

October 2009

## Making it easier to give (and receive)

Last month Parliament passed the Taxation (International Taxation, Life Insurance and Remedial Matters) Act.

An “omnibus” Bill, the new Act, among many other things, exempts from tax most foreign dividends received by New Zealand companies, makes changes to life insurance taxation rules, and introduces rules about the GST consequences of allocating and trading in emission units.

And, although the title gives no clue as to this, the Act also contains two reforms long awaited by the community and voluntary sector: the introduction of payroll giving and some clarification of the tax treatment of payments made to volunteers.

Payroll giving allows employees to make regular donations to charitable organisations directly from their pay, and to receive an immediate reduction in tax by way of a tax credit each pay period (rather than waiting until the end of each financial year). Similar systems have worked well in Britain, Australia and the United States, but this is the first time payroll giving has been available in New Zealand.

Payroll giving will not be automatically available to all employees and workplaces. Some of the restrictions to the scheme include—

- Payroll giving will be voluntary, meaning that employers will be able to choose whether they want to offer this to employees.
- Payroll giving will only be available to employers filing their PAYE returns online.
- Only “donee organisations”—i.e. organisations that have Inland Revenue donee status—will be eligible to receive payroll giving donations (a list of donee organisations is available at [www.ird.govt.nz](http://www.ird.govt.nz))
- Employees must first meet their tax and other obligations before making payroll donations. In practice this means that employers must deduct tax and other deductions such as student loan repayments, child support and KiwiSaver before payroll donations

Employees will be responsible for checking the organisation they are donating to is in fact a “donee organisation”, and for giving their employer sufficient information about the organisation to enable the donation to be made. Employers will be responsible for ensuring payroll donations are transferred to the chosen organisation within a specified period. Donations will be held on trust for the employee until transferred to the organisation. The scheme will come into effect from 7 January 2010 but there is already detailed information for employers on the Inland Revenue website.

The introduction of payroll giving is all the more welcome because it has been a long time coming. In 2006 the then Labour government released a discussion document Tax Incentives for giving to charities and other non-profit organisations. This was followed by a second discussion document in 2007 outlining several options for implementing a payroll giving system in New Zealand. Submissions to both documents showed a high level of support for payroll giving, and in July 2008 the Taxation Bill was introduced to the House. It survived a change of government and a number of amendments and additions to finally become law.

The same Act also confirms that expenses as reimbursements paid to volunteers are not classed as taxable income. This too is welcome.

# Parliament

## Announced

### Increased support for victims of serious crime

The Government has announced a number of entitlements and services for the victims of serious crime. These include—

- An increase in the funeral grant to families of homicide victims up to \$4500 (this is in addition to the \$5500 grant available from ACC).
- A High Court attendance grant of \$124/person/day for up to five adult members of a homicide victim's family.
- A new homicide support service, employing four co-ordinators to work with Victim Support, to provide a central point of contact for families.
- An increase in the amount of financial assistance available to victims of serious crime to attend High Court and parole hearings.
- A court service for victims of sexual violence offences.
- A \$250 grant for victims of sexual violence to cover one-off costs (for example, to replace clothing kept by the Police as evidence). The grant will be administered by Victim Support.

Funding for these measures will come, in part, from revenue from the new Offender Levy (see Sentencing (Offender Levy) Amendment Bill on page 4) and will start to come into effect from November 2009. The court service for sexual violence victims and homicide support service will be introduced from July 2010.

### MMP Referendum

The Government has announced the format for its promised referendum on MMP. The first referendum will be held with the 2011 election and will be in two parts. Voters will be asked if they want to change the voting system from MMP, and, from a list of options, what alternative voting system they would prefer. Although not finalised this list is likely to be first past the post (FPP), single transferable vote (STV) and supplementary member (SM). If in 2011 a majority of voters (more than 50%) vote for a change from MMP, there will be a second referendum at the 2014 election asking voters to choose between MMP and the most popular alternative voting system from 2011. This referendum will be binding and if a new voting system is chosen, it will be used for the 2017 election.

The Government has promised extensive advertising before both referenda and the establishment of an independent panel to run an education campaign of the voting options.

## Introduced

### Injury Prevention, Rehabilitation and Compensation Amendment Bill

Following the rapidly shifting sands of the current ACC debate is making my head hurt (and I doubt there is a claim here), but this week the Government finally had the numbers to table the Injury Prevention, Rehabilitation and Compensation Amendment Bill. This Bill will reduce some ACC entitlements, make some increases to ACC levies, and delay the requirement for ACC to be fully-funded from 2014 to 2019.

The government had been signalling for some time that ACC was in financial trouble, but it was when ACC announced massive increases to ACC levies from April next year, that the debate

really heated up. Cynics would say that ACC's announcement played right into National's hands as it has allowed the cuts to entitlements and increases in levies in the Government's Bill to be sold to the public as the only way of preventing the even greater increases set by ACC.

Others have questioned that if the increases are linked, at least in part, to the requirement that ACC be fully-funded, why ACC should ever need to be fully-funded at all. (Being fully-funded means that, like insurance companies, ACC would have to have sufficient funds in reserve to meet the claims it expects to have to pay out.)

