

# Hon David Parker, Minister of Revenue

## Information Release

### Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021

March 2022

#### Availability

This information release is available on Inland Revenue's tax policy website at <https://taxpolicy.ird.govt.nz/publications/2022/2022-ir-cab-leg-21-sub-0105>

#### Documents in this information release

| # | Reference       | Type              | Title   | Date          |
|---|-----------------|-------------------|---|---------------|
| 1 | IR2020/351      | Tax policy report | Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance: Entry into force         | 23 July 2020  |
| 2 | IR2021/186      | Tax policy report | Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance: Amendment to declaration | 21 April 2021 |
| 3 | IR2021/283      | Tax policy report | Draft Cabinet paper – Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021                           | 24 June 2021  |
| 4 | LEG-21-SUB-0105 | Cabinet paper     | Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021   | 8 July 2021   |
| 5 | LEG-21-MIN-0105 | Minute            | Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021   | 8 July 2021   |

#### Additional information

The Cabinet paper was considered by the Cabinet Legislation Committee on 8 July 2021 and confirmed by Cabinet on 12 July 2021.

Two documents related to the Cabinet paper are not included in this information release as they are publicly available:

- Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021 (12 July 2021)<sup>1</sup>
- International treaty examination of the Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance – Report of the Social Services and Community Committee (March 2020)<sup>2</sup>

<sup>1</sup> Available at <https://legislation.govt.nz/regulation/public/2021/0188/6.0/whole.html>

<sup>2</sup> Available at [https://www.parliament.nz/en/pb/sc/reports/document/SCR\\_96350/international-treaty-examination-of-the-hague-convention](https://www.parliament.nz/en/pb/sc/reports/document/SCR_96350/international-treaty-examination-of-the-hague-convention)

## Information withheld

Some parts of this information release 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 are identified. Where information is withheld, no public interest was identified that would outweigh the reasons for withholding it.

Sections of the Act under which information was withheld:

9(2)(a) to protect the privacy of natural persons, including deceased people

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## POLICY AND STRATEGY

**Tax policy report:** **Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance: entry into force**

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|                        |               |                       |            |
|------------------------|---------------|-----------------------|------------|
| <b>Date:</b>           | 23 July 2020  | <b>Priority:</b>      | Medium     |
| <b>Security level:</b> | In Confidence | <b>Report number:</b> | IR2020/351 |

### Action sought

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|                     | <b>Action sought</b>            | <b>Deadline</b> |
|---------------------|---------------------------------|-----------------|
| Minister of Revenue | <b>Agree</b> to recommendations | 12 August 2020  |

### Contact for telephone discussion (if required)

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| <b>Name</b>       | <b>Position</b>          | <b>Telephone</b> |
|-------------------|--------------------------|------------------|
| Emma Hamilton     | Senior Policy Advisor    | s 9(2)(a)        |
| Samantha Aldridge | Principal Policy Advisor |                  |
| Carolyn Elliott   | Policy Lead              |                  |

23 July 2020

Minister of Revenue

## **Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance: implementation timing**

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### **Purpose**

1. This report seeks your agreement to align the date that the Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance (the Convention) comes into force in New Zealand with the new timing for the transfer of child support into Inland Revenue's new systems, as part of its Business Transformation programme. Originally this was planned for April 2021 but will now occur in October 2021.

### **Background**

#### ***The Convention***

2. The Convention is a multilateral treaty that provides for the recovery of child support and other forms of maintenance (such as spousal support) when the liable person resides in a different country to where the maintenance payment was raised.
3. New Zealand is currently in the process of taking the necessary steps to ratify the Convention and bring it into force. The Social Services and Community Committee has completed the Parliamentary treaty examination process and reported back to the House recommending ratification.
4. An Order in Council is needed to recognise and give effect to the Convention under New Zealand Law and once this has been completed New Zealand will be in a position to ratify the Convention.

#### ***Timing of the entry into force of the Convention and Business Transformation child support changes***

5. The original intent was that the Convention would enter into force in New Zealand at the same time child support transfers into Inland Revenue's new systems as part of Business Transformation [CAB-MIN-0447]. This was expected to be in April 2021.
6. However, due to the impacts of COVID-19, it has recently been confirmed that the transfer of child support to Inland Revenue's new systems will be moved to October 2021.
7. In light of this, officials recommend that the date for the Convention to enter into force be moved to October 2021 to align with Business Transformation.

#### ***Customer implications***

8. The proposal to move the date that the Convention enters into force would have an impact on some New Zealand carers. This is because it would mean a delay in Inland Revenue's ability to send cases to other member countries for collection under the Convention. It would also prevent other member countries from sending cases to

New Zealand for collection. This would affect the timing of when cases could be sent or received, but not the amount of child support being referred for collection.

