

Department of the Prime Minister and Cabinet

Child Poverty Reduction Proactive Release March 2018

The document below is one of a suite of documents released by the Department of the Prime Minister and Cabinet (DPMC) that formed the basis of decisions on the Child Poverty Reduction Bill introduced on 31 January 2018.

Some parts of this document would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Date: 25 January 2018

Title: Child Poverty Reduction Bill: Approval for Introduction (to Cabinet Legislation Committee (LEG)).

Information withheld with relevant section(s) of the Act:

Paragraphs 29-30
s 9(2)(h) - legal privilege.

Child Poverty Reduction Bill: Approval for Introduction

Proposal

- 1 This paper seeks approval for the introduction of the Child Poverty Reduction Bill (the Bill). The Bill seeks to achieve a significant and sustained reduction in child poverty and to enhance the overall well-being of children by requiring:
 - governments to set ten-year targets for a defined set of measures of child poverty (the 'primary measures'), and periodically set and publish three-year intermediate targets
 - the Government Statistician to independently and transparently report each year on child poverty using the measures set out in the Act
 - governments to regularly prepare and publish a Government Strategy for improving the well-being of children, which will include a particular focus on reducing child poverty.
- 2 To support the reporting and strategy-setting functions of the Bill, the Vulnerable Children Act 2014 and the Public Finance Act 1989 will be amended.

Policy

- 3 On 11 December 2017, Cabinet agreed to a set of proposals for the Bill to establish a legislative framework to achieve a significant and sustained reduction in child poverty by:
 - encouraging a focus on child poverty across government and society more generally
 - making a commitment to action on the part of government
 - providing for political accountability for results against published targets
 - transparency in reporting levels of child poverty in New Zealand
 - governments being held accountable for the results they achieve [CBC-17-MIN-0048 refers].

Child Poverty Measures

- 4 Poverty in more economically developed countries is generally understood as "exclusion from a minimum acceptable standard of living in one's own society because of a lack of adequate resources".

- 5 A suite of measures is needed to properly monitor the significant financial or material disadvantage that is referred to as “poverty”. This was reflected in the multi-measure approach in my 2012 Member’s Bill, and in the measures I propose here, because:
- material disadvantage is multi-dimensional and therefore more than one measure is needed to properly assess trends and understand which groups are over-represented
 - even when using more than one measure, judgement calls are needed as to where to ‘draw the line’ on the spectrum from less to more severe – the level of poverty is a contestable notion and different views can reasonably be held on the matter
 - poverty trends can be different at different depths of poverty (for example, trends can be different at 40 percent of the median income compared to 60 percent).

6 The Bill therefore requires governments to report on a suite of measures, including ‘primary’ and ‘supplementary’ measures. For the primary measures, the government must also set targets to reduce child poverty.

7 The primary measures are:

- low income before housing costs (BHC) (50 percent of median, moving line)
- low income after housing costs (AHC) (50 percent of median, fixed line (i.e. assessed against a base financial year))
- material hardship
- a persistence measure.

8 The supplementary measures are:

- low income BHC (60 percent of median, moving line)
- low income AHC (60 percent of median moving line)
- low income AHC (50 percent of median moving line)
- low income AHC (40 percent of median moving line)
- severe material hardship
- both low income and material hardship (using 60 percent AHC moving line and the material hardship measure from the primary list).

Setting targets

9 The Bill requires governments to set and publish targets to reduce child poverty using the primary measures. There are two sets of targets:

- ten-year targets that set out the government’s longer term objectives for reducing child poverty

- three-year intermediate targets.
- 10 The targets are required to be set within six months of the date of the commencement of the Act, except on the poverty persistence measure.
- 11 The poverty persistence measure or measures need to be defined and longitudinal data sources developed. The legislation will include a provision that will enable the measure to be developed and a target to be set by no later than for the 2025-2026 financial year.
- 12 Every three years the Minister will be required to review intermediate targets, and at the same time consider the on-going relationship with the ten year targets, and whether any changes are needed. Governments will be required to publish new long-term targets as they approach the end of each ten year period.

