates remain at NZ\$ 606.46 and NZ\$ 189 per week before tax respectively.

#### **4.6. Minimum Wages**

Statutory minimum wages are prescribed under the Minimum Wages Act 1983. That Act requires the responsible Minister to undertake an annual review of minimum rates. At the time of the 2017 election, Labour and New Zealand First agreed to a series of step-by-step increases in minimum wage rates that would bring the adult minimum to NZ\$ 20 per hour gross by 1 April 2021. The scheduled increase from NZ\$ 17.70 per hour to NZ\$ 18.90 per hour went ahead on 1 April 2020 despite calls from some employer representatives that it should be deferred because of the impacts of COVID-19. The Government rejected this argument on the grounds that it had already put in place the Wage Subsidy programme to help employers deal with a downturn in business due to COVID-19. The youth minimum and the ‘starting out’ minimum rates were also adjusted to remain at 80 percent of the adult rates.

#### **4.7. KiwiSaver**

The Government-managed private retirement savings scheme, KiwiSaver, remains under review with final decisions to be made in May 2021. As mentioned in last year’s report, one of the central issues in the review is the level of administrative fees charged by KiwiSaver providers and Government is using the bidding process for the allocation of ‘default provider’ status as a mechanism to put downward pressure on fees.

#### **4.8. Public Health**

Public health was, of course, dominated more or less entirely by COVID-19-related issues, including the lockdowns, setting up managed isolation and quarantine facilities for overseas arrivals, establishing COVID-19 testing, track-and-trace processes for possible contacts of COVID cases, and negotiating with several pharmaceutical companies for the purchase of vaccines when they become available. On this last issue, New Zealand contributed to the international COVAX Facility through which countries co-fund the development and distribution of vaccines. New Zealand’s arrangement includes provisions for vaccines for people in Tokelau, Cook Islands and Nuie, who all have New Zealand citizenship rights.

On non-COVID matters, a large and comprehensive report by the Health and Disability System Review Committee was released in mid-year. This review was more or less completed before COVID-19 arrived but its release was deferred for several months due to the priority given to the pandemic. The report recommends a major overhaul of New Zealand’s public health system including establishment of an independent Māori Health Authority agency, changes to the Ministry of Health’s roles, a halving of the number of District Health Boards, and a shift to appointment of Board members by Government rather than through public elections as at present. Government has made no decisions about the review’s recommendations as yet and it appears unlikely that there will be any large-scale structural changes in Health before the 2023 election even if they do decide to accept the review’s recommendations.

#### **4.9. Accident Compensation**

There were no legislative or significant policy changes made to the Accident Compensation Corporation (ACC) scheme during 2020. The Government did, however, announce a two-year freeze on levy rates paid by employers, the self-employed and motorists as a pandemic relief measure. Invoices normally due in July were also deferred until October to make it easier for firms to deal with the revenue losses due to the pandemic. The levy freeze should not cause any difficulties for ACC’s financial position as its investment portfolio did well during 2020 and, in addition, Government had reduced its solvency requirement from 105 percent to 100 percent.

### **5. DEVELOPMENTS RELATING TO INTERNATIONAL SOCIAL SECURITY ARRANGEMENTS**

New Zealand currently has reciprocal social security agreements with Australia, Canada, Denmark, the Republic of Ireland, Jersey, Guernsey, Greece, Malta, the Netherlands, and the United Kingdom. Late in 2019, it also signed an agreement with South Korea. This agreement, which follows a bilateral free trade agreement signed in 2015, allows for reciprocal payments of old age pensions/New Zealand Superannuation and Veteran’s Pensions to people of one country living in the other. It is scheduled to come into effect in 2021.

### **6. RELEVANT ACTS OF PARLIAMENT PASSED DURING 2020**

#### **6.1. Abortion Legislation Act 2020**

This Act received Royal Assent on 23 March 2020 following a 68 to 51 conscience vote in the House. The effect of the Act is to liberalise New Zealand’s abortion laws. It allows a qualified health practitioner to provide a woman with abortion services at her request up until 20 weeks’ gestation and to do so if ‘clinically appropriate’ after 20 weeks. The Act also removes



all reference to the provision of an abortion by a health practitioner from the Crimes Act 1961. There are provisions for conscientious objection by health practitioners who do not wish to provide abortion or contraception services; these require the doctor to provide the patient with details of their nearest alternative provider.

