

# Departmental Disclosure Statement

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Taxation (COVID-19 Resurgence Support Payments and Other Matters) Bill
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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 Inland Revenue.

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

16 February 2021.

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## **Part One: General Policy Statement**

This Bill amends the Tax Administration Act 1994 and the Income Tax Act 2007.

The amendments proposed by the Bill in relation to the COVID-19 resurgence support payments (CRSP) scheme are aimed at assisting with the impacts of further COVID-19 outbreaks.

The Bill also sets the minimum family tax credit threshold for the 2021–22 and later tax years, a tax credit aimed at providing financial support to low-income working families.

### **COVID-19 resurgence support payments scheme**

The CRSP scheme is part of the suite of support packages to assist with the Government's response to COVID-19 and will be administered by Inland Revenue.

The CRSP scheme aims to limit the economic and social impacts of public health restrictions. It does so by providing financial support to businesses in the event of alert level escalations following further outbreaks of COVID-19 in the community. The Bill proposes amendments to support the administration of the CRSP scheme.

The scheme may be activated in the event of an increase in alert levels from alert level 1 to alert level 2 or higher, and after remaining at an alert level higher than 1 for 7 days or more. The scheme will be available to all businesses in New Zealand each time it activates. The scheme will not be restricted to a particular region even in the event of a regional increase in alert levels, as even a regional public health restriction may impact businesses across New Zealand.

To be eligible for the grant, applicants must have suffered a decline in revenue of 30% or more. This is calculated by comparing a 7-day period at alert level 2 or higher with a typical weekly revenue in the 6 weeks preceding the move from alert level 1. In addition, applicants must have been in business for at least 6 months.

The proposed CRSP scheme introduces a one-off support payment to businesses in the form of a grant. The payment will comprise a base amount of \$1,500 per applicant plus \$400 per full-time equivalent (FTE) up to a cap of 50 FTEs. Although the payment is capped at 50 FTEs, businesses with more than 50 FTEs may still apply.

The amount an applicant may receive under the scheme is further capped by the amount their revenue has declined by. The amount an applicant may therefore receive will be the lower of the amount calculated using the formula (\$1,500 plus \$400 per FTE), and 4 times the amount their revenue has declined by as declared by the applicant as part of their application.

### **Minimum family tax credit**

This Bill sets the minimum family tax credit threshold for the 2021–22 and later tax years. It is increased from \$29,432 per annum to \$30,576 per annum to account for the increases in the benefit abatement thresholds in 2021.

### **Departmental disclosure statement**

The Inland Revenue Department is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at  
<http://disclosure.legislation.govt.nz/bill/government/2021/>

### **Regulatory impact assessment**

The Ministry of Social Development and the Inland Revenue Department produced a regulatory impact assessment on 3 December 2020 to help inform the policy decision taken by the Government relating to the amendment to the minimum family tax credit in this Bill. The Treasury and the Inland Revenue Department produced a supplementary analysis report on 28 January 2021 relating to the policy decisions taken by the Government in relation to the CRSP scheme.

Copies can be found at—

- <https://taxpolicy.ird.govt.nz/publications>
- <https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments>

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>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?</b>	<b>YES</b>
A commentary on the Bill is available at <a href="https://taxpolicy.ird.govt.nz/publications/2021/2021-commentary-crspom-bill">https://taxpolicy.ird.govt.nz/publications/2021/2021-commentary-crspom-bill</a> The commentary provides a more detailed explanation of the main proposed legislative changes in the Bill.	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>
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### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
<p><b>COVID-19 resurgence support payments scheme</b></p> <p>No regulatory impact assessment was prepared because of the time constraints. However, a supplementary analysis report was prepared:</p> <ul style="list-style-type: none"><li>Resurgence support payment supplementary analysis report, The Treasury and Inland Revenue, 28 January 2021</li></ul> <p><b>Minimum family tax credit threshold</b></p> <p>A regulatory impact assessment was prepared:</p> <ul style="list-style-type: none"><li>Increasing main benefit abatement thresholds on 1 April 2021 and consequential adjustments to the Minimum Family Tax Credit, Ministry of Social Development and Inland Revenue, 3 December 2020</li></ul> <p>The supplementary analysis report and regulatory impact assessment are available at <a href="https://taxpolicy.ird.govt.nz/publications">https://taxpolicy.ird.govt.nz/publications</a> and <a href="https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments">https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments</a></p>	
<b>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?</b>	<b>NO</b>

