Inland Revenue
Te Tari Taake

BILL COMMENTARY

# Taxation (Budget Measures) Bill (No 3)

Issued: 28 May 2026

**Hon Simon Watts**
Minister of Revenue

FIRST PUBLISHED

May 2026 by Policy, Inland Revenue, PO Box 2198, Wellington 6140.

Taxation (Budget Measures) Bill (No 3) – Bill commentary



The document is available at https://www.taxpolicy.ird.govt.nz/publications/2026/bc-taxation-budget-measures-bill-no-3

Inland Revenue can provide an alternate version of this material if requested. Please cite this document's title, website address, or PDF file name when you email a request to policy.webmaster@ird.govt.nz.

# Table of Contents

# Donation tax credits

# Introducing ceiling on donation tax credits

***Clause 6***

## Summary of proposed amendment

The proposed amendment would reduce the maximum entitlement threshold for donations eligible for the donation tax credit to the lower of $100,000 or the donor's taxable income. The rate of the credit remains at 33⅓%. This would yield a maximum tax credit of $33,333.33.

## Effective date

The proposed amendment would apply to donations made on or after 1 April 2027.

## Background

Currently, the New Zealand donation tax credit allows individuals to claim 33⅓% of every $1 donated to approved donee organisations (for example, charities registered under the Charities Act 2005, education providers, and other funds, such as mayoral funds set up in times of emergency) up to the level of their taxable income. The credit is available for every donation of money that is $5 or more. This tax concession is generous by international standards owing to a combination of settings:

- the credit is payable as a refundable tax credit
- the credit is set at a relatively high rate
- the credit has a high maximum entitlement threshold, and
- the list of eligible donee organisations is relatively large.

# Non-resident contractors' tax

# Non-resident contractors' tax – exemption for aircraft leasing

***Clauses 4 and 22(2) and (4)***

## Summary of proposed amendment

The proposed amendments would introduce a permanent exemption from non-resident contractors' tax (NRCT) for the dry leasing of aircraft and parts and exempt the non-resident lessor from income tax in relation to income received from the leasing of these assets.

## Effective date

The proposed amendments would take effect on 1 April 2026.

## Background

Under current law, NRCT is generally payable in relation to short-term operating leases of aircraft and aircraft parts from non-residents (provided they are taxable domestically and an applicable double tax agreement does not protect them). Long-term leases (referred to as finance leases) are treated as the sale of an asset for tax purposes, so are not subject to NRCT.

NRCT is intended to operate as an interim withholding tax on a gross payment. It is withheld by New Zealand payers from payments to non-resident contractors in relation to their activities in New Zealand. The non-resident's final tax position should be settled via self-assessment, with any NRCT withheld in excess of the non-resident's substantive tax liability being refunded.

In practice, however, NRCT does not function as intended in relation to aircraft leases.

In the airline industry, operating leases have become more common owing to global supply constraints and increasing global demand, and lessors of aircraft are often resident in countries ineligible for relief from NRCT under a double tax agreement.

Due in part to the market power of non-resident lessors, lease contracts are typically grossed up with the full tax burden passed on to New Zealand businesses. The NRCT payable greatly exceeds the actual tax liability from the leasing activity, so it significantly increases the lessee's costs. Further, in some cases, non-resident lessors choose not to engage at all with the New Zealand market because of high tax and compliance costs, meaning New Zealand lessees cannot access the aircraft and parts they need. The amendments are intended to reduce the cost of accessing aircraft and parts in New Zealand.

## Key features

The proposed amendments would:

- introduce a permanent exemption from NRCT for the dry leasing of aircraft and parts, and
- ensure non-resident lessors have no income tax liability in New Zealand in relation to the leased aircraft and parts.

## Detailed analysis

The proposed amendment to section YA 1 of the Income Tax Act 2007 would mean that providing the use of, or right to use, in New Zealand, an aircraft or parts of an aircraft under a dry lease would not be a "contract activity or service" for a non-resident contractor. A dry lease (otherwise known as a bareboat lease) is a lease where the lessee provides crew, maintenance and insurance, leasing only the aircraft and parts. A proposed new definition of "dry lease" would be added to section YA 1.

Proposed new section CW 56B would exempt income derived by a non-resident lessor of aircraft or parts in respect of a dry lease. This ensures that, just as NRCT would not need to be withheld by the New Zealand lessee, the non-resident lessor would have no residual tax liability in respect of income from a dry lease and no obligation to engage with the New Zealand tax system.

