

2006/10

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Investing in a culture of giving

Public discussion of private generosity does not fit well with our stereotype of the modest and self-effacing New Zealander so we often do not adequately recognise the huge amount that Kiwis give in money and time. A 2002 survey for Philanthropy New Zealand calculated close \$550 million in philanthropic giving, equivalent to 0.64 percent of GDP.

Earlier this month, Government released a discussion document on the current tax rebate regime for charities as a first step toward building a stronger culture of giving in New Zealand. The Review looks at the current government mechanisms for assistance, through the tax system, to charities and other non-profit organisations.

It is an area in which New Zealand lags well behind other comparative Commonwealth countries. Overseas programmes and research shows that generosity is profoundly influenced by tax legislation. Along with bequests, payroll giving, share donation schemes and corporate community involvement, tax relief on donations has significantly increased monetary giving throughout the world.

The philanthropic sector, and the community and voluntary sector, will be actively engaging in the Review. This is an issue for all New Zealanders, whether they are company or individual givers, many are active as volunteers, or use the many services and not-for-profit organisations; and most such organisations rely heavily on philanthropy to make ends meet.

Community and voluntary sector organisations typically survive on a combination of public and private monies. Government contracts account for only part of the cost of delivering services to the community, and the rest comes from grants from lotteries, philanthropic trusts, membership and other fees, as well as fundraising, sponsorship and donations.

The Review canvasses a number of options to stimulate greater charitable giving by individuals and companies. These include raising the maximum that individuals can give to receive the tax rebate for donations, or raising the level of the rebate.

For companies, the review recognises the barriers the current tax regime has created. At present all but a few companies are entitled to no more than 5 percent of the company's net income for that year. Tax deductibility of donated goods or services requires the company to show a link between the gift and the business.

This is not about providing tax breaks for companies. It is about recognising that corporates are a huge source of charitable giving in New Zealand and it is timely to review this as part of the wider push to encourage a culture of giving.

The Review proposes to increase company deduction limits for donations and extend the deduction to companies not currently listed on a stock exchange.

Other matters considered are ways of recognising the time given by volunteers. The Review discusses options of offering as tax rebate to volunteers or direct grants to organisations, and clarification of the tax treatment of reimbursements and honoraria.

Imputation credits are unfortunately not covered in this review. At present tax-exempt charities are unable to claim imputation credits meaning a body meant to be a non-tax-payer is de facto paying tax. Inland Revenue intend to include this as part of a review of imputation credits in 2007.

New Zealanders already make a huge investment of time and money in our communities. Why not encourage and celebrate it? Philanthropy will thrive in this country if there are strong incentives for giving.

Robyn Scott, Philanthropy New Zealand

Parliament

Introduced

Property Law Bill

A response to Law Commission work a decade ago and based largely on their 1994 draft, this Government Bill sets out the rules of property law in a way that can be readily understood. It restates the rules for property dealing, protection of property rights and dispute resolution in 'language more likely to meet present and future needs', provides a convenient statement of some of the common law and modifies those portions no longer regarded as satisfactory.

A large number of reforms clarify the rules governing mortgages in possession, mortgagees in breach of their duty in exercising powers of sale, and mortgagee sales. The Bill also brings the law into line with other new legislation and amendments.

The Bill is being considered by the Justice and Electoral Select Committee. Submissions have not yet been called for.

Foreshore & Seabed Act (Repeal) Bill

In the name of Maori Party co-leader Tariana Turia, this Bill seeks to repeal the 2004 Act and associated legislation, including the Resource Management (Foreshore & Seabed) Amendment Act. If passed, the Foreshore & Seabed Endowment Revesting Act of 1991 would come back into effect. Debate has been postponed until mid-February 2007.

Local Electoral (Repeal of Race-based Representation) Amendment Bill

Put forward by National MP Tony Ryall, this Private Member's Bill would repeal legal provisions allowing Maori wards and constituency representation for local authorities.

Treaty of Waitangi (Removal of Conflict of Interest) Amendment Bill

Pita Paraone of NZ First has put forward this Private Member's Bill. It would remove the conflict of interest for a serving judge of the High Court or Maori Land Court to serve on the Waitangi Tribunal in any capacity. The Bill aims to reduce the inherent conflict of interest that presently exists, and provides retired judges of those two courts to serve instead.

Injury Prevention, Rehabilitation and Compensation Amendment Bill

This Government legislation combines two ACC accounts (employers' and self-employed) into one. The merger will ensure fairer ACC levies for businesses. It also renames the Medical Misadventure Account the Treatment Injury Account. Submissions have just closed and the Transport and Industrial Relations Committee is due to report back on 18 December.

Submissions called for

Human Tissue Bill

This Government Bill replaces 1964 legislation, and regulates collection and use of tissue from dead human bodies. It also

regulates trading in tissue (including import and export) and use for non-therapeutic purposes such as research, education, anatomical examination. It tackles organ and tissue donation and consent procedures. Sale and purchase of human tissue (including blood) is prohibited though there may be some provision for recovery of administrative costs. Submissions close on 16 February 2007.

Student Loan Scheme Amendment Bill (No. 2)

This removes barriers to student loan borrowers returning to New Zealand, extending the amnesty on penalties on overseas students till March 2008, and introduces a three-year repayment holiday for student loan holders living overseas. It also allows data matching between Inland Revenue and the NZ Customs Service so that only those entitled to interest-free loans (by staying in New Zealand) receive them. It is before the Justice & Electoral Committee; submissions have not yet been called for.

Reported back

Evidence Bill

The Justice & Electoral Committee's report recommends a raft of changes. They cover aspects of admissibility, privilege and confidentiality; aspects of truthfulness and challenging it; issues regarding a person's character and history (including sexual) and proper obtaining of statements by police. They recommend deleting the provision that a person in a close relationship with a defendant may not give evidence for the prosecution, and clarifying that it is perjury for an interpreter to make deliberate false or misleading statements. They also tidy up the clauses on cross-examination and the use of written and video evidence.

Employment Relations (Probationary Employment) Amendment Bill

This sets up a 90-day probationary period for all new employees. However, the Transport & Industrial Relations Select Committee recommended by a majority that the Bill not proceed and it failed to pass its second reading.

Minimum Wages (Abolition of Age Discrimination) Amendment Bill

Following hearings by the Transport & Industrial Relations Select Committee, the Bill was discharged from a second reading but referred to the same Committee for continued consideration.

Case Law

An appeal from conviction under the Summary Offences Act regarding confronting a person in a public place has been dismissed by the High Court. The case related to an animal rights protest in which staff at a clothing store felt intimidated by placard-carrying protestors accompanying them to their cars. The High Court held that actual fear felt by the complainants did not have to be established. It also said that the freedom of protest under the Bill of Rights Act is subject to reasonable limits, and the right to freedom from intimidation is one of those limits.

Legislation Update

Legislation	Stage and Progress	Impact
Children, Young Persons & Their Families Amendment (No. 4) Bill	Awaiting second reading. Amended by SOP 261.	Aims to improve youth justice processes, prevent persistent offending. CYFS may assign investigation and care to NGOs.
Crimes (Abolition of force as justification for child discipline) Amendment Bill (Sue Bradford)	Select Committee reported 21 November, suggesting amendments.	Removes the use of 'reasonable force' for correction as a defence against assault by a parent on their child.
Criminal Procedure Bill	Passed second reading; awaiting committee stages. Amended by SOPs 50, 51	Omnibus bill to improve court efficiency, modify jury system, change double jeopardy rule.
Crimes of Torture Amendment Bill	Committee stages completed. Reported back; awaiting 3 rd reading. .	Introduces regular visiting of prisons to prevent torture or other cruelty.
Disabled Persons Employment Promotion (Repeal & Related Matters) Bill	Awaiting second reading.	Ensures people with disabilities in sheltered workshops have the same wage and employment rights as other workers.
Easter Sunday Shop Trading Amendment Bill: Private Members' Bills, 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.
Employment Relations (Flexible Working Hours) Amendment Bill. Private Members' 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.
Evidence Bill	Reported. See p.2	Draws together common law and statutory provisions for evidence.
Foreshore & Seabed Act (Repeal) Bill, Private Member's Bill, Tariana Turia	Introduced. See p.2	Repeals the Foreshore & Seabed Act and restores previous legislation.
Human Tissue Bill	Introduced. See p.2	Regulates supply and use of human tissue & organs and consent provisions.
Human Tissue (Organ Donation) Amendment Bill: Private Members' Bill, Jacqui Blue.	Before Health Select Committee. Report due 31 May 2007.	Sets up a register where people can place their legal binding wish (or objection) to be an organ donor; promotes donation.
Justices of the Peace Amendment Bill	Before Law & Order Committee Report due 18 January 07.	Standardises JP training and introduces disciplinary regime.
Minimum Wages (Abolition of Age Discrimination) Amendment Bill. Private Members' 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.
New Zealand Day Bill Private Members' Bill, Peter Dunne	Before Justice and Electoral Committee. Report due 28 Feb 2007.	Replaces Waitangi Day with a New Zealand Day.
Oaths Modernisation Bill	Awaiting second reading.	Modernises the language used in oaths.
Official Information (Openness of DHBNZ) Amendment Bill. Private Members' Bill, Jackie Blue	Submissions to Health Committee closed. Report due 31 May 2007.	Amends Official Information Act to ensure access to official information held by DHBs and entities representing more than one DHB.
Principles of the Treaty of Waitangi Deletion Bill Private Members' 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
Property Law Bill	Introduced. See p.2	Consolidates and clarifies property law, and deals with some common law anomalies.
Succession (Homicide) Bill	Submissions close 27 November.	Defines who may not benefit from an unlawful killing.
Wills Bill	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.
Young Offenders (Serious Crimes) Bill – Private Members' 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

Young people and alcohol

Starting life as a private member's Bill put forward by MP Matt Robson in 2005, the Sale of Liquor (Youth Alcohol Harm Reduction: Purchase Age) Amendment Bill failed at its second reading by 72 votes against to 49 for. However, the part of the Bill relating to broadcast advertising was reworked into the Sale of Liquor (Youth Alcohol Harm Reduction) Amendment Bill, reported back by the Select Committee with amendments restricting it to television advertising only, and still awaits its second reading.

Meantime, another Private Member's Bill from Green MP Jeanette Fitzsimons would impose a total ban on the marketing, advertising and promotion of liquor through New Zealand broadcast media. This Bill was introduced in September and awaits its first reading.

A Government-appointed working group set up to review on the regulation of alcohol advertising regulations, announced earlier this year, is due to report back 'in late 2006'. On 8 November, the day of the youth alcohol bill vote, Government announced it would review the sale of liquor and purchase restrictions on those aged under 18.

Working New Zealand

This extensive review of the current benefit system seems to have displaced the emphasis on the Universal Benefit. Phase one involves:

- extending employment assistance to Independent Youth, Domestic Purposes, Sickness and Invalid's Benefit clients
- setting stronger work expectations for clients in some circumstances
- providing targeted employment initiatives to reduce the high Maori Unemployment Benefit rate
- offering a Job Search Service for all work-ready clients
- continuing to align rules and criteria of different benefits.

Legislation for phase one will be introduced in December.

Resources

Legal Info Guide

An online service being trialled by the Legal Services Agency, Legal Info Guide currently focuses on getting legal aid. It covers how to get legal help if you can't afford a lawyer, applying for civil and criminal legal aid, general information and what you can expect (and need to know) if you're appearing in the Family Court. More from www.lsa.govt.nz by clicking on the Legal Info button in the General section.

Readynet

This emergency preparedness network links members around New Zealand to emergency plans. The Network assembles, stores and shares emergency management information about

user sites. Detailed information is accessed by password. Members currently comprise the New Zealand School Trustees Association, Local Government NZ, Massey University and Hutt City Council. However, the home page for www.emadata.com links to the bird flu pandemic site run by the Ministry of Health and Geodata, which gives up-to-the-minute information about earthquakes and volcanic eruptions in and around New Zealand. There are also links to the Met Service emergency warnings page, police, fire and ministry of Civil Defence.

Volunteers: A Guide for Volunteers and Their Organisations

This 200-page long-lived manual by Mary Woods of Canterbury has just been updated and reissued. It contains twelve chapters on management systems, motivation, maintaining standards, overcoming problems, improving the organisational climate and the special requirements of committees and boards, the church, sport and welfare groups. Includes examples, case studies, questions, group activities and charts. Contact Mary Woods, 23 Ramahana Road, Huntsbury, Christchurch 2.

Reviews

Pacific custom and law

The Law Commission has issued a study paper, *Converging Current: Customs and Human Rights in the Pacific*, on the perceived conflict between customary and human rights law, and tensions between individual and collective cultural expectations. It is a response to a New Zealand Maori Council proposal for a Pacific Court of Human Rights, and its study analyses the present situations on a country-by-country basis. More from www.lawcom.govt.nz

Sedition

Total repeal of this law is the main recommendation of the Law Commission's report *Reforming the Law of Sedition*, issued in October. Its objections include the vague nature of the wording, its potential for misuse and its invasion of the democratic value of free speech 'for no adequate public reason'. Submissions are welcome, closing date 15 December. More from www.lawcom.govt.nz

Quality Flexible Work

Arising from a request by the Select Committee hearing submissions into Sue Bradford's Employment Relations Bill (see p.3), the Department of Labour is consulting about quality flexible working arrangements. They want to know what will best help employees make flexible arrangements while meeting the needs of businesses. The topic covers hours and times, but also workplace arrangements, study, career development, work transitions and organizing time to meet family commitments.

Download the paper from www.dol.govt.nz. Submissions due by 15 December 2006.



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