

Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Bill

Government Bill

Explanatory note

General policy statement

This Bill amends the Tax Administration Act 1994 and the Income Tax Act 2007.

The amendments proposed by the Bill relate to the COVID-19 resurgence support payments (CRSP) scheme (the **CSP framework amendments**), and to Working for Families tax credit settings (the **WFF amendments**).

The CSP framework amendments adapt the existing CRSP scheme into a more general COVID-19 support payments framework (the **CSP framework**). These changes will provide the Government with the flexibility to continue supporting businesses under a variety of scenarios.

The WFF amendments provide for increases to the family tax credit and Best Start tax credit rates, the minimum family tax credit threshold, and the family credit abatement rate. These proposed increases will apply from 1 April 2022.

The WFF amendments also include a minor remedial change to the indexation settings for the family tax credit and Best Start tax credit.

COVID-19 support payments framework

The existing CRSP scheme legislation contains specific references to supporting eligible businesses if there is a “resurgence in New Zealand of COVID-19”, or an escalation in “COVID-19 alert levels”. However, the CRSP scheme needs to be amended to reflect the shift from the COVID-19 Alert Level Framework to the COVID-19 Protection Framework, and the move from a COVID-19 elimination strategy to a strategy focusing on minimisation and protection.

The Bill proposes amendments that adapt the current CRSP scheme into the CSP framework. The CSP framework will retain the overall objective of the CRSP scheme, namely supporting eligible businesses affected by COVID-19 restrictions,

but it will not be specifically linked to the COVID-19 Alert Level Framework or limited to “an escalation in COVID-19 alert levels”. Instead, the CSP framework will allow the Governor-General, by Order in Council, to authorise grants to be made to eligible persons financially affected by a public health measure, a business circumstance, or a matter related to COVID-19. This flexibility will allow the Government to continue to support businesses under a variety of scenarios.

As with the CRSP scheme, the CSP framework is to be provided for in primary legislation. This will allow the Commissioner of Inland Revenue to use her existing tax administration powers for the purposes of administering the CSP framework. The amendments in this Bill do not make available any powers that are not already available for the administration of the CRSP scheme.

Similar to the existing CRSP scheme, the CSP framework will allow for payment activation criteria, eligible persons, circumstances of the payment, and calculation of payment amounts to be set by Order in Council.

Working for Families amendments

Family tax credit increase

To support the reduction of child poverty and the alleviation of financial pressure and hardship brought on by COVID-19 restrictions, the Bill proposes a \$5 per week per child increase to the family tax credit from 1 April 2022. This increase is to be made on top of an inflation-indexed increase to the family tax credit scheduled for 1 April 2022.

An inflation-indexed increase to the family tax credit (and the Best Start tax credit) is required once the cumulative increase in the Consumers Price Index (CPI) reaches 5% since rates were last adjusted (1 July 2018). Cumulative CPI increases have now reached 8.57%, triggering a corresponding increase in the family tax credit (and Best Start tax credit) rates from 1 April 2022.

The Bill therefore proposes a combined adjustment of the family tax credit, increasing the eldest child rate from \$5,878 to \$6,642 per year, and the subsequent child rate from \$4,745 to \$5,412 per year.

Family credit abatement rate increase

In addition to the family tax credit increase, the Bill proposes an increase in the family credit abatement rate from 25% to 27%. The family credit abatement rate determines the rate at which family tax credit and in-work tax credit payments reduce once family income exceeds the family credit abatement threshold of \$42,700.

Best Start tax credit increase

The inflation-indexed increase that is required for the family tax credit is also required in relation to the Best Start tax credit. The Bill therefore proposes to increase the Best Start tax credit rate from \$3,120 to \$3,388 per year, applying from 1 April 2022.

Minimum family tax credit threshold increase

The minimum family tax credit is adjusted annually to maintain its policy intent of ensuring sole-parent families are better off in work and off benefit. The Bill proposes to increase the minimum family tax credit threshold from \$31,096 to \$32,864 from 1 April 2022 to reflect main benefit increases applying from that date.

Working for Families indexation settings

Inflation-indexed increases to the family tax credit and Best Start tax credit rates are triggered once cumulative increases in the CPI reach 5% since rates were last adjusted. Currently, the cumulative CPI increases are calculated by reference to the CPI (all groups excluding cigarettes and other tobacco products) measure. It was intended that the CPI (all groups excluding cigarettes and other tobacco products) measure would be used until annual tobacco excise tax increases ceased, at which point indexation would revert to using the CPI (all groups) measure. Annual tobacco excise tax increases ceased at the end of 2020. The Bill therefore proposes a remedial amendment to update the CPI measure accordingly.

