

Hon Nicola Willis, Acting Minister of Revenue

Information Release

Taxation of transfers from overseas pension schemes

September 2024

Availability

This information release is available on Inland Revenue's tax policy website at <https://www.taxpolicy.ird.govt.nz/publications/2024/ir-emergency-response-tax-bill>

Documents in this information release

#	Reference	Type	Title	Date
1	IR2024/251	Inland Revenue Report	Cabinet paper – Qualifying recognised overseas pension schemes	14 June 2024
2	IR2024/265	Inland Revenue Report	QROPS – change to proposed application date for “scheme pays”	19 June 2024
3	N/A	Letter	Transfer of responsibility for matters relating to the tax legislative changes for qualifying recognised overseas pension schemes	24 June 2024
4	CBC-24-SUB-0070	Cabinet Paper	Qualifying recognised overseas pension schemes	8 July 2024
5	CBC-24-MIN-0070	Cabinet minute	Qualifying recognised overseas pension schemes	8 July 2024
6	N/A	Letter	Change to arrangements regarding responsibility for matters relating to the tax legislative changes for qualifying recognised overseas pension schemes	27 August 2024

Additional information

The Cabinet paper was considered by the Cabinet Business Committee on 8 July 2024 and confirmed by Cabinet on 22 July 2024.

The regulatory impact statement attached to the above Cabinet paper is published online: [Regulatory Impact Statements for the Taxation \(Annual Rates for 2024–25, Emergency Response, and Remedial Measures\) Bill \(ird.govt.nz\)](#).

Information withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply are identified. Where information is withheld, no public interest was identified that would outweigh the reasons for withholding it.

Sections of the Act under which information was withheld:

- 9(2)(a) to protect the privacy of natural persons, including deceased people
- 9(2)(ba)(i) to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied

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POLICY AND REGULATORY STEWARDSHIP

Tax policy report: Cabinet paper – Qualifying recognised overseas pension schemes

Date:	14 June 2024	Priority:	Medium
Security level:	In Confidence	Report number:	IR2024/251

Action sought

	Action sought	Deadline
Minister of Finance	Agree to recommendations	10am, Thursday 27 June 2024
Acting Minister of Revenue	Agree to recommendations Approve and lodge the attached Cabinet paper with the Cabinet Office by 10:00 a.m., Thursday 27 June 2024	10am, Thursday 27 June 2024

Contact for telephone discussion (if required)

Name	Position	Telephone
Pamela Law	Principal Policy Advisor	s 9(2)(a)
Thomas Minot	Senior Policy Advisor	s 9(2)(a)

14 June 2024

Acting Minister of Revenue
Minister of Finance

Cabinet paper – Qualifying recognised overseas pension schemes

Purpose

1. This report seeks your agreement to implement a “scheme pays” mechanism for qualifying recognised overseas pension schemes (QROPS) and other retirement savings transfers to New Zealand, and to improve the flexibility of “locked-in” KiwiSavers.
2. We recommend these changes be progressed in the upcoming omnibus taxation Bill scheduled for introduction in August 2024.
3. Attached to this report is a draft Cabinet paper. Subject to your agreement, the Cabinet paper should be lodged with the Cabinet Office by 10am, Thursday 20 June 2024, so that it may be considered by the Cabinet Business Committee at its meeting on 1 July 2024.

Background

4. Pension transfers to New Zealand, when made outside our four-year transitional residency period, result in New Zealand tax payable at an individual’s marginal rate on some of the lump sum transferred. The tax applies only to the amount of income derived by the pension fund (ie, fund growth) after the person became New Zealand tax resident or after their transitional period ended (where applicable). In some cases, the amount of tax payable can be substantial, such as when a person transfers a sizable pension many years after becoming New Zealand resident.

Transfers to New Zealand: introduction of a “scheme pays” mechanism

5. The United Kingdom’s (UK) pensions rules are strict. Transfers of pension funds outside the UK are only permitted in limited circumstances, one being where the receiving scheme is a Qualifying Recognised Overseas Pension Scheme (QROPS) under UK rules. Broadly, QROPS are schemes that must comply with the UK’s rules for pension schemes. These include a rule that disallows withdrawal from the fund before the UK’s minimum retirement age (currently 55).
6. The UK rules mean that individuals who withdraw from either their UK pension fund or the receiving QROPS fund to pay the New Zealand tax bill, may incur a UK unauthorised payment charge of up to 55%. This means the tax must be paid out of pocket by the individual. This creates a barrier to transfers and has caused hardship for some individuals.
7. To resolve this issue, we recommend that a “scheme pays” mechanism is introduced. This would make the New Zealand transfer tax a liability of the New Zealand QROPS rather than the individual. “Scheme pays” would allow the New Zealand QROPS to report the transfer to Inland Revenue and pay the tax due directly from the individuals transferred pension funds (meaning the individual would not need to pay the tax). This mechanism is acceptable to the UK’s His Majesty’s Revenue and Customs (HMRC) and is also used in Australia to address this problem.

8. We recommend that it is mandatory for QROPS to offer “scheme pays” and that the following features apply:
- 8.1 The individual will choose whether they, or the scheme, pays the tax due.
 - 8.2 Regardless of the option the individual chooses, the QROPS will be responsible for a monthly digital report of transferred funds. The report should be in the form prescribed by the Commissioner of Inland Revenue and will include details such as the individual’s name and IRD number, the amount being transferred and the taxable amount, and whether the scheme will pay the tax.

Option 1: Scheme pays

- 8.3 If the individual chooses “scheme pays”, the QROPS will withhold tax at a flat rate of 28% and pay it directly to Inland Revenue.

Option 2: Pay as an individual

- 8.4 If the individual chooses to pay the tax themselves, the standard rules will apply, meaning that the person will pay tax at their marginal rate. Inland Revenue will use the information supplied to pre-populate the individual’s MyIR account; they will either:
 - 8.4.1 pay the tax due as part of the year-end automatic calculation process, or
 - 8.4.2 file their IR 3 self-assessment return and pay the tax (in keeping with the current rules).
9. Increased reporting of pension transfers received in New Zealand may assist in addressing some concerns raised about potential misunderstanding of, and non-compliance with, New Zealand’s tax rules.
10. During targeted consultation some submitters preferred using the individual’s prescribed investor rate (PIR) to calculate the tax. A PIR is the rate at which an investor pays tax on their taxable income from a portfolio investment entity (PIE). Although many QROPS are structured as PIEs we preferred a flat rate because:
- 10.1 If the correct PIR is not used, then a year-end “wash up” will result in the individual needing to fund the payment of the additional tax, or receiving a refund of tax or credit against other taxes.
 - 10.2 HMRC’s rules prohibit the individual from accessing the QROPS fund, meaning that it will not be possible for any excess amounts to be repaid to the individual.
 - 10.3 For most transferees, the 28% rate provides certainty and prevents the transferred funds from being taxed at marginal rates. This means that the transferred lump sum will not be pushed into an artificially high tax bracket.
 - 10.4 An individual who seeks the benefit of the lower bands may still choose to pay and file under the present system.
 - 10.5 A flat rate system is administratively simple and cost effective relative to the affected population. Other designs will necessarily require greater complexity and cost.

11. We intend that relevant error and correction provisions in the Income Tax Act 2007 and the Tax Administration Act 1994 apply to reporting, withholding and paying of tax due.
12. To ensure that transfers from the UK and elsewhere are treated equally, we recommend that this design applies to all transfers of pension funds to New Zealand pension providers.¹
13. Appropriate guardrails will be required both to ensure that the new rules apply only to transfers to New Zealand fund providers (as opposed to withdrawals from overseas fund providers, which should be taxable at marginal rates) and to prevent schemes being left liable for incorrect or incomplete information or without funds to pay the tax due.
14. We do not anticipate more than minor changes in the detailed design phase. However, there are boutique providers in the market for whom the cost of changing or developing systems may be higher than it is for larger players offering a PIE.

