

Privacy Commissioner's Submission to the Social Services and Community Committee on the Child Support Amendment Bill (228-1)

Introduction

1. I am pleased to provide a submission on the Child Support Amendment Bill (the Bill). This Bill amends the Child Support Act 1991 (the Act) to:
 - introduce compulsory payment of child support by automatic deduction for newly liable parents
 - make a number of changes to penalty rules
 - introduce a time limit on reassessing child support
 - amend the definition of income used for child support, and
 - make technical amendments to assist with administration of child support.
2. My comments on the Bill relate only to clause 41 and I do not recommend any changes. This clause proposes to make automatic deduction of child support by employers compulsory for newly liable parents, unless this is inappropriate in the circumstances.

Clause 41: compulsory automatic deductions for newly liable parents

3. Clause 41 of the Bill introduces new section 129A of the Act. This section provides that child support payments for which a parent becomes liable from the time the Bill comes into force must be paid by automatic deduction by the person's employer, unless:
 - the person is already paying child support by another method acceptable to the Commissioner of Inland Revenue (the Commissioner) and is not in default, or
 - automatic deduction is inappropriate in the person's case.
4. Currently, automatic employer deductions are made only on a voluntary basis, or compulsorily if the person has defaulted on child support payments. Social security beneficiaries also have child support deducted automatically from benefits.
5. I understand that the introduction of automatic deductions for all newly liable parents is intended to improve compliance and to avoid liable parents going into debt by ensuring their payments are made on time. Inland Revenue (IR) notes in its commentary on the Bill that currently less than a third of newly liable parents pay on time in the first few months of liability.
6. Compulsory employer deductions remove the choice for non-defaulting parents about whether a person's liability for child support is disclosed to their employer. This impact on individual privacy needs to be assessed against the intended benefits, for both liable parents and carers, of ensuring payments are made on time. I also need to consider any privacy mitigations that are in place.

7. I support the proposal for compulsory automatic deductions as being consistent with protection of privacy. I believe that, with appropriate privacy mitigations, the privacy impact of the proposal can be justified by its benefits.
8. The privacy mitigation contained in the Bill is the Commissioner's discretion to allow another payment method where automatic deduction is inappropriate in the person's case (new s 129A(2)(b)). This discretion already exists in the Act in relation to automatic deductions for defaulters. Although the grounds on which the discretion may be exercised are not specified in the Bill, the explanatory note and supporting material for the Bill state that privacy is one reason why automatic deductions may not be appropriate in a person's circumstances.
9. I understand that the Commissioner's discretion is supported by IR's operational practice. I am informed that IR will attempt to contact the newly liable person by phone before a deduction notice is sent to the person's employer. The person can then ask to be allowed to pay by a different method, for privacy or other reasons. I would be happy for my Office to be consulted about any guidance IR may develop about the exercise of the Commissioner's discretion.
10. I therefore support clause 41 of the Bill and have no recommendations for changes.

Conclusion

11. I consider the Bill's provision for compulsory automatic deduction of child support payments by newly liable parents is justified and includes a mechanism that can protect individual privacy. I have no comments on the other provisions of the Bill.
12. I trust my comments are of use to the Committee in its consideration of the Bill. I do not seek to be heard on my submission but am happy to appear before the Committee if that would be of assistance.



John Edwards
Privacy Commissioner

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