



Inland Revenue
Te Tari Taake



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

Report

Date: 24 March 2020

Security Level: IN CONFIDENCE

To: Hon Grant Robertson, Minister of Finance

Working for Families Tax credits entitlement for Emergency Benefit recipients

Purpose of the report

- 1 This report seeks your approval to include a minor technical amendment to the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Bill (the Bill), to ensure that people on a temporary visa who are granted an Emergency Benefit will qualify for the same Working Families tax credits (WFF) components as other beneficiaries.

Recommended actions

It is recommended that you:

- 1 **note** that the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Bill is due to be passed under urgency on 25 March 2020
- 2 **note** that this Bill provides an appropriate opportunity to make a minor technical amendment to ensure that people on a temporary visa who are granted an Emergency Benefit will qualify for the same Working Families tax credits (WFF) components as other beneficiaries
- 3 **note** that the Minister for Social Development and the Minister of Revenue have already agreed to make this change (IR2019/433, REP/19/10/1073 refer)
- 4 **agree** to include the amendment to the residence provisions for Working for Families tax credits in the Income Tax Act 2007 to the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Bill

agree/disagree

5 **agree** to forward this report to the Minister for Social Development and the Minister of Revenue.

agree/disagree

s9(2)(a)

Policy Manager
Welfare System and Income Support Policy
Ministry of Social Development

24/03/20

Date

s9(2)(a)

Policy Lead
Policy and Strategy
Inland Revenue

Date 24/03/2020

Hon Grant Robertson
Minister of Finance

Date

Emergency Benefit recipients on temporary visas are currently not eligible for Working for Families tax credits

- 2 Families with children in the welfare system can receive financial support under two acts; main benefits¹ and supplementary assistance² from the Social Security Act 2018 and WFF tax credits from the Income Tax Act 2007.
- 3 Main benefits primarily cover the basic living costs of the parents, with a small amount intended to assist with the financial cost of raising children³. WFF tax credits are intended to assist with the financial cost of raising children. Supplementary assistance is also available to help people to meet other costs, eg housing costs (Accommodation Supplement).
- 4 However, officials have identified that Emergency Benefit recipients with dependent children and who are on a temporary visa, do not qualify for WFF tax credits. This is because they do not meet the residency criteria for WFF. The result is a difference in the financial support that these families can access, compared with other main benefit recipients with children. Emergency Benefit recipients are generally able to access other supplementary and hardship assistance from the Ministry of Social Development (MSD).

Emergency Benefit is granted to a small group of families with exceptional circumstances

- 5 In general, to receive a main benefit (including Emergency Benefit) a person must be a New Zealand citizen or permanent resident and have resided in New Zealand for at least two years since becoming a citizen or resident. However, people with temporary visas can receive Emergency Benefit if they are:
 - 5.1 a refugee or protected person, or
 - 5.2 have made a claim for refugee or protected person status and are waiting for a decision by the Immigration and Protection Tribunal, or
 - 5.3 are applying for permanent residency and are 'compelled to stay in New Zealand' due to some unforeseen reason.
- 6 MSD also has discretion to grant an Emergency Benefit in other circumstances⁴ when those residency criteria are not met. The WFF legislation does not contain any comparable discretion. The Emergency Benefit is paid at the same rate as the equivalent main benefit a person or family would be entitled to, e.g. a sole parent would be paid Emergency Benefit at the same rate as Sole Parent Support.
- 7 MSD data suggests that the number of people affected is small. As at June 2019 there were 152 Emergency Benefit recipients with dependent children who were on a temporary visa.

¹ Main benefits include but are not limited to Jobseeker Support, Sole Parent Support, Supported Living Payment, and Emergency Benefit.

² Supplementary assistance includes but is not limited to Accommodation Supplement and Childcare Assistance.

³ Families with children receive \$25 more per week in main benefit compared to equivalent people without children.

⁴ These circumstances can include not being eligible for another benefit, that they are in hardship and unable to earn a sufficient livelihood.

Working for Families is currently not able to be paid if residency requirements are not met

- 8 The issue is caused by WFF not being able to be paid if residency requirements are not met. When WFF was legislated in 2003, it effectively shifted the child component of main benefit payments into the Family Tax Credit. This meant that Emergency Benefit recipients could no longer access this child-related payment. Officials understand that this was not an intentional policy decision to prevent Emergency Benefit recipients on temporary visas from accessing the same level of financial assistance as other beneficiaries with dependent children.
- 9 To qualify for WFF the person must meet the residency requirements. The residency requirements can be met by the child or the parent.
- 10 The WFF residency requirements can be met by the child if:
 - 10.1 the child is ordinarily resident in New Zealand; and,
 - 10.2 is present in New Zealand for the period of entitlement.
- 11 The WFF residency requirements can be met by the parent if:
 - 11.1 the parent is ordinarily resident in New Zealand; and,
 - 11.2 has been New Zealand for 12 months continuously at any time.
- 12 Those on a temporary visa are specifically excluded from the definition of New Zealand resident for WFF. This exclusion was intended to prevent short-term visitors from accessing WFF. It was not intended to prevent those in exceptional circumstances, such as protected persons and spontaneous refugees who hold temporary visas from accessing WFF.

A policy decision was made in 2019 to extend Working for Families entitlement to Emergency Benefit recipients

- 13 Officials consider that if MSD grant an Emergency Benefit to a person on a temporary visa, then that person should also be able to qualify for WFF, in the same way as other beneficiaries. The Emergency Benefit is designed to cover the basic living costs of the adult in the family while WFF contributes to the costs of raising children. Emergency Benefit recipients are generally able to access other supplementary and hardship assistance from MSD. This change would significantly improve the adequacy of the incomes of this small group of families.
- 14 The policy approval for this change has already been made by the Minister for Social Development and the Minister of Revenue (IR2019/433, REP/19/10/1073 refer). It was originally planned to be implemented through the next available tax bill.

This issue will be magnified if a domestic epidemic management notice is issued so urgent legislative change is recommended

- 15 The Prime Minister has signalled her intention to issue a domestic epidemic management notice. If this notice is issued and the Minister for Social Development agrees to change the eligibility criteria for Emergency Benefit, MSD will be able to grant people Emergency Benefit to those who would not normally be eligible for Emergency Benefit. s9(2)(a)
- 16 To ensure this group is able to receive Working for Families, officials now consider it pertinent to bring the amendment forward into the urgent COVID-19 bill given current circumstances.
- 17 The COVID-19 Response (Taxation and Social Assistance Urgent Measures) Bill is due to be passed under urgency on 25 March 2020. The amendment required to extend

WFF entitlement to Emergency Benefit recipients on temporary visas could be included in this Bill.

18 The amendment would apply from 1 April 2020 onwards.

We expect the fiscal costs of this to be minimal

19 We expect this change to cost about \$500,000 over five years – there is some variability to this figure based on the take-up of Emergency Benefit for people on temporary visas who may become newly eligible for Emergency Benefit if a domestic epidemic management notice is issued and the Minister of Social Development approves changes to Emergency Benefit eligibility criteria. This will be a Benefits or Related Expense and included in future forecasting updates.

Next steps

20 If you agree to the proposal, officials will include this amendment in the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Bill, due to be passed under urgency on 25 March 2020.

File ref: REP/20/3/289

IR2020/171

Author: s9(2)(a) Policy Analyst, Welfare System and Income Support Policy

Responsible manager: s9(2)(a) Policy Manager, Welfare System and Income Support Policy