

Questions taken on notice

Public hearing – 19 August 2019

Treasury Laws Amendment (2019 Tax Integrity and Other Measures No. 1) Bill 2019 [Provisions]

In terms of questions taken on notice – I undertook to the Committee to revert with a concise summary of the protections/safeguards that are included in the equivalent New Zealand legislation regarding the disclosure of tax debts to credit reporting agencies.

I attach an extract of the New Zealand *Tax Administration Act 1994* and in particular Schedule 7 to that Act which sets out the disclosure provisions. Section 33 in Part C deals with the communication of information relating to a taxpayer and reportable unpaid tax to an approved credit reporting agency.

The safeguards in the New Zealand legislation are primarily set out in subclauses (3), (7) and (8), and in the definition of “reportable unpaid tax in subclause (12). A concise summary of those would be as follows:

- Formal notification is required.
- Reasonable efforts to recover reportable unpaid tax must have been made prior to notification.
- NZ\$150,000 threshold and the proportion of unpaid tax to the taxpayer’s assessable income for the year must in the Commissioner’s opinion be 30% or more.
- No reporting of taxpayer’s who have requested financial relief (including for serious hardship) or who have applied for remission of the debt.
- The Commissioner must publish annually a number of things including the number of notices and number of taxpayers who have been reported.
- Reportable unpaid tax does not include amounts that are “subject to a dispute or challenge [under the relevant NZ provisions], and does not include amounts that are subject to an instalment arrangement.

Whilst I do not think it could be said that the NZ measures have “a lot more safeguards” I do think, on my reading of the legislation, that there are a number of additional safeguards that are not present in the Australian legislation, or are potentially wider than the equivalent safeguards in the draft Australian measures. As noted in my oral evidence to the Committee, some of these safeguards have been picked up by the ATO in their draft consultation around how they will administer the provisions. However the Law Council’s preference remains to have them in the actual legislation or legislative instrument and reflected in the explanatory materials.

I trust this assists.

Kind regards
Clint Harding
On behalf of the Law Council of Australia

**Reprint
as at 8 July 2019**



Tax Administration Act 1994

Public Act	1994 No 166
Date of assent	20 December 1994
Commencement	see section 1

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Inland Revenue Department.

Schedule 7
Disclosure rules

ss 18–18J

Schedule 7: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

1 Parts A to D

This schedule contains the following parts:

- (a) part A: Disclosures for carrying into effect revenue laws:
- (b) part B: Disclosures to persons or their representatives:
- (c) part C: Disclosures to certain agencies for certain purposes:
- (d) part D: Disclosures for purposes of international arrangements.

Schedule 7 clause 1: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Part A

Disclosures for carrying into effect revenue laws

Schedule 7 Part A: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

2 Disclosures for purpose of carrying into effect revenue laws

Section 18 does not prevent the disclosure of sensitive revenue information—

- (a) for the purpose of carrying into effect a revenue law:
- (b) to a person or entity specified in clauses 3 to 13 for the purpose and about the matter described in the provision, subject to any conditions set out in the provision.
- (c) *[Repealed]*

Schedule 7 clause 2: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 7 clause 2(a): replaced (with effect on 18 March 2019), on 26 June 2019, by section 106(1) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section 7 clause 2(b): replaced (with effect on 18 March 2019), on 26 June 2019, by section 106(1) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section 7 clause 2(c): repealed (with effect on 18 March 2019), on 26 June 2019, by section 106(1) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

3 Tax advisors or persons acting as tax agents

- (1) Despite section 18, the Commissioner may supply information to an approved advisor group about an action or omission—

- (a) by a person who is, or purports to be, a member of the approved advisor group; and
 - (b) that the Commissioner considers to be a breach of a member's responsibilities under sections 20 to 20G.
- (2) Despite section 18, the Commissioner may supply information about a person to an association or group if—
 - (a) the person is, or purports to be, a member of the association or group as a person who is in a business of preparing tax returns for other people; and
 - (b) the members of the association or group are subject to—
 - (i) a professional code of conduct; and
 - (ii) a disciplinary process that enforces compliance with the code of conduct; and
 - (c) the information—
 - (i) is relevant to a decision of the Commissioner removing the person from the list of tax agents or refusing to list the person as a tax agent;
 - (ii) in the Commissioner's opinion, is or would be relevant to a decision referred to in subparagraph (i).

Schedule 7 clause 3: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

4 Misappropriation of money

Section 18 does not prevent the Commissioner communicating such information as is necessary for the purpose of any prosecution under any Act of the Parliament of New Zealand or under the law of any country or territory outside New Zealand, or such information as the Commissioner considers desirable for the purpose of any investigation into any suspected offence, being a prosecution or an investigation in relation to any misappropriation or attempted misappropriation by any person in respect of money payable by the department to another person or by any person in respect of money entrusted to that person by, or on behalf of, another person for payment to the department: provided that no communication under this clause shall be made in respect of any person to whom such money was payable, or by, or for, or on behalf of, whom any such money was entrusted, unless that person or that person's legal personal representative, or, where that person is a company, the authorised officer of that company, consents to the communication.

Schedule 7 clause 4: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

5 Offences under Crimes Act 1961

Section 18 does not prevent the Commissioner divulging or communicating any matter or thing or producing in any court any document, that the Commissioner considers desirable for the purposes of any investigation into any suspected offence or prosecution under the Crimes Act 1961, where the investigation or prosecution is in relation to any tax imposed or payable or any refund made or claimed under the Goods and Services Tax Act 1985, and any such matter or thing shall be deemed to be divulged or communicated and any such document shall be deemed to be produced for the purpose of carrying into effect the Goods and Services Tax Act 1985.

Schedule 7 clause 5: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

6 Civil recovery action

Section 18 does not prevent communicating to any authorised person (as defined in section 98(1) of the Criminal Proceeds (Recovery) Act 2009) any information required for the purpose specified in subsection (2)(b) of that section.

Schedule 7 clause 6: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

7 Offences under revenue laws

Section 18 does not prevent the Commissioner divulging or communicating any matter or thing to the Director of the Serious Fraud Office, or producing in any court any document, that the Commissioner considers desirable for the purposes of any investigation or prosecution in relation to any suspected Inland Revenue offence, and any such matter or thing shall be deemed to be divulged or communicated, and any such document shall be deemed to be produced, for the purpose of carrying into effect the revenue laws or any other enactment imposing taxes or duties payable to the Crown.