The remedial indexation settings amendment also includes a new start date (1 October 2021) for the purposes of calculating when the cumulative increases in the CPI next reach 5%.

Departmental disclosure statement

The Inland Revenue Department is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2021&no=96>

Regulatory impact statement

The Inland Revenue Department and the Ministry of Social Development produced a regulatory impact statement on 28 October 2021 to help inform the policy decisions taken by the Government relating to the WFF amendments contained in this Bill.

A copy of this regulatory impact statement can be found at—

- <https://taxpolicy.ird.govt.nz/publications>
- <https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. *Clauses 10, 11, 12, and 14* come into force on 1 April 2022. The rest of the Bill comes into force on the day on which it receives the Royal assent.

Part 1

Amendments to Tax Administration Act 1994

Clause 3 provides that *Part 1* amends the Tax Administration Act 1994.

Clause 4 amends section 3(1), which gives the meanings of defined terms. *Subclause (2)* inserts a definition of *COVID-19 support payments scheme*. *Subclause (3)* inserts a definition of *CSP terms*, which are the terms under which a grant is made under a COVID-19 support payments scheme. *Subclause (4)* amends the definition of *disputable decision* to exclude a decision made by the Commissioner to make or decline a grant under a COVID-19 support payments scheme. *Subclause (5)* amends the definition of *tax* to include an amount payable in relation to a grant made under a COVID-19 support payments scheme.

Clause 5 replaces sections 7AAB and 7AAC. *New section 7AAB* authorises the payment of grants under a COVID-19 support payments scheme that is set up by an Order in Council made under *new section 7AAC*. *New section 7AAB(10)* provides that the COVID-19 resurgence support payments scheme, which operated under the replaced sections 7AAB and 7AAC, is a COVID-19 support payments scheme. *Subclause (2)* provides that Orders in Council in effect when section 7AAC is replaced are to continue in effect under the replacement section.

Clause 6 amends section 157(10) to give the Commissioner a power to require the withholding of amounts from payments being made to a person who owes money to the Commissioner under a COVID-19 support payments scheme.

Clause 7 amends schedule 7, part A, clause 13B, so that the rules in that clause apply to the disclosure by the Commissioner of information relating to a COVID-19 support payments scheme.

Part 2

Amendments to Income Tax Act 2007

Clause 8 provides that *Part 2* amends the Income Tax Act 2007.

Clause 9 amends section MB 13 to exclude a payment under a COVID-19 support payments scheme from family scheme income.

Clause 10 amends section MD 3 to increase the family tax credit for the 2022–23 and later tax years.

Clause 11 amends section MD 13 to increase the rate of family credit abatement for the 2022–23 and later tax years.

Clause 12 amends section ME 1 to increase the minimum family tax credit for the 2022–23 and later tax years.

Clause 13 amends section MF 7 to change when Orders in Council must be made to implement inflation-linked increases to the family and Best Start tax credits, and to change the inflation measure used to the Consumers Price Index (All Groups). The current inflation measure excludes cigarettes and other tobacco products.

Clause 14 amends section MG 2 to increase the Best Start tax credit for the 2022–23 and later tax years.

Clause 15 amends section YA 1, so that interest payable under a COVID-19 support payments scheme is included in the definition of *exempt interest*.

Hon David Parker

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act **2021**.

2 Commencement 5

- (1) This Act comes into force on the day on which it receives the Royal assent, except as provided in this section.
- (2) **Sections 10, 11, 12, and 14** come into force on 1 April 2022.

Part 1**Amendments to Tax Administration Act 1994** 10**3 Amendments to Tax Administration Act 1994**

This Part amends the Tax Administration Act 1994.

4 Section 3 amended (Interpretation)

- (1) This section amends section 3(1).
- (2) Insert, in appropriate alphabetical order: 15

COVID-19 support payments scheme means a scheme that is—

 - (a) established and administered by the Crown to provide support to persons financially affected by a public health measure, business circumstance, or matter, that is related to COVID-19, or by a group of such measures, circumstances, or matters; and 20
 - (b) activated by an Order in Council made under **section 7AAC**
- (3) Insert, in appropriate alphabetical order:

CSP terms is defined in **section 7AAB(9)**
- (4) In the definition of **disputable decision**, paragraph (b)(vii), after “scheme”, insert “, or another COVID-19 support payments scheme.” 25
- (5) In the definition of **tax**, paragraph (cd), after “scheme”, insert “or another COVID-19 support payments scheme”.