# Company loans to shareholders

# Company loans to shareholders

***Clauses 5 and 22(7)***

## Summary of proposed amendment

This amendment would treat any outstanding loans from a company to a shareholder as taxable income of the shareholder six months after the lending company is removed from the register of companies under the Companies Act 1993.

## Effective date

The proposed amendment would apply in relation to any company removed from the register of companies on or after 4 December 2025.

## Background

This amendment was proposed in the December 2025 issues paper "Improving taxation of loans made by companies to shareholders".

Many companies have outstanding loans to shareholders and directors (or their relatives) when they are removed from the register of companies. This can include overdrawn shareholder current accounts or other shareholder debit loan amounts. All these loans are financial arrangements for income tax purposes and therefore subject to the financial arrangements rules in subpart EW of the Income Tax Act 2007.

As a general principle, if a loan is not repaid by a borrower for any reason, the amount outstanding (both principal and any accrued interest) should be income of the borrower under the base price adjustment (BPA) in the financial arrangements rules. The BPA is a wash-up calculation designed to ensure that all amounts under a financial arrangement have been properly taken into account for tax purposes. When the outcome of a BPA calculation is positive, the amount is taxable income of the person.

Under the current law, there is no specific provision that treats an outstanding shareholder loan as income of the shareholder at the time the company is removed from the register (whether through a formal liquidation process or otherwise). The mere removal of a company from the register (under section 317 of the Companies Act) does not currently trigger a base price adjustment calculation because the loan is not terminated. While the outstanding balance will eventually be treated as income of the shareholder, the date that the income arises can be unclear and will often be many years in the future.

Once a company is removed from the register of companies, it is difficult for Inland Revenue to monitor and assess whether a shareholder has complied with their obligations. Although the amount outstanding will eventually be treated as income of the shareholder, it is impractical to assess and collect tax under the current rules.

## Key features

This amendment would apply when:

- at the time a company is removed from the register of companies:
  - a person is a party to a financial arrangement (such as a loan or drawings) with the company, and
  - the person is a shareholder or director of the company, or a close relative of a shareholder or director of the company, and
- six months have passed since the company was removed from the register.

The amendment would treat any remaining payments under the financial arrangement as being discharged six months after the date the company is removed from the register. This would then require the person to calculate a BPA under the existing rules and that calculation would result in the outstanding loan balance being taxable income for the person.

## Detailed analysis

The proposed new rule would ensure that when a company is removed from the register, any outstanding shareholder loan amount (that is, the amount owed by a shareholder to the company) would result in taxable income for the shareholder.

The proposed new rule is intended to make compliance and monitoring of the tax liability of shareholders easier because it would provide a certain point in time at which the income arises for the shareholder and could be assessed.

It would amend section EW 29 of the Income Tax Act to insert new subsections (9B) and (9C). These new provisions would apply to a person who is a shareholder or director of a company, or a close relative of such a shareholder or director, and who is a party to a financial arrangement with the company when the company is removed from the register of companies. The new provisions would treat the person as having been discharged from all future payments under the financial arrangement (loan) without fully adequate consideration on the date that is six months after the date the company was removed from the register.

Therefore, under existing section EW 29(9), the person would be required to calculate a BPA for the financial arrangement, using the formula in section EW 31, on the date that is six months after the

date the company was removed from the register. Because the person would be treated as not being required to make any further payments, the BPA calculation will usually produce a positive amount equal to the outstanding loan balance. That amount would be taxable income of the shareholder derived in the income year the calculation was made.

**Example 1: Base price adjustment calculation**

Bob is a shareholder in B Co and takes drawings (loans) from B Co to finance his private expenses. B Co was removed from the register of companies on 12 December 2025 because it had not complied with its obligations under the Companies Act.

The loans from B Co to Bob are a financial arrangement. The proposed new rule would treat Bob as having been discharged from the obligation to repay these loans without fully adequate consideration on 12 June 2026, the date six months after B Co was removed from the register of companies. Bob would therefore be required to calculate a base price adjustment (using the formula in section EW 31) in the 2026–27 income year. The outstanding loan balance on that date is $100,000.

Bob has not previously returned any income or expenditure from the loans, so the only relevant item in the BPA formula is the "consideration" amount. In summary, that item is equal to the amount of consideration paid or payable to Bob less the consideration paid or payable by Bob.

The amount paid to Bob is the outstanding loan balance of $100,000. The new rule would treat him as having been discharged from his obligation to repay this amount, so there would be no amount paid or payable by Bob under the financial arrangement.

The result of the BPA calculation would therefore be a positive amount of $100,000. Bob would be required to return $100,000 of income in his 2026–27 income tax return (which would be due on 7 July 2027) and pay the tax owing on this income by 7 February 2028 (the due date for the year).

