

Coversheet: Child support Business Transformation

Advising agencies	<i>Inland Revenue</i>
Decision sought	<i>Approve proposed amendments to the Child Support Act 1991 intended to improve the administration of the scheme and incentivise compliance and payments</i>
Proposing Ministers	<i>Minister of Revenue</i>

Summary: Problem and Proposed Approach

Problem Definition

What problem or opportunity does this proposal seek to address? Why is Government intervention required?

As part of Inland Revenue's Business Transformation (BT) programme to modernise the tax system, the child support scheme will move to new systems and processes in April 2021.

Some aspects of the current child support scheme are overly prescriptive and do not support engagement and compliance with the scheme as well as they could do.

The BT change provides an opportunity to make legislative changes to improve administration, make the rules fairer, less complex and more flexible, thereby improving compliance (particularly for liable parents) with the scheme which in turn supports improvements to the welfare of children.

If policy changes to simplify the legislation are not made now, the existing complexity of the current legislation will need to be built into the new system.

Proposed Approach

How will Government intervention work to bring about the desired change? How is this the best option?

The proposals are to:

- change the penalty rules – including introducing a penalty grace period for people newly liable, or returning to the scheme;
- introduce compulsory employer deductions from salary and wages for newly liable parents;
- put a time limit of four years on retrospective reassessments;
- change the definition of "income"; and
- make a number of minor and technical amendments, including working with customers in unusual circumstances.

Taken together, the proposals will make the rules fairer and less complex. This should improve engagement and compliance with the scheme which would in turn support improvements to the welfare of children. They will allow Inland Revenue to work better with parents to help prevent debt occurring in the first place.

Section B: Summary Impacts: Benefits and costs

Who are the main expected beneficiaries and what is the nature of the expected benefit?

The beneficiaries of the proposals are parents, carers and children in the child support scheme.

As at 31 May 2019 the child support customer base was made up of:

- 164,000 liable parents (including 29,700 with debt only);
- 135,500 receiving carers; and
- 182,800 children.

The proposals are expected to simplify parts of the scheme and make it fairer which should better incentivise and improve compliance of liable parents. This improves payment certainty and timeliness for receiving carers which contributes to the welfare of their children.

Where do the costs fall?

The costs of administering the child support scheme fall on Inland Revenue.

There is the potential for increased costs on employers as a result of the compulsory deduction proposal for newly liable parents. However, employers are already required to deduct in cases when the liable parent has chosen employer deduction as a payment method or has defaulted on a payment. Accordingly, this proposal should only result in a marginal increase in costs for employers who do not currently deduct child support, or for those employers for whom the proposal increases the number of employees that they must make deductions for. Over time we estimate an additional 3,800 employers will be asked to make child support deductions.

What are the likely risks and unintended impacts, how significant are they and how will they be minimised or mitigated?

Some people may not respond as expected to the penalty measures and levels of compliance could reduce. This can be mitigated by use of customer education and existing enforcement provisions, the proposed introduction of compulsory deductions for newly liable parents and improved information made available through Inland Revenue's BT programme.

Identify any significant incompatibility with the Government's 'Expectations for the design of regulatory systems'.

The proposals are compatible with the Government's "*Expectations for the design of regulatory systems*".

Section C: Evidence certainty and quality assurance

Agency rating of evidence certainty?

Inland Revenue has a medium–high level of confidence in the evidence base.

The key uncertainty is the impact of the penalty proposals on customer behaviour which cannot be modelled. However, literature suggests that measures designed to be fairer are more likely to lead to better compliance outcomes. Research Inland Revenue conducted with child support liable and receiving carers¹ indicated that penalties had a role to play in encouraging compliance but that the overly punitive nature of the current penalties and the complexity of the penalty rules acted as a barrier to compliance.

Inland Revenue collects data relating to numbers of liable parents, compliance levels, debt and penalties imposed. This data has been used to estimate the potential direct impacts of the penalty proposals, compulsory deductions for employers, the effect of the time bar proposal and the change that the income definition could have.

Some of the administrative data is manually input and therefore subject to errors however their impact should be relatively minor and would not change the “dollar” value of the impacts.

The data relating to interest and dividends (which is relevant to the proposal to change the definition of income) is being sourced from Inland Revenue’s new system START and it is the first period that this income has been provided. While every effort has been made to ensure it is complete, there is no benchmark to compare to and it is likely some data is missing given the newness of these rules. Currently, all dividend information is sourced from records provided by parents. It will become compulsory for third parties to provide this information from 1 April 2020 which should improve the data from that point onwards.

We are unable to identify the impacts of some of the more minor and technical amendments - such as allowing overseas liable parents to apply for prisoner exemptions. However, we consider that these changes will affect few customers and will help to make the child support rules fairer.

Quality Assurance Reviewing Agency:

Inland Revenue

Quality Assurance Assessment:

The Quality Assurance reviewer at Inland Revenue has reviewed the *Child support Business Transformation* Regulatory Impact Assessment prepared by Inland Revenue, and considers that the information and analysis summarised in the Regulatory Impact Assessment meets the quality assurance criteria.

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982

¹ The research consisted of 27 one-on-one interviews around the country. The interviewees were a mix of liable parents and receiving carers, and a mix of levels of income including beneficiaries.

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982

Reviewer Comments and Recommendations:

The reviewer's comments on earlier versions of the Regulatory Impact Assessment have been incorporated into the final version.

Impact Statement: Child support Business Transformation

Section 1: General information

Purpose
Inland Revenue is solely responsible for the analysis and advice set out in this Regulatory Impact Assessment, except as otherwise explicitly indicated. This analysis and advice have been produced for the purpose of informing final decisions to proceed with a policy change to be taken by Cabinet.

Key Limitations or Constraints on Analysis

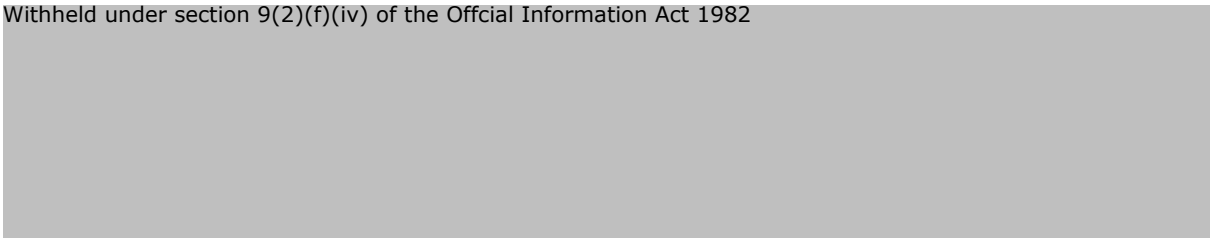
The proposals were developed as part of the Business Transformation (BT) programme that Inland Revenue is undertaking. The scope of the programme was predominately focussed on changes to improve the overall administration of the New Zealand tax and social policy systems by reducing compliance and administrative costs rather than any fundamental policy shifts.

A time constraint exists to implement the recommended options because the opportunity to progress any changes is provided by Inland Revenue's BT programme which sees child support move from the current system (FIRST) to the new system (START) in April 2021. If policy changes to the child support administrative rules are not made in time for the roll-out of START, the complexity of the existing administrative rules would need to be incorporated into the design of START.

Extensive public consultation took place on the main proposals in this Regulatory Impact Assessment with the exception of the proposal to introduce a time bar for reassessing past years, and the specific penalties proposals relating to the penalty changes.