**COVID-19 resurgence support payments scheme**

A quality assurance assessment has been completed by a joint Regulatory Impact Analysis quality assurance panel with representatives from the Treasury and Inland Revenue. The panel considers that the supplementary analysis report meets the Cabinet requirements to support its decision.

**Minimum family tax credit threshold**

The Quality Assurance reviewers at Inland Revenue and the Ministry of Social Development formed the opinion that the information and analysis summarised in the regulatory impact assessment partially meets the quality criteria of the regulatory impact analysis framework.

**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?****YES**

The supplementary analysis report was completed on the following basis:

- The revenue decline test is over a 14-day period rather than a seven-day period.
- The comparator period for the revenue decline test is for a 14-day period in the six weeks preceding to the escalation of alert levels rather than the typical weekly revenue in the six weeks preceding the escalation of alert levels.
- The amount of the grant is capped by twice the amount of revenue decline experienced by the applicant rather than four times the amount of revenue decline.

**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**

No significant further impact analysis has become available for any aspects of the policies in the Bill. However, the commentary on the Bill contains analysis of the proposals included in the Bill and is available at <https://taxpolicy.ird.govt.nz/publications/2021/2021-commentary-crspom-bill>

<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>YES</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>
<p><b>2.5(a) Size of potential costs and benefits</b></p> <p>The regulatory impact analysis and supplementary analysis report listed under 2.3 provide analysis on the size of the potential costs and benefits for the policy items included in the Bill.</p> <p><b>2.5(b) Potential for any group of persons to suffer a substantial unavoidable loss of income or wealth.</b></p> <p>No analysis has been carried out in relation to the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth.</p> <p>As the proposed COVID-19 resurgence support payments scheme creates a new entitlement, and the proposed increase to the minimum family tax credit threshold increases existing entitlements, it is not anticipated that any group of persons will suffer substantial unavoidable loss of income or wealth.</p>	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>YES</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>YES</b>
<p><b>COVID-19 resurgence support payments scheme</b></p> <p>The scheme will be administered based on a high-trust model, therefore the costs will likely be affected by the level of voluntary compliance with the requirements and terms and conditions of the scheme.</p> <p>Inland Revenue will support the administration of the scheme with monitoring and use of existing intelligence to encourage voluntary compliance, thereby affecting the costs of the scheme. As some of the benefits of the scheme stems from the timeliness of the grants being made, the level of scrutiny applied by Inland Revenue will also impact the benefits of the scheme.</p> <p><b>Minimum family tax credit threshold</b></p> <p>The effectiveness of taxation legislation is, by its nature, reliant on effective and voluntary compliance. The level of effective compliance or non-compliance with specific applicable obligations or standards, and the nature of regulator effort, may have an impact on the potential costs or benefits of the policy to be given effect by the Bill.</p>	

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>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?</b>
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There have been no formal steps taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's obligations.
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### Consistency with the government's Treaty of Waitangi obligations

<b>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?</b>
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No formal 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.
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>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?</b>	<b>YES</b>
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Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, will be available on the Ministry's website at <a href="https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/">https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/</a>
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### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
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<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>NO</b>
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<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>
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### Privacy issues

<b>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?</b>	<b>YES</b>
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The Bill proposes to allow the Commissioner of Inland Revenue to publish information in relation to the COVID-19 resurgence support payments scheme. This include names of persons to whom the Commissioner has made a grant under the scheme and other details related to the grant.
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<b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>NO</b>
The legislation permits, rather than requires, the Commissioner to publish information. This permission allows the Commissioner discretion over what is published. The way the Commissioner intends to approach name publication will not reveal the identity of individuals.	