This proposed rule would apply for the purposes of the financial arrangements rules (subpart EW), so would not apply to treat the outstanding loan balance as a dividend.

The income from application of this new rule would arise for the shareholder six months after the date the company is removed from the register. The period of six months allows for reinstatement of a company that is inadvertently removed from the register. A company that is restored to the register is deemed to have continued in existence as if it had not been removed from the register (section 330 of the Companies Act). This means that if a company was restored to the register, it would be treated as though it was never removed from the register, and new section EW 29(9B) would not apply.

The proposed new rule would also apply if the loan were to a director of the company, or a close relative (associated under section YB 4)[1] of a shareholder or director of a company. For example, if the company lends funds to the spouse of a shareholder or director, then income could arise for the spouse under the new rule.

The amendment would only apply to treat a loan balance as income if a company is removed from the register of companies without the loan being repaid. Most small business owners manage their loans and drawings to repay them before the company ceases so would not be affected by the change.

The new rule would not apply if the company was removed from the register of companies because it was an amalgamating company that was amalgamated with another company and was therefore removed under section 318(1)(a) of the Companies Act. In such cases, the financial arrangement continues to exist with the amalgamated company being the party to the financial arrangement with the shareholder, director or relative.

[1]Persons associated under section YB 4 comprise two persons in the following relationships:

- blood relationship – one is the other person's parent, grandparent, child, grandchild, or sibling
- marriage – one is the other person's spouse, civil union partner, or de facto partner
- in-laws – one is the parent, grandparent, child, grandchild, or sibling of the other person's spouse, civil union partner, or de facto partner.

# Working for Families

# Working for Families – family scheme income

***Clauses 8 to 16, 21, 23, 25, 26, 27, and 28(2)***

## Summary of proposed amendment

The proposed amendments would simplify the calculation of family scheme income for Working for Families purposes by removing several low-risk income adjustments and increasing the de minimis threshold for the "other payments" adjustment, reducing complexity in determining entitlements. A targeted Order in Council provision would allow specified adjustments to be reapplied if required to manage integrity risks.

## Effective date

The proposed amendments would take effect on 1 April 2027, applying for the 2027–28 and later income years.

## Background

These amendments were proposed following the Government's 2025 discussion document "Empowering Families: Increasing certainty and preventing debt in the Working for Families scheme".

Family scheme income is used to calculate entitlements to Working for Families tax credits. Family scheme income is based on a family's net income for tax purposes, with adjustments applied to better reflect income available for day-to-day living expenses. These income adjustments were intended to support the equity and integrity of the Working for Families scheme by limiting opportunities to artificially maximise entitlements.

However, the current calculation of family scheme income can be difficult for families to understand and apply. A person is required to consider whether a range of income adjustments applies to their circumstances, even though for most people family scheme income is the same as net income for tax purposes. This complexity creates administrative and compliance costs and increases the risk of income reporting errors, which can result in incorrect payments and debt.

While some adjustments remain necessary for integrity and equity reasons, removing those identified as low risk would simplify family scheme income without materially increasing integrity risk.

## Key features

Key features of the proposed amendments are:

- A subset of income adjustments that are infrequently used and pose a low integrity risk would be removed from the calculation of family scheme income.
- The de minimis threshold for the "other payments" adjustments would be increased from $5,000 to $8,000.
- A targeted empowering provision would allow specified income adjustments to be reinstated by Order in Council if required.
- A transitional provision would apply to prevent double counting of certain income equalisation amounts.

## Detailed analysis

### *Removal of low-risk income adjustments*

Family scheme income is calculated by starting with a person's net income for income tax purposes and applying the adjustments set out in subpart MB of the Income Tax Act 2007.

The amendments would simplify this calculation by removing specified adjustments evaluated as low usage and low integrity risk.

The following adjustments would no longer apply when calculating family scheme income:

- historical depreciation losses on sale of buildings
- retirement scheme contributions
- certain pensions and life insurance annuities
- distributions from certain superannuation schemes
- distributions from retirement saving schemes
- tax-exempt overseas pensions
- salary and wages that are exempt income under certain Acts
- payments from a trust, not being beneficiary income and recipient is not the settlor
- income equalisation deposits and refunds
- salary exchanged for private use of a work vehicle and short-term charge facilities.

Removing these adjustments would mean the relevant amounts would no longer affect a person's net income when determining Working for Families entitlements. This would reduce complexity by

ensuring families are not required to understand or apply multiple income concepts when calculating family scheme income.

