



## COURT OF APPEAL OF NEW ZEALAND

### **MEDIA RELEASE**

### **CHILD POVERTY ACTION GROUP INCORPORATED (CPAG) v THE ATTORNEY-GENERAL (CA457/2012) [2013] NZCA 402 PRESS SUMMARY**

**This summary is provided to assist in the understanding of the Court’s judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).**

The Court of Appeal has dismissed an appeal by the Child Poverty Action Group (CPAG) challenging part of the Working for Families package introduced in 2004.

CPAG alleged that the in-work tax credit (forming part of the package) discriminated against people who receive an income-tested benefit. That was because the in-work tax credit was available only for those in full-time employment who were not receiving an income-tested benefit. This is known as the “off-benefit rule”. CPAG alleged this breached the Human Rights Act 1993 and the New Zealand Bill of Rights Act 1990 which prohibit discrimination on the grounds of employment status (which includes persons in receipt of a benefit).

The Human Rights Review Tribunal and the High Court each ruled against CPAG’s challenge to the off-benefit rule. Those decisions have been upheld by the Court of Appeal.

The Court of Appeal disagreed with the High Court on one aspect of the appeal but this did not affect the final outcome. The Court of Appeal found that the off-benefit rule, on its face, subjected beneficiaries to differential treatment which amounted to a material disadvantage.

But, in agreement with the Human Rights Review Tribunal and the High Court, the Court of Appeal has found that the off-benefit rule is a justified limit under s 5 of the Bill of Rights on the right to be free from discrimination by reason of employment status and does not therefore breach the Bill of Rights.

This is because the in-work tax credit deliberately created an earnings gap between people on a benefit and people who are working. The objective was to incentivise people into work and improve incomes for families with children. CPAG accepted this objective was important enough to justify limiting the right to freedom from discrimination but argued that the off-benefit rule was disproportionate to the objectives to be achieved.

The Court of Appeal has held that the discriminatory impact of the off-benefit rule is not out of proportion to the goal of incentivising people into work, and the evidence established that it only impairs the right to be free from discrimination to the minimum extent necessary to achieve the objective.

CPAG's appeal has been dismissed accordingly but with no order for costs against it.

Contact person: Clare O'Brien, Registrar of the Court of Appeal, 04 914 3541.