

# **Taxation (KiwiSaver HomeStart and Remedial Matters) Bill**

Government Bill

As reported from the Finance and  
Expenditure Committee

## **Commentary**

### **Recommendation**

The Finance and Expenditure Committee has examined the Taxation (KiwiSaver HomeStart and Remedial Matters) Bill and recommends that it be passed with the amendments shown.

### **Introduction**

The bill seeks to amend the KiwiSaver Act 2006 and the Income Tax Act 2007. It would allow KiwiSaver members to withdraw their member tax credits when purchasing their first home, and would correct errors in the tax, social policy, and KiwiSaver treatment of income replacement payments made to veterans under the Veterans' Support Act 2014.

This commentary discusses the more significant amendments we recommend to the bill. It does not discuss minor or technical amendments.

## **KiwiSaver HomeStart**

Clause 6 of the bill would amend the KiwiSaver rules in Schedule 1 of the KiwiSaver Act, allowing KiwiSaver members purchasing their first home to withdraw the member tax credits paid by the Government, with effect from 1 April 2015. Such a change was proposed as part of the Government's "HomeStart" package in August 2014. At present, KiwiSaver members can withdraw the contributions they and their employers have made, but not their member tax credits or the Government's \$1,000 kick-start contribution.

We considered whether the legislation should also allow first-home buyers to withdraw the \$1,000 kick-start contribution, but note that this could mean that members' accounts were left with a nil balance, and automatically closed. We consider it desirable for members to remain in the scheme, and see pragmatic benefits in leaving the kick-start contribution as a residual balance to ensure that accounts remain open.

We recommend just one amendment to the bill's KiwiSaver provisions: inserting clause 5B to include a transitional savings provision to provide relief for KiwiSaver providers who could be in breach of securities law if they did not update offer documents and product disclosure statements from 1 April 2015. Providers of securities would still need to update their relevant documents within the next year.

## **Veterans' Support**

The bill seeks to correct inadvertent errors in the Veterans' Support Act 2014 by ensuring that veteran income replacement payments are treated as taxable income and included in social policy calculations.

We note that the bill accords with the policy intention behind the Veterans' Support Act, which was that income replacement payments for veterans be treated in the same way as ACC compensation payments for taxation, social policy, and KiwiSaver purposes, and be taken into account for social policy purposes such as calculating Working for Families tax credits. Payments to veterans would not be subject to the KiwiSaver auto-enrolment or compulsory employer contribution rules.

**New Zealand Labour Party minority view**

Labour will support this bill because its effect, while limited, is benign. We understand from papers provided to the committee that, at best, it might have a positive effect. The Ministry of Business, Innovation and Employment has said it is “tentatively positive” about the bill. These are hardly ringing endorsements, and such tentative steps are typical of the approach of the Government on housing issues.

This bill would enable people to withdraw their retirement savings to use as a deposit on a home loan, but in return for sacrificing their retirement savings, the extra amount people could withdraw as a result of this bill would be equivalent to less than a month of Auckland house price inflation.

As the Treasury and the Reserve Bank have advised, increasing subsidies to homebuyers in a market that is badly supply-constrained is likely to drive prices higher. Our most serious concern with the HomeStart policy, of which this bill is a component, is that it amounts to tinkering when the housing crisis requires fundamental reform.

## **Appendix**

### **Committee process**

The Taxation (KiwiSaver HomeStart and Remedial Matters) Bill was referred to the committee on 4 December 2014. The closing date for submissions was 2 February 2015. We received and considered four submissions from interested groups and individuals, and heard oral evidence from one submitter.

We received advice from the Inland Revenue Department.

### **Committee membership**

David Bennett (Chairperson)

Andrew Bayly

Chris Bishop

Hon Clayton Cosgrove

Stuart Nash

Dr Russel Norman

Rt Hon Winston Peters

Grant Robertson

Jami-Lee Ross

Alastair Scott

David Seymour

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**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted unanimously

text deleted unanimously

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*Hon Todd McClay*

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**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the Taxation (KiwiSaver HomeStart and Remedial Matters) Act **2014**.

**2 Commencement** 5

(1) This Act comes into force on the day on which it receives the Royal assent, except as provided in this section.

(2) **Sections 4(a) and (b), 8(1), 9(1), and 11(1) and (2)** come into force on 7 December 2014.

~~(3) Section 6 comes into force on 1 April 2015.~~ 10

(3) Sections 5B and 6 come into force on 1 April 2015.

*Amendments to KiwiSaver Act 2006***3 KiwiSaver Act 2006 amended**

**Sections 4 to 6** amend the KiwiSaver Act 2006.

**4 Section 4 amended (Interpretation)** 15

In section 4(1), in the definition of **salary and or wages**,—

(a) in paragraph (a)(i), replace “(6)(b) to (bd)” with “(6)(b) to (bc)”:

(b) in paragraph (a)(v)(A), replace “section RD 5(1)(b)(iii) and (7)” with “section RD 5(1)(b)(iii), **(6)(bd)**, and (7)”:

(c) in paragraph (a)(v)(A), replace “**(6)(bd)**” with “**(6)(bd) to (bg)**”.