### *Order in Council*

Three income adjustments would be able to be reinstated by Order in Council:

- specific payments from a trust
- salary exchanged for private use of a work vehicle, and
- short-term charge facilities.

These adjustments have been assessed as low integrity risk and would be removed to support simplification. However, they are income types that Inland Revenue considers warrant ongoing monitoring. The ability to reinstate these adjustments by Order in Council would enable them to be reinstated quickly if emerging integrity or fiscal risks were identified after their removal.

The power would be limited to these specified adjustments and would not allow for the addition, removal, or modification of other family scheme income adjustments. An Order in Council reinstating these adjustments would be required to be published by 1 December in a year and would apply for the income year commencing on the following 1 April.

### *Other payments*

Certain payments used to meet day-to-day living expenses or that replace lost or diminished income are taken into account when calculating family scheme income under section MB 13 of the Income Tax Act.

The de minimis threshold limits when these payments need to be included. The amendments would increase this threshold so that the adjustment would not apply when the total value of relevant payments received in an income year is $8,000 or less. This would reflect inflation since the threshold was last updated and would reduce the number of families required to consider and apply the adjustment.

**Example 2: "Other payments" adjustment**

Mary applies for Working for Families.

Mary receives $100 per week from her grandfather to help with grocery costs. These payments total $5,200 over the income year and are treated as "other payments".

Under the current rules, Mary is required to include the full $5,200 when calculating her family scheme income because the total value of the payments exceeds the existing $5,000 de minimis threshold.

Under the proposed amendments, the de minimis threshold is increased to $8,000. The $5,200 is below this threshold, so it would not be included in Mary's family scheme income.

### *Transitional provision for existing income equalisation deposits*

An amendment would remove the adjustments for main income equalisation deposits and refunds. A transitional provision would be applied to prevent the same amount being taken into account twice.

Under the transitional rule, a refund of a main income equalisation deposit would not be included in a person's family scheme income if the deposit was made in the 2026–27 or an earlier income year and was therefore already included in family scheme income in the year it was deposited.

The transitional rule would apply only to the original deposit amount and would not apply to interest.

### *Consequential changes to other legislation*

Family scheme income is referenced in other legislation, and consequential amendments are required to reflect the proposed changes to its calculation.

Certain salary or wages that are exempt from income tax under specified Acts are currently included in family scheme income calculations under section MB 1(2)(b), and Schedule 38 sets out the relevant specified Acts for this purpose. The removal of this adjustment in section MB 1(2)(b) means that Schedule 38 would no longer apply for Working for Families purposes.

However, the list of Acts in Schedule 38 would continue to be relevant for student loan purposes. For this reason, the contents of Schedule 38 would be relocated to the Student Loan Scheme Act 2011. The associated empowering provision in section 225C of the Tax Administration Act 1994, which previously operated in connection with family scheme income, would also be relocated so it would apply for student loan purposes.

Section 59(b) of the Social Security Act 2018, regulation 2(1) of the Student Allowances Regulations 1998, and regulation 2(1) of the Health Entitlement Cards Regulations 1993 reference the term "family scheme income" as calculated under the Income Tax Act directly. The simplified calculation of "family scheme income" would therefore flow through to these provisions.

# Working for Families – residence requirements

***Clauses 7, 17, 18, 19, 20, 21, and 22(3), (5), and (6)***

## Summary of proposed amendment

The proposed amendments would simplify the residence requirements for Working for Families, by removing the tax residence requirement for the principal caregiver and requiring *both* the principal caregiver and dependent child to be physically present and ordinarily resident in New Zealand. Additionally, families would be able to travel overseas for up to six weeks (42 days) at a time before eligibility would cease. A set range of exemptions would enable eligibility to continue beyond the six-week period. This would remove the complexity of determining when a person loses eligibility for Working for Families, reducing overpayments and debt.

## Effective date

The proposed amendments would take effect on 1 April 2027, applying for the 2027–28 and later income years.

## Background

These amendments were proposed in the Government's 2025 discussion document "Empowering Families: Increasing certainty and preventing debt in the Working for Families scheme".

The residence requirements are designed to ensure that Working for Families is only paid to families living in New Zealand, to help them with the costs of raising children. However, these rules are difficult for customers to understand and Inland Revenue to apply. Complexity arises in two key areas: the different requirements for the principal caregiver and dependent child (which apply on an "either/or" basis), and the challenge of using tax residence to determine if, and when, eligibility is lost.