A strategy for improving children's well-being

- 13 The Bill replaces Part 1 of the Vulnerable Children Act (VCA) to require the responsible Minister, in consultation with other Ministers, to publish a dedicated Government Strategy to enhance and promote the well-being of children in New Zealand. This Government Strategy will include a particular focus on reducing child poverty.
- 14 The Bill specifies certain requirements for the child well-being strategy, including that the Government Strategy:
- be published within 12 months of the legislation being passed, and be reviewed at least every three years
 - set out the policies that government has implemented, and those it intends to implement, to improve the well-being of children and to reduce child poverty and socio-economic disadvantage
 - set out the well-being outcomes sought for children in New Zealand and how these outcomes will be measured
 - include an assessment of the likely impact on child poverty of the policies outlined in the Strategy, as well as the impact of any expected economic changes.
- 15 The legislation will also require the responsible Minister to report annually on progress in achieving the outcomes set out in the Government Strategy, including monitoring of disparities between outcomes for children in poverty and socio-economic disadvantage, and outcomes for all children.
- 16 The Bill renames the Vulnerable Children's Act 2014 to the Children's Act 2014, and the Vulnerable Children's Plan to the "Oranga Tamariki Action Plan" (OTAP). The OTAP will respond to any specific policy priorities identified in the Strategy for core populations of concern and interest to Oranga Tamariki.
- 17 It is intended that the strategy will apply a graduated and proportionate approach. To reflect this, the Bill specifies that the Government Strategy should focus on:
- improving the well-being of all children
 - those with greater needs

- child poverty reduction and mitigating the impacts of child poverty
- improving the well-being of the core populations of concern and interest to Oranga Tamariki (i.e. those with early risk factors for future statutory involvement, those who Oranga Tamariki works with, and care-experienced children and young people).

Guaranteeing robust, independent reporting

- 18 The Bill requires the Government Statistician to produce and publish annual reports on the measures of child poverty outlined in the Bill, in consultation with the chief executive of the Ministry of Social Development (MSD). The Bill also includes a duty for these officials to act independently of Ministers.
- 19 Formal reporting on primary and supplementary measures is expected to be available in February each year starting from 2019.
- 20 The Bill also amends the Public Finance Act to require child poverty reporting on Budget day. Alongside the Budget, the government will be required to set out its progress towards its targets for reducing child poverty and include an assessment on how the Budget will affect child poverty.

Technical and administrative changes

- 21 Cabinet authorised the Minister for Child Poverty Reduction to make technical and administrative changes required to finalise draft legislation giving effect to the proposals in the Cabinet policy paper, in keeping with the overall policy aims of the proposals, and in consultation with other Ministers as appropriate [CBC-17-MIN-0048 refers].
- 22 Consistent with Cabinet's authorisation, I propose the following technical and administrative changes.
- 23 An administrative change has been made to confirm that the Government Statistician is to be responsible for the production and publication of annual reports on child poverty using the measures set out in the Act, in consultation with the chief executive of MSD. This acknowledges that the reports will mainly comprise data and statistical methodology rather than commentary (any commentary will be akin to the commentary in regular Household Labour Force Survey statistical releases). This also leverages the recognised independence of the Government Statistician and reflects the policy intent that reporting will be conducted at arms-length from the government of the day, while drawing on the particular expertise of Stats NZ, MSD, and other agencies as required.
- 24 The VCA currently contains a non-exhaustive list of matters to consider in "improving the well-being of vulnerable children". The policy intent for this legislation is that it should allow government to be able to develop its own conceptualisation of well-being addressing the needs of all children, and particularly those in poverty and those with greater needs. However, the existing framework for "improving the well-being of vulnerable children" set out in section 6 of the VCA remains useful for the OTAP, as it provides clarity about the role of other agencies in improving the well-being of those children of interest to Oranga Tamariki, reinforcing the need to take a cross-sector approach to their work. To give effect to this, the Bill applies the existing VCA framework in section 6 only to the OTAP and not to the Government Strategy, and that

to reflect the Government's particular focus on child poverty, the framework is amended to include reference to reducing child poverty.

- 25 The legislation requires the responsible Minister to consult with Children's Ministers on the Government Strategy. This reflects that the Government Strategy will include policy measures across different agencies and multiple Ministers. Whilst this was implied in the relevant policy paper, it was not explicitly stated in the recommendations [CBC-17-MIN-0048].
- 26 A minor technical change has also been made to section 13(2)(b) of the VCA. Section 13(2)(b) states that section 13(1) "overrides any contrary other law (for example, section 32 of the State Sector Act 1988)". Section 32 of the State Sector Act 1998 was amended in July 2013. It appears that the wording in section 13(2)(b) was drafted as part of the Vulnerable Children Bill before the amendment to section 32 was enacted in July 2013, and current interpretation of section 32 is that it is not directly contrary to section 13(1) of the Vulnerable Children Act. Section 32 is therefore no longer appropriate to be an example of a law that is contrary to section 13(1). The reference to the State Sector Act 1988 has therefore been deleted.