## External consultation

<b>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?</b>	<b>YES</b>
<p><b>COVID-19 resurgence support payments scheme</b></p> <p>Officials engaged with Business New Zealand, the New Zealand Council of Trade Unions, the Auckland Chamber of Commerce, the Corporate Taxpayers Group, the Chartered Accountants Australia and New Zealand, and Māori and Pacific business leaders in developing the resurgence package.</p> <p>Stakeholders were broadly supportive of the approach to create greater certainty on the landscape of government support, and particularly welcoming of measures that address non-wage costs.</p> <p><b>Minimum family tax credit threshold</b></p> <p>Consultation with stakeholders beyond government departments did not occur due to time constraints and budget sensitivities.</p>	

## Other testing of proposals

<b>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?</b>	<b>YES</b>
The proposals in the Bill have been reviewed by internal operational subject matter experts under Inland Revenue's standard process for assessing the administrative impacts of any new policy initiatives and ensuring they are workable and complete. This involves assessing whether systems need to be changed and, if so, whether formal testing needs to be carried out.	

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

<b>4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?</b>	<b>NO</b>
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### Charges in the nature of a tax

<b>4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?</b>	<b>NO</b>
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### Retrospective effect

<b>4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?</b>	<b>YES</b>
<b>COVID-19 resurgence support payments scheme</b>  In the event that the alert level is increased from alert level 1 prior to the enactment of this Bill, this Bill will apply retrospectively so that affected and eligible businesses may apply for a grant under the scheme.  It is contemplated that the scheme would only be activated a few weeks in retrospect at most. Furthermore, as the scheme relates to the making of grants to businesses, it is not contemplated that any group of persons would suffer any loss of wealth or income as a direct result of this scheme being activated retrospectively.	

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

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

<b>4.5. Does this Bill create or amend a civil or criminal immunity for any person?</b>	<b>NO</b>
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## Significant decision-making powers

<b>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?</b>	<b>NO</b>
The eligibility criteria and the terms and conditions of the scheme are covered by the application process and are determined by the Commissioner of Inland Revenue. However, for the purposes of this statement, the answer is "No" as per the scope of this question explained in pages 53 and 54 of the Disclosure Statements for Government Legislation: Technical Guide for Departments (June 2013).	

## Powers to make delegated legislation

<b>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?</b>	<b>NO</b>
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<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>YES</b>
<p>Clause 5 of the Bill proposes to insert a new section 7AAC into the Tax Administration Act 1994 which supports the administration of the proposed COVID-19 resurgence support payments scheme. The new section proposes to allow the scheme to be declared active by Order in Council following an escalation in alert levels.</p> <p>The Order in Council may also specify:</p> <ul style="list-style-type: none"> <li>• the start and end date of each activation</li> <li>• the class or classes of persons may apply under the scheme</li> <li>• the amount of the grant</li> <li>• the eligibility requirements for a grant under the scheme, and</li> <li>• any amendments to aspects of the scheme.</li> </ul> <p>The time limit on the publication of information about the COVID-19 resurgence support payments scheme may be extended, renewed, or replaced by Order in Council.</p> <p>The power to make delegated legislation is necessary because this scheme forms a part of the Government's response to the COVID-19 pandemic and needs to be able to be activated under short notice in response to a resurgence event where the alert level is increased.</p> <p>Because of the purpose of this scheme and the circumstances under which it would be activated, it is likely that any Order in Council made under this provision will receive an exemption to the 28-day rule. The Order in Council made under this provision would need an exemption as waiting 28 days would reduce the effectiveness of the scheme.</p>	

## Any other unusual provisions or features

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