Research was conducted with a small number of liable parents and receiving carers to gauge their attitudes towards the penalty rules and how they see penalties affecting compliance.

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982



The problems around the current policy that reassessments can happen at any time for any year was identified more recently. Due to time constraints, consultation on the proposal to introduce a child support time bar was limited to interest groups rather than parents and carers.

Some of the minor or technical changes were not consulted on due to their minor nature. However, the use of discretion for those in unusual circumstances was included in the 2017 discussion document *Making Tax Simpler: Better administration of social policy*.

The data used to analyse reassessments in relation to the time bar proposal are liable parent-centric and identify impacts specifically on liable parents (although this means the opposite impact occurs for the receiving carer).

Also, some of the administrative data is manually input and therefore subject to errors. However, this impact should be relatively minor and would not change the "dollar" value of the impacts.

The income data relating to interest and dividends has been sourced from Inland Revenue's new system START and it is the first period that this income has been provided. While every

effort has been made to ensure it is complete, there is no benchmark to compare to and it is likely some data is missing given the newness of these rules.

We are unable to identify the impacts of some of the more minor and technical amendments such as allowing overseas liable parents to apply for prisoner exemptions. However, we are confident that these changes will affect few customers and will result in intended policy outcomes.

Responsible Manager (signature and date):

Mike Nutsford
Policy Manager
Policy and Strategy
Inland Revenue
8 August 2019

Section 2: Problem definition and objectives

2.1 What is the context within which action is proposed?

Inland Revenue's multi-year transformation programme is modernising New Zealand's revenue system. Once complete, customers will spend far less time and effort ensuring they meet their obligations and receive their correct social policy entitlements. Child support is part of release 5² of BT which provides an opportunity to review how the revenue system is administered and consider what changes may be needed.

The Government is concerned with improving the welfare of children and minimising the impact of government agency debt on New Zealanders.

The child support scheme works to ensure that children are appropriately supported by both their parents even when they are not living together as a family. Inland Revenue assesses, collects and disburses payments. As part of the assessment process Inland Revenue will identify the liable parent (the parent responsible for making the child support payment) and the receiving carer (the parent (or other carer) entitled to receive the child support payment).

When a liable parent does not pay or pay on time they are charged initial late payment penalties and continue to be penalised each month until they pay or come to an arrangement to pay the outstanding amount. The financial burden when a liable parent does not pay falls on the receiving carers and their children.

Aspects of the current penalty rules unreasonably penalise parents. Child support debt is significant at \$2.2 billion dollars³ with penalties making up a large portion – 75%. Changes introduced to penalties and write-offs in 2015 have slowed the growth of child support debt but primarily through write-offs and reducing penalty charges rather than addressing debt prevention.

Liable parents' compliance in their first three months of liability is very low – less than 30% pay on time as they adjust to being required to make payments.

Liable parents are proportionately over-penalised by a \$5 penalty rule that requires the 2% initial penalty for defaulting on payment to be a minimum of \$5. This rule affects any liable parent with a monthly obligation of less than \$226, which means it particularly affects liable parents on lower incomes. The minimum monthly child support assessment is \$78.

Penalty debt is 97% impaired (when imposed) meaning it is largely not expected to be collected. Write-offs have been successful as an incentive to get some parents to re-engage with the scheme but are not effective at preventing debt.

Some liable parents are concerned that the rules do not encourage them to comply with their child support payments and at times could promote non-compliance. This is because the rules are complex, can penalise parents unreasonably, and in some cases create uncertainty for all parties (including Inland Revenue). Receiving carers are most concerned about the

² BT is being progressively rolled out over each tax and social policy type. Release 5 is scheduled for April 2021.

³ Includes liable parent, receiving carer, and employer debt. Liable parent debt arises from payments by the liable parent to the receiving carer being made late, or not being paid. Receiving carer debt arises from overpayments to the receiving carer. Employer debt arises when the employer has deducted a child support payment from a liable parent's wages or salary but has not passed the payment on to Inland Revenue.

non-payment of child support as it impacts on their ability to support their children.

There are some unintended or inequitable outcomes as a result of some of the rules in the scheme. For example, because the rules do not cater for some complex family arrangements a liable parent may be assessed to pay more than they should be. These outcomes can contribute to a liable parent's willingness to engage with the scheme and therefore lead to non-compliance.

If the current rules were left in place reliance would solely be placed on operational improvements that may be provided through BT. However, the policy problems outlined above would largely remain and improvements to child support compliance and engagement may not be achieved.

2.2 What regulatory system, or systems, are already in place?

Child Support Act 1991

The New Zealand administrative child support scheme has been in place since July 1992.

The key feature of the regulatory system is to assess, collect and disburse child support in accordance with the Child Support Act 1991. The key objective of child support is to ensure that children are appropriately supported by both their parents even when they are not living together as a family.

Any parent or carer can make an application for a child support assessment.⁴ Using a formula that is legislated for under the Act, Inland Revenue assesses which parent is liable for a child support payment (the liable parent) and which parent will receive child support payments (the receiving carer), and the amount to be paid by the liable parent. This formula includes components such as the income of each parent, the age of the child, and how much care of the child each parent does.

Changes were made in the child support reforms (effective 1 April 2015) to modernise the scheme and improve fairness, primarily through changes to the formula assessment and by assessing the income and other circumstances of both parents (rather than just the liable parent).

Once Inland Revenue has determined who the liable parent is, the liable parent must make the child support payment to Inland Revenue. Child support payments are due to Inland Revenue monthly. Inland Revenue then passes the payment on to the receiving parent.

When payments are not made, or not made on time, the financial burden generally falls on carers and their children.⁵ Penalties and other tools (such as contact by Inland Revenue and compulsory deductions for defaulting liable parents) are used by Inland Revenue to encourage compliance.

⁴ For parents receiving a sole parent rate of benefit from the Ministry of Social Development the scheme is mandatory, and they must apply for a child support assessment against the child's other parent. Child support payments are used to offset the cost of benefits paid.

⁵ Or if the receiving parent is on a sole parent benefit, there is an impact on Government revenue because in those cases the payment is not passed on to the carer.

Initial late payment penalties apply if a payment is not paid on time. In addition to the initial late payment penalties, for each subsequent month that the child support remains outstanding (with no repayment arrangement in place), compounding incremental penalties are also applied (initially at 2%, but reduced to 1% after 12 months).

International agreements

There is a reciprocal agreement with Australia which allows for the enforcement of payments when a liable parent moves to Australia or a parent liable under the Australian child support scheme moves to New Zealand.

The Family Proceeding Act 1980 details the rules for recognition of overseas maintenance orders made in Commonwealth countries as well as countries that are parties to the United Nations Convention on the Recovery Abroad of Maintenance (UNCRAM). The Family Court registers overseas court orders and refers them to Inland Revenue for enforcement. The Family Court can also make child support orders to be sent for enforcement in other countries if an administrative assessment cannot be raised under the Child Support Act.

Why is Government regulation preferable?

Regulation is preferable because parents may not be able to come to agreement between themselves regarding the support of their children.

2.3 What is the policy problem or opportunity?

The opportunity provided by BT allows Inland Revenue to introduce changes to work better with customers when they are new to the scheme and assist them to get things right from the start – particularly those who are willing to comply but might have trouble at times meeting their payments.

Penalty rules

Impact of current penalty charges

On balance, the New Zealand child support scheme has been very successful in collecting assessed child support debt. Since the scheme's introduction in 1992, Inland Revenue has collected 89% of all the child support payments assessed by Inland Revenue. This rate compares very favourably internationally. However, parents who are new to the scheme have a low initial level of compliance. Research indicates this is because parents are adjusting to the changes in the family situation (i.e. recent separation), there is lack of understanding of the child support rules and their obligations, or previous negative interactions with Inland Revenue.

The table below illustrates the value of overall child support debt and the proportion made up of penalties.

	Mar 16	Sept 16	Mar 17	Sept 17	Mar 18	Sept 18	Mar 19
Assessment debt	\$651m	\$633m	\$621m	\$596m	\$579m	\$562m	\$558m
Penalty debt	\$2.67b	\$2.59b	\$2.48b	\$2.03b	\$1.80b	\$1.65b	\$1.66b
Penalties as % of debt	80%	80%	80%	77%	76%	75%	75%
Total debt	\$3.3b	\$3.2b	\$3.1b	\$2.6b	\$2.4b	\$2.2b	\$2.2b

In April 2016, the initial late payment penalty was split into a two-stage penalty charge. An initial charge of 2% on the day after the due date and a further 8% seven days later. Before this, the penalty was combined and a single 10% penalty was charged the day after the due date. The introduction of the two-stage penalty was intended to reduce penalty charges on those who were only a few days late and give Inland Revenue an opportunity to try and contact parents and remind them of their payment. The change has had little impact on overall compliance or reduced penalty charges. This is because the time between charging the 2% and 8% penalty is not long enough for Inland Revenue to undertake any interventions such as a reminder notice. Research indicated it also wasn't long enough for parents to adjust their budgets to make the payment.

Low-income liable parents are over-penalised proportionately to their assessment by a \$5 penalty rule that requires the first stage 2% initial penalty to be a minimum of \$5. This means anyone with an assessment of less than \$226 per month is over penalised. The table below shows on average how many are proportionately over-penalised each month.

Number of liable parents incurring the initial penalty	Number of parents who are charged as a result of the \$5 minimum rule	Total amount charged as a result of the \$5 minimum rule	Amount of penalty that would be charged if there is no \$5 rule	Amount over-penalised per month as a result of the \$5 minimum rule
38,171	19,435	\$97,175	\$34,547	\$62,628

Compulsory deductions

There is an opportunity to improve the timeliness of child support payments and reduce defaults as a result of the pay-day reporting rules⁶ introduced into the tax rules from 1 April 2019.

Making deductions compulsory has been considered before, but the monthly PAYE system meant this could not be effectively administered. This is because the information was not timely enough to ensure Inland Revenue knew who a liable parent's employer was and to inform those employers of amounts required to be deducted before the payments became

⁶ A number of changes have been introduced including requiring employment information to be provided to Inland Revenue each time an employee is paid.

overdue. Deductions of child support by employers are already compulsory once a liable parent defaults on their payment or when a liable parent is receiving a benefit. Additionally, a person can choose employer deductions as their payment method.

Time bar

A child support assessment takes into account a number of factors - for example, income and shared care arrangements for the child. If Inland Revenue becomes aware of a change to one of these factors, a reassessment is required. These reassessments can be made retrospectively and as far back as 1992 (when the child support scheme began). This retrospective approach becomes more unsustainable and costlier administratively as the scheme gets older. Further, this creates uncertainty for liable parents and receiving carers and possibly debt as a result of increased assessments (for liable parents) or over payments (to receiving carers) which then needs to be repaid. Often the reassessment results in no change to the child support payment obligation but creates a notification to all parties that a reassessment has occurred which can cause confusion and stress. In some cases, the liable parent and receiving carer have exited the child support scheme and the reassessment brings them back in.

In practice, most reassessments to a past year occur within four years of that child support year ending. Less than 2% of reassessments occur more than four years after the end of the child support year. A four-year time bar, applying from the end of the relevant child support year would allow for 98% of current reassessments to occur.

From 1 April 2017 to 30 June 2019 about 156,000 liable parents (and their associated receiving carers) were reassessed a total of 611,000 times (this includes reassessments during a current year). About 2,830 of these liable parents were reassessed on average 2.3 times (6,690 occasions in total) for years that would be time barred under the proposals. Many reassessments affect more than one year. At an aggregate level, the net impact of reassessments for child support years that ended more than four years ago has been a reduction in liabilities for liable parents and therefore a reduction in entitlements to receiving carers.

The table below shows the number of liable parents who saw no change to their payment obligations, or an increase or a decrease to their payments. Some parents were reassessed for multiple years so will appear in more than one “change” row – hence the number of liable parents in each change group shown in the table is more than the total number of liable parents reassessed (2,830).

Change	Liable parents	Annual change	Per liable parent
No change	1,000	\$0	N/A
Decrease	1,590	(\$15,492,300)	(\$9,743)
Increase	960	\$6,386,200	\$6,652
Net change	3,550	(\$9,106,100)	(\$3,091)

Reassessments occur for a variety of reasons. The table below shows the main reason for the reassessment and the net impact to liabilities that can be attributed to the change. Some parents will have more than one reason for change, hence the number is greater than total liable parents reassessed (2,830).

Reason for change	Number of liable parents	Net change
Income	1,997	(\$5,490,787)
Cessation	419	(\$3,839,438)
Child change	287	\$470,070
All other reasons	322	(\$245,948)
Total	3,025	(\$9,106,103)

An “income” change most commonly occurs because a person has confirmed their taxable income for a past year and that income is replacing a default income amount used in the child support assessment.

“Cessation” means the child support obligation for the liable parent has ended – this could be because the liable parent and receiving carer have reconciled, or the last child that a parent is liable for no longer qualifies for child support.

“Child change” covers a variety of changes specific to a child – for example, parents start to share the care of the child or a child turns 13 (which changes the costs associated with a child).

There are many other reasons a reassessment of child support can occur - for example, a child or parent dies. These have been combined in the above table in “all other reasons.”

The aggregate net impact on reassessed liable parents is to reduce liable parents’ obligations – that is, the majority of the reassessments resulted in the liable parent’s child support obligations being reduced.

If the liable parent has not already paid the amount assessed (before the reassessment) the receiving carer has a reduced amount owed to them.

Alternatively, if the liable parent has met their obligation, the receiving carer has been overpaid their child support.

When the payment has been paid to the receiving carer, Inland Revenue will undertake collection action to recover the overpaid amount from the receiving carer. Amounts overpaid to receiving carers can be written-off if it is shown that collection of the overpayment would create serious hardship for them.⁷

If the receiving carer is in receipt of a sole parent rate of benefit, the child support payment is not paid to the receiving carer but is kept by the Government to cover the cost of their benefit. In these cases, it is the Crown that is “overpaid,” and a refund is issued to the liable parent.

⁷ The liable parent will still receive a refund of overpaid child support – the cost of the written-off overpayment of child support to the receiving carer is met by Crown revenue.

Although the aggregate net impact is a reduction in child support obligations, 960 liable parents do have an increase in their obligations. In the main, this becomes a debt because the liable parent does not pay the increased amount by the due date (30 days from the date of reassessment). Only 33 (of the 960) liable parents paid the new amounts on time, 875 were already in debt and the new amounts owed increased the size of their debt. The remaining 52 liable parents were fully compliant with their child support obligations (and possibly no longer in the scheme) and the reassessment caused them to fall into debt as did not pay by the due date.