Schedule 7 clause 7: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

8 Child support: arrival and departure information

Section 18 does not prevent the Commissioner communicating to a person who is a member, employee, or agent, of the New Zealand Customs Service, information that—

- (a) the person is authorised by the New Zealand Customs Service to receive; and
- (b) relates to a person who is liable to pay financial support under the Child Support Act 1991; and
- (c) the Commissioner considers is not undesirable to disclose and is reasonably necessary for the purposes specified in sections 307 and 313 of the Customs and Excise Act 2018.

Schedule 7 clause 8: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

9 Student loans

Section 18 does not prevent the Commissioner—

- (a) communicating to an authorised person under section 207 of the Student Loan Scheme Act 2011 any information specified in subsection (1) of that section in accordance with subsection (1) of that section:
- (b) communicating to the chief executive of the New Zealand Customs Service under section 208 of the Student Loan Scheme Act 2011 any information specified in subsection (2) of that section for the purpose set out in subsection (1) of that section:
- (c) communicating to a contact person (within the meaning of section 193A of the Student Loan Scheme Act 2011), for the purposes of a request under that section, any information required to be communicated by that section:
- (d) communicating to a person referred to in section 209A(2) of the Student Loan Scheme Act 2011 any information specified in subsection (3) of that section for the purposes set out in subsection (1) of that section.

Schedule 7 clause 9: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

10 Data processing

Section 18 does not prevent the Commissioner communicating to any officer or employee or agent of any of the State Services any information in relation to the processing of information, data, documents, or any other matter necessary for the effective administration of the Inland Revenue Acts (including all Acts at any time administered by or in the department) or any other function that may from time to time be lawfully conferred on the Commissioner.

Schedule 7 clause 10: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

11 Services necessary for effective administration of revenue laws

Section 18 does not prevent the Commissioner communicating to any person, or employee of that person, being a person engaged by the Commissioner for the performance of services necessary for the effective administration of the Inland Revenue Acts (including all Acts at any time administered by or in the department) or any other function that may from time to time be lawfully conferred on the Commissioner, such information as the Commissioner considers necessary for the performance of those services.

Schedule 7 clause 11: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

12 Residential land withholding tax

Section 18 does not prevent the Commissioner communicating to a relevant professional body appropriate details of a failure by 1 of its members to satisfy, as agent, a person's liability to pay RLWT in accordance with the RLWT rules.

Schedule 7 clause 12: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

13 Publishing certain items

Section 18 does not prevent the Commissioner—

- (a) publishing a product ruling issued under Part 5A:
- (b) publishing a list of organisations that are approved organisations:
- (c) publishing the name of a company that has given the Commissioner a notice under section EX 33B(1)(b) or (2)(b) of the Income Tax Act 2004.

Schedule 7 clause 13: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Part B**Disclosures to persons or their representatives**

Schedule 7 Part B: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

14 Disclosures to persons or their representatives

Section 18 does not prevent the disclosure of sensitive revenue information to a person specified in clauses 15 to 18 about the matter described in the provision, subject to any conditions set out in the provision.

Schedule 7 clause 14: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

15 Persons in relation to whom information held and their representatives

- (1) Section 18 does not prevent the Commissioner permitting a copy of, or details of and from, any document or information (including details of taxes and duties paid and payable), in the possession of, or obtained by, or on behalf of, the Commissioner for the purposes of any of the Inland Revenue Acts, including all Acts (whether or not repealed) at any time administered by or in the department, or for the purpose of any other function lawfully conferred on the Commissioner, to be given to the person from whom, or on behalf of whom, or in relation to whom such document or information is held or was obtained, or to the legal personal representative of that person or to the agent of that person or of that legal personal representative authorised in a manner as the Commissioner prescribes in that behalf: provided that no information shall be given under this clause unless the Commissioner—
 - (a) is satisfied that such information is readily available in the department; and

- (b) considers it reasonable and practicable to give that information.
- (2) In this clause, unless the context otherwise requires, **legal personal representative**, in relation to any person, means—
 - (a) the executor, original or by representation, or an administrator for the time being of a deceased person:
 - (b) any person who by order of court has been appointed as guardian or manager of the estate of any person:
 - (c) any other person who by order of court administers the estate of any person.

Schedule 7 clause 15: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

16 Third-party providers

Section 18 does not prevent the Commissioner communicating to—

- (a) a taxpayer whose return of income is being or has been prepared by another person as a tax agent of the taxpayer—
 - (i) whether the person is listed as a tax agent:
 - (ii) a decision of the Commissioner refusing to list the person as a tax agent or removing the person from the list of tax agents:
- (b) a person who is named under section RP 18 of the Income Tax Act 2007 by an intermediary as being connected with a deposit to a tax pooling account, the details of the deposit that are connected with the person in the Commissioner's records:
- (c) a person when another person is acting on their behalf in relation to their tax affairs or social policy entitlements and obligations, or both, as either a representative or a nominated person—
 - (i) whether approval of the person's status, or their continued status, as a representative is disallowed:
 - (ii) whether the person's status as a nominated person is disallowed:
 - (iii) a decision of the Commissioner refusing to approve the person's status or disallowing the person's status:
- (d) an employer for whom a PAYE intermediary is acting, a revocation of approval under section 124J:
- (e) a person who uses the software provided by an approved AIM provider, a revocation of their approval under section 124V:
- (f) a person for whom an RWT proxy is acting, a breach of the requirements set out in section 124ZB(2).

Schedule 7 clause 16: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

17 Software clients

Section 18 does not prevent the Commissioner communicating information relating to a person (the **software client**) who uses an accepted software package to communicate information to, and receive information from, the Commissioner,—

- (a) to a person, or an employee or agent of a person, who maintains the accepted software package for the software client; and
- (b) as a consequence of communicating the information to the software client using the accepted software package.

Schedule 7 clause 17: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

18 Digital services providers

Section 18 does not prevent the Commissioner communicating information about a person (**person A**) to another person who is listed by the Commissioner in a publication chosen by the Commissioner as an accepted provider of digital services when person A uses the digital services to communicate with the Commissioner and the disclosure is a consequence of that communication.

Schedule 7 clause 18: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Part C**Disclosures to certain agencies for certain purposes**

Schedule 7 Part C: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Subpart 1—Disclosures to certain agencies

Schedule 7 Part C subpart 1: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

19 Disclosures to certain agencies and exchanges of information

Section 18 does not prevent the disclosure of sensitive revenue information to a person or entity specified in clauses 20 to 39 about the matter described in the provision, subject to any conditions set out in the provision.

Schedule 7 clause 19: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

20 Statistics New Zealand

Section 18 does not prevent the Commissioner communicating to any officer, being an employee of Statistics New Zealand, any information, being information that—

- (a) the officer is authorised by that department to receive; and

(b) the disclosure of which is made for the purposes of the Statistics Act 1975; and

(c) the Commissioner considers is not undesirable to disclose.

Schedule 7 clause 20: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

21 The Treasury

(1) Section 18 does not prevent the Commissioner communicating to any officer, being an employee of the Treasury (as defined in section 2 of the Public Finance Act 1989), any information, being information that—

(a) the officer is authorised by the Secretary (as defined in section 2 of that Act) to receive; and

(b) the Commissioner considers is not undesirable to disclose and is essential to enable that officer to carry out any duty lawfully conferred on that officer relating to the preparation of taxation revenue forecasts.

(2) Section 18 does not prevent the Commissioner communicating to any officer, being an employee of the Treasury (as defined in section 2 of the Public Finance Act 1989), any information communicated to that person for the purposes of section LH 15 of the Income Tax Act 2007.

Schedule 7 clause 21: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

22 Intelligence and security agencies

Section 18 does not prevent the Commissioner allowing the Director-General of an intelligence and security agency (as defined in section 4 of the Intelligence and Security Act 2017), or an employee of that intelligence and security agency authorised by the Director-General for that purpose, access to information specified in a permission given under section 137 or 138 of that Act.

Schedule 7 clause 22: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

23 Government agencies: AML/CFT purposes

Section 18 does not prevent the Commissioner disclosing to a government agency or an AML/CFT supervisor (as defined in section 5 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009) information supplied or obtained under an enactment referred to in section 140(2)(k), (l), and (v) of that Act that is necessary or desirable for the purpose of ensuring compliance with AML/CFT legislation.

Schedule 7 clause 23: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

24 New Zealand Customs Service: value of imported goods

Section 18 does not prevent the Commissioner disclosing to the chief executive of the New Zealand Customs Service information for the purpose of assessing

the suitability of an arrangement relating to the use of provisional values under the Customs and Excise Act 2018, including the determination of an application to use provisional values.

Schedule 7 clause 24: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

25 Business, Innovation, and Employment: New Zealand business number

- (1) Section 18 does not prevent the Commissioner communicating to a person who is an authorised officer of the department for the time being responsible for the New Zealand Business Number Act 2016 any information that—
 - (a) is primary business data (as defined in section 20(2) of that Act) for inclusion in the New Zealand Business Number Register; or
 - (b) is communicated for the purposes of subclauses (2) and (3).
- (2) This clause authorises the exchange of information between the Inland Revenue Department and the department for the time being responsible for the administration of the New Zealand Business Number Act 2016 to ensure that the correct primary business data (as defined in section 20(2) of that Act) for businesses and New Zealand Business Numbers is provided for inclusion in the New Zealand Business Number Register.
- (3) For the purposes of subclause (2), the Commissioner may supply an authorised officer of the department for the time being responsible for the administration of the New Zealand Business Number Act 2016 information concerning primary business data to verify the correctness of the information to be included in the New Zealand Business Number Register.
- (4) In this clause, **authorised officer**, in relation to the responsible department, means any officer, employee, or agent of that department who is authorised by the chief executive of that department to receive information supplied by the Commissioner under this clause.

Schedule 7 clause 25: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

26 Agencies for workplace safety

Section 18 does not prevent the Commissioner communicating to a person who is an officer or employee of the Ministry of Business, Innovation and Employment, WorkSafe New Zealand, or an agency designated under section 191 of the Health and Safety at Work Act 2015, information that—

- (a) the person is authorised by the Ministry, WorkSafe New Zealand, or agency, as applicable, to receive under workplace legislation; and
- (b) the Commissioner considers is not undesirable to disclose and is reasonably necessary to enable the person to carry out a function, duty, or power conferred on the person under or in relation to workplace legislation.

Schedule 7 clause 26: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

27 Agencies for charities regulation

Section 18 does not prevent the Commissioner communicating to any person, being a member, an employee, or an agent of the Board established by section 8 of the Charities Act 2005 or the chief executive defined in section 4(1) of that Act, any information, being information that—

- (a) the person is authorised by that Board or chief executive to receive; and
- (b) the Commissioner considers is not undesirable to disclose and is reasonably necessary to enable that person to carry out any duty lawfully conferred on that person relating to the exercise of the powers of that Board or chief executive or the performance of their functions and duties under that Act.

Schedule 7 clause 27: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

28 Agencies for foreign trusts regulation

Section 18 does not prevent the Commissioner communicating to a person who is an officer, employee, or agent of the Department of Internal Affairs or the New Zealand Police any information relating to a registration, or absence of registration, for a foreign trust that the person is authorised by the Commissioner of Police or the chief executive of the Department of Internal Affairs to receive.

Schedule 7 clause 28: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

29 Government agencies: voice recognition analysis

Section 18 does not prevent the Commissioner communicating to a person (the **officer**) who is an officer or employee of a public sector agency, as defined in the Privacy Act 1993, information if—

- (a) the officer is authorised by the public sector agency to receive the information; and
- (b) the information relates to a record of the voice of a person (the **client**), used by the Commissioner to verify the identity of the client, or relates to an analysis of the record; and
- (c) the information is obtained, held, and communicated by the Commissioner for a purpose relating to verifying the identity of the client; and
- (d) the public sector agency is authorised by the client to receive the information; and
- (e) the Minister of Revenue has been notified by the Commissioner that such information will be communicated to the public sector agency.

Schedule 7 clause 29: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

30 Financial Markets Authority: KiwiSaver information

Section 18 does not prevent the Commissioner communicating to the Financial Markets Authority the following information, provided that the Commissioner considers it not undesirable to disclose the information and the information is reasonably necessary to enable the FMA to perform its duties or functions or exercise its powers:

- (a) individual or aggregate information relating to a member of a KiwiSaver scheme or a complying superannuation fund (as those terms are defined in section 6(1) of the Financial Markets Conduct Act 2013);
- (b) individual or aggregate information relating to a KiwiSaver scheme or a complying superannuation fund;
- (c) information arising from the performance of the Commissioner's duties or functions, or the exercise of the Commissioner's powers, in relation to the KiwiSaver Act 2006 or a provision of an Inland Revenue Act that is relevant to the KiwiSaver Act 2006.

Schedule 7 clause 30: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

31 Land Information New Zealand

Section 18 does not prevent the Commissioner communicating to the chief executive, or an authorised employee, of Land Information New Zealand under section 86 of the Land Transfer Act 2017 any information specified in subsection (1) of that section for the purpose set out in that subsection.

Schedule 7 clause 31: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 7 clause 31: amended (with effect on 18 March 2019), on 26 June 2019, by section 106(2) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

32 Registrars of courts

Section 18 does not prevent the Commissioner communicating to any Registrar, in accordance with section 104A of the Summary Proceedings Act 1957, any information required under subsection (1) of that section.

Schedule 7 clause 32: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

33 Credit reporting agencies

- (1) Section 18 does not prevent the Commissioner communicating information relating to a taxpayer and reportable unpaid tax to an approved credit reporting agency.

- (2) The purpose of this clause is to facilitate the exchange between the Commissioner and approved credit reporting agencies of information relating to a taxpayer's reportable unpaid tax.
- (3) Subclauses (5), (6), and (7) apply when—
- (a) a taxpayer has an amount of reportable unpaid tax; and
 - (b) the Commissioner has formally notified the taxpayer that—
 - (i) the taxpayer has reportable unpaid tax; and
 - (ii) the Commissioner may give an approved credit reporting agency information in relation to the taxpayer and any amount of reportable unpaid tax under this clause; and
 - (c) the Commissioner has made reasonable efforts to recover reportable unpaid tax from the taxpayer before the day on which the taxpayer is formally notified under paragraph (b); and
 - (d) 30 days after the formal notification under paragraph (b),—
 - (i) the taxpayer has an amount of reportable unpaid tax that is greater than the amount prescribed, from time to time, by the Governor-General by Order in Council:
 - (ii) the taxpayer has an amount of reportable unpaid tax that has been unpaid for a year, and, in the Commissioner's judgement, the proportion of the unpaid amount to the taxpayer's assessable income for that year is 30% or more.
- (4) Subclauses (5), (6), and (7) also apply when—
- (a) a taxpayer has an amount of reportable unpaid tax; and
 - (b) the Commissioner has formally notified the taxpayer that—
 - (i) the taxpayer has reportable unpaid tax; and
 - (ii) the Commissioner may give an approved credit reporting agency information in relation to the taxpayer and any amount of reportable unpaid tax under this clause; and
 - (c) the Commissioner has formally notified the taxpayer under subclause (3)(b) twice in the year before the notice in paragraph (b) of this subclause, but did not communicate information relating to the taxpayer under subclause (5) or (6) in the year, because the taxpayer partially paid the total relevant amount of reportable unpaid tax; and
 - (d) the Commissioner has made reasonable efforts to recover an amount of reportable unpaid tax from the taxpayer before the day on which the taxpayer is formally notified under paragraph (b) of this subclause.
- (5) The Commissioner may communicate to an approved credit reporting agency information relating to the taxpayer and any amount of reportable unpaid tax for the purposes of—

- (a) enabling the approved credit reporting agency to include information in the taxpayer's credit report; and
 - (b) evidencing and maintaining the accuracy of the credit report in relation to the information.
- (6) The Commissioner may also communicate to an approved credit reporting agency information for the purposes described in subclause (5) if—
 - (a) the information relates to the taxpayer and any amount that would be reportable unpaid tax if it was not subject to an instalment arrangement requested by the taxpayer and entered into by the Commissioner (the **instalment arrangement**); and
 - (b) the instalment arrangement was entered into by the Commissioner after the Commissioner has communicated to an approved credit reporting agency information relating to the taxpayer under subclause (5).
- (7) The Commissioner may not communicate to an approved credit reporting agency until the Commissioner has finished considering an application under section 177 or 183H, if the application was made in the 30 days after the day on which the taxpayer is formally notified under subclause (3)(b) or (4)(b).
- (8) The Commissioner must publish annually, in a publication chosen by the Commissioner, the following:
 - (a) the number of taxpayers that the Commissioner has formally notified under this clause in the previous tax year; and
 - (b) the number of taxpayers that the Commissioner has communicated information in relation to, under subclause (5) or (6), in the previous tax year; and
 - (c) the number of taxpayers that the Commissioner has formally notified and communicated information in relation to, under subclause (5) or (6), but who paid the total relevant amount of reportable unpaid tax in the previous tax year; and
 - (d) any other matter relating to the Commissioner's use of this clause that the Commissioner decides it is appropriate to publish, including revoking an approval under subclause (9).
- (9) The Commissioner may approve, or revoke the approval of, an organisation described in subclause (10)(a), if the approval or revocation positively affects the integrity of the tax system.
- (10) For the purposes of this clause, **approved credit reporting agency** means an organisation that—
 - (a) carries on a business of reporting to other organisations, for payment, information relevant to the assessment of a person's creditworthiness; and
 - (b) is approved by the Commissioner under subclause (9); and

Requirement
to
publish

- (c) the Commissioner has published the name of, in a publication chosen by the Commissioner.
- (11) For the purposes of this clause, **credit report** means credit information about a person that is disclosed by an approved credit reporting agency.
- (12) For the purposes of this clause, **reportable unpaid tax**—
 - (a) means, for a taxpayer, unpaid tax—
 - (i) that results from liability for or excess refunds of income tax, excluding refunds under section MF 5 or MF 6 of the Income Tax Act 2007, or is otherwise the overpayment or over-crediting of WFF tax credits; and
 - (ii) that results from liability for or refunds of GST, amounts required to be deducted under the PAYE rules, amounts required to be deducted under the Student Loan Scheme Act 2011, amounts required to be deducted under the Child Support Act 1991, ESCT, RSCT, or any tax credits under Part L of the Income Tax Act 2007 excluding tax credits under section LB 4 of that Act; and
 - (iii) that is not subject to a dispute or challenge under Part 4A or 8A of this Act; and
 - (iv) that is not subject to an instalment arrangement requested by the taxpayer and entered into by the Commissioner; and
 - (b) includes, for a taxpayer, unpaid interest under Part 7 and unpaid civil penalties, to the extent to which they relate to an amount of reportable unpaid tax described in paragraph (a).

Schedule 7 clause 33: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

34 Agencies for gambling levy

Section 18 does not prevent the Commissioner communicating to a person who is an employee of the Department of Internal Affairs or the Ministry of Health information that—

- (a) the person is authorised by the department or Ministry to receive; and
- (b) the Commissioner considers is not undesirable to disclose and is essential to enable the person to carry out any duty lawfully conferred on the person relating to the determination of the problem gambling levy rate.

Schedule 7 clause 34: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

35 NZ Film Commission: government screen production payments

- (1) Section 18 does not prevent the Commissioner communicating information to a person who is an officer, employee, or agent of the New Zealand Film Commission responsible for the administration of a scheme under which govern-

ment screen production payments are made and who is authorised to receive the information by the chief executive of the New Zealand Film Commission.

- (2) The purpose of this clause is to facilitate the exchange of information between the Commissioner and the Commission for the purpose of providing to the Commission information which the chief executive considers necessary to enable the Commission to determine the entitlement of a company to a government screen production payment.
- (3) For the purposes of subclause (2), on request from the chief executive, the Commissioner may, at any time, provide to any authorised officer of the Commission all of the following information that is held by the department:
- (a) particulars relating to the amount of expenditure incurred in relation to a project that is the subject of an application for a government screen production payment:
 - (b) particulars relating to the amount of expenditure incurred in New Zealand in relation to a project that is the subject of an application for a government screen production payment:
 - (c) the Commissioner's opinion as to the accuracy of any information provided by an applicant in relation to the application for a government screen production payment.

- (4) In this clause,—

chief executive means the person appointed under section 13(1) of the New Zealand Film Commission Act 1978

Commission means the New Zealand Film Commission established by section 3 of the New Zealand Film Commission Act 1978

company means a company to which the definition of government screen production payment in section YA 1 of the Income Tax Act 2007 refers.

- (5) If any of the information specified in subclause (3) is not held by the department, the Commissioner may use any of the Commissioner's powers that are contained in Part 3, subpart 3A to obtain information.

Schedule 7 clause 35: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

36 Registrar of Companies: offences under Companies Act 1993

- (1) Section 18 does not prevent the Commissioner communicating information relating to some offences under the Companies Act 1993 to the Registrar of Companies.
- (2) The purpose of this clause is to facilitate the exchange between the Commissioner and the Registrar of Companies (the **Registrar**) of information for the purpose of preventing, detecting, investigating, or providing evidence of, some offences under the Companies Act 1993 that have been, are being, or will be committed.

- (3) The Commissioner may communicate the information only if—
- (a) the Commissioner or the Registrar reasonably suspects that—
 - (i) an offence under section 138A(1), 377, 382(4), 383(6), 385(9), 385AA(9), or 386A(2) of the Companies Act 1993 has been, is being, or will be committed; and
 - (ii) the information is relevant for the purposes of preventing, detecting, investigating, or providing evidence of, the offence; and
 - (b) the Commissioner is satisfied that the information is readily available, that it is reasonable and practicable to communicate the information, and that communication of the information is in the public interest.

Schedule 7 clause 36: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

37 KiwiSaver providers: KiwiSaver details

Section 18 does not prevent the Commissioner communicating to a person's fund provider under section 220B of the KiwiSaver Act 2006 any information specified in that section for the purposes set out in the section.

Schedule 7 clause 37: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

38 Agencies for research and development

- (1) Section 18 does not prevent the Commissioner communicating to an officer, employee, or agent of Callaghan Innovation, information for the purpose of administering subpart MX of the Income Tax Act 2007.
- (2) Section 18 does not prevent the Commissioner communicating to an officer, employee, or agent of the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Research, Science, and Technology Act 2010, information for the purpose of administering subpart MX of the Income Tax Act 2007.

Schedule 7 clause 38: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

39 Agencies for research and development

- (1) Section 18 does not prevent the Commissioner communicating to an officer, employee, or agent of the Treasury (as defined in section 2 of the Public Finance Act 1989), of Callaghan Innovation, of the Ministry of Business, Innovation and Employment, or of a state sector entity responsible for any function related to research and development advice or incentives, information reasonably necessary for that person to perform their work in relation to evaluating (in accordance with section LY 10 of the Income Tax Act 2007), administering, statistical reporting on, and policy formation for, tax credits provided in subparts LY and MX of that Act.

- (2) Section 18 does not prevent the Commissioner communicating to an officer, employee, or agent of Callaghan Innovation or of the Ministry of Business, Innovation and Employment, information reasonably necessary for that person to perform their work in relation to offering research and development advice and incentives.
- (3) Section 18 does not prevent the Commissioner allowing an officer, employee, or agent of Callaghan Innovation access to information reasonably necessary for that person to perform their work in relation to administering tax credits provided in subparts LY and MX of the Income Tax Act 2007.

Schedule 7 clause 39: replaced, on 1 April 2019, by section 37 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Subpart 2—Disclosures in provisions related to exchanges of information

Schedule 7 Part C subpart 2: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

40 Disclosures in exchanges of information

Section 18 does not prevent the Commissioner from disclosing sensitive revenue information to a person or entity specified in clauses 41 to 46 about the matter described in the provision in an exchange of information, subject to any conditions set out in the provision.

Schedule 7 clause 40: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

41 Accident Compensation Corporation: earnings-related payments

- (1) Section 18 does not prevent the Commissioner communicating to any person, being an officer, employee, or agent of the Accident Compensation Corporation, any information, being information that—
 - (a) the person is authorised by the Managing Director or chief executive of the Accident Compensation Corporation or the chief executive of the Ministry of Justice to receive; and
 - (b) is communicated to that person for the purposes of subclauses (2) to (9).
- (2) The purpose of this clause is to facilitate the exchange of information between the Inland Revenue Department and the Corporation for the purposes of verifying—
 - (a) the entitlement or eligibility of any person to or for any earnings-related compensation; or
 - (b) the amount of any earnings-related compensation to which any person is or was entitled or for which any person is or was eligible; or
 - (c) whether any premium or levy is payable or the amount of any premium or levy payable by any person.

- (3) For the purpose of this clause, any officer or employee or agent of the Corporation authorised in that behalf by the Managing Director or chief executive of the Corporation may from time to time supply to the Commissioner any beneficiary information held by the Corporation.
- (4) Where, in relation to any person, beneficiary information is supplied to the Commissioner under subclause (3), the Commissioner may cause a comparison of that information to be made with any information held by the department and which relates to that person.
- (5) Where the result of any comparison carried out under subclause (4) indicates that any person who is receiving, or has received, earnings-related compensation is or was, while receiving that compensation, receiving income from employment (including self-employment) the Commissioner may take action under subclause (6).
- (6) Where, in relation to any person, the circumstances referred to in subclause (5) apply, the Commissioner may, for the purpose of this clause, supply to any authorised officer of the Corporation, all or any of the following information that is held by the department and that relates to the person:
 - (a) where the person is, or was, in employment while receiving any earnings-related compensation,—
 - (i) the date or dates on which that employment commenced:
 - (ii) where applicable, the date or dates on which that employment ceased:
 - (iii) the name and business address of each employer so employing that person:
 - (b) where the person is, or was, receiving any other income during any period in which they are receiving, or have received, any earnings-related compensation, in circumstances where that other income may be taken into account in determining the person's entitlement to or eligibility for that compensation, or in determining the amount of that compensation, the amount of that other income so received during that period.
- (7) Where the result of any comparison carried out under subclause (4) indicates that any person who is an applicant for earnings-related compensation is receiving any income from any source, and that income may be taken into account in determining the person's entitlement to or eligibility for that compensation, or in determining the amount of that compensation, the Commissioner may, for the purpose of this clause, supply details of that income to any authorised officer of the Corporation.
- (8) The provisions of this clause shall apply notwithstanding any other provision of this Act.
- (9) In this clause, unless the context otherwise requires,—

authorised officer means any officer, employee, or agent of the Corporation who is authorised by the Managing Director or chief executive of the Corporation to receive information supplied by the Commissioner under this clause

beneficiary means—

- (a) a person who is receiving, or has received, earnings-related compensation:
- (b) an applicant for earnings-related compensation

beneficiary information, in relation to a beneficiary, means information that—

- (a) identifies the beneficiary, which may include the beneficiary's tax file number; and
- (b) identifies any earnings-related compensation that the beneficiary is receiving, or has received, or for which the beneficiary has applied, including, in the case of any earnings-related compensation that the beneficiary is receiving or has received, the dates on which payment of the compensation commenced, and, where applicable, the date on which that payment ceased

Corporation means the Accident Compensation Corporation or the Accident Rehabilitation and Compensation Insurance Corporation

earnings-related compensation means—

- (a) compensation payable under the Accident Compensation Act 1982:
- (b) any compensation for loss of earnings payable under sections 38, 39, and 43 of the Accident Rehabilitation and Compensation Insurance Act 1992, and any vocational rehabilitation allowance payable under section 25 of that Act, and any compensation for loss of potential earning capacity payable under section 45 or 46 of that Act, and any weekly compensation payable under section 58, 59, or 60 of that Act, and any payments continued to be paid under section 137, 138, or 145 of that Act (excluding any payments continued under section 143 of that Act in relation to section 68 of the Accident Compensation Act 1982):
- (c) any weekly compensation payable under the Accident Insurance Act 1998 or the Accident Compensation Act 2001.

Schedule 7 clause 41: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

42 Accident Compensation Corporation: levies

- (1) The purpose of this clause is to facilitate the exchange of information between the Inland Revenue Department and the Accident Compensation Corporation for the purpose of establishing an information matching programme to enable the Corporation to assess levies for employers, self-employed persons, private domestic workers, and shareholder-employees in accordance with the Accident Compensation Act 2001.

- (2) For the purposes of subclause (1), for the year commencing on 1 April 2002 and every subsequent year, on application by the chief executive of the Corporation, section 18 does not prevent the Commissioner supplying to any authorised officer of the Corporation all of the following information that is held by the department:
- (a) the names, addresses, and ACC file numbers for employers, self-employed persons, private domestic workers, and shareholder-employees:
 - (b) the time at which an employer or a private domestic worker became or ceased to become an employer or a private domestic worker:
 - (c) the time at which a self-employed person commenced or ceased business:
 - (d) the total amount paid in any year by an employer or a private domestic worker as earnings as an employee:
 - (e) in the case of a self-employed person, the earnings as a self-employed person:
 - (f) in the case of a shareholder-employee, the earnings as a shareholder-employee:
 - (g) whether an employer, self-employed person, private domestic worker, or shareholder-employee has a tax agent and, if so, the tax agent's name and contact details:
 - (h) in the case of an employer, self-employed person, private domestic worker, or shareholder-employee who is an individual, whether the individual is deceased and, if so,—
 - (i) the individual's date of death; and
 - (ii) the name and contact details of the administrator or executor of the individual's estate.
- (3) In this clause,—

earnings as a self-employed person has the meaning given to it by section 6 of the Accident Compensation Act 2001

earnings as a shareholder-employee has the meaning given to it by section 15 of the Accident Compensation Act 2001

earnings as an employee, employer, private domestic worker, and self-employed person have the meanings given to them by section 6 of the Accident Compensation Act 2001.