Application date

15. We recommend that "scheme pays" applies from is introduced from 1 April 2026. This will ensure sufficient time to implement system changes and prepare QROPS and scheme providers for the implementation of "scheme pays". There is a risk that an earlier date of 1 April 2025 would not allow providers adequate time to make the necessary changes.

"Locked-in" KiwiSaver schemes

16. On 17 June 2015, HMRC tightened the QROPS criteria so that any overseas pension scheme allowing withdrawal before the age of 55 could not qualify. This caused KiwiSaver schemes (which allow earlier withdrawals in various circumstances such as hardship), to lose their QROPS status. Grandparenting treatment was applied to the retirement funds of migrants who made the transfer to a KiwiSaver scheme before 17 June 2015. However, they could not subsequently transfer their funds to another KiwiSaver scheme without incurring a UK tax charge. This means they were effectively "locked in" to their current KiwiSaver provider. This also causes problems when a provider planned to merge KiwiSaver schemes with low participation.
17. The UK tax charge applies only for five full UK tax years after the migrant lost their UK tax residence (it was later increased to 10 years, but this is not relevant for historic transfers). Without complicating factors that may arise in individual cases, for most individuals this period expired on 6 April 2021. Nevertheless, legacy cases remain. In addition, certain UK tax reporting requirements apply to former QROPS. Affected scheme providers seek changes to the rules to promote flexibility.
18. We recommend that the KiwiSaver rules be changed to allow "locked-in" UK retirement savings to be transferred from KiwiSaver schemes into another New Zealand QROPS with the consent of the individual member. This would allow the remaining balance of the KiwiSaver account to be managed without UK tax implications. HMRC has confirmed that this solution would be effective. We recommend this change applies from 1 April 2025.

Consultation

19. We undertook three rounds of targeted consultation with QROPS providers as well as industry and professional bodies including Chartered Accountants Australia and

¹ Noting that transfers between Australian superannuation funds and KiwiSaver funds are treated differently under the Trans-Tasman retirement savings portability scheme. We intend this scheme to be unaffected by the proposed new rules.

New Zealand, Certified Practising Accountants Australia, and the Financial Services Council.

20. All submitters supported the introduction of a "scheme pays" option for QROPS though some preferred using the individual's PIR over a flat rate (see paragraph 32 above). Others were concerned about the extension of the proposal to non-QROPS and the necessary time for implementation. A selection of QROPS providers also supported resolution of the "locked-in" KiwiSaver issue, though the majority made no comment.
21. We also consulted the Financial Markets Authority and the Ministry of Business, Innovation and Employment who were comfortable with these proposals.
22. A Regulatory Impact Statement has been prepared for the Qualified Recognised Overseas Pension Schemes policy measures and is attached to the draft Cabinet Paper. The Quality Assurance panel at Inland Revenue has determined that this Regulatory Impact Statement meets the quality assurance criteria.

Administrative implications

23. The introduction of "scheme pays" is expected to have an administrative implementation cost of \$1.700 million capital and \$0.800 million operating. Ongoing costs (depreciation and capital costs) will be \$0.795 million over the 2024/25 to 2027/28 years. Inland Revenue will absorb this cost within existing baselines, noting that there is a limit to the level of initiatives that the department can absorb. The release of "locked-in" KiwiSavers is not expected to have any administrative impact.

Vote Revenue Minister of Revenue	\$ million – increase/(decrease)					Total
	2023/24	2024/25	2025/26	2026/27	2027/28 & outyears	
<i>Capital costs</i>						
System build	-	-	1.700	-	-	1.700
Total capital (debt) impact	-	-	1.700	-	-	1.700
<i>Operating costs</i>						
System build	-	-	0.800	-	-	0.800
Depreciation	-	-	0.100	0.240	0.240	0.580
Capital charge	-	-	0.