Changes to the definition of “income” for child support

Adding investment income (such as interest and dividends)

Currently, if during a year a parent earns solely withholding income (any income where tax is deducted before it is paid to the parent), they are assessed using only their income from employment (salary and wages). This means investment income such as interest or dividends they earn is not included in their child support assessment – this is because it was not readily available (other than annually). Changes to the income tax rules require that interest and dividends are now reported more frequently by third parties (for example, banks) which means the income can now be included in a parent’s child support assessment. The table below indicates how much additional interest income is not currently being included in a parent’s annual child support assessment.

Annual interest income			
Parent type	Number of parents	Total interest	Median
Receiving	37,680	\$4,979,100	\$0.57
Both	15,150	\$2,424,800	\$0.52
Liable	26,800	\$3,934,100	\$0.47
Total	79,630	\$11,338,000	N/A

The table shows all parents in the scheme over the course of a child support year. Where parent type is “both” the parent has either been both a liable parent and receiving carer during the year or they are registered as both a liable parent and receiving carer (usually because shared care is in place). They are in the “both” category to avoid double counting.

The median interest is less than \$1 which indicates the large majority have an immaterial amount of interest but that a few have significant amounts of interest income that is currently not being accounted for when calculating a parent’s capacity to support their children. The following table shows the distribution of interest income:

Distribution of annual income				
Parent type	<\$1	\$1<\$1,000	\$1,000<\$5,000	>\$5,000
Receiving	21,301	15,491	614	125
Both	8,616	6,157	292	60
Liable	15,767	10,384	488	291
Total	45,684	32,032	1,394	476

Reporting of dividend income to Inland Revenue by third parties only becomes compulsory from 1 April 2020. Based on information provided by parents for the tax year ending 31 March 2019 less than 70 parents (liable and receiving) have some dividend income. The combined dividend income declared by these parents is about \$900,000.

It is possible in some of these cases the income is being taken into account through an application for a departure⁸ (known as an administrative review). Having the income taken into account automatically would remove the requirement to go through the administrative review process which generally takes up to three months.

Ignoring losses from prior years in determining income for current year

A parent's income to support a child in a year may be reduced by tax losses that occurred in an earlier year – that is, the losses are “brought forward” to the current year. This is the approach used in calculating income tax obligations.

A concern with this approach is that it is at odds with the objective to assess a parents' relative financial capacity to support their children in a given year.

Further, the current approach does not align with the way that these losses are accounted for when working out Working for Families entitlements and student loan obligations.

From administrative data fewer than 500 child support parents (liable and receiving) have their child support income reduced by tax losses brought forward. There is an even split between receiving carers and liable parents. For about half of these, parent's income is being reduced by less than \$5,000. About 25 have their income reduced by more than \$50,000.

Minor and technical amendments to improve fairness, equity, compliance or administration of the scheme

Other minor and technical amendments have been identified to address specific issues with the scheme. Combined, they are intended to make the administration of the scheme fairer, simpler and less confusing – for example, by aligning the rules across different social policies. Not all of these proposals are required to be included in this impact assessment; they have been included for transparency and completeness.

Most of these minor and technical amendments will impact positively on customers. The exception is a proposal to amend the maximum age of child support which would mean that for a small group of carers (a maximum of about 150 children) child support for the child would end some months sooner than is currently the case. However, this proposal largely aligns child support with Working for Families tax credits which Inland Revenue also administers.

An explanation of each proposed amendment is included in the appendix.

⁸ A person can apply for a “departure” from their child support assessment on certain grounds - for example, the financial capacity of the other parent. If a departure is granted, it means a relevant component used in the formula is adjusted - for example, the income.

Why does the Counterfactual constitute “a problem”?

Relying solely on operational improvements that may be provided through BT is unlikely to lead to significant improvements to child support compliance or engagement with the scheme and we would not expect to see any substantial improvement in parents’ behaviour.

If no policy changes are made, the complexities of the existing system would be introduced to the new system. Further, the opportunity to improve child welfare as part of Inland Revenue’s BT programme would be lost.

The policy changes could be considered at a later date. However, if the changes are implemented at a later date they would come with significant additional implementation costs, whereas if they are implemented as part of BT the changes will not have additional costs because they can be included in the new systems and processes that are being developed as part of BT.

2.4 Are there any constraints on the scope for decision making?

The focus of BT has been on administrative improvements to the tax and social policy systems. Given this, fundamental changes to the child support scheme such as changes to the child support formula, are out of scope.

The Welfare Expert Advisory Group has proposed changes which, if adopted, would impact the child support scheme (such as passing on child support payments from liable parents to parents who are on the sole parent benefit).

2.5 What do stakeholders think?

The main stakeholders are parents and carers who are in the child support scheme, and employers who deduct child support payments from wages.

The discussion document *Making Tax Simpler: Better administration of social policy* was released in July 2017 which included proposals outlined in this document to:

- introduce compulsory employer deductions of child support from salary and wages;
- not penalise people who are trying to comply, and better support early intervention to prevent debt;
- align the child support definition of income with the definition of income used for other social policy products; and
- work with customers in unusual circumstances.

An extensive engagement strategy was developed to support the release of the discussion document, including online public consultation which provided a vehicle for the public to comment on the proposals. It included an online forum with views sought on specific questions, short summaries of the key proposals, a simplified online survey and animated videos of the proposals. The summaries, surveys and videos were available in nine languages other than English and the video was also available in New Zealand sign language. Officials also met with key interest groups around New Zealand – for example, the National Beneficiary Advocacy Group.

Submitters broadly agreed with the proposals. Submitters' comments were mixed about making compulsory child support wage deductions for all liable parents with employment income. Some submitters expressed concerns about the compliance costs for employers and there were concerns whether compulsory deductions should apply to fully compliant parents.

Submitters supported expanding the income definition used for child support purposes to better align with that used for Working for Families tax credits and student loans.

Submitters supported Inland Revenue working proactively with customers to manage debt.

Submitters strongly supported the proposal to provide Inland Revenue with additional authority to work with customers who have these unusual circumstances in order to achieve the intended outcome for the specific social policies.

In relation to the proposal to introduce a time bar, targeted consultation was undertaken with interest groups. These groups were:

- National Beneficiaries Advocacy Consultative Group;
- The Federation of Budget Advisors;
- Citizens Advice Bureau; and
- Chartered Accountants Australia and New Zealand.

One group were comfortable with the proposal and thought that the proposed exceptions addressed any possible inequities. Another group supported a time bar when there has been a default assessment⁹ and a reassessment would result in a reduction of child support paid by the liable parent and a debt for the receiving carer. However, they do not support the introduction of a time bar when there has been a default assessment and a reassessment would result in an increase in child support being payable by the liable parent and money due to the receiving carer. Their concerns include:

- that the proposal undermines the integrity of the child support scheme and may be perceived by the public and those who pay the correct amount of child support as unfair;
- it fails to meet the objective of the child support scheme which is to ensure parents fulfil their responsibilities to financially support their children; and
- that it fails to ensure that Inland Revenue meets its responsibilities to administer the scheme for those parents who voluntarily choose to receive their child support through Inland Revenue.

Inland Revenue considered these concerns and consider that, on balance, the proposal is fairer as it provides parents and carers with more certainty. Any equity concerns can be addressed by the specified exceptions to the time bar.

Inland Revenue consulted with the Treasury, the Ministry of Social Development and Oranga Tamariki (as Inland Revenue collects child support for beneficiaries and Oranga Tamariki as the custodian of wards of the State) on the proposals set out in this regulatory impact assessment. The Ministry of Justice and the Department of Prime Minister and Cabinet (child poverty unit) were consulted on relevant proposals. These agencies generally supported the proposals. Officials have consulted with the Office of the Privacy Commissioner on the compulsory deductions proposal. The Privacy Commissioner is pleased to support the compulsory deductions proposal as a measure that is consistent with applying good privacy values.

The discussion document *Making Tax Simpler: Better administration of social policy* included information in Te Reo. The proposals will apply to Maori the same as for any customer in the child support scheme. The proposal to include Maori authority income (which is a type of investment income) will affect those with income from Maori authorities in the same way as it affects people with other types of investment income.

⁹ A default assessment is when a parent has not filed a relevant return and the Commissioner has determined the income on which to base the child support assessment.

Section 3: Options identification

3.1 What options are available to address the problem?

This regulatory impact assessment contains a number of proposals. The recommended options work together in combination to deliver on the key objectives to simplify the rules, make the rules fairer, and encourage engagement and compliance with the scheme.

Penalties rules

Option 1: Maintain the status quo with some operational improvements including, better education, improved statements and better online content.

The option would be unlikely to deliver significant improvements on current state.

Option 2: Make some small changes to the existing rules including, increasing the time period between the imposition of the 2% and 8% initial penalties and only charge a 1% incremental penalty each month (rather than a 2% incremental penalty reducing to 1% after a year).

This option would slow the escalation of the debt book but is unlikely to have much impact on preventing debt in the first instance and improving compliance behaviours.

Option 3: Charge no penalties.

This option would slow the escalation of the debt book due to the accumulation of penalty growth but could increase the value of assessment debt. It could mean some liable parents stop paying altogether.

Research conducted showed penalties do play a part in incentivising compliance by keeping child support “front of mind”. Charging no penalties may reduce compliance with the scheme.

Option 4: Introduce a grace period for new payers (for a three-month period), increase the period between the imposition of the 2% and 8% initial late payment penalties (up to 28 days – that is, closer to the next due date), and remove the \$5 minimum penalty rule.

The changes would simplify aspects of the scheme, reduce administration and compliance costs and enable Inland Revenue to better work with customers to encourage their ongoing compliance. Penalties would still be charged when a person is non-compliant, however they would be in proportion to the amount outstanding. Parents agree penalties have a place in the scheme but when they are too punitive they cause them to disengage with the scheme and reduce compliance.

Increasing the time between charging the 2% and 8% penalty to 28 days would mean on average an additional 540 parents would not be charged the second stage (8%) of the penalty each month. With the additional interventions that could be employed in the 28 days before the 8% penalty is charged, it is expected even more parents would benefit from not incurring a penalty (although we cannot say how many more).

Compulsory deductions

Option 1: Status quo with operational improvements

This option could see some improvements in debt collection and compliance due to the better information received by Inland Revenue due to pay day reporting, but it would not prevent people falling into debt.

Option 2: Extension of compulsory source deduction payments to liable parents who become liable after the proposals come into effect (rather than just those who have defaulted). The Commissioner would have discretion not to impose deductions in certain cases – for example, for privacy reasons. Liable parents already in the scheme who are compliant would not be subject to compulsory deductions unless they defaulted.

This provides more certainty to carers and helps to prevent customers falling into debt in the first place. It aligns the policy with beneficiaries who are liable parents as they have deductions made from their benefit.

Time bar

Option 1: Status quo.

This option does not provide any certainty for carers and parents as adjustments can be made back to 1992, which can result in debt for either parent and can result in reopening cases which have already been closed. Administratively, continuing to make adjustments to child support assessments back as far as 1992 becomes unsustainable, particularly given the move to the new system.

Option 2: A time bar with no exceptions.

This option improves certainty and reduces administration costs and debt. However, it is open to manipulation and could result in inappropriate outcomes. It would reduce the overall fairness and equity of the scheme.

Options 3: A time bar with specific exceptions:

- If information provided by a person in the child support assessment is fraudulent or wilfully misleading or omits income of a particular nature;
- when a parent or child included in the assessment has died;
- when a person should never have been made liable – for example, when a person is subsequently found not to be the father of a child;
- when a reassessment is required to avoid a dual liability (for the same child) with an overseas jurisdiction;
- if Inland Revenue does not meet the notification requirements; or
- if a court order is granted that applied to a time barred period.

Definition of “income”

Option 1: Status quo.

This option would not make use of the information that Inland Revenue now receives on a regular basis. The current approach of reducing a person's income for child support purposes due to tax losses from earlier years means the income used in the assessment does not fully reflect the person's ability to financially support their children and does not contribute to improving the fairness of the scheme. It does not align with how these losses are accounted for when working out Working for Families entitlements and student loan obligations.

Option 2: Full alignment with the income definitions used for Working for Families and student loans purposes – for example to include income not reported for tax purposes such as money given by a family member to help with living costs (over a certain threshold)

This option would significantly increase complexity, compliance and administration costs. Due to the increased complexity of the rules, more adjustments would be made to people's assessments as income that should be, or not be, included in the assessment is identified. This would reduce the certainty of payments. Child support already has provisions which allow for other types of financial resources to be taken into account in assessments – for example, administrative reviews.

Option 3: Moving to a net income base and including other reported income (aligning more closely with the definition of income for Working for Families and student loans).

Moving to a net income basis ensures that income is no longer reduced due to tax losses from an earlier year and more accurately reflects each parent's ability to financially support their children. Given that the majority of the parents who have losses that reduce their income are liable parents, the net effect of the proposal overall is to increase liable parents' obligations toward the support of their children.

3.2 What criteria, in addition to monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?

Compliance with the scheme – The proposal should improve compliance with the scheme, particularly for liable parents. This should reduce the number of people in debt.

Certainty and complexity – The proposal should result in the right amount being paid and will reduce over or underpayments. It should reduce complexity of the rules.

Compliance costs – The proposal should reduce compliance costs for parents and carers.

Administration cost – The proposal should reduce administration costs.

Equity and fairness – The proposal should be fair and equitable, and not encourage or reward undesirable behaviours.

3.3 What other options have been ruled out of scope, or not considered, and why?

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982

An option to not have any employer deductions from salary or wages (or source deduction payments) was ruled out as it would reduce compliance with the scheme and further misalign the rules for non-beneficiary liable parents with those that apply to beneficiary liable parents. A beneficiary liable parent must have their child support deducted from their benefit whether in debt or not.

Replacing penalties with interest which would be passed on to the receiving carer is considered to be outside the scope of the BT work. Further it does not fit with the purpose of the scheme which is the transfer of payments between parents as interest is generally applied when the Government is the direct recipient of the money collected.

More closely aligning the time bar with the time bar for tax by only considering the time bar once a person has had their relevant income assessment for a child support year finalised. As most parents do not file income tax returns this option would mean that child support reassessments would still be available for many years.

Section 4: Impact Analysis

Penalty rules					
	Compliance with the child support rules	Certainty	Compliance costs	Administration costs	Equity and fairness
Status quo and operational improvements	0	0	0	0	0
Increasing period between the imposition of the two phases of the initial penalty and reducing the incremental to 1%	+ allows for interventions before the 8% penalty is charged	0	+ more time before 8% penalty charged, debt growth is slowed	+ debt growth is slowed	0
No penalties	-- potential to encourage non-compliance	-- reduces incentive to pay	0 liable parents will not have penalties imposed but there will be compliance costs for receiving parents whose payments by be delayed or not made	-- becomes more difficult to collect payments	-- less incentive to pay non-compliant parents treated the same as compliant
Introducing a grace period, increasing period between the imposition of the two phases of the initial penalty	+ allow IR to work with parents to provide up-front education and opportunity for more interventions	+ working with and educating liable parents should improve regularity and timeliness of payments	+ working with and educating liable parents should improve parents understanding of their rights and obligations reducing ongoing compliance costs	+ some additional up-front administration costs to educate and provide interventions if initial penalty is charged However administration savings should be made through increased regularity of payment, reduced debt, reduced need for write-offs	+ all new parents provided time to adjust to paying under the scheme all parents penalised for any months of non-compliance all parents penalised in proportion to their debt

Compulsory deductions					
	Efficiency	Certainty	Compliance costs	Administration costs	Equity and fairness
Status quo and operational improvements	0	0	0	0	0
Extending compulsory deduction to all source deduction payments	+ help parents avoid falling into debt	++ should improve regularity and timeliness of payment	+ some new employers required to make child support deductions	+ fewer parents in debt should reduce administration cost deductions are shifted to beginning of process rather than once debt occurs	+ aligns with compulsory deductions for beneficiaries treats child support same as other compulsory payments – for example, student loans and PAYE

Introduction of time bar after four years					
	Compliance with the child support rules	Certainty	Compliance costs	Administration costs	Equity and fairness
Status quo	0	0	0	0	0
Time bar no exceptions	+ encourages timely provision of information	+ less change to past periods	+ less change to past period less likely to re-enter scheme due to retrospective reassessments	++ less administration of periods back to 1992 able to exit cases with more certainty, could encourage parents to be timelier providing information about their circumstances	-- could encourage perverse behaviours as parents could deliberately withhold information until time bar starts
Time bar with specified exceptions	+ encourages timely provision of information	+ less change to past periods	+ less change to past periods less likely to re-enter scheme due to retrospective reassessments	++ less administration of periods back to 1992 able to exit cases with more certainty, could encourage parents to be timelier providing information about their circumstances	++ specified exceptions maintain equity, situations of fraud, wilful omission would be addressed.

Definition of “income”					
	Compliance with the child support rules	Certainty	Compliance costs	Administration costs	Equity and fairness
Status quo	0	0	0	0	0
Full alignment with Working for Families and student loans	- rules are widely misunderstood due to complexity so easy to be non-compliant	- rules are widely misunderstood due to complexity, likely to increase reassessments	-- much of the income is self-declared by parents separate from income for tax purposes	-- additional income to process, likely to be more reassessments	+ would provide for full financial capacity to be reported (although errors due to complexity would work against this)
Move to net income balance and include reported income	0	0	+ income included is already provided by third parties for tax purposes the investment income proposal may reduce compliance costs because there may be fewer administrative reviews	+ income included is already provided by third parties for tax purposes the investment income proposal may reduce administration costs because there may be fewer administrative reviews	++ better represents parent's financial capacity by re-using information already provided for tax purposes, less open to error or manipulation by parents

The minor and technical proposals outlined in this document were not measured against the criteria and therefore are not reflected here.

Key:

- ++ much better than doing nothing/the status quo
- + better than doing nothing/the status quo
- 0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo
- much worse than doing nothing/the status quo

Section 5: Conclusions

5.1 What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

Inland Revenue's preference is to move forward with the following combination of options (as outlined in section 3 *Options identification*)

Penalty rules – option 4 to make changes by introducing a three month grace period for new payers, increase the period between the imposition of the 2% and 8% initial late payment penalties (up to 28 days – that is, closer to the next due date), and remove the \$5 minimum penalty rule.

This option is recommended as it best meets the assessment criteria that the options were rated against. The changes would simplify aspects of the scheme, reduce administration and compliance costs and enable Inland Revenue to better work with customers to encourage their ongoing compliance. Penalties would still be charged when a person is non-compliant however they would be in proportion to the amount outstanding. Parents agree penalties have a place in the scheme but when are too punitive they cause them to disengage with the scheme and reduce compliance.

Compulsory deductions – option 2 which extends compulsory deductions to all new liable parents. This will improve the timeliness of child support and help to prevent newly liable parents getting into debt.

Time bar – option 3 which introduces a time bar but with specific exceptions. This will increase certainty for parents and reduce compliance and administration costs.

Definition of "income" – option 3 which moves to a net income basis and includes investment income (interest and dividends). These proposals will make the rules fairer and the investment income proposal will reduce compliance and administration costs.

Minor and technical proposals – all the minor and technical proposals included in in the appendix (including those applying to customers with unusual circumstances).

We consider that the combination of these options would best achieve the desired outcomes of improved ongoing compliance with the scheme and debt prevention.

The combination of interventions would improve administration and reduce compliance costs but also make the rules fairer, more equitable, and less complex, thereby improving and incentivising customers, and particularly liable parent compliance. Overall, they should result in a reduction in debt.

Non-compliance would still be addressed by penalties but in a more proportional manner.

5.2 Summary table of costs and benefits of the preferred approach

Affected parties	Comment:	Impact	Evidence certainty
------------------	----------	--------	--------------------

Additional costs of proposed approach, compared to taking no action

Regulated parties (Liable parents, receiving carers and employers)	<i>Liabe and receiving parents</i> About 80,000 parents would have their child support income increased by the income definition changes. This could increase or decrease the child support liability depending on whether they were the liable parent or receiving carer respectively.	Additional interest income added to assessments of \$11 million	Medium–low
	<i>Liable parents</i> The time bar would mean about 1,600 liable parents who would have been reassessed would not receive a reduction to their obligations.	Total reduction to obligations is about \$16million per year	Medium
	<i>Receiving carers</i> The time bar would mean about 1,000 liable parents would not be reassessed so would not see their obligations increased. This means receiving carers would not see their entitlements increased.	Total reduction in receiving carer entitlements is about \$6million per year	Medium
	<i>Employers</i> Additional compliance costs for compulsory deductions for employers if they are not already required to make child support deductions.	Unable to quantify but would be low as child support deductions are already made on behalf of many liable parents and compulsory for child support defaulters	High

Regulators (Inland Revenue)	The changes to the way penalties are imposed would reduce the penalties charged, which in turn would reduce the amount of penalties collected. We note that accounting standards require child support debt to be recognised at fair value and only 3% of child support penalty debt is due to the high initial write-down. <i>Inland Revenue's administrative costs:</i> No additional costs because costs are already budgeted for as part of BT.	None - the impact is insignificant. No additional administrative costs	Medium
Wider government	None	None	N/A
Other parties	None	None	N/A
Total monetised cost	Penalty proposals	None	Medium
Non-monetised costs	Potential to increase compliance costs for employers	Low	High

