

Departmental Disclosure Statement

Taxation (KiwiSaver HomeStart and Remedial 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.

25 November 2014.

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Part One: General Policy Statement

This Bill proposes amendments to the following Inland Revenue Acts:

- KiwiSaver Act 2006
- Income Tax Act 2007.

The main proposals are in relation to the following issues:

- withdrawal of member tax credits for KiwiSaver members purchasing their first home
- corrections to the tax, social policy, and KiwiSaver treatment of income replacement payments for some veterans and other claimants.

Withdrawal of member tax credits

KiwiSaver members who are purchasing their first home are currently able to withdraw the contributions they and their employers have made to their KiwiSaver funds. They are not able to withdraw the \$1,000 kick-start or member tax credits paid by the Government.

This Bill amends the KiwiSaver Act 2006 to allow KiwiSaver members to withdraw their member tax credits when purchasing their first home.

This change takes effect from 1 April 2015.

Treatment of income replacement payments for veterans

This Bill provides that income replacement payments for veterans are treated the same for the purposes of taxation, social policy, and KiwiSaver as are the income compensation payments provided by the ACC. The payments are taxable, they are taken into account for social policy calculations, and they do not trigger the application of the rules relating to auto-enrolment and compulsory employer contributions for KiwiSaver.

Changes relating to the treatment of lump sum retirement payments come into force on 7 December 2014. Other changes come into force on the day on which the Act receives the Royal assent.

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
<p>A <i>Commentary on the Bill</i> will be made available at http://taxpolicy.ird.govt.nz/publications/type/bill-commentary shortly after the Bill is introduced. This commentary will provide a comprehensive explanation of the proposed legislative changes in the Bill.</p> <p>The Law Commission's review of the War Pensions Act 1954 is available here: http://www.lawcom.govt.nz/project/review-war-pensions-act-1954</p>	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p>A regulatory impact statement was not required for the HomeStart change.</p> <p>A regulatory impact statement was provided for the Veterans' Act 2014 and can be found here: http://www.treasury.govt.nz/publications/informationreleases/ris/pdfs/ris-defence-wpa-sep13.pdf</p>	

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 RIA Team provided the following opinion on 6 July 2011:</p> <p>The Regulatory Impact Analysis (RIA) requirements apply to the proposal in this paper and a Regulatory Impact Statement (RIS) has been prepared and is attached.</p> <p>A Panel comprising Treasury and Ministry of Justice representatives has reviewed the RIS prepared by Veterans' Affairs New Zealand and associated supporting material, and considers that, given the RIS is limited to analysis of whether to accept the recommendations from the Law Commission's review of the War Pensions Act 1954, the information and analysis summarised in the RIS meets the quality assurance criteria.</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?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO

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?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

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 items in contained in the bill were reviewed and found to be entirely domestic in scope. The proposed tax treatment of payments to veteran's was reviewed against New Zealand obligations under double tax agreements and no conflicts were identified.

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 items in contained in the bill were reviewed and did not specifically impact on the rights and interest of Maori.

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

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 accessible on the Ministry's website at <http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/>

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

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

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

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
The policies put into effect have been developed in collaboration with the Treasury, MBIE, MSD and Veterans' Affairs. Operational experts and legal experts have been involved in testing the robustness of the amendments.	

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
<p>The bill applies prospectively in the main however amendments relating to retirement lump sum payments apply retrospectively back to December 7 2014.</p> <p>Both the retirement lump sum payments and the other affected payments were intended to be taxable, taken into account in social policy calculations and were not intended to trigger auto-enrolment or compulsory employer contributions for KiwiSaver. However, only the amounts involved with regard to the retirement lump sum payments were significant enough to warrant retrospective application.</p>	

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?	NO

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