Tax residence is designed to be easy to gain and difficult to lose to reduce the risk of individuals avoiding New Zealand income tax on different assets. In the Working for Families context, the difficulty in pinpointing the loss of tax residence and the backdating of it can lead to complexity and overpayments because most families receive weekly or fortnightly payments.

The Government is proposing a new approved information-sharing agreement between Inland Revenue and Customs. This agreement would provide Inland Revenue with near real-time border movement information on principal caregivers. The complexity of the current rules means that,

without the proposed amendments, Inland Revenue would not be able to reliably use this future data to determine if, and when, families stop being eligible for Working for Families.

## Key features

Key features of the proposed amendments are:

- Replacing the New Zealand resident requirement with presence requirements for both the principal caregiver and dependent child based on ordinary residence and physical presence in New Zealand.
- Retaining the "either/or" test for the lawful presence requirement, that is, either the principal caregiver or dependent child must be lawfully resident in New Zealand but not on a temporary entry class visa.
- Introducing modifications to treat the principal caregiver and dependent child as present in New Zealand during:
  - periods of physical absence from New Zealand that are six weeks or less, and
  - periods of longer absences for specified circumstances.

## Detailed analysis

Proposed amendments to section MC 5 of the Income Tax Act 2007 and proposed new sections MC 5B and MC 5C set out the presence requirements for the family tax credit, Best Start tax credit, and minimum family tax credit.

Proposed amendments to section MD 7 and proposed new sections MD 7B and MD 7C set out the presence requirements for the in-work tax credit.

The main difference between the two sets of requirements is that receipt of an emergency benefit overrides the presence requirements in section MC 5 but not those in section MD 7, due to the overall requirements of the in-work tax credit rules.

With the relevant requirements currently contained in the section MA 8 definition of "New Zealand resident" now being included in sections MC 5 and MD 7 themselves, the Bill also proposes a consequential amendment to repeal the section MA 8 definition of "New Zealand resident" and a related cross-reference in section YA 1.

### *Physically present and ordinarily resides in New Zealand*

The tax residence requirement for entitlements under Working for Families would be replaced with a test that requires both the principal caregiver and dependent child to be physically present in New Zealand for the days on which they receive the relevant tax credit or the entitlement period,

respectively. However, as stated above, under section MC 5, emergency benefit recipients would automatically continue to meet the requirement for the family tax credit, Best Start tax credit and minimum family tax credit (maintaining the status quo) and would not need to meet the presence test.

The presence requirements in sections MC 5 and MD 7 would require:

- the principal caregiver:
  - to be physically present in New Zealand on the days for which they receive Working for Families
  - not be a transitional resident or the spouse, civil union partner, or de facto partner of a transitional resident, and
  - have lived in New Zealand for a continuous 12-month period at any time
- the dependent child to be physically present in New Zealand for the entitlement period, and
- both the principal caregiver and the dependent child to ordinarily reside in New Zealand.

However, refugees, within the meaning of section 126 of the Immigration Act 2009, who have been brought to New Zealand, would not need to have been physically present in New Zealand for a continuous period of 12 months. This ensures that refugees brought to New Zealand under the quota refugee programme holding a permanent resident visa continue to qualify for Working for Families.

### *Lawful presence*

It is only necessary for either the principal caregiver or the dependent child to be lawfully present in New Zealand under the Immigration Act and not on a temporary entry class visa (proposed sections MC 5(4) and MD 7(4)). This means either the principal caregiver or the dependent child would generally need to be a New Zealand citizen or a holder of a resident or permanent resident visa. This maintains the status quo.

### *Temporary absences: Six-week rule*

Proposed new sections MC 5B and MD 7B would enable Working for Families recipients to remain eligible for payments if they are absent from New Zealand for trips that are 42 days or less in duration or for the first 42 days of a longer trip, provided they are overseas on a temporary basis. The day of departure and day of arrival would not count towards the 42 days of absence.

The exemption would only apply to those who are absent from New Zealand on a temporary basis. This is because sections MC 5 and MD 7 would still require the principal caregiver and dependent child to be ordinarily resident in New Zealand. If someone leaves New Zealand permanently,

however, the six-week exemption would not apply, and eligibility would cease from the day they were no longer ordinarily resident.

### Absence of 42 days or less

Proposed new sections MC 5B(2) and MD 7B(2) provide that a principal caregiver or dependent child would be treated as present in New Zealand when they are absent for a continuous period of 42 days or less. It would not matter if they were travelling together or separately.

This means that eligibility for Working for Families payments would not cease when someone is overseas for 42 days or less. This would provide flexibility for periods of temporary absence, regardless of the reason for travel.