## **6.2. COVID-19 Public Health Response Act 2020 and COVID-19 Recovery Act 2020**

The first of these Acts (and a number of subsequent amendments to it) was to put in place the necessary legislative framework for the Government to be able to pass regulations governing lockdowns, restrictions on movements, quarantining and the like in response to the pandemic. While some of the regulation-making powers already existed under the Public Health Act 1956 and civil emergency laws, it turned out that these were insufficient. In addition, some powers sat with the Director-General of Health rather than, more appropriately, with the Cabinet or Minister of Health.

As its name implies, the COVID-19 Recovery (Fast-track Consenting) Act 2020 established a process for a quicker-than-usual consenting process for Government infrastructure and investment projects that are intended to create employment opportunities as part of the recovery from COVID-19. The process is based around having a panel of experts make recommendations to Ministers about major projects, and limits the role of the usual processes set out in the Resource Management Act 1991.

## **6.3. Mental Health and Wellbeing Commission Act, 2020**

This Act, passed in June, follows a 2019 review committee recommendation. It establishes a Mental Health and Wellbeing Commission as a Crown Entity tasked with monitoring and reporting on mental health and wellbeing issues and making recommendations to Government for improvements. A board of five commissioners has been established and the Commission is expected to issue its first reports in 2021.

## **6.4. Smoke-Free Environments Amendment Act, 2020**

The Smoke-Free Environments (Prohibiting Smoking in Motor Vehicles Carrying Children) Amendment Act is the next in a series of legislative steps to restrict tobacco use and protect people (in this case, children) from the harmful effects of passive smoking. The penalty for smoking in a car carrying a child has been set quite low – a NZ\$ 50 infringement fee, or up to NZ\$ 100 where a fine is imposed by a court. Presumably the intention is that the legislation will have its main influence by altering social norms rather than by widespread enforcement of penalties. The Act became law on 28 May 2020 but does not come into force until 18 months after that date.



### **6.5. Urban Development Act, 2020**

The Urban Development Act establishes streamlined mechanisms for the Government's housing agency, Kāinga Ora, to acquire and develop land for urban development and for processes specific to Kāinga Ora urban development projects. As such it is part of the Government's efforts to speed up its social housing projects and reduce the administrative red tape involved in such projects while still ensuring environmental and other concerns are taken into account.

### **6.6. Taxation Act, 2020**

The Taxation (Income Tax Rate and Other Amendments) Act was passed in December following the general election. Its primary purpose is to implement the Labour Party's election promise to introduce a new top tax rate of 39 percent on individual incomes over NZ\$ 180,000 per annum. Previously, the top tax rate was 33 percent on incomes over NZ\$ 70,000 per annum (although the top rate had been 39 percent between 2000 and 2009). The threshold for the new rate is the same as in Australia but the rate is lower. In Australia, incomes over NZ\$ 180,000 are taxed at 47 percent. Labour's pre-election estimates were that only two percent of taxpayers would be directly affected by the new rate, and that it would increase Government revenue by NZ\$ 550 million.

### **6.7. End of Life Choice Act, 2019**

This Act makes provision for medically assisted deaths for eligible people under certain circumstances. It is the result of a Private Member's Bill put forward by ACT Party Leader, David Seymour, in 2017. The Act was eventually passed by Parliament in November 2019 on a conscience vote with the provision that it would only come into effect if it received majority support in a public referendum to be conducted simultaneously with the 2020 general election. The Act attained 65 percent support in that referendum and so will take effect in October 2021, 12 months after the vote. To be eligible for medically assisted dying a person must be over 18 years old, in an advanced state of irreversible decline in physical capability, experiencing unbearable suffering that is not able to be relieved to a tolerable extent, be suffering a terminal illness that is likely to end their life within six months, and be competent to make an informed decision about assisted dying.

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Dr Michael Fletcher  
Senior Research Fellow  
Institute for Governance and Policy Studies  
Wellington School of Business and Government | Ōrauāriki  
Te Herenga Waka—Victoria University of Wellington, Aotearoa-New Zealand  
[www.wgtn.ac.nz](http://www.wgtn.ac.nz) | 0800 04 04 04  
Email: [michael.fletcher@vuw.ac.nz](mailto:michael.fletcher@vuw.ac.nz)

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