Expected benefits of proposed approach, compared to taking no action			
Regulated parties (Liable parents, receiving carers and employers)	<i>Liable parents</i> The time bar would mean about 1,000 liable parents who are reassessed would no longer have an increase to their obligations The scheme will support liable parents more by encouraging them to get things right from the start and comply with their obligations The changes mean that parents are less likely to fall into debt	Total reduction in increased payments is \$6 million Medium	Medium Medium (able to measure the cost of not charging penalties but it is not possible to model the behavioural impacts that we expect from these proposals)

	and stay in debt. <i>Receiving carers</i> The time bar would mean about 1600 liable parents would not be reassessed so would not see their obligations reduced. This means receiving carers would not see their entitlements reduced – which causes receiving carer overpayment and debt. The scheme will benefit receiving carers by encouraging liable parents to comply with their obligations and therefore making it more likely that carers receive payments. The time bar helps to improve overall certainty that payments are not going to be reassessed many years later. <i>Employers</i> There are no benefits to employers to any of the proposals.	Receiving carers would no longer be overpaid by up to \$16 million per year Medium None	Medium Medium N/A
Regulators (Inland Revenue)	Overall the legislative proposals would be expected to reduce Inland Revenue's administration costs in conjunction with Inland Revenue's new system and processes. Reduction in administration costs	Medium	Medium

	will form part of the savings from Inland Revenue's BT programme.		
Wider government	None	None	N/A
Other parties	None	None	N/A
Total monetised benefit	Given the impacts to liable parents and receiving carers are generally opposite the monetised benefits can't be meaningfully combined.	N/A	N/A
Non-monetised benefits		Medium	Medium

5.3 What other impacts is this approach likely to have?

None identified.

5.4 Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?

The proposals are compatible with the Government's "*Expectations for the design of regulatory systems*".

Section 6: Implementation and operation

6.1 How will the new arrangements work in practice?

The proposals would require amendment to the Child Support Act 1991. It is intended that the preferred option be included in a child support amendment bill which is expected to be introduced into Parliament at the end of 2019.

Inland Revenue will be responsible for the operation of these options and they will form part of its business as usual function. Although not the key driver, the preferred options will reduce the implementation risks associated with transferring the child support scheme from the current computer platform to the new systems and processes.

The proposed changes will apply to child support from April 2021. This will enable sufficient preparation time for Inland Revenue to implement the changes. Changes for employers to make compulsory deductions are effectively business as usual as they are already required to make deductions for some parents under the current rules.

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982

The proposed approach will be included in the commentary on the child support amendment bill. Consideration by Select Committee is expected to provide an opportunity for interested parties to further express their views on these proposed changes.

Transitional proposals have been included where identified. Further transitional issues may come to light during the design and build of the new system. They will be considered when they arise.

6.2 What are the implementation risks?

There were no issues concerning implementation raised in consultation.

There is a risk that employers choose not to be compliant with the new compulsory deduction rules. However, this is unlikely as they already required to make deductions when they are instructed to do so by Inland Revenue.

There is a risk that customers may not respond as expected to the penalty measures and that, as a result, compliance reduces. This can be mitigated by use of customer education and existing enforcement provisions, the introduction of compulsory deductions and improved information made available through Inland Revenue's BT programme.

As part of moving to the new systems, Inland Revenue will begin designing and building the new agreed proposals before the legislation is enacted. If there are any delays in making the amendments, there is a risk that the system and the legislation are not aligned. This risk will be mitigated through consultation with the Minister's office and the

development of a contingency plan.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

Inland Revenue already monitors timeliness of child support payments, obligations paid on time (including for newly liable parents), amounts collected and dispersed (including amounts collected through employers).

Inland Revenue is currently building a monitoring and evaluation framework for child support. These tools will be used to monitor and evaluate the proposals when they are implemented.

Inland Revenue will monitor the effectiveness of the proposed legislation when implemented. If we identify any evidence that suggests the legislation is not operating as intended, we will consider options for addressing the issues raised.

7.2 When and how will the new arrangements be reviewed?

The final step in the Generic Tax Policy Process is the implementation and review stage, which involves post implementation review of legislation, and the identification of remedial issues. Post implementation review is expected to occur around 12 months after implementation.

Any necessary changes identified from the review would be recommended for addition to the Government's tax policy work programme.

Inland Revenue is currently building a monitoring and evaluation framework for child support. These tools will be used to monitor and evaluate the proposals when they are implemented.

Appendix

Minor and technical amendments to improve fairness, equity, compliance or administration of the scheme

The following proposals are aimed at specific issues that have been identified with the scheme. Combined, they are intended to make the administration of the scheme fairer, simpler and less confusing – for example, by aligning the rules across different social policies. Not all of these proposals are required to be included in this impact assessment; they have been included for transparency and completeness.

Most will impact positively on customers. The exception is the proposal to amend the maximum age of child support which would mean that for a small group of carers (a maximum of about 150) child support for the child would end some months sooner than is currently the case. However, this proposal largely aligns child support with Working for Families tax credits which Inland Revenue also administers.

Improvements to the income estimation provisions

Estimation square ups

Child support is based on a past year's income. An exception is when a person's income in the current year will decrease by 15% or more when compared to the income in the past year. In such cases the person can "estimate," and elect to use their current income as the basis of their child support assessment. At the end of the year, any estimate is reconciled with the actual income earned in the period of estimation to assess the final child support payment. If a person estimates more than once during the year, each estimation is reconciled separately at the end of the year.

If a person estimates more than once during the year, the current rules mean that when their estimate is reconciled they can be assessed on income that is greater than what they earned in some periods. The proposal is to amend the end of year square up provisions to ensure that a person who estimates more than once during a year is squared up on the income they earned in the period.

Estimation timing

An estimation is only accepted from the beginning of the month in which the estimate is received. This can mean that a person new to the child support scheme may lose the opportunity to estimate for periods (generally the previous month) because they receive their notice of assessment or entitlement in a later month. The proposal is that when a person joins the child support scheme an estimation can be backdated to the start of the assessment if Inland Revenue receives the estimation on or before the first due date for payment.

This would mean that a person has at least 30 days to estimate their income when child support is first assessed and does not miss the opportunity to estimate due to Inland Revenue processing times.

Debt offsetting

Currently, a person can apply for an administrative review if they want debt owed between themselves and another parent offset. Administrative review is a process where a person's formula assessment can be changed to better fit a person's specific situation.

The number of times the ground has been used is very low and the provision is difficult to administer as it requires an adjustment to the assessment calculation to achieve the desired result. The proposal is to introduce a provision permitting Inland Revenue to initiate an offset of the amount owed. The offset would net out child support debts two parents owe each other. The person owing the higher amount would be required to pay the difference. Such a provision would be simpler, cheaper, easier for customers to understand and would be more effective at reducing debt, and in some cases would clear the parent's full debt. Removing this

debt burden can reduce financial stress on the parent and may have other flow on effects such improving their credit rating.

Repealing a redundant provision for urgent maintenance

The Child Support Act contains a provision for a person to apply to the Courts for an urgent maintenance order if they have made an application for child support to Inland Revenue, but the child support application has not been processed. It is believed the provision was included in the Child Support Act to cover the period of transition when child support moved to Inland Revenue in 1992 in case there were any unforeseen circumstances that could mean Inland Revenue is unable to raise an assessment. An order under this provision has never been granted so it is recommended the provision is removed. The Ministry of Justice has been consulted and is comfortable with the provision being repealed.

Working with customers with unusual circumstances

Changes to temporary exemptions

Subject to a person meeting specified income criteria, temporary exemptions from payment of financial support (child support and domestic maintenance) are available to a liable person if they are a long-term (13 weeks or more) prisoner or hospital patient. They are justified on the basis that the person has no capacity to earn an income for the period. The proposal is to extend the ability to grant a prisoner exemption to a person in an overseas prison, and to give Inland Revenue discretion to grant a hospital exemption to a person who is not in hospital but who is suffering from long-term illness or injury (and, for example, is being cared for at home). In both instances, granting the exemption would be subject to the current income criteria being met.

The number of people who might qualify for the amended exemptions is not quantifiable. However, it is expected it would be low. The proposals align with the overall policy intent that prisoners and the long-term ill should be given temporary relief from their obligations if they do not have the financial capacity to pay at least the minimum child support amount.

Removal of the mixed age expenditure table

The child support formula uses expenditure tables to calculate the costs of children. They have been developed based on research that concluded teenagers cost more than younger children and economies of scale apply – i.e. each subsequent child costs less.

There are three expenditure tables used for calculating the costs of children for child support. One for children aged 12 and younger, one for children aged 13 and older and a 'mixed age' table which is an average of the two other tables. The mixed age table is used when there are at least two children in the same child support calculation and they fall into different age brackets. However, if the children do not live in the same household (for example one child lives with mum and the other with dad), the use of the mixed age table does not allocate costs appropriately to each child (although the total expenditure for all children is correct).

Removal of the mixed age table will mean costs are calculated for each child based on their age and would better reflect that costs are higher for older children. It will not change the total expenditure calculations but when children live in different households it would ensure the household with the younger child does not benefit from being allocated some of the expenditure intended for the older child.

Discretion to modify expenditure calculations when perverse outcomes are reached

Although the child expenditure tables are developed on the basis of economies of scale the child support formula then provides that total expenditure is divided equally by number of children rather than attempting to

identify the “marginal costs” of each subsequent child. This can cause perverse outcomes in situations when there are multiple children in a child support calculation that have different care arrangements. For example, a person’s dependent child allowance reducing when additional children come into their care – it is expected that the allowance remain the same or increase. Allowing Inland Revenue, the discretion to modify expenditure calculations would give it the ability to modify the calculation to resolve these complex cases by, for example, identifying the actual marginal costs of children. It is expected the number of cases to consider would be low. Based on 2016 data and the known criteria that could lead to perverse outcomes, less than 40 cases each year could arise that need adjustment.

Clarifying that child support should end when a child leaves State care

When a child moves from the receiving carer to the liable parent child support can continue and a new application for child support is not required. The exception to this is when the receiving carer is Oranga Tamariki because the child has been placed in their care. In these situations, if the child leaves Oranga Tamariki’s care and is placed with one of the parents the child support is stopped. This practice is followed due to potential safety concerns for the child and their carer as the other parent would be notified of the change in carer. If the parent with the child in their care would like to receive child support, they are able to apply. Parents who choose not to apply for child support due to safety concerns may be eligible for other financial assistance from the state - such as Working for Families tax credits. The proposed amendment explicitly ends child support when a child leaves the care of Oranga Tamariki. It clarifies and reinforces the current practice.

Introducing timeframes for parents and carers to provide orders of parentage

If a person makes an application for child support and they do not have any proof of who the other parent is, the child support application is declined. If the applicant subsequently provides a court order stating that the person named on the child support application is the parent of the child, the child support application is accepted from the date the original application was received.

The proposal is to introduce some time limits to improve fairness. The rules would mean child support would only be back-dated on receipt of a court order declaring parentage if the carer applied for the order either before or within two months of submitting their child support application and, having been granted, the order is given to Inland Revenue within two months. There would be discretion for Inland Revenue to accept orders outside the two-month period if the delay was due to circumstances beyond the carers control – for example, they were seriously ill.

These court orders are used as proof of parentage in a small number of cases. Between 1 January 2016 and 28 February 2019, an order was used as proof of parentage in 325 cases. For most (260), the order was received either with the child support application or within two months of the application being received, so the proposal would have had no impact in these cases. For the remaining carers, if the time limits were met, there would have been no impact on the amount of child support they receive. However, the proposal would remove the ability for the carer to ‘hold off’ giving Inland Revenue the order knowing the support can still be backdated. For liable parents it restores some equity as it means an onus is put on carers to be timelier in their decisions to seek child support through Inland Revenue (as opposed to the current state where some cases have taken more than 13 years for the carer to provide the order).

Timeframes to advise of circumstances when first assessed

When Inland Revenue is satisfied that a relevant change of circumstance has occurred – for example, the birth of a new dependent child or a change in care arrangements, the Child Support Act determines when the change is to be treated as having occurred. If a change is notified within 28 days of it occurring, it is recognised from the date it occurred.

However, this does not apply when the circumstance existed at the time the child support was assessed for the first time. In these situations, the assessment is considered incorrect and should be corrected effective from the start of the child support assessment. This can cause overpayments to carers (for example, if a liable parent notifies Inland Revenue of a dependent child that reduces their payments) or increases in payments by liable parents (if a receiving carer likewise notifies of a dependent child). Any increase in payments for past periods are due within 30 days.

The proposal is that similar notification rules that apply to changes of circumstances during a child support assessment should also apply to the notification of circumstances that existed at the time child support was first assessed. The parent should have 28 days from the date of their notice of assessment to advise of their existing circumstances, otherwise the change would apply from the date of notification.

Minimum age at which a child can be considered financially independent

When a child is financially independent they no longer qualify for child support. To be financially independent the child must be working full time (considered 30 hours or more per week, or what might be considered full time for the type of work), or in receipt of a benefit or student allowance.

Fewer than 60 children under the age of 16 have had child support ceased by virtue of being considered financially independent since the scheme began. If a parent believes the child has significant financial resources that should be taken into account in determining the child support assessment, they can ask for this to be considered by apply for a departure from their assessment (commonly referred to as an administrative review).

The proposal is to introduce a minimum age of 16 before a child can be considered financially independent. This would fully align the financially independent definition for child support with that used for Working for Families tax credits.

Maximum qualifying age of a child

A child ceases to qualify for child support once they turn 18 unless they are still at school. Once a child turns 18 child support ends the earlier of:

- when they leave school if they do not finish the school year;
- the 31st of December if they finish the school year and they are not attending school the following year; or
- the day before the child turns 19 if the child is still in school until their 19th birthday.

The proposal is to amend the qualifying criteria, so the latest child support could be paid is the 31st of December of the year in which the child turns 18. The schooling criteria would be retained.

This change aligns the child support 'maximum qualifying age' of a child with similar tests for Working for Families and main benefit recipients. Administrative data shows that this change would mean child support would end sooner for about 150 children.

Residency for child support purposes

A parent can apply for child support for a child if the child is a New Zealand citizen or ordinarily resident in New Zealand. Child support is payable by a parent who is a New Zealand citizen or ordinarily resident in New Zealand or in a country with which New Zealand has a reciprocal agreement with. A person is "ordinarily resident in New Zealand" if they have a permanent place of abode in New Zealand or they are physically

present in New Zealand for at least 183 days in a year and are not overseas for more than 325 days in aggregate in any 12 month period.

For child support, residency decisions are often based on a person's intended, rather than actual, movements. This means that child support applications are accepted (or ended) in a timely manner rather than up to 12 months later during which time children may be living without the financial support of both their parents.

The proposal is to better reflect the current operational practice that a person's intention to be ordinarily resident (or not) should be taken into account.