

Departmental Disclosure Statement

Budget Measures Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Inland Revenue Department in consultation with the Treasury.

The Inland Revenue Department certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

13 May 2015.

Contents

Contents..... 2

Part One: General Policy Statement 3

Part Two: Background Material and Policy Information 4

Part Three: Testing of Legislative Content..... 6

Part Four: Significant Legislative Features 8

Part One: General Policy Statement

This Bill proposes to remove the \$1,000 KiwiSaver kick-start contribution paid to all new enrollees in the KiwiSaver scheme (the kick-start), effective from 2 pm on 21 May 2015.

The removal of the kick-start will achieve significant fiscal savings and enable the Government to meet competing policy and fiscal strategy objectives. Also, removal will have the effect of lowering the headline cost of KiwiSaver and will therefore improve the value for money of the KiwiSaver scheme.

Individuals are currently eligible for payment of the kick-start upon enrolment via 1 of 3 ways:

- automatic enrolment via their employer upon commencing a new job:
- proactive opting-in via their employer:
- proactive opting-in via a KiwiSaver provider.

The kick-start is currently paid following a 3-month wait-period. The effect of this Bill is to ensure that the 3-month wait-period may start before 2 pm on 21 May 2015, but not after. So, for example, a person who becomes a KiwiSaver member before 2 pm on 21 May 2015 and meets all other relevant criteria will qualify for the kick-start on or after 21 August 2015, but a person who becomes a KiwiSaver member on 23 May 2015 may not.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
A seven-year evaluation of KiwiSaver concluded in 2013 (the Evaluation) and the Evaluation reports are expected to be published shortly on the Inland Revenue Department's website.	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	Not applicable

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<i>Repeal of KiwiSaver kick-start payment</i> , 6 March 2015. A copy of the RIS is available on the Treasury's website.	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	YES
<p>The Regulatory Impact Assessment Team provided feedback on the RIS on 16 March 2015. The feedback is set out below.</p> <p><i>"The Regulatory Impact Analysis Team (RIAT) has reviewed the RIS prepared by Treasury and associated supporting material, and considers that the information and analysis summarised in the RIS partially meets the quality assurance criteria.</i></p> <p><i>The proposal has not in itself been subject to consultation for Budget reasons. However, analysis in the RIS is informed by an extensive evaluation programme. Potential fiscal impacts of the proposed options are clearly set out and appear well-founded, but problems with the way the purpose of KiwiSaver was defined in the first place prevent useful analysis or measurement of its effectiveness in achieving that purpose, and hence analysis of the likely impacts of the proposals in this regard."</i></p>	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
--	-----------

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
---	-----------

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	YES
This information is set out in the RIS <i>Repeal of KiwiSaver kick-start payment</i> and is available on the Treasury's website.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
The costs of this bill will be impacted by individuals dishonestly claiming the kick-start payment and the level of Inland Revenue's monitoring or audit action to determine whether those individuals are entitled to the payment.	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
--

The Inland Revenue Department has not identified any obligations that conflict with the policies contained in the Bill.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

The provisions of the Bill apply generally to the New Zealand public and do not impact on the principles of the Treaty of Waitangi
--

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

There are no inconsistencies between the proposal and the Human Rights Act 1993.
--

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:
--

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?
--

NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

3.4.1. Was the Ministry of Justice consulted about these provisions?

Not applicable

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?

NO

3.5.1. Was the Privacy Commissioner consulted about these provisions?
--

Not applicable

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	NO
Restricted consultation was carried out because of the Budget sensitivity of the policy proposal in the Bill. Consultation was limited to named officials in the Inland Revenue Department, the Ministry of Business, Innovation and Employment (Commerce and Consumer Affairs section) and the Treasury. The Department of the Prime Minister and Cabinet was informed of the proposal.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
Officials from the Treasury, Inland Revenue Department and the Ministry of Business, Innovation and Employment contributed to the overall design and development of the policy proposal and the process of its implementation. In addition, consultation was undertaken with the Financial Markets Authority regarding the effects of the proposal on KiwiSaver providers and their compliance with securities laws.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
---	----

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
---	----

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	YES
There is some element of retrospectivity but this is necessary to ensure that all those who should receive the kick-start are eligible to receive it.	

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
--	----

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	YES
The Commissioner of Inland Revenue will have the discretion to determine in exceptional cases eligibility for the kick-start. This decision-making right is necessary to ensure that the policy operates as intended. A specific complicating factor in the implementation of the policy is that it will apply from a set time on Budget day.	

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
--	----

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
--	-----------

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
--	-----------