This rule would apply on a per-trip basis. This means that someone could take multiple short trips in a year and remain eligible for Working for Families payments even if they are away from New Zealand for longer than six weeks in total over the course of that year.

Because Working for Families is paid to families with dependent children, the six-week travel exemption is intended to align with the duration of the end-of-year school holidays.

### Presence for part days – day of departure and day of arrival

Proposed new sections MC 5B(9) and MD 7B(8) provide that being present in New Zealand for part of a day would count as being present for the whole day and not absent for any part of that day. This means that when determining whether the six-week period has been exceeded, the day of departure from, and day of arrival in, New Zealand would not count as days a person was absent from New Zealand.

**Example 3: Overseas trip 42 days or less**

A family departs from New Zealand at midday on 3 May 2027 (departure day or Day 0). They arrive back in New Zealand in the evening on 15 June 2027 (Day 43).

On the day of departure and day of arrival, the family is treated as present in New Zealand for the entirety of those days.

The family is wholly absent from New Zealand from 4 May (Day 1) to 14 June (Day 42). Under the proposed new rules, they are absent for 42 days or less and would therefore be treated as present and continue to be eligible for payments for the duration of their trip.

| Date | Day | Presence | Test |
|---|---|---|---|
| 3 May | Day 0 | Departure day – present in New Zealand | Does not count as a day of absence |

| Date | Day | Presence | Test |
|---|---|---|---|
| 4 May to 14 June | Days 1 to 42 | Absent from New Zealand but treated as present | Counts towards test and eligible for payments |
| 15 June | Day 43 | Arrival day – present in New Zealand | Does not count as a day of absence |

### Absence of more than 42 days

Proposed new sections MC 5B(3) and MD 7B(3) provide that if someone is out of New Zealand for more than 42 days, they would be treated as present in New Zealand for the first 42 days, but only if they are away on a temporary basis and still ordinarily reside in New Zealand. This means that they would continue to be eligible for payments for the first 42 days of their trip provided they are only temporarily absent from New Zealand.

**Example 4: Overseas trip exceeding 42 days**

A family departs from New Zealand at 9am on 1 December 2027 (departure day or Day 0). They arrive back in New Zealand at 3pm on 31 January 2028 (Day 61).

On the day of departure (1 December 2027) and day of arrival (31 January 2028), the family is treated as present in New Zealand for the entirety of those days. The family is wholly absent from New Zealand from 2 December 2027 (Day 1) to 30 January 2027 (Day 60).

Under the proposed new rules, they would remain eligible for payments for the first 42 days and would not be eligible for payments on Days 43 to 60 (13 to 30 January 2028). Their eligibility would resume on 31 January 2028.

| Date | Day | Presence | Test |
|---|---|---|---|
| 1 December | Day 0 | Departure day – present in New Zealand | Does not count as a day of absence |
| 2 December to 12 January | Days 1 to 42 | Absent from New Zealand but treated as present | Counts towards test and eligible for payments |
| 13 January to 30 January | Days 43 to 60 | Absent from New Zealand | Day count exceeded, eligibility stops |
| 31 January | Day 61 | Arrival day – present in New Zealand | Does not count as a day of absence, eligibility resumes |

### Certain trips within 42 days of each other

The six-week exemption would apply on a per-trip basis. However, if a principal caregiver or dependent child returns to New Zealand after an absence of more than 42 days and is then subsequently absent from New Zealand again within 42 days of their return, proposed new sections MC 5B(4) and (5) and MD 7B(4) and (5) provide that they would not be treated as present in New Zealand for any part of that subsequent period. This would be regardless of whether the subsequent trip was for 42 days or less.

**Example 5: Second trip within 42 days of return**

A family departs from New Zealand on 1 July 2027 (departure day or Day 0) for eight weeks. They arrive back in New Zealand on 27 August 2027 (Day 57).

They then depart New Zealand again on 29 August 2027 and are absent from New Zealand for two weeks, returning on 13 September 2027.

The six-week exemption would not apply for this subsequent trip because they were absent from New Zealand within 42 days of their return from their first trip. Consequently, their eligibility would stop the day after their departure for their second trip.

| Date | Day | Presence | Test |
|---|---|---|---|
| 1 July | Day 0 | Departure day – present in New Zealand | Does not count as a day of absence |
| 2 July to 12 August | Days 1 to 42 | Absent from New Zealand but treated as present | Counts towards test and eligible for payments |
| 13 August to 26 August | Days 43 to 56 | Absent from New Zealand | Day count exceeded, eligibility stops |
| 27 August | Day 57 | Arrival day – present in New Zealand | Does not count as a day of absence, eligibility resumes |
| 28 August | Day 58 | Present in New Zealand | |
| 29 August | Day 59 | Departure day – present in New Zealand | |
| 30 August to 12 September | Does not apply | Absent from New Zealand | Considered absent, eligibility stops |
| 13 September | Does not apply | Arrival day – present in New Zealand | Eligibility resumes |

### Overseas travel beginning before 1 April 2027

Proposed new section MZ 5 includes a transitional rule to clarify the application of the six-week exemption when someone leaves New Zealand before 1 April 2027 (provided they are only absent from New Zealand on a temporary basis).