The House was put into urgency last week to introduce the Bill (as these changes have to be in place by February next year to avoid ACC's increases taking effect in April), but the introduction was delayed when National did not have the support it needed for the Bill to proceed. Amidst criticism from opposition parties the Maori Party agreed to support the Bill through to select committee (at least giving the public the opportunity to make submissions), but this week ACT agreed to support the Bill through all stages.

To secure ACT's support for the Bill National have agreed to allow a steering group to consider a proposal to "open up" the ACC work account. The work account is apparently ACC's only profitable account and opening up would let private insurers compete with ACC. If, as expected, the steering group recommends this, legislation would be introduced next year. The previous National government opened up ACC in 1998 but this was reversed by Labour in 1999, who have already said they will reverse any changes when next in government.

There is considerable community concern at the some of cuts proposed in this Bill. It will be more difficult for victims of sexual abuse to qualify for treatment, payments to families of people who suicide will be affected, and some people with occupational hearing loss may no longer qualify for assistance with hearing aids.

## Reported back

### Residential Tenancies Amendment Bill

The Social Services committee has reported back on this Bill and recommends that it be passed with some amendments. The Bill amends the existing Residential Tenancies Act and, for example, extends the provisions of the Act to apply to people living in boarding houses, and provides for faster dispute resolution. Amendments made at select committee include

- Making it easier for landlords to dispose of abandoned goods.
- Allowing letting agents to charge tenants a letting fee. Currently, only real estate agents can charge this fee.
- Limiting the right of landlords to terminate boarding house tenancies on short notice.

The Labour minority view acknowledged that while the Residential Tenancies Act was long overdue for review, expressed disappointment that the Bill was a "missed opportunity for Government to fairly protect the interests of the more than 1 million tenants in New Zealand".

...continued on page 4

# Legislation Update

Legislation	Stage and Progress	Impact
Child and Family Protection Bill	Government Bill. Introduced August 2009.	Provides greater protections to children affected by domestic violence.
Children, Young Persons & Their Families (Youth Court Jurisdiction & Orders) Amendment Bill	Government Bill. Submissions closed. Report now due 27 November.	Introduces measures aimed at reducing violent and repeat offending by children and young people.
Corrections (Contract Management of Prisons) Amendment Bill	Government Bill. Reported back (see page 4).	Allows for competitive tendering for the management of prisons.
Crimes (Reasonable Parental Control and Correction) Amendment Bill	<b>Members Bill (John Boscawen–ACT). Introduced 26 August.</b>	<b>Amends section 59 Crimes Act to allow parents to use a “light smack” to correct their children</b>
Criminal Investigations (Bodily Samples) Amendment Bill	Government Bill. Submissions closed. Reported back. Has had second reading.	Gives Police wide powers to collect DNA samples from people before they are charged or convicted.
Domestic Violence (Enhancing Safety) Bill	Government Bill. Passed (see page 4).	Introduces “on the spot” orders issued by Police to protect victims of domestic violence.
Education Amendment Bill	Government Bill. Reported back.	Bill to help identify unregistered teachers and reduce compliance costs of Police vetting.
Gambling Amendment Bill (No.2)	Labour Bill. Reported back. Second Reading 12 May.	Contains technical amendments to allow original Act (2003) to operate as intended.
Gangs and Organised Crime Bill	Government Bill. Submissions closed. Reported back. Second Reading 10 September.	Increased penalties for participation in organised criminal groups.
Immigration Bill	Labour Government Bill. Reinstated. Second Reading March 2009	Rewrites and consolidates immigration legislation, introduces new visas.
Judicial Matters Bill	Labour Government Bill. Reported back.	Establishes Office of Judicial Conduct Commissioner to receive complaints about conduct of Judges.
Legal Services Amendment Bill	Labour Government Bill. Picked up by National. Reported back.	Simplifies legal aid process for victims of crime at Parole Board hearings and coronial inquests.
Patents Bill	Government Bill. Submissions closed. Report now due 30 March 2010.	Updates New Zealand’s patents regime.
Public Health Bill	Labour Government Bill. Reported back from select committee. Reinstated.	Revises public health legislation including border protection and quarantine provisions.
Remuneration Authority Amendment Bill	<b>Government Bill. Introduced 14 September. Select Committee report due 16 November.</b>	<b>Will require Remuneration Authority to consider economic conditions when determining salaries and allowances.</b>
Residential Tenancies Amendment Bill	Government Bill. Submissions closed. Reported back.	Reflects significant changes in the rental market since the 1986 Act.
Sale and Supply of Liquor and Liquor Enforcement Bill	Labour Government Bill. Reinstated. Submissions closed. Report was due 10 September, now due 30 June 2010.	Gives communities greater say in liquor licensing decisions, makes it an offence for adults to supply alcohol to minors without parental consent.
Sale of Liquor (Objections to Applications) Amendment Bill	Member’s Bill (George Hawkins). Submissions closed. Report now due 30 June 2010.	Restricts the number of liquor outlets and makes wider provisions for objections to licenses.
Search and Surveillance Bill	Government Bill. Submissions close 18 September. Report due 4 February 2010.	Widens ranges of offences for which communications can be intercepted, allows electronic applications for search warrants.
Sentencing (Offender Levy) Amendment Bill	Government Bill. Passed. (see pages 2 and 4).	Imposes a \$50 levy on offenders at a time of sentencing.
Sentencing and Parole Reform Bill	Government Bill. Submissions closed. Report now due 30 November.	Introduces tougher parole laws. Bill also introduces “three strikes” policy for serious offences.
Taxation (International Taxation, Life Insurance and Remedial Matters) Bill	Labour Government Bill. Reinstated. Passed (see page 1).	Introduces business tax reforms and payroll giving system for charitable donations.
Waka Umanga (Maori Corporations) Bill	Labour Government Bill. Reported back from select committee. Reinstated.	Provides for the establishment of new legal entities by tribal groups or Maori associations.