### ***Administrative implications***

9. Alignment means the required systems and processes could be designed and built alongside the Business Transformation child support changes in the new system. There would be no need to develop any temporary processes or changes to the heritage system, FIRST.
10. There are some significant challenges with an April 2021 date for the Convention to enter into force. It would require some change in Inland Revenue's heritage system, FIRST (including ongoing system support), which has not been factored into Inland Revenue's work programme. It would also require the development of temporary manual processes to allow Inland Revenue to accept and send cases under the Convention. It would add additional risk to the Business Transformation programme if Inland Revenue were required to divert specialist resources to deliver that additional scope.
11. An April 2021 implementation in Inland Revenue's heritage system would be sub-optimal and could result in an inefficient administration and fewer cases able to be referred than if implementation were to be in our new systems. This could also create a reputational risk for Inland Revenue because there may be an expectation that as soon as the Convention enters into force, cases would be sent for collection, and this may not be immediately feasible.
12. Many of the preparatory activities required prior to ratification, such as consultation with other countries have been delayed because of COVID-19. These activities have now recommenced but may not be able to be completed in time for an April 2021 entry into force.

### **Costs**

13. There would be no additional costs associated with the proposal to move the date for entry into force to October 2021 to align with the child support Business Transformation changes. Implementation and administration costs would continue to be met within existing baselines.
14. However additional costs would be incurred if the date for the entry into force for the Convention were not aligned with the child support Business Transformation changes. These increased costs would primarily result from implementing and supporting the administration of the Convention in Inland Revenue's heritage system, FIRST for a limited period.
15. There are no fiscal costs associated with ratifying the Convention and bringing it into force in New Zealand.

### **Consultation**

16. Officials have consulted with the Ministry of Foreign Affairs and Trade to confirm there are no impacts on the timing of the submission of the instrument of ratification that would result from moving the implementation date from April 2021 to October 2021.
17. Treasury has been consulted and is comfortable with the proposal.
18. The Ministry of Justice has also been informed about this proposal.

### Next steps

19. If you agree to the proposal, officials will prepare the Order in Council necessary for the necessary domestic law change with the amended date.
20. Following the Order in Council being made, New Zealand's instrument of ratification and list of confirmed declarations and reservations will be deposited with the Convention depositary. This is required to be completed at least three months before the Convention comes into force in New Zealand and will be completed by June 2021.

### Recommended action

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We recommend that you:

21. **agree** to align the date the Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance comes into force with the timing of Inland Revenue's child support Business Transformation changes;

Agreed/Not agreed

22. **note** that it is expected that the child support Business Transformation changes will occur in October 2021.

Noted

### Carolyn Elliott

Policy Lead  
Policy and Strategy

### Hon Stuart Nash

Minister of Revenue  
/ /2020



## POLICY AND REGULATORY STEWARDSHIP

**Tax policy report:** **Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance: Amendment to declaration**

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|                        |               |                       |            |
|------------------------|---------------|-----------------------|------------|
| <b>Date:</b>           | 21 April 2021 | <b>Priority:</b>      | High       |
| <b>Security level:</b> | In Confidence | <b>Report number:</b> | IR2021/186 |

### Action sought

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|                     | <b>Action sought</b>            | <b>Deadline</b> |
|---------------------|---------------------------------|-----------------|
| Minister of Revenue | <b>Agree</b> to recommendations | 5 May 2021      |

### Contact for telephone discussion (if required)

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| <b>Name</b>     | <b>Position</b>       | <b>Telephone</b> |
|-----------------|-----------------------|------------------|
| Carolyn Elliott | Policy Lead           | s 9(2)(a)        |
| Emma Hamilton   | Senior Policy Advisor |                  |

21 April 2021

Minister of Revenue

## **Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance: Amendment to declaration**

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### **Purpose**

1. This report seeks your agreement to amend one of New Zealand's declarations in relation to the Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance (the Convention). The declaration, which provides for an alternative process to be followed when an application is received, is no longer required. It has been identified that the standard process is preferable.

### **Background**

#### ***The Convention***

2. The Convention is a multilateral treaty that provides for the recovery of child support and other forms of maintenance (such as spousal support) when the liable person resides in a different country to where the maintenance payment was raised.
3. New Zealand is currently in the process of taking the necessary steps to ratify the Convention and bring it into force. The Social Services and Community Committee completed the International Treaty Examination in March 2020 and reported back to the House recommending ratification.
4. An Order in Council is needed to recognise and give effect to the Convention under New Zealand law and once this has been completed New Zealand will be in a position to ratify the Convention.