5 Sections 7AAB and 7AAC replaced

- (1) Replace sections 7AAB and 7AAC with:

7AAB Authorisation to make COVID-19 support payments 30

- (1) The purpose of this section is to authorise the making of payments under a COVID-19 support payments scheme (the **CSP scheme**) as grants to eligible persons in New Zealand who are financially affected by a public health meas-

- ure, business circumstance, or matter, that is related to COVID-19 (a **COVID-19 circumstance**), or by a group of COVID-19 circumstances.
- (2) The Commissioner, on behalf of the Crown, may make a grant under the CSP scheme (a **grant**) to a person if—
- (a) the CSP scheme is declared active for the COVID-19 circumstance or group of COVID-19 circumstances affecting the person by an Order in Council made under **section 7AAC**; and 5
 - (b) for the period of activation of the CSP scheme,—
 - (i) the person meets the eligibility requirements referred to in **subsection (3)(b)(i)** for a grant; and 10
 - (ii) the person, or another person on their behalf, applies to the Commissioner for the grant.
- (3) For the purposes of **subsection (2)** and an activation period, the Commissioner—
- (a) must set out the procedure required for a person to make an application for a grant: 15
 - (b) must determine—
 - (i) the eligibility requirements that a person must meet to qualify for a grant:
 - (ii) the terms and conditions that apply to a grant: 20
 - (c) must publish, on an internet site administered by the Commissioner, the eligibility requirements referred to in **paragraph (b)(i)**.
- (4) If a person applies for a grant on behalf of another person, both the person and the person in whose name the application is made must provide information as required by the Commissioner. 25
- (5) The person in whose name an application is made is bound by the CSP terms of the grant.
- (6) The total amount of a grant paid to the person, together with any amount payable under the CSP terms, must be repaid to the Commissioner if the CSP terms require repayment. 30
- (7) If a person who receives a grant from the Commissioner does not meet the eligibility requirements referred to in **subsection (3)(b)(i)**, the person must immediately repay to the Commissioner the total amount of the grant together with any amount payable under the CSP terms.
- (8) The persons referred to in **subsection (4)** must keep records referred to in section 22 to demonstrate that the eligibility requirements are met and the CSP terms have not been breached. 35
- (9) For the purposes of this section and **section 7AAC**, the **CSP terms** of a grant for an activation period mean—

- (a) the terms and conditions applying in relation to a person’s eligibility for the grant at the time the grant is made, and any other terms and conditions determined by the Commissioner under **subsection (3)(b)(ii)**:
- (b) the terms set out in an application for the grant that is made by or on behalf of a person, including the contents of a declaration, consent, or other representation made by or on behalf of the person: 5
- (c) the terms and conditions set out in an agreement between the Commissioner and the person receiving the grant.
- (10) The COVID-19 resurgence support payments scheme is a CSP scheme and the CRSP terms of a grant under that scheme are CSP terms of the grant. 10
- 7AAC Orders in Council related to COVID-19 support payments scheme**
- (1) For the purposes of **section 7AAB**, the Governor-General may by Order in Council—
- (a) declare the activation of a COVID-19 support payments scheme (the **CSP scheme**) in relation to a COVID-19 circumstance, or a group of COVID-19 circumstances, which affects eligible persons in New Zealand: 15
- (b) specify the period for which, or the circumstances in which, the CSP scheme is to operate in relation to the COVID-19 circumstance or group of COVID-19 circumstances: 20
- (c) describe a class or classes of persons who may apply for a grant under the CSP scheme and the amount of the grant to which they may be entitled:
- (d) specify amendments to the CSP scheme, the CSP terms of a grant, or the matters referred to in **section 7AAB(3)(a) and (b)**: 25
- (e) extend, renew, or replace a time limit referred to in **schedule 7, part A, clause 13B(2)(b)**.
- (2) For an order made under the power given in **subsection (1)(e)**, the order—
- (a) expires if not renewed or replaced under **paragraph (b)**, after— 30
- (i) the period set out in the order, if applicable; or
- (ii) if no period is set out, 6 months after the order comes into force:
- (b) may be renewed or replaced by an Order in Council made on or before the date on which the order would otherwise expire.
- (3) An Order in Council made under **subsection (1) or (2)(b)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 35
- (2) An Order in Council made under section 7AAC that is in force immediately before **subsection (1)** comes into force—
- (a) continues in force after **subsection (1)** comes into force as if made under the replacement **section 7AAC**:

- (b) may be amended or revoked as if made under the replacement **section 7AAC**.
- 6 Section 157 amended (Deduction of tax from payments due to defaulters)**
In section 157(10), definition of **income tax**, paragraph (k), after “scheme”, insert “or another COVID-19 support payments scheme”. 5
- 7 Schedule 7 amended (Disclosure rules)**
In schedule 7, part A, clause 13B,—
- (a) in the heading, after “**scheme**”, insert “**or other COVID-19 support payments scheme**”:
- (b) in subclause (1), after “**scheme**”, insert “or to another COVID-19 support payments scheme (the **CSP scheme**)”: 10
- (c) in subclause (2)(a)(iv), after “CRSP scheme”, insert “or CSP scheme”:
- (d) in subclause (3), after “section 7AAC”, insert “for the CRSP scheme or the CSP scheme”.
- Part 2** 15
Amendments to Income Tax Act 2007
- 8 Amendments to Income Tax Act 2007**
This Part amends the Income Tax Act 2007.
- 9 Section MB 13 amended (Family scheme income from other payments)**
In section MB 13(2)(j), after “scheme”, insert “, or another COVID-19 support payments scheme”. 20
- 10 Section MD 3 amended (Calculation of family tax credit)**
- (1) In section MD 3(4)(a), replace “\$5,878” with “\$6,642”.
- (2) In section MD 3(4)(b), replace “\$4,745” with “\$5,412”.
- (3) **Subsections (1) and (2)** apply for the 2022–23 and later tax years. 25
- 11 Section MD 13 amended (Calculation of family credit abatement)**
- (1) In section MD 13(3)(a)(i), replace “25 cents” with “27 cents”.
- (2) In section MD 13(3)(a)(ii), replace “25 cents” with “27 cents”.
- (3) **Subsections (1) and (2)** apply for the 2022–23 and later tax years.
- 12 Section ME 1 amended (Minimum family tax credit)** 30
- (1) In section ME 1(3)(a), replace “\$31,096” with “\$32,864”.
- (2) **Subsection (1)** applies for the 2022–23 and later tax years.

13 Section MF 7 amended (Orders in Council)

- (1) Replace section MF 7(1)(a)(i) with:
- (i) correspond to the movement in the New Zealand Consumers Price Index after the quarter ended with 30 September 2021 that has not yet been taken into account by an increase: 5
- (2) Replace section MF 7(1)(db)(i) with:
- (i) corresponds to the movement in the New Zealand Consumers Price Index after the quarter ended with 30 September 2021 that has not yet been taken into account by an increase:
- (3) Replace section MF 7(2)(a) and (b) with: 10
- (b) in the case of the first Order in Council made under subsection (1)(a) after the date on which the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act **2021** receives the Royal assent, must be made when the total percentage increase in the movement in the New Zealand Consumers Price Index measured from that applying on 1 October 2021 is 5% or more: 15
- (4) Replace section MF 7(2BA)(a) with:
- (a) in the case of the first Order in Council made under subsection (1)(db) after the date on which the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act **2021** receives the Royal assent, must be made when the total percentage increase in the movement in the New Zealand Consumers Price Index measured from that applying on 1 October 2021 is 5% or more: 20
- (5) Replace section MF 7(2B)(a) and (b) with:
- (a) the number that, when the period started, was the most recent quarterly index number of the New Zealand Consumers Price Index (All Groups) published by Statistics New Zealand: 25
- (b) the number that, when the period ended, was the most recent quarterly index number of the New Zealand Consumers Price Index (All Groups) published by Statistics New Zealand. 30
- (6) In section MF 7, list of defined terms, insert “quarter”.

14 Section MG 2 amended (Best Start tax credit)

- (1) In section MG 2(2)(a), replace “\$3,120” with “\$3,388”.
- (2) **Subsection (1)** applies for the 2022–23 and later tax years.

15 Section YA 1 amended (Definitions) 35

In section YA 1, definition of **exempt interest**, paragraph (dc), after “scheme”, insert “, or another COVID-19 support payments scheme”.

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for Families Tax Credits) Bill**

Wellington, New Zealand:

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