**5 Section 14 amended (Other situations when automatic enrolment rules do not apply)**

After section 14(1)(a)(iib), insert:

“(iic) **section RD 5(6)(be) to (bg)** (which relate to payments made under the Veterans’ Support Act 2014):”.



<b>5B</b>	<b>Section 239 inserted (Protection from non-compliance: Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2014)</b>	
	After section 238, insert:	
<b>“239</b>	<b>Protection from non-compliance: Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2014</b>	5
	Non-compliance with an enactment related to securities is ignored if the non-compliance—	
	“(a) results from the enactment of <b>section 6</b> of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act <b>2014</b> , or from changes made by the Government to the subsidy previously known as the ‘KiwiSaver first home deposit subsidy’ that take effect from 1 April 2015; and	10
	“(b) relates to—	
	“(i) a prospectus that is registered under the Securities Act 1978 before 1 April 2015;	15
	“(ii) an investment statement under the Securities Act 1978 that is dated before 1 April 2015;	
	“(iii) a product disclosure statement under the Financial Markets Conduct Act 2013 that is lodged on or before 1 April 2015; and	20
	“(c) if the non-compliance relates to a product disclosure statement referred to in <b>paragraph (b)(iii)</b> , the period of the non-compliance ends before 1 April 2016.”	
<b>6</b>	<b>Schedule 1 amended (KiwiSaver scheme rules)</b>	25
	Replace schedule 1, clause 8(4)(a) with:	
	“(a) the amount of the contribution made by the Crown under section 226 (disregarding any positive or negative returns for the purpose of calculating the amount of that contribution):”.	30
	<i>Amendments to Income Tax Act 2007</i>	
<b>7</b>	<b>Income Tax Act 2007 amended</b>	
	<b>Sections 8 to 11</b> amend the Income Tax Act 2007.	

**8 Section CF 1 amended (Benefits, pensions, compensation,  
and government grants)**

- (1) Replace section CF 1(1)(h) with:
- “(h) a veteran’s pension:
- “(i) a retirement lump sum paid under Part 5, subpart 7 of the Veterans’ Support Act 2014.” 5
- (2) Replace **section CF 1(1)(i)** with:
- “(i) a retirement lump sum paid under Part 5, subpart 7 of the Veterans’ Support Act 2014:
- “(j) weekly income compensation paid under Part 3, subpart 4 of that Act: 10
- “(k) weekly compensation paid under Part 4, subpart 5 of that Act:
- “(l) weekly compensation or aggregated payments, as applicable, paid under schedule 2, part 4, clause 54, 55, 58, or 59 of that Act.” 15
- (3) Repeal section CF 1(2)(i).

**9 Section CW 28 amended (Pensions)**

- (1) Replace section CW 28(1)(a) with:
- “(a) a pension or allowance under the Veterans’ Support Act 2014, including a lump sum paid pursuant to an election under section 53(1)(b) of that Act, but excluding— 20
- “(i) a veteran’s pension:
- “(ii) a retirement lump sum paid under Part 5, subpart 7 of that Act:” 25
- (2) After **section CW 28(1)(a)(ii)**, insert:
- “(iii) weekly income compensation paid under Part 3, subpart 4 of that Act:
- “(iv) weekly compensation paid under Part 4, subpart 5 of that Act: 30
- “(v) weekly compensation or aggregated payments, as applicable, paid under schedule 2, part 4, clause 54, 55, 58, or 59 of that Act:”.

**10 Section MA 7 amended (Meaning of full-time earner for family scheme)** 35

Replace section MA 7(3), other than the heading, with:

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- “(3) The incapacity referred to in subsection (2)(b) and (d) is an incapacity due to personal injury by accident for which—
- “(a) an accident compensation earnings-related payment has been, is being, or will be paid:
  - “(b) a payment that has been, is being, or will be paid, under the Veterans’ Support Act 2014, is—
    - “(i) weekly income compensation paid under Part 3, subpart 4 of that Act:
    - “(ii) weekly compensation paid under Part 4, subpart 5 of that Act: 10
    - “(iii) weekly compensation or aggregated payments, as applicable, paid under schedule 2, part 4, clause 54 or 55 of that Act.”
- 11 Section RD 5 amended (Salary or wages)**
- (1) Repeal section RD 5(1)(b)(iv). 15
  - (2) After section RD 5(6)(bc), insert:
    - “(bd) a retirement lump sum paid under Part 5, subpart 7 of the Veterans’ Support Act 2014.”.
  - (3) After **section RD 5(6)(bd)**, insert:
    - “(be) weekly income compensation paid under Part 3, subpart 4 of the Veterans’ Support Act 2014: 20
    - “(bf) weekly compensation paid under Part 4, subpart 5 of the Veterans’ Support Act 2014:
    - “(bg) weekly compensation or aggregated payments, as applicable, paid under schedule 2, part 4, clause 54, 55, 58, or 59 of the Veterans’ Support Act 2014.”. 25

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**Legislative history**

1 December 2014	Introduction (Bill 2–1)
4 December 2014	First reading and referral to Finance and Expenditure Committee

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