#### ***Reservations and declarations***

5. Any permitted reservations or declarations under the Convention must be made at the time of ratification. New Zealand's proposed reservations and declarations were attached to the extended National Interest Analysis approved by Cabinet [CAB-19 MIN-0447] and were included as part of the International Treaty Examination process.
6. Article 23 of the Convention details the standard process that needs to be followed for recognition and enforcement when an application made under the Convention is received. Article 24 details an alternative procedure that may be followed. A State must make a declaration if they intend to use the alternative procedure set out in Article 24. One of New Zealand's proposed declarations was to follow the Article 24 process, rather than the standard Article 23 process.
7. As part of more detailed work completed in preparation for implementation, it has been identified that the standard Article 23 process would be preferable to the alternative Article 24 process. This is because it would enable Inland Revenue to process applications more expeditiously and aligns with how it already processes other domestic and international applications.



8. The primary difference between the processes detailed in Article 23 and 24 is the order in which actions take place. Under the standard Article 23 process shown in figure 1, the decision is made and becomes enforceable before any challenge can be made. In contrast, under the alternative Article 24 process shown in figure 2, the recognition and enforcement of the decision only occurs after the applicant and respondent have been given an opportunity to make a submission.

Figure 1 – Article 23 process for recognition and enforcement

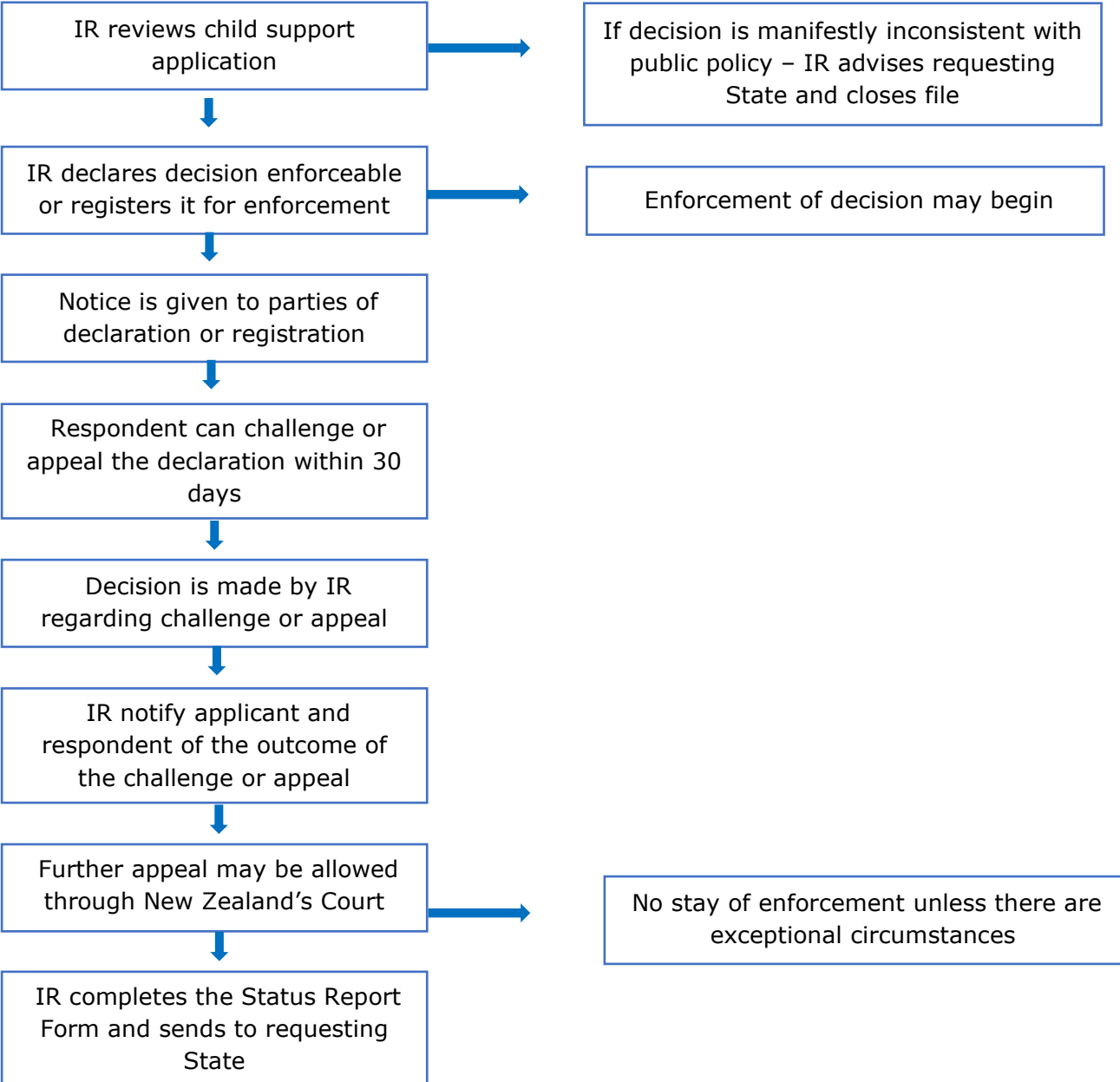
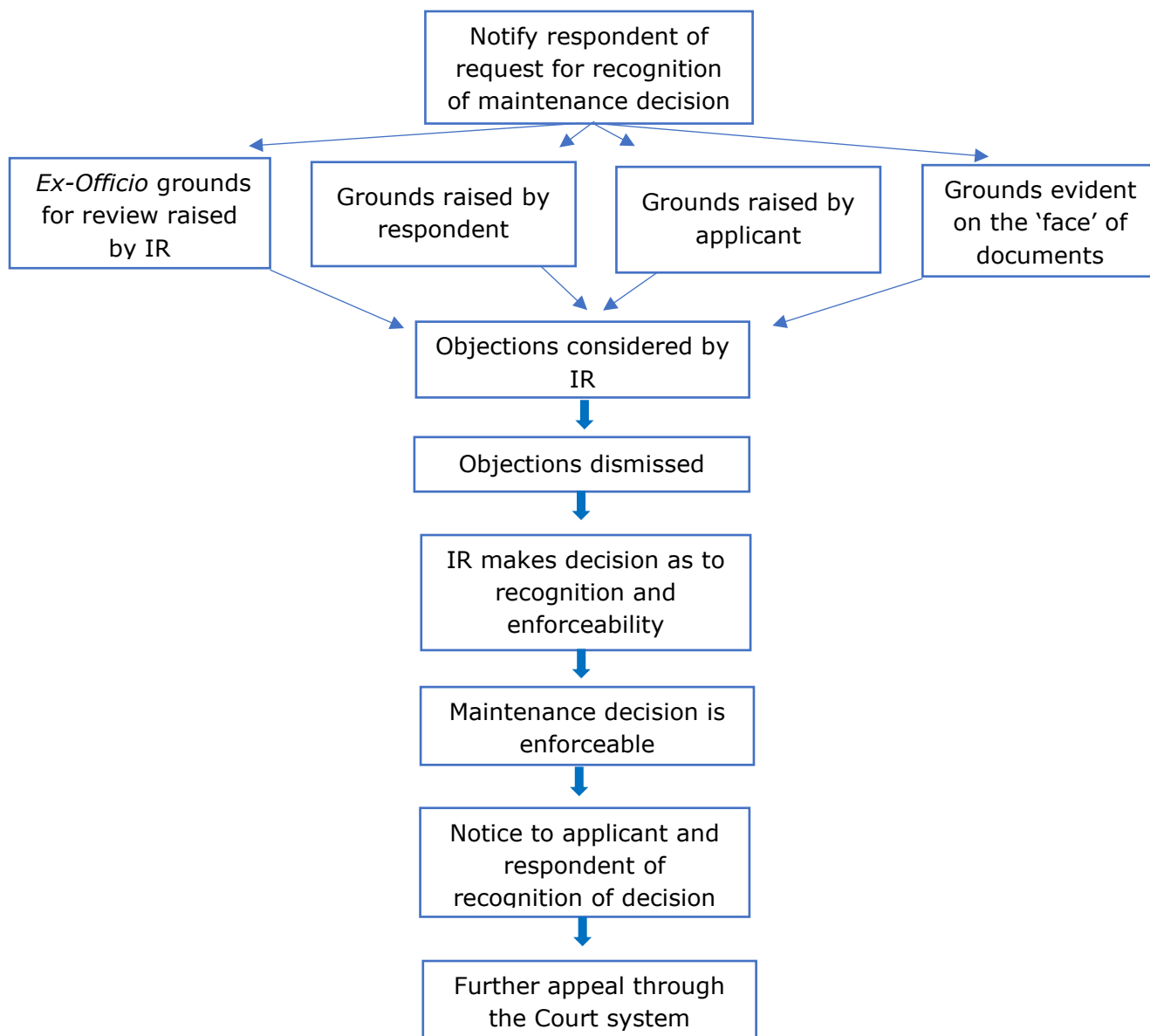


Figure 2 – Article 24 process for recognition and enforcement



9. The standard Article 23 process would be preferable to the Article 24 process because it would allow Inland Revenue to register cases and commence collection more quickly. This should result in faster transfer of payments to receiving carers.

### Authority to amend declaration

10. Cabinet delegated authority to the Minister of Revenue to make adjustments to the reservations and declarations that were needed in advance of ratification, if those changes were the result of changes in other jurisdictions' position.
11. However, since the change proposed is in New Zealand's position, rather than an overseas jurisdiction's position, it is not clear that the delegated authority would apply in this case.
12. Inland Revenue has consulted with the Ministry of Foreign Affairs and Trade (MFAT) on the appropriate process to follow to amend the declaration. MFAT advised that the authority to amend the reservations and declarations is not clear in this situation. They consider that because the change is minor, a full Cabinet paper is

not required. Instead, they recommend the change be taken to Cabinet as an oral item.