Under this rule, a principal caregiver or dependent child who is not present in New Zealand on 1 April 2027 would be treated as absent from New Zealand beginning on 1 April 2027. The day count test to determine whether someone has been absent from New Zealand for more than 42 days would therefore begin on 1 April 2027.

**Example 6: Overseas trip beginning before 1 April 2027**

A family departs New Zealand on 24 March 2027 (departure day). They arrive back in New Zealand on 13 May 2027. The day count for the period in which they were absent from New Zealand begins on 1 April 2027.

The family would be treated as present from 1 April (Day 1) to 12 May (Day 42). They arrive in New Zealand on 13 May (Day 43). Their period of absence would be treated as satisfying the six-week period exemption.

| Date | Day | Presence | Test |
|---|---|---|---|
| 24 March | Does not apply | Departure day – present in New Zealand | Does not count toward test |
| 25 March to 31 March | Does not apply | Absent from New Zealand | Does not count toward test |
| 1 April to 12 May | Days 1 to 42 | Absent from New Zealand but treated as present | Counts towards test and eligible for payments |
| 13 May | Day 43 | Arrival day – present in New Zealand | Does not count as a day of absence |

### Natural disasters and crisis events preventing or delaying return to New Zealand

Proposed new sections MC 5B(6) and MD 7B(6) provide a limited exemption from the six-week period requirement when a natural disaster or crisis event has prevented or delayed the principal caregiver or dependent child's return to New Zealand.

Examples of natural disasters could include earthquakes, flooding, bush fires and volcanic eruptions.

Section MC 5B(7) defines a "crisis event" as an unexpected regional or global event and this includes:

- pandemics
- acts of war
- terrorist activity
- political or social unrest, and
- industrial action (for example, an airline strike).

These events could be localised to New Zealand or the country someone is visiting, or they could have a more global impact, affecting borders, flights, or flight paths.

However, an event will not be considered unexpected if someone has travelled to a country that was the subject of a red "do not travel" alert as published by the Ministry of Foreign Affairs and Trade on safetravel.govt.nz at the time they departed from New Zealand.

Under this exemption, a person would be treated as being present in New Zealand from the day of their intended return to New Zealand until the first day they could reasonably practicably return, enabling them to be eligible for Working for Families for that period.

The first day someone can "reasonably practicably return" could include, for example, the day that their flight is automatically rescheduled to or the day the first flight or alternative travel option is offered to them at either no or a reasonable additional cost. This rule is not intended to require someone to charter private transport or pay for a first-class plane ticket if that is all that is available. The intent is to ensure someone is not treated as being present in New Zealand if they use the event as an opportunity to extend their time overseas longer than originally planned.

Proposed new sections MC 5B(8) and MD 7B(7) would require the person whose return was prevented or delayed to provide satisfactory evidence to Inland Revenue that the reason for their delay is within scope of the relevant provision, along with evidence of their original intended return date and that their new return date was the first reasonably practicable date.

**Example 7: Overseas trip exceeding 42 days, natural disaster delays return**

A family departs from New Zealand on 15 September 2027 (departure day or Day 0). They were originally booked to arrive back in New Zealand on 4 November 2027 (Day 50).

A volcanic eruption shuts down the airspace in the region where the family is staying, and they are unable to return to New Zealand. As soon as flights resume, their airline books them onto a flight that arrives back in New Zealand on 21 November 2027 (Day 67).

Under the proposed new rules, they would remain eligible for payments for the first 42 days under the main six-week rule and would not be eligible for payments on Days 43 to 49. However, the rule for natural disasters would then treat them as being present from the date they were originally booked to return to New Zealand (4 November 2027).

| Date | Day | Presence | Test |
|---|---|---|---|
| 15 September | Day 0 | Departure day – present in New Zealand | Does not count as a day of absence |
| 16 September to 27 October | Days 1 to 42 | Absent from New Zealand but treated as present | Counts towards test and eligible for payments |
| 28 October to 3 November | Days 43 to 49 | Absent from New Zealand | Day count exceeded, eligibility stops |
| 4 November to 21 November | Days 50 to 67 | Absent from New Zealand but treated as present (natural disaster) | Does not count as days of absence and eligible for payments |

### *Exemptions for specified circumstances*

In specific circumstances, the new rules would treat someone as present in New Zealand even if they are overseas for longer than 42 days, allowing Working for Families eligibility to continue or resume while overseas.

These proposed exemptions cover a range of planned and unplanned reasons for absences. Most would be available to both the principal caregiver and the dependent child. These exemptions would override the rules for temporary absences in sections MC 5B and MD 7B, discussed above.

If any of the circumstances apply to the principal caregiver or dependent child, they would have to notify Inland Revenue and provide satisfactory evidence of the circumstances. Inland Revenue would provide guidance on this process.

While there would not be a strict time limit for these longer exemptions, the principal caregiver and dependent child would need to still ordinarily reside in New Zealand. As part of providing satisfactory evidence that they qualify for the exemption, they may be required to provide proof of their intended return to New Zealand.

### Absences related to child's schooling

Proposed new sections MC 5C(2) and MD 7C(2) provide that a dependent child would be treated as being present in New Zealand if the child is overseas for longer than 42 days to attend:

- primary or secondary schooling, or
- a sporting or cultural tour or event.

The primary or secondary schooling exemption would cover the scenario where a child is overseas on an exchange or to attend boarding school.

The second exemption for sporting and cultural tours and events would apply even if the tour or event has not been arranged by the child's school. This would cover, for example, competing in an overseas age-group sports tournament.

### Overseas in service of New Zealand Government

Proposed new sections MC 5C(3) and MD 7C(3) would preserve the status quo and allow Working for Families eligibility to continue when the family is overseas in service of the New Zealand Government. This exemption would apply regardless of whether it is the principal caregiver or their spouse, civil union partner, or de facto partner who has been posted overseas.

### Family-related absences

Proposed new sections MC 5C(4) and MD 7C(4) would treat a principal caregiver or dependent child as being present in New Zealand if they are overseas for more than 42 days for any of the following reasons:

- the death, serious illness or serious injury of the principal caregiver, dependent child, or a family member
- the principal caregiver, dependent child, or a family member is seeking medical treatment not available in New Zealand
- the principal caregiver, dependent child, or a family member is part of criminal proceedings outside New Zealand (including as a witness).

This specific deeming rule only applies to the part of their trip that is the result of one of these reasons.

For example, someone may go overseas specifically to take care of a seriously ill family member. In this case, the person would be treated as being present in New Zealand for the full period of absence.

Alternatively, if someone goes overseas on holiday and their trip is prolonged because of a family member's death or serious illness, they would only be treated as being present in New Zealand under this exemption for that part of their trip that commenced on the date of the family member's death or serious illness.

**Example 8: Overseas trip not planned to exceed 42 days, death of family member delays return**

A family departs from New Zealand on 21 December 2027 (departure day or Day 0). They were originally booked to arrive back in New Zealand on 25 January 2028 (Day 35).

While overseas, a relative of the principal caregiver passes away unexpectedly on 20 January 2028 (Day 30).

The family remains overseas for the funeral and returns to New Zealand on 5 February 2028 (Day 46).

Under the proposed new rules, they would remain eligible for payments for the entire duration of their trip. Before the death of the family member, they had not exceeded the six-week rule. From the death of the family member until their return, they are treated as being present in New Zealand under the exemption.

| Date | Day | Presence | Test |
|---|---|---|---|
| 21 December | Day 0 | Departure day – present in New Zealand | Does not count as a day of absence |
| 22 December to 19 January | Days 1 to 29 | Absent from New Zealand but treated as present (six-week rule) | Counts towards test and eligible for payments |
| 20 January to 4 February | Days 30 to 45 | Absent from New Zealand but treated as present (family-related absence) | Does not count as days of absence and eligible for payments |
| 5 February | Day 46 | Arrival day – present in New Zealand | Does not count as a day of absence |

"Family member" is not defined for the purposes of these exemptions. It would include a member of the principal caregiver's or dependent child's immediate family (for example, the person's spouse, civil union partner or de facto partner and other children, as well as siblings, parents, aunts and uncles, cousins, grandparents, and great aunts and great uncles).

There is an existing definition of "family member" in the Income Tax Act that is used narrowly in the context of members of Parliament and is currently used only for the purposes of section CW 31 (which relates to services for members of Parliament). The Bill clarifies that this definition only applies for section CW 31 to ensure it does not apply for new sections MC 5C and MD 7C.