

Support for Children in Hardship Bill

5 May 2015

Hon Christopher Finlayson QC, Attorney-General

Consistency with the New Zealand Bill of Rights Act 1990: Support for Children in Hardship Bill

Purpose

1. We have considered whether the Support for Children in Hardship Bill ('the Bill') is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act').
2. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act. In reaching that conclusion, we have considered the consistency of the Bill with s 19(1) – the right to freedom from discrimination. Our analysis is set out below.

The Bill

3. The Bill amends various pieces of social assistance legislation as a package of reforms, specifically:
 - the Social Security Act 1964 the Education Act 1989
 - the Income Tax Act 2007, and
 - the Taxation (Annual Rates and Budget Measures) Act 2011.
4. The purpose of the Bill is to help break the cycle of material hardship amongst children. It aims to reduce financial pressures for families with children who are struggling and experiencing deeper or more persistent material hardship, while retaining a strong emphasis on paid work as the best route out of poverty.
 - 5. The Bill seeks to achieve its objectives through increased benefit rates and tax credit financial assistance, and stronger provisions to encourage parental employment to better support children in material hardship. Specifically, the Bill:
 - increases certain working age benefit rates for families with dependent children by \$25 a week
 - increases work availability obligations on beneficiary parents
 - increases Working For Families Tax Credits for low income working households, by way of a \$12.50 per week increase in the \$60 rate of the In Work Tax Credit, and a \$12.00 increase in the Minimum Family Tax Credit
 - increases the abatement rate for Working for Families tax credits from 21.25c to 22.5c in the dollar.

Issues of consistency with the Bill of Rights Act

6. The Social Security Act aims to provide financial support for people while they are out of work, balanced by services and obligations to find and stay in employment when it is

possible and appropriate for them to do so. These obligations must be met in order to maintain eligibility for benefits.

7. The Bill makes three changes to work availability obligations on beneficiary parents:

- changing the definition of part-time work to increase the minimum hours per week which constitute part-time work from 15 to 20 hours
- lowering the age of the youngest dependent child at which part-time work search obligations for beneficiaries begin from five years to three years, and
- changing the age of the youngest dependent child at which certain beneficiaries may have full-time employment work obligations applied to them from 18 years to 14 years.

8. We have considered the consistency of these changes to work availability obligations on beneficiary parents with s 19 of the Bill of Rights Act.

Section 19 – Right to freedom from discrimination

9. Section 19(1) of the Bill of Rights Act affirms that everyone has the right to freedom from discrimination on the grounds set out in the Human Rights Act 1993.

10. We note the Bill requires certain categories of beneficiary parents to work for longer hours to be eligible for certain benefits. It also requires beneficiary parents to look for and accept suitable offers of employment sooner than current obligations or face sanctions. This has the potential to limit the s 19 right to freedom from discrimination (e.g. discrimination based on family status). However we understand in practice it will not.

11. The Ministry of Social Development ('MSD') has advised the Bill is intended to align work obligations and ensure consistency with existing social obligations imposed by legislation. We note the Bill will correct current anomalies in legislation where the age of the youngest dependent is inconsistent.

12. We understand from MSD there is flexibility in how the work obligations in the Bill will be applied to beneficiaries. Work availability obligations are to be balanced with consideration of employment suitability, exemptions, and protections.

Conclusion

13. We have concluded the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

Tania Warburton

**Acting Chief Legal Counsel
Office of Legal Counsel**

Disclaimer

In addition to the general disclaimer for all documents on this website, please note the following: This advice was prepared to assist the Attorney-General to determine whether a report should be made to Parliament under s 7 of the New Zealand Bill of Rights Act 1990 in relation to the Support for Children in Hardship Bill. It should not be used or acted upon for any other purpose. The advice does no more than assess whether the Bill complies with the minimum guarantees contained in the New Zealand Bill of Rights Act. The release of this advice should not be taken to indicate that the Attorney-General agrees with all aspects of it, nor does its release constitute a general waiver of legal professional privilege in respect of this or any other matter. Whilst care has been taken to ensure that this document is an accurate reproduction of the advice provided to the Attorney-General, neither the Ministry of Justice nor the Crown Law Office accepts any liability for any errors or omissions.