13. Alternatively, removing the declaration could be included in the LEG paper accompanying the Order in Council which will give effect to the Convention under New Zealand law. This is officials' preferred option as it would clearly record the change and therefore be more transparent.
14. MFAT also recommend a letter be sent to the Social Service and Community Committee to explain the proposed change, as they were the Committee who completed the International Treaty Examination. A draft letter is attached to this report.

### **Customer implications**

15. The proposal would significantly reduce the timeframe for registering Convention cases. The Article 23 process allows for collection to commence immediately instead of allowing up to 60 days for a challenge to be received and any additional time required to make a decision on that challenge. This means that Inland Revenue should be able to pass maintenance on to receiving carers in a more timely manner. It is expected that only a small proportion of registrations will be challenged, so it is not practical to delay all cases.

### **Administrative implications**

16. Following the standard Article 23 process would be administratively simpler for Inland Revenue. This is because it aligns with current practice for processing existing domestic and international applications and can be incorporated into current systems relatively simply. Following the Article 24 process would require development of new systems and processes which involves additional resources to create and implement.

### **Costs**

17. There would be no additional costs associated with the proposal. Implementation and administration costs would continue to be met within existing baselines.
18. There are no fiscal costs associated with ratifying the Convention and bringing it into force in New Zealand.

### **Consultation**

19. Officials have consulted the Ministry of Foreign Affairs and Trade about this proposal.
20. Treasury has been informed about this report.
21. The Ministry of Justice has also been informed about this proposal.

### **Next steps**

22. If you prefer to take an oral item to Cabinet, officials will prepare speaking notes.
23. If you prefer that the item be specifically included in the Cabinet Legislation Committee paper accompanying the Order in Council, officials will include this as a recommendation.

24. Following the Order in Council being made, New Zealand's instrument of ratification and list of confirmed reservations and declarations will be deposited with the Convention depositary. This is required to be completed at least three months before the Convention comes into force in New Zealand and is expected to be completed by July 2021, to align with the move of child support to Inland Revenue's new technology system, START.


### **Recommended action**

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We recommend that you:

25. **agree** to removing the declaration under Article 24 of the Convention by either
- 25.1 taking an oral item to Cabinet, or  
Agreed/Not agreed
  - 25.2 including the removal in the Cabinet Legislation Committee paper [officials' preferred option]  
Agreed/Not agreed
26. **agree** that you send a letter to the Social Services and Community Committee explaining the proposal  
Agreed/Not agreed

s 9(2)(a)



**Carolyn Elliott**  
Policy Lead  
Policy and Regulatory Stewardship

**Hon David Parker**  
Minister of Revenue  
/ 05 /2021

**Hon David Parker** BCom, LLB

Attorney-General

Minister for the Environment

Minister for Oceans and Fisheries

Minister of Revenue

Associate Minister of Finance



Angie Warren-Clark  
Chair of the Social Services and Community Committee  
Parliament Buildings  
Wellington

Dear Ms Warren-Clark

**Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance: Amendment to declaration**

The Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance (“the Convention”) is a multilateral treaty that provides for the recovery of child support and other forms of maintenance when the liable person resides in a different country to where the maintenance payment was raised. New Zealand is currently in the process of taking the necessary steps to ratify the Convention and bring it into force.

As part of the ratification process, the reservations and declarations pertaining to the Convention are approved by Cabinet. One of New Zealand’s declarations provides for an alternative process to be followed when an application is received by Inland Revenue. Officials have reported to me that this declaration is no longer required. It has been identified that the standard process would be preferable. This is because it would enable Inland Revenue to process applications more efficiently and aligns with how it already processes other domestic and international applications.

The Social Services and Community Committee completed the Parliamentary treaty examination process on 24 March 2020 and reported back to the House recommending ratification. Therefore, I am writing to you to inform you of the proposed change to the declaration.

I intend to include this change in the Cabinet Legislation Committee paper accompanying the Order in Council that is required to recognise and give effect to the Convention under New Zealand law. Once the Order in Council has been completed New Zealand will be in a position to ratify the Convention. The Convention is expected to enter into force later this year.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Parker'.

