

2006/9

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## It's got to be good for you

Saving. Like darning and preserving it appears to be a dying art. Our parents and grandparents were good at it, but the so-called baby-boomers, not to mention Generations X, Y and Z are bad, very bad. Essentially we are all spending way more than we are earning. Household debt has increased from \$84 billion in 2001 to \$140 billion in 2006, and we have the lowest savings record in the OECD. In addition, most New Zealanders have the majority of their wealth or assets in property, and the Reserve Bank continues to predict a slump in house prices – sooner rather than later.

KiwiSaver is a voluntary, work-based savings scheme allowing employees to save by way of direct deduction from their salary or wages. The scheme is part of the government's package to encourage New Zealanders to save, particularly for their retirement, and to assist low and middle income earners buy their first home. First announced as part of the 2005 Budget, the KiwiSaver Bill establishing the scheme was passed 30 August 2006, and KiwiSaver will start from 1 July 2007.

To encourage employee participation in the scheme the government is offering:

- a \$1000 “kick start” contribution on joining
- assistance with fees charged by scheme providers (approved providers such as superannuation companies who hold and invest contributions), and
- for first home buyers, the opportunity to apply for a deposit subsidy (after three years of saving, Kiwisaver offers a first home deposit subsidy of \$1000 for each year of membership in the scheme, up to a maximum of \$5000).

Employees can choose to contribute either 4 percent or 8 percent of their before-tax salary, contributions are locked in for five years or until retirement, but withdrawals can be made after 12 months in special circumstances.

For some employers, including those in the voluntary sector, the introduction of KiwiSaver may seem daunting. Issues to consider before 1 July include changes to payroll systems to ensure employee contributions are deducted and whether your organisation will offer an employer contribution (this is not compulsory, but the government has just made this more attractive to employers by exempting employer contributions from the current superannuation withholding tax). Before 1 July, employers will be provided with KiwiSaver information packs to give to their employees outlining how the scheme works. The packs will also provide information about how employees can get advice about the scheme and whether they should join. Employers do not have to provide their employees with financial advice. There is already excellent advice for both employees and employers about how KiwiSaver will work. See [www.ird.govt.nz](http://www.ird.govt.nz) or [www.tower.co.nz/kiwisaver](http://www.tower.co.nz/kiwisaver).

Unsurprisingly, not everybody is in favour of the scheme. Some have questioned whether the scheme should be compulsory, there is concern that the 4 percent minimum contribution may be too high, and small businesses are unhappy about added compliance costs. The National Party, who favour tax reductions as an incentive to increase savings, have opposed KiwiSaver from the outset, and have described the scheme as a “glorified Christmas Club”. In a recent speech however, National finance spokesperson John Key stated that once established, KiwiSaver would be difficult to unwind. While not an outright promise, this speech indicates that whoever is leading the next government, KiwiSaver may be here to stay.

# PARLIAMENT

## Submissions called for

### Arbitration Amendment Bill

This Government bill implements the main recommendations of the Law Commission's 2003 report on improvements needed to the 1996 Act. It aims to encourage the use of arbitration in privately solving disputes. Main elements are:

- (a) improving consumer protection
- (b) removing many of the limitations to confidentiality while retaining the principle and
- (c) enabling parties to agree, in their arbitration agreement, to a default procedure if they cannot agree on the appointment of an arbitral tribunal.

The Bill has been referred to the Justice & Electoral Select Committee. Submissions close on 27 November.

### Wills Bill

This Bill restates the existing law on wills in plain language and removes some anomalies. (See *Law Scene* 2006/8). Submissions to the Justice & Electoral Select Committee close on 27 November.

### Succession (Homicide) Bill

This codifies the law preventing a person who unlawfully kills another person from benefiting from the death, whether from the victim's estate or other property arrangements. Submissions to the Justice & Electoral Select Committee close on 27 November.

## Reported back

### Immigration Advisers Licensing Bill

Changes recommended by the Transport & Industrial Relations Select Committee include:

- reducing the implementation timeframe from 5 to 3 years;
- clarifying employment and location arrangements;
- making exemptions for offshore education advisers and other parties such as MPs, foreign diplomats and consular staff and specifying exemption procedures;
- clarifying the prohibitions on licensing and suspension;
- establishing an Immigration Advisers Complaints & Disciplinary Tribunal and ensuring the complaints process is accessible and transparent; and
- clarifying that individuals working only as volunteers for not-for-profit organizations should not be charged a licensing fee.

### Manukau City Council (Control of Street Prostitution) Bill

The Local Government and Environment Select Committee recommended that this Bill not be passed. The Bill was trying to prohibit street prostitution in Manukau City by making soliciting an offence for both sex worker and client. The majority of the Committee said that having a local law different from the national law was workable.

### Sex Offenders Registry Bill

The Justice & Electoral Select Committee recommended that this Member's Bill, originated by ACT MP Deborah

Coddington and taken over by Rodney Hide not proceed. The Bill was therefore discharged last month.

### Inquiry into the 2005 General Election

'A review of electoral law is long overdue, as the prevailing piecemeal approach is no longer sustainable,' reported the Justice & Electoral Select Committee. It recommends Government undertake a review of the law relating to Parliamentary elections in time for changes to apply to the 2008 General Election.

## Passed

### Child Support Amendment Bill (No.4)

Writes off late payment penalties for liable parents who resume child support contributions.

## Regulations

### Retirement Villages Code of Practice

The new disputes procedure began on 1 October this year, enabling residents for the first time to have a mechanism (other than the courts) for resolving disputes with village owners or operators. The Code of Practice bringing the 2003 legislation fully into force starts in May 2007 and sets minimum requirements to be included in any occupation right agreement. The General Regulations require full disclosure of relevant information to intending residents. New retirement villages will have to be registered by May 2007 and existing ones by November 2007.

### Charities Act

The Charities Act Commencement Order brings into force sections amending the Tax Administration Act on 1 November and Part II, relating to the Register of Charities and some other tax provisions, on 1 July 2008. Regulations setting out the fees, forms and other matters begin on 1 November.

## Backgrounder

### Treaty of Waitangi Settlements Process

This paper prepared by Parliamentary staff summarises past and present Treaty settlement processes, including statistics and expenditure. It outlines criteria for making a claim and availability of financial support. Historical claims are combined by the Tribunal into district inquiries. Currently there are 37 district inquiries, of which 11 have been completed, and another six have completed hearings and are at the report-writing stage.

The Tribunal is adopting a new approach which aims to speed up the Tribunal inquiry process.

### Closing date for historic treaty claims

The Maori Purposes Bill 2006, currently at the Select Committee stage, specifies a closing date of 1 September 2008 for new historical Treaty claims to be submitted to the Waitangi Tribunal and includes other amendments required to provide for or clarify this change in the scope of the Waitangi Tribunal's jurisdiction. The Bill provides a definition of historical Treaty claim to encompass claims relating to events occurring before 21 September 1992. The Select Committee is due to report next month.

# LEGISLATION UPDATE

Legislation	Stage and Progress	Impact
<b>Children, Young Persons &amp; Their Families Amendment (No. 4) Bill</b>	Awaiting second reading. Amended by SOP 261.	Aims to improve youth justice processes, prevent persistent offending. CYFS may assign investigation and care to NGOs.
<b>Crimes (Abolition of force as justification for child discipline) Amendment Bill</b> (Sue Bradford)	Select Committee is hearing submissions. Report due 31 October.	Removes the use of 'reasonable force' for correction as a defence against assault by a parent on their child.
<b>Criminal Procedure Bill</b>	Passed second reading; awaiting committee stages. Amended by SOPs 50, 51.	Omnibus bill to improve court efficiency, modify jury system, change double jeopardy rule.
<b>Crimes of Torture Amendment Bill</b>	Reported back.	Introduces regular visiting of prisons to prevent torture or other cruelty.
<b>Disabled Persons Employment Promotion (Repeal &amp; Related Matters) Bill</b>	Awaiting second reading.	Ensures people with disabilities in sheltered workshops have the same wage and employment rights as other workers.
<b>Easter Sunday Shop Trading Amendment Bill: Private Members' Bills,</b> Jacqui Dean and Steve Chadwick	Before Commerce Committee. Report due 13 December.	Grants partial exemption to shops in visitor districts from the requirement to be closed on Good Friday and Easter Sunday.
<b>Employment Relations (Flexible Working Hours) Amendment Bill.</b> Private Member's Bill, Sue Kedgley	Interim committee report considered by Parliament 3 May.	Enables employees with young and dependent children to request part-time, flexible & reduced working hours.
<b>Employment Relations (Probationary Employment) Amendment Bill.</b> Private Member's Bill, Wayne Mapp.	Transport & Industrial Relations Committee; submissions closed. Report due 16 November.	Introduces 90-day probation period for new employees.
<b>Evidence Bill</b>	Before Justice & Electoral Select Committee. Report due 16 November.	Draws together common law and statutory provisions for evidence.
<b>Human Tissue (Organ Donation) Amendment Bill: Private Member's Bill,</b> Jackie Blue.	Before Health Select Committee. Report due 2 November.	Sets up a register where people can place their legally binding wish (or objection) to be an organ donor; promotes donation.
<b>Insolvency Law Reform Bill</b>	Second reading 13 September; awaiting committee stage.	Modernises insolvency & personal bankruptcy law & liquidation options.
<b>Justices of the Peace Amendment Bill</b>	Before Law & Order Committee Report due 18 January 07.	Standardises JP training and introduces disciplinary regime.
<b>Minimum Wages (Abolition of Age Discrimination) Amendment Bill.</b> Private Member's Bill, Sue Bradford	Before Transport & Industrial Relations Select Committee; report due 1 March 2007.	Abolishes discrimination on grounds of age in setting minimum wage rates, but allows apprentice & other exceptions.
<b>New Zealand Day Bill</b> Private Member's Bill, Peter Dunne	Before Justice and Electoral Committee. Report due 28 Feb 2007.	Replaces Waitangi Day with a New Zealand Day.
<b>Oaths Modernisation Bill</b>	Awaiting second reading.	Modernises the language used in oaths.
<b>Official Information (Openness of DHBNZ) Amendment Bill.</b> Private Member's Bill, Jackie Blue	Submissions to Health Committee close 27 October.	Amends Official Information Act to ensure access to official information held by DHBs and entities representing more than one DHB.
<b>Principles of the Treaty of Waitangi Deletion Bill</b> Private Member's Bill, Doug Woolerton	Before Justice & Electoral Select Committee. Submissions closed 20 October.	Eliminates all references to "the principles of the Treaty", "the principles of the Treaty of Waitangi" and the "Treaty of Waitangi and its principles" from all New Zealand Statutes
<b>Succession (Homicide) Bill</b>	Submissions close 27 November.	Defines who may not benefit from an unlawful killing.
<b>Wills Bill</b>	Submissions to Justice & Electoral Select Committee close 27 November.	Restates law in plain English, removes some anomalies & defines circumstances where a person may not benefit.
<b>Young Offenders (Serious Crimes) Bill</b> – Private Member's Bill, Ron Mark	Before Law & Order Select Committee; submissions closed. Report due 29 March 2007.	Makes 10-14 year olds who commit 'serious offences' subject to Youth Court.

# News

## Judges' retirement age

This is to be set at 70 for all judges, up from the previous compulsory retirement age of 68. It will bring New Zealand into line with comparable jurisdictions such as Australia and the UK. Attorney General Dr Michael Cullen says raising the age 'will assist the retention of our most experienced and capable judges and encourage the recruitment of senior practitioners.' Legislation giving effect to the change will be introduced later this year.

## Community law centres

Speaking to the CLC Annual Hui in mid-September, MP Charles Chauvel noted that the Lawyers & Conveyancers Act will make quite a difference to CLC operations. It allows non-lawyers to provide general legal services including advice and drafting of documents such as wills and will enable community law centres to provide a greater range of services to clients. He expected the Act to be fully implemented by 1 July 2008.

Some law centres' concerns about legal aid remuneration rates and the availability of legal aid lawyers will be considered during the review undertaken by the Legal Services Agency in early 2007.

## Judicial conduct

The first year of the Judicial Conduct Commission saw 106 complaints against judges, including bias, sexism and rudeness, as well as delays, incompetence, making inappropriate remarks and failure to listen. Of these, 89 complaints were dismissed outright, mostly because they called into question judges' rulings rather than their actions. District Court judges sparked 45 complaints, Family Court judges 34 and High Court judges seven. Seventeen complaints were made about the Court of Appeal, though 16 were from one complainant.

## Family Court

From November 1 the Family Court will trial a new system for dealing with urgent complicated and intractable custody disputes. Cases referred to the Parenting Hearings Programme will be given an initial, two-hour court hearing date within 14 days. Before this hearing, parents will watch a DVD explaining the procedure, emphasizing the importance of putting children first and outlining the effect parental hostility has on children. The hearing will seek to identify key issues in dispute and if possible resolve them on the spot. The parties will put the case themselves, with lawyers in the back seat.

If resolution is not possible at the first hearing, a final session will be set down for within two months. This will resolve all outstanding matters, emphasizing the finality of the process to

prevent parents repeatedly returning to court to relitigate.

Based on an Australian model, the system will be tested during a two year pilot based at Wellington, Palmerston North, Tauranga, Rotorua, Dunedin and Auckland courts.

## 10th Anniversary of MMP

On 12 October 1996, ten years ago, New Zealand held its first election under the mixed member proportional electoral system (MMP).

A referendum in 1992 endorsed a change to a proportional electoral system amid pressure to reform Parliament to enhance its representativeness. A further binding referendum in 1993 favoured MMP, which increased the number of seats in the House from 99 to 120 – 60 general electorate, 5 Maori electorate and 55 list seats.

The election of 1996, the first conducted under MMP gave voters two votes, one for a party and one for an electorate MP. Voter registration and interest was strong and turnout was high at 88.3 percent of those enrolled.

MMP changed the composition of Parliament – it has become more diverse and includes a greater range of social groups than before.

New Zealand has now experienced four elections conducted under MMP. The new system continues to bring about significant changes to New Zealand's representative democracy.

## Resources

### RMA explained

An updated guide for small businesses and general public about working with the Resource Management Act has been launched by government. *An Everyday Guide to the RMA* consists of an interactive CD, website ([www.mfe.govt.nz/publications/rma/everyday/](http://www.mfe.govt.nz/publications/rma/everyday/)), 0800 phone-line (0800 762 4636), read online and downloadable brochures.

### Internet access to judicial decisions

Decisions from the Supreme Court, Court of Appeal and High Courts are now available free on the internet ([www.justice.govt.nz](http://www.justice.govt.nz)). Judicial Decisions Online currently holds over 2000 selected judgements from the higher courts with more being added daily. Over time, other jurisdictions such as the District Court, Employment Court and Environment Court will be added.

### Public Access to Legislation

The complex PAL project has experienced difficulties with technology and also the commercial arrangements, and continues to present technological and management challenges, according to the Parliament Counsel Office annual report. 'The success of the project is dependent on Unisys and its subcontractors customizing and integrating the key software components of the PAL system,' the report says.



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