

# **KiwiSaver Budget Measures Bill**

Government Bill

## **Explanatory note**

### **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.

### **Departmental disclosure statement**

Inland Revenue is required to prepare a disclosure statement to assist with the scrutiny of this Bill. It 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://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2015&no=22>.

### Regulatory impact statement

The Treasury has produced a regulatory impact statement on 6 May 2015 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <http://taxpolicy.ird.govt.nz/publications/type/ris>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* gives appropriate commencement dates for the provisions of the Bill.

*Clause 3* provides that the Bill amends the *KiwiSaver Act 2006*.

*Clause 4* amends *section 226*, from 1 May 2015, to ensure that the Commissioner can appropriately determine when the 3-month wait-period for paying the \$1,000 KiwiSaver kick-start contribution starts.

*Clause 5* repeals *section 226(1), (3), and (4)* to remove the \$1,000 KiwiSaver kick-start contribution, effective 2 pm on 21 May 2015.

*Clause 6* inserts a *new section 240*, to ensure that non-compliance with financial markets legislation is ignored, if the non-compliance results from the changes in this Bill and appropriate written notice of the changes is given to investors.

*Clause 7* amends *schedule 1, clause 8* in consequence of the repeal of the \$1,000 KiwiSaver kick-start contribution. The ordering rule for payout of the first home withdrawal is amended consequentially, and the requirement to not pay out the \$1,000 kick-start is replaced by a requirement to not pay out \$1,000, in order to keep members' accounts open.

*Hon Todd McClay*

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### **The Parliament of New Zealand enacts as follows:**

#### **1 Title**

This Act is the KiwiSaver Budget Measures Act **2015**.

#### **2 Commencement**

- (1) This Act comes into force on the day on which it receives the Royal assent, except as provided in this section.
- (2) **Section 4** is treated as coming into force on 1 May 2015.
- (3) **Sections 5, 6, and 7** come into force at 2 pm on 21 May 2015.

### 3 Principal Act amended

This Act amends the KiwiSaver Act 2006.

### 4 Section 226 amended (Crown contribution: kick-start contributions)

- (1) In section 226(1), replace “is a member” with “is a member, or must become a member as provided by section 15(1)(b) or 36(1)(b),”.
- (2) Replace section 226(1B) with:
  - (1B) Unless subsection (1C) applies, the date for the purposes of subsection (1A) is the last day of the 3-month period that starts on either the date under **paragraph (a)** or the date under **paragraph (b)**—
    - (a) the date under this paragraph is the earlier of—
      - (i) the date, decided by Commissioner, when the Commissioner receives the first contribution in respect of A, if A is a person to whom subpart 1 of Part 3 applies:
      - (ii) the date that the Commissioner is given notice or otherwise knows that A is a member of the KiwiSaver scheme:
    - (b) the date under this paragraph is the date, decided by the Commissioner, when A is first a member or must first become a member as provided by section 15(1)(b) or 36(1)(b).
- (3) In section 226(1C), replace “notice that the person has transferred” with “notice that A has transferred or the day, decided by the Commissioner, that A has transferred”.

### 5 Section 226 repealed (Crown contribution: kick-start contributions)

Repeal section 226(1), (3), and (4).

### 6 New section 240 inserted (Protection from non-compliance: KiwiSaver Budget Measures Act 2015)

After section 239, insert:

#### 240 Protection from non-compliance: KiwiSaver Budget Measures Act 2015

Non-compliance with **financial markets legislation**, as defined in section 6(1) of the Financial Markets Conduct Act 2013, is ignored if the non-compliance results from the enactment of the KiwiSaver Budget Measures Act **2015** and the non-compliance—

- (a) relates to a prospectus that is registered under the Securities Act 1978 and,—
  - (i) the prospectus is registered on or before 21 May 2015; and
  - (ii) the issuer takes reasonable steps to ensure that copies of the prospectus that are distributed on or after 22 June 2015 by or on behalf of the issuer include or are accompanied by written notice of the

- effect of the enactment of the KiwiSaver Budget Measures Act **2015**; or
- (b) relates to an investment statement under the Securities Act 1978 and,—
    - (i) the investment statement is dated on or before 21 May 2015; and
    - (ii) the issuer takes reasonable steps to ensure that copies of the investment statement that are distributed on or after 22 June 2015 by or on behalf of the issuer include or are accompanied by written notice of the effect of the enactment of the KiwiSaver Budget Measures Act **2015**; or
  - (c) relates to a product disclosure statement under the Financial Markets Conduct Act 2013 and the period of the non-compliance ends before 22 June 2015.

#### **7 Schedule 1 amended (KiwiSaver scheme rules)**

- (1) Replace schedule 1, clause 8(4)(a) with:

(a) \$1,000:

- (2) Replace schedule 1, clause 8(7)(a)(ii) with:

(ii) second, from the Crown contribution (including any positive or negative returns for the purpose of calculating the amount of that contribution), less the amount paid under section 226; and