Hon David Parker  
**Minister of Revenue**





## POLICY AND REGULATORY STEWARDSHIP

**Tax policy report:** **Draft Cabinet paper – Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021**

|                        |               |                       |            |
|------------------------|---------------|-----------------------|------------|
| <b>Date:</b>           | 24 June 2021  | <b>Priority:</b>      | Medium     |
| <b>Security level:</b> | In Confidence | <b>Report number:</b> | IR2021/283 |

### Action sought

|                     | Action sought   | Deadline                   |
|---------------------|---|----------------------------|
| Minister of Revenue | <p><b>Approve</b> the attached Cabinet paper for lodgement</p> <p><b>Refer</b> a copy of this report to the Minister of Foreign Affairs for her information</p> | 10am, Thursday 1 July 2021 |

### Contact for telephone discussion (if required)

| Name               | Position              | Telephone |
|--------------------|-----------------------|-----------|
| Carolyn Elliott    | Policy Lead           | s 9(2)(a) |
| Emma Hamilton      | Senior Policy Advisor |           |
| Richard McLaughlan | Policy Advisor        |           |

24 June 2021

Minister of Revenue

## **Draft Cabinet paper - Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021**

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### **Purpose**

1. This report asks you to approve for lodgement the attached Cabinet paper and accompanying Order in Council with the Cabinet Office by 10am Thursday 1 July 2021 for consideration at the Cabinet Legislation Committee meeting on Thursday 8 July 2021.
2. The Child Support (Reciprocal Agreement with Hague Countries) Order 2021 is needed to recognise and give effect to the Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance (the Convention) under New Zealand law. Once this has been completed New Zealand will be in a position to ratify the Convention. The Order will modify the application of the Child Support Act 1991 for cases administered under the Convention relating to child support and domestic maintenance.
3. This Order in Council is a domestic step towards entry into force, which is intended for 1 November 2021.

### **Background**

4. The Convention is a multilateral treaty that provides for the recovery of child support and other forms of maintenance (such as spousal support) when the liable person resides in a different country from that in which the maintenance payment is raised.
5. New Zealand signed the Convention on 26 November 2019. The Social Services and Community Committee completed the Parliamentary treaty examination on 24 March 2020 and reported back to the House recommending ratification. New Zealand is now taking the necessary steps to ratify the Convention and to bring it into force for New Zealand.
6. The Convention is intended to be in force in New Zealand on 1 November 2021 when child support transfers into Inland Revenue's new systems as part of Business Transformation.

### **Reservations and declarations**

7. Any permitted reservations or declarations under the Convention must be made at the time of ratification. New Zealand's proposed reservations and declarations were approved by Cabinet [CAB-19 MIN-0447 refers] and were also considered as part of the Parliamentary Treaty Examination process.
8. Officials originally considered that New Zealand should make a declaration that New Zealand will use the Article 24 procedure rather than the Article 23 procedure on receipt of applications for recognition and enforcement. This is reflected in the reservations and declarations, as considered by Cabinet and in the Parliamentary Treaty Examination process.
9. However, as part of more detailed work completed in preparation for implementation, it has been identified and agreed that the standard Article 23 process would be preferable to the alternative Article 24 process [IR2021-186 refers]. This is because it



would enable Inland Revenue to process applications more expeditiously and aligns with how it already processes other domestic and international applications. Using the procedure set out in Article 23 does not require New Zealand to make a declaration.

10. We will provide your office with suggested talking points for taking the paper through the Cabinet Legislation Committee. Specifically, these will identify why there has been a change to New Zealand's declarations in relation to the Convention.

### **Next steps**

11. Treaty-making with respect to Tokelau is carried out by the New Zealand Government in consultation with the Government of Tokelau. In accordance with the Ministry of Foreign Affairs and Trade's recommendations, New Zealand is consulting with Tokelau on whether the Convention should also extend to Tokelau. Tokelau is expected to respond to the consultation documents provided by 30 June 2021. If Tokelau responds in the affirmative by that date, officials will update the requisite documents.
12. A draft Cabinet paper and associated Order in Council are attached for you to take to the Cabinet Legislation Committee on Thursday 8 July 2021. The certificate and signature copies of the Order will be sent direct to Cabinet office by the Parliamentary Counsel Office, for associating with the Cabinet paper.
13. Officials recommend you sign the attached Order in Council "goatskin" cover sheet, for submission to Cabinet office with the Cabinet paper.
14. Officials recommend you refer a copy of this report to the Minister of Foreign Affairs for her information.
15. Following agreement to the Order in Council, New Zealand's instrument of ratification and list of confirmed declarations and reservations will be deposited with the Convention depositary. The Convention will enter into force for New Zealand on the first day of the month following the expiration of three months after the deposit of its instrument of ratification. Therefore, New Zealand must deposit our instrument of ratification by 31 July 2021 in order for the entry into force date to align with child support moving to Inland Revenue's new system START.
16. Normal practice is to release a press statement at the time the Convention enters into force rather than on the making of the Order in Council. We will discuss appropriate publicity with your office.
17. Officials consider that the attached Cabinet paper should be proactively released within 30 working days of Cabinet making final decisions, subject to minor redactions.