Impact analysis

- 27 A Regulatory Impact Assessment is not required for this Bill. Regulatory Impact Assessment may, however, be required for actions taken in pursuit of the targets or to implement the Government Strategy.

Compliance

- 28 The Bill complies with each of the following:
- the principles of the Treaty of Waitangi
 - the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
 - the disclosure statement requirements
 - the principles and guidelines set out in the Privacy Act 1993
 - relevant international standards and obligations
 - the LAC Guidelines on the Process and Content of Legislation (2014 edition), which are maintained by the Legislation Design and Advisory Committee.

s9(2)(h)

Consultation

- 31 This paper was prepared by the Department of Prime Minister and Cabinet, with the Ministry of Social Development. The Treasury; the Ministry for Vulnerable Children Oranga Tamariki; the State Services Commission; Stats NZ; Te Puni Kōkiri; Ministry for Pacific Peoples; Ministry for Women; Ministry of Health; Ministry of Education; New Zealand Police; Ministry of Justice; Office of Disability Issues; and the Office of the Children's Commissioner have been consulted.
- 32 Engagement was undertaken with selected stakeholders to provide feedback and insights to help shape the Bill. This included:
- Professor Jonathan Boston
 - Selected Māori stakeholders with expertise, experience and insights of poverty amongst tamariki Māori, including the Māori Women's Welfare League
 - Child Poverty Action Group
 - Salvation Army
 - Barnados
 - The New Zealand Initiative
 - UNICEF NZ
 - New Zealand Council of Christian Social Services.
- 33 Consultation with government caucus and other parliamentary parties has taken place.

Binding on the Crown

- 34 The general principle is that the Crown should be bound by Acts unless the application of a particular Act to the Crown would impair the efficient functioning of the government (CO (02) 4). There are several accepted exemptions for when an Act does not have to be binding on the Crown, none of which apply in this case.
- 35 I propose the Bill will be binding on the Crown.

Allocation of decision making powers

- 36 Not applicable.

Associated regulations

37 The Bill includes a regulation-making power to make regulations necessary for the Act's administration. Regulations are not needed to bring the Bill into operation.

Other instruments

38 Not applicable.

Definition of Minister / chief executive

39 The Bill contains the following definitions:

- Minister means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act.
- Chief executive means the chief executive of the Ministry of Social Development.

40 Cabinet Office was consulted, and raised no concerns with the proposed definitions.

Commencement of legislation

41 The Bill will come into force on the day after the date of Royal assent.

Parliamentary stages

42 I propose that the Bill be introduced on 31 January 2018 and passed by the end of the year. The Bill should be referred to the Social Services and Community Committee.

Recommendations

The Minister for Child Poverty Reduction recommends that the Committee:

1 **note** that the Child Poverty Reduction Bill holds a category 2 priority on the 2018 Legislation Programme (must be passed in the year);

43 **note** that the Bill seeks to achieve a significant and sustained reduction in child poverty and to enhance the overall well-being of children;

44 **note** that Cabinet authorised the Minister for Child Poverty Reduction to make technical and administrative changes required to finalise draft legislation giving effect to the proposals in the Cabinet paper *Legislating to drive action to reduce child poverty*, in keeping with the overall policy aims of the proposals, and in consultation with other Ministers as appropriate [CBC-17-MIN-0048 refers];

45 **note** that the following technical and administrative amendments, consistent with policy intent, were made under the authorisation noted above:

45.1 confirmation that the Government Statistician is to be responsible for the production and publication of annual statistical reports on child poverty using the measures set out in the Act in consultation with the chief executive of the Ministry of Social Development

45.2 that while the Government Strategy will take a holistic and comprehensive approach to child well-being, the existing minimum criteria as set out in the current Vulnerable Children Act 2014 be retained for the Oranga Tamariki Action Plan to encourage inter-agency co-operation

45.3 that the Bill includes a requirement for the responsible Minister to consult with Children's Ministers on the Government Strategy

45.4 removing a reference to the State Sector Act 1988 that is no longer relevant;

46 **approve** the Child Poverty Reduction Bill for introduction;

47 **agree** that the Bill be introduced on 31 January 2018;

2 agree that the Government propose that the Bill be:

47.1 referred to the Social Services and Community committee for consideration;

47.2 enacted by the end of the year.

Authorised for lodgement

Rt Hon Jacinda Ardern

Minister for Child Poverty Reduction