Schedule 7 clause 42: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

43 Justice: fines defaulters

- (1) Section 18 does not prevent the Commissioner communicating to any person, being an officer, employee, or agent of the Ministry of Justice, any information, being information that—
 - (a) the person is authorised by the chief executive of the Ministry of Justice to receive; and
 - (b) is communicated to that person for the purposes of subclauses (2) to (8).
- (2) The purpose of this clause is to facilitate the exchange of information between the Inland Revenue Department and the Ministry of Justice for the purpose of establishing an information matching programme to enable the Ministry of Justice to locate any fines defaulter.
- (3) For the purpose of this clause, any authorised officer of the Ministry of Justice may from time to time supply to the Commissioner any fines defaulter information held by that Ministry.
- (4) If, in relation to any fines defaulter, information is supplied by any authorised officer of the Ministry of Justice to the Commissioner, the Commissioner may compare that information with any information held by the Commissioner that relates to the fines defaulter.
- (5) If the Commissioner has information relating to the fines defaulter, the Commissioner may supply to an authorised officer of the Ministry of Justice all or any of the following information that is held by the Commissioner in relation to the fines defaulter:
 - (a) the last known address of the fines defaulter; and
 - (b) the last known telephone number of the fines defaulter; and
 - (c) the name of the last known employer of the fines defaulter; and
 - (d) the address of the last known employer of the fines defaulter; and
 - (e) the telephone number of the last known employer of the fines defaulter.
- (6) For each item of information to be supplied under subclause (5), the Commissioner must include the date when the information was most recently updated.
- (7) The provisions of this clause apply despite any other provision of this Act.
- (8) In this clause, unless the context otherwise requires,—

authorised officer, in relation to the Ministry of Justice, means any officer, employee, or agent of that Ministry who is authorised by the chief executive to supply information to or receive information from the Commissioner under this clause

chief executive means the chief executive of the Ministry of Justice

fines defaulter means any person who is in default in the payment of—

- (a) a fine within the meaning of section 79 of the Summary Proceedings Act 1957:

- (b) a fine to which section 19 of the Crimes Act 1961 applies;
- (c) a fine to which section 43 or 45 of the Misuse of Drugs Amendment Act 1978 applies;
- (d) any amount payable under section 138A(1) of the Sentencing Act 2002

fines defaulter information—

- (a) means information that identifies a fines defaulter; and
- (b) includes—
 - (i) the name, address, and telephone number of the fines defaulter; and
 - (ii) the name, address, and telephone number of the employer of the fines defaulter.

Schedule 7 clause 43: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

44 Justice and Police: child support exemptions

- (1) Section 18 does not prevent the Commissioner communicating to any person, being an officer, employee, or agent of the Ministry of Justice or the New Zealand Police, any information, being information that—
 - (a) the person is authorised by the chief executive of the Ministry of Justice or the Commissioner of Police to receive; and
 - (b) is communicated to that person for the purposes of subclauses (2) to (8).
- (2) The purpose of this clause is to facilitate the exchange of information between the Inland Revenue Department and the New Zealand Police and between the Inland Revenue Department and the Ministry for the purpose of determining whether a person is eligible for an exemption under Part 5A, subpart 4 of the Child Support Act 1991.
- (3) For the purposes of this clause,—
 - (a) the Commissioner of Police, or any authorised officer of the Police, must, within 10 working days of a request by the Commissioner, provide the Commissioner with the information specified in subclause (4) that is requested by the Commissioner in connection with the exercise or performance of any of the Commissioner's duties, powers, or functions under Part 5A, subpart 4 of the Child Support Act 1991; and
 - (b) the chief executive of the Ministry, or any authorised officer of the Ministry, must, within 10 working days of a request by the Commissioner, provide the Commissioner with the information specified in subclause (4) that is requested by the Commissioner in connection with the exercise or performance of any of the Commissioner's duties, powers, or functions under Part 5A, subpart 4 of the Child Support Act 1991.
- (4) For the purposes of subclause (3), the information that may be provided is—

- (a) whether a particular person—
 - (i) has been convicted of a sex offence; or
 - (ii) has been proved to have committed a sex offence before the Youth Court; and
 - (b) details of that offence, including the type of offence and the date, or approximate date, when that offence was committed; and
 - (c) whether a particular person is the victim of that offence; and
 - (d) whether a conviction for that offence has been quashed; and
 - (e) whether a finding of the Youth Court that a sex offence has been committed has been reversed or set aside; and
 - (f) whether any court has ordered a new trial in relation to the matter; and
 - (g) any other particulars that the Commissioner considers relevant to the purpose of this clause.
- (5) The information specified in subclause (4) must be provided to the best of the knowledge and belief of the person who provides the information if the person does not have certain knowledge of the relevant matters.
- (6) In this clause, unless the context otherwise requires,—
- authorised officer of the Ministry** means an officer of the Ministry who is authorised by the chief executive of the Ministry to provide information under this clause
- authorised officer of the Police** means a Police employee who is authorised by the Commissioner of Police to provide information under this clause
- Ministry** means the Ministry of Justice
- sex offence** means an offence under any of sections 127 to 144C of the Crimes Act 1961
- victim** means the person against whom an offence is committed by another person.
- (7) If information is supplied to the Commissioner under this clause, the Commissioner may use the information in connection with the exercise or performance of any of the Commissioner's duties, powers, or functions under Part 5A, subpart 4 of the Child Support Act 1991.
- (8) This clause applies despite any other provision of this Act.

Schedule 7 clause 44: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

45 Social Development: social security agreements

- (1) The purpose of this clause is to facilitate the exchange of information between the Inland Revenue Department and the department for the time being responsible for the administration of the Social Security Act 1964 for the purpose of

giving assistance to the Government of a country with which New Zealand has a social security agreement.