## Recommended action

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We recommend that you:

18. **Approve** for lodgement the attached Cabinet paper and accompanying Order in Council with the Cabinet Office by 10am Thursday 1 July 2021 for consideration at the Cabinet Legislation Committee meeting on Thursday 8 July 2021

Approved

19. **Note** that speaking notes will be provided to your office ahead of the Cabinet Legislation Committee meeting on Thursday 8 July

Noted

20. **Sign and refer** the attached Order in Council "goatskin" cover sheet, for submission to Cabinet Office with the Cabinet paper

Signed and referred


21. **Refer** a copy of this report and the attached Cabinet paper to the Minister of Foreign Affairs for her information

Referred

22. **Agree** to the release of the attached Cabinet paper, associated minutes, and key advice papers, within 30 days of Cabinet making final decisions, subject to minor redactions.

Agreed/Not agreed

s 9(2)(a)



**Carolyn Elliott**

Policy Lead

Policy and Regulatory Stewardship

**Hon David Parker**

Minister of Revenue

/ /2021

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

## **CHILD SUPPORT (RECIPROCAL AGREEMENT WITH HAGUE CONVENTION COUNTRIES) ORDER 2021**

### **Purpose**

1. This paper proposes that Cabinet agree to the submission of the accompanying Order in Council to ratify and bring into force, the Hague Convention on the International Recovery of Child Support and other Forms of Family Maintenance (the Convention) 2021, to the Executive Council.
2. This will give effect to policy decisions made by Cabinet on 2 September 2019 [CAB-19-MIN-0447 refers] when it approved the signing and ratification of the Convention and the ensuing steps for entry into force.
3. Once made, the Order will recognise and give effect to the Convention under New Zealand law. The Order will modify the application of the Child Support Act 1991 for cases administered under the Convention to ensure reciprocity in respect of matters relating to child support and domestic maintenance.
4. The finalised list of declarations and reservations will need to be deposited alongside New Zealand's instrument of ratification. It should be noted that one of New Zealand's original declarations, regarding the procedure used on receipt of applications, is no longer required and that the standard process is preferable. It is proposed that Cabinet agree that New Zealand no longer makes a declaration to Article 24 of the Convention.

### **Background**

5. The Convention is a multilateral treaty that provides for the recovery of child support and other forms of maintenance (such as spousal support) when the liable person resides in a different country to where the maintenance payment was raised. It:
  - 5.1. enables the recognition and collection of both administrative and court-ordered maintenance between member countries;
  - 5.2. includes rules on judicial and administrative co-operation that should improve New Zealand's ability to assess and collect child support when liable parents are residing in member countries; and
  - 5.3. enables Inland Revenue to assess child support for New Zealand children whose liable parent is not a New Zealand citizen or resident and who lives in a member country.

6. As at 30 April 2019, there were approximately 16,720 parents with New Zealand-assessed child support liabilities who live overseas, with the majority of them residing in Australia (about 12,500). Inland Revenue is currently reliant on voluntary compliance in collecting child support from parents living overseas outside of Australia (those in Australia are covered by an existing bilateral agreement) and voluntary compliance is very low. The Convention can be implemented with minimal administrative cost to Inland Revenue and should facilitate the recovery outstanding child support payments from liable parents living outside of Australia.

### **Benefits of ratifying the Convention**

7. The main benefit of ratifying the Convention is the ability to refer assessments administered under the Child Support Act 1991 (and other forms of maintenance, such as spousal support) to other member countries for collection. This is a key advantage over other maintenance arrangements, which only allow for the collection of court-ordered maintenance.
8. The Convention will also enable Inland Revenue to carry out a formula assessment of child support for New Zealand children whose liable parent is not a New Zealand citizen or resident, so that more children receive the appropriate support. By doing this under the Convention, Inland Revenue could progress these cases outside of the court system via its more efficient administrative assessment processes.

### **Previous consideration**

9. As noted, Cabinet approved the signing of the Convention in September 2019. In particular, Cabinet:
  - noted that the Convention will be incorporated into New Zealand domestic law through an Order in Council made pursuant to section 215 of the Child Support Act 1991;
  - invited the Minister of Revenue, following signature and completion of the Parliamentary treaty examination process, to instruct the Parliamentary Counsel Office to draft an Order in Council to give effect to the Convention;
  - authorised officials, following promulgation of the Order in Council, to bring the Convention into force by depositing New Zealand's instrument of ratification and list of confirmed declarations and reservations with the Convention depositary.

### **Entry into force of the Hague Convention**

10. The Convention was signed by New Zealand on 26 November 2019. It has undergone Parliamentary treaty examination, with the Social Services and Community Committee who recommended ratification on 24 March 2020. The remaining steps are to:
  - 10.1. make an Order in Council recognising and giving effect to the Convention under New Zealand law; and

- 10.2. to deposit New Zealand's instrument of ratification, and statement of declarations and reservations, with the official Depository.
11. The original intent was for the Convention to enter into force in New Zealand at the same time child support transfers into Inland Revenue's new system as part of Business Transformation. This was expected to be in April 2021.
12. However, due to the impacts of COVID-19, it has been confirmed that the transfer of child support to Inland Revenue's new systems will be in October 2021. Therefore, the former Minister of Revenue agreed to align the date for the Convention to enter into force with Business Transformation.
13. I consider that the Order should take effect from 1 November 2021.