## Corrections (Contract Management of Prisons) Amendment Bill

The Law and Order committee has reported back on this Bill with a majority recommendation that it be passed. The Bill allows for the competitive tendering by private sector organisation for contracts to run prisons—reopening the door for private prisons. The Bill is opposed by both Labour and the Greens—Labour believing that prisons are a core Crown responsibility and the Greens saying that the Bill is “contrary to good penal policy by risking significant abuses of human rights”.

Legislation providing for the private management of prisons was introduced by National in 1995, but repealed by the previous Labour government in 2004.

## Crimes (Provocation Repeal) Amendment Bill

The Justice and Electoral committee has reported back on this Bill and recommend that it be passed. The Bill amends the Crimes Act by abolishing the partial defence of provocation—that allows, in certain circumstances, the reduction of murder to manslaughter if the person who caused the death did so under provocation. The select committee amended the Bill to clarify that the common law partial defence of provocation would also be abolished.

Progress of this Bill has, to date, been very speedy. It was referred to select committee in mid-August, with submissions closing just 13 days later. However, the Bill did have the unanimous support of Parliament at its first reading, and acts on two recommendations from the Law Commission.

## Passed

### Domestic Violence (Enhancing Safety) Bill

A Government Bill allowing Police to issue instant or “on the spot” protection orders for victims of domestic violence, passed last week with the unanimous support of the House. The new law also allows Courts to issue a protection order on behalf of a victim when an offender is sentenced for a domestic violence offence. These changes will not come into effect until July 2010 to allow Police and the Courts to develop new operating procedures. Coming into effect immediately will be stronger penalties for breaches of protection orders and failing to attend Court-ordered programmes.

The Government has also introduced the Child and Family Protection Bill designed to provide greater protection for children affected by domestic violence. This Bill has yet to be referred to select committee

### Sentencing (Offender Levy) Amendment Bill

The Government’s Bill imposing a \$50 levy on all offenders at sentencing has also passed. The levy is in addition to all other penalties and fines and will be used services and entitlements for victims of serious crime (see page2).

## News

### Update: Electoral Finance Reform

The Government has released a proposal document “Electoral Finance Reform” setting out its proposals for reform.

This is the second stage of the Government’s review process for the development of new election finance laws. Topics covered in the document include funding, campaign expenditure limits, election advertising and parallel campaigning.

The Government is adamant that these are proposals only and that it has yet to make any firm decisions. The document can be read at [www.justice.govt.nz/electoralfinancereform](http://www.justice.govt.nz/electoralfinancereform) *Submissions closed 30 October.*

**Note that any new electoral finance rules will be administered by a new Electoral Commission.**

**The current Electoral Commission and the Chief Electoral Office will be merged before the 2011 election, with the Register of Electors coming under the new Commission in the next parliamentary term.**

### Update: Sexual Violence Report

The report of the Task-force for Action on Sexual Violence (established by the previous government) was released last week. Some of the proposals and recommendations in the report are likely to be seen as controversial, as they reverse the usual rules of evidence and not all of the report’s proposals are supported by all of the 14-member task force. The proposals include:

- Allowing the disclosure of previous offences and complaints against an accused offender.
- Prohibiting evidence on any sexual history between the complainant and the accused.
- An absolute ban on the accused personally cross-examining the complainant.
- Allowing the Judge to direct the jury that they may draw an “adverse inference” if an accused elects to stay silent.

The full report or a summary may be read online at [www.justice.govt.nz](http://www.justice.govt.nz) or you can request a hard copy of the report by emailing [sv.taskforce@justice.govt.nz](mailto:sv.taskforce@justice.govt.nz)

### UN Report

Yet another statistic not to be proud of.

A recent United Nations study has placed New Zealand in the top ten countries for income disparity—the gap between high and low income earners. The report notes that countries with a wide distribution of income tend to have more widespread income poverty and that New Zealand had “the biggest rise in inequality among member nations in the last two decades”. The report puts New Zealand in 6th place.

## New Zealand Federation of Voluntary Welfare Organisations

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