- (2) For the purpose of this clause, any authorised officer of the department for the time being responsible for the administration of the Social Security Act 1964 may from time to time supply to the Commissioner any personal information supplied to that department by the Government of that country.
- (3) Where, in relation to any person, personal information is supplied in accordance with subclause (2) to the Commissioner, the Commissioner may compare that information with any information held by the Commissioner which relates to the person.
- (4) For the purpose of this clause, where the Commissioner has information relating to the person, the Commissioner may supply to an authorised officer—
 - (a) any of the following information held by the Commissioner if that information is of a type specified in the agreement made under section 19C(1)(d) of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990:
 - (i) the street address of the person; and
 - (ii) the name and street address of the last known employer of the person; and
 - (iii) where the result of a comparison carried out under subclause (3) indicates that the person is receiving, or has, during the previous tax year, received, any income from any source, the details of that income; and
 - (iv) where the Commissioner knows the names and dates of birth of any dependent children of the person, those names and dates; and
 - (b) any other information held by the Commissioner that is of a type specified in the agreement made under section 19C(1)(d) of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990.
- (5) Where the Commissioner has supplied information under subclause (4) to an authorised officer of the department for the time being responsible for the administration of the Social Security Act 1964, the department may supply that information to the competent institution of the Government of the other country in accordance with the mutual assistance provision of the social security agreement.
- (6) The provisions of this clause apply despite any other provision of this Act.
- (7) In this clause, unless the context otherwise requires,—

authorised officer means any officer, employee, or agent of the department for the time being responsible for the administration of the Social Security Act 1964 who is authorised by the chief executive of that department to supply information or receive information from the Commissioner under this clause

personal information means information that identifies an individual, which may include the individual's tax file number

social security agreement means an agreement or convention or alteration to an agreement or convention—

- (a) in respect of which an Order in Council has been made under section 19 of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990; and
 - (b) that contains a mutual assistance provision of a kind referred to in section 19A(2)(b) of that Act.
- (8) Where information is supplied to the Commissioner under this clause, the Commissioner—
- (a) may use that information for any of the following purposes:
 - (i) the purposes set out in subclauses (3) and (4):
 - (ii) making an assessment of the amount of tax due by any person:
 - (iii) detecting tax fraud or tax evasion:
 - (b) may not supply that information to any other country without the prior notified consent of the chief executive of the department for the time being responsible for the administration of the Social Security Act 1964 and subject to such conditions as that chief executive sets.

Schedule 7 clause 45: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

46 Business, Innovation, and Employment: parental leave payments

- (1) Section 18 does not prevent the Commissioner communicating information to a person who is an officer, employee, or agent of the department for the time being responsible for the administration of the Parental Leave and Employment Protection Act 1987 and who is authorised to receive the information by the chief executive of that department.
- (2) In this clause,—

applicant means a person who has made an application for a parental leave payment or preterm baby payment under section 71I of the Parental Leave and Employment Protection Act 1987

applicant information, for an applicant, means—

- (a) information that relates to the circumstances of the applicant that are relevant to the eligibility of the applicant for parental leave payments or preterm baby payments under Part 7A of the Parental Leave and Employment Protection Act 1987:
- (b) the applicant's name and tax file number:
- (c) the name and tax file number of the applicant's employer

parental leave has the meaning in section 2 of the Parental Leave and Employment Protection Act 1987

responsible department means the department for the time being responsible for the administration of the Parental Leave and Employment Protection Act 1987.

- (3) For the purpose of section 71G(1) of the Parental Leave and Employment Protection Act 1987, if the Commissioner as a delegate under section 71ZA of that Act receives an application for parental leave payments or preterm baby payments in relation to a child, the Commissioner may—
- (a) compare applicant information and information held by the Commissioner;
 - (b) refuse the application for payment of parental leave or for preterm baby payments if a comparison under paragraph (a) indicates that the employee or his or her spouse has received a payment of parental tax credit in respect of the child.
- (4) The Commissioner may treat information obtained while acting as a delegate of the responsible department under section 71ZA of that Act as information obtained for the purposes of administering the Inland Revenue Acts.
- (5) The Commissioner may refuse or recover a parental tax credit under section MD 11 of the Income Tax Act 2007 in respect of a child if a parental leave payment or preterm baby payment under Part 7A of the Parental Leave and Employment Protection Act 1987 is to be paid or has been paid to the applicant in respect of the child.

Schedule 7 clause 46: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Part D

Disclosures for purposes of international arrangements

Schedule 7 Part D: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

47 Disclosures for purposes of international arrangements

Section 18 does not prevent the Commissioner from disclosing sensitive revenue information to a person or entity specified in clauses 48 and 49 about the matter described in the provision for the purposes of international arrangements, subject to any conditions set out in the provision.

Schedule 7 clause 47: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

48 Reciprocal laws or arrangements

Section 18 does not prevent the Commissioner communicating any information to any authorised officer of the Government of any country or territory outside New Zealand where the application of a provision of any of the Inland Revenue

nue Acts affecting the incidence of tax or duty is expressed to be conditional on the existence of a reciprocal law or concession in any such country or territory, or where under a provision in any of the Inland Revenue Acts a reciprocal arrangement has been made with the Government of any such country or territory affecting the incidence of tax or duty: provided that any such communication shall be limited to such information as is necessary to enable that Government to give effect to the reciprocal law or concession or to the reciprocal arrangement.

Schedule 7 clause 48: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

49 Arrangements for relief of double taxation

Section 18 does not prevent the Commissioner disclosing such information as is required to be disclosed under a double tax agreement or tax recovery agreement to a person authorised to receive such information under the law of the territory in relation to which the double tax agreement or tax recovery agreement has been made.

Schedule 7 clause 49: inserted, on 18 March 2019, by section 111(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).



Taxation (Disclosure of Information to Approved Credit Reporting Agencies) Regulations 2017

Patsy Reddy, Governor-General

Order in Council

At Wellington this 29th day of May 2017

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 85N and 225(1)(f) of the Tax Administration Act 1994 on the advice and with the consent of the Executive Council.

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Regulations

- 1 **Title**
 These regulations are the Taxation (Disclosure of Information to Approved Credit Reporting Agencies) Regulations 2017.

- 2 **Commencement**
 These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Reportable unpaid tax threshold

For the purposes of section 85N(2)(d)(i) of the Tax Administration Act 1994, the prescribed amount is \$150,000.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations are made for the purposes of section 85N of the Tax Administration Act 1994, and come into force 28 days after their notification in the *Gazette*. Section 85N (which was inserted by the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017) allows the Commissioner of Inland Revenue to disclose information about a taxpayer's tax debts to approved credit reporting agencies if certain preconditions are met. One of those preconditions is that the amount of the taxpayer's reportable unpaid tax must be greater than the prescribed amount. These regulations set that amount at \$150,000.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 1 June 2017.

These regulations are administered by the Inland Revenue Department.