### **Reservations and Declarations**

14. Any permitted reservations or declarations under the Convention must be made at the time of ratification. New Zealand's proposed reservations and declarations were attached to the extended National Interest Analysis approved by Cabinet [CAB-19 MIN-0447 refers] and were included as part of the Parliamentary Treaty Examination process.
15. Officials originally considered that New Zealand should make a declaration that New Zealand will use the Article 24 procedure rather than the Article 23 procedure on receipt of applications for recognition and enforcement. This is reflected in the reservations and declarations, as considered by Cabinet and the Parliamentary Treaty Examination process.
16. However, as part of more detailed work completed in preparation for implementation, it has been identified that the standard Article 23 process would be preferable to the alternative Article 24 process. This is because it would enable Inland Revenue to process applications more expeditiously and aligns with how it already processes other domestic and international applications. Cabinet's approval is required to confirm that New Zealand no longer makes a declaration to Article 24 of the Convention.

### **Tokelau**

17. Treaty-making with respect to Tokelau is carried out by the New Zealand Government, in consultation with the Government of Tokelau. In accordance with the Ministry of Foreign Affairs and Trade's recommendations, New Zealand is consulting with Tokelau on whether the Convention should also extend to Tokelau.

### **Timing and 28-day rule**

18. The 28-day rule requires that regulations be notified in the *New Zealand Gazette* 28 days prior to their coming into effect. No waiver of the 28-day rule is proposed.

## Regulatory Impact Analysis

19. A regulatory impact statement is not required for the order. The Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021 implements an international treaty for which an extended National Interest Analysis (incorporating the requisite regulatory impact analysis elements) has previously been approved by Cabinet.

## Publicity

20. The new order will be notified in the *New Zealand Gazette*. I will arrange the appropriate additional publicity to announce the entry into force of the Order. The text of the Convention and the NIA are available to the public on Inland Revenue's Tax Policy website. The Social Services and Community Committee's report following Parliamentary treaty examination is available to the public on Parliaments website.

## Proactive Release

21. I propose to proactively release this Cabinet paper, associated minutes, and key advice papers within 30 working days of Cabinet making final decisions, subject to minor redactions under the Official Information Act 1982.

## Consultation

22. The Parliamentary Counsel Office drafted the Order in Council and have been provided with this paper. The Ministry of Foreign Affairs and Trade and the Treasury were consulted in the consideration of the Convention. The Ministry of Foreign Affairs and Trade have also been consulted on this paper.

## Recommendations

I recommend that the Cabinet Legislation Committee:

1. **note** that following previous consideration of and approval by Cabinet (CAB-19-MIN-0447), the *Hague Convention on the International Recovery of Child Support and other Forms of Family Maintenance* (the Convention) was signed by New Zealand on 26 November 2019.
2. **note** that the *Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021* will recognise and give effect to the Convention under New Zealand law.
3. **authorise** the submission to the Executive Council of the attached *Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021*.
4. **note** the Convention will enter into force for New Zealand on the first day of the month following the expiration of three months after New Zealand has deposited its instrument of ratification.
5. **note** the Convention will enter into force for New Zealand from 1 November 2021.

6. **note** this date aligns with the transfer of child support to Inland Revenue's new systems.
7. **agree** New Zealand no longer makes a declaration to Article 24 of the Convention.

Authorised for lodgement

Hon David Parker  
Minister of Revenue







# Cabinet Legislation Committee

## Minute of Decision

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*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

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### Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021

**Portfolio**                      **Revenue**

On 8 July 2021, the Cabinet Legislation Committee:

- 1        **noted** that following previous consideration of and approval by Cabinet (CAB-19-MIN-0447), the Hague Convention on the International Recovery of Child Support and other Forms of Family Maintenance (the Convention) was signed by New Zealand on 26 November 2019;
- 2        **noted** that the Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021 will recognise and give effect to the Convention under New Zealand law;
- 3        **authorised** submission to the Executive Council of the Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021 [PCO 23103/4.0];
- 4        **noted** the Convention will enter into force for New Zealand on the first day of the month following the expiration of three months after New Zealand has deposited its instrument of ratification;
- 5        **noted** the Convention will enter into force for New Zealand from 1 November 2021;
- 6        **noted** that this date aligns with the transfer of child support to Inland Revenue's new systems;
- 7        **agreed** New Zealand no longer makes a declaration to Article 24 of the Convention.

Rebecca Davies  
Committee Secretary

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**Present:**

Hon Andrew Little  
Hon Poto Williams  
Hon Michael Wood  
Hon Kiri Allan  
Hon Dr David Clark  
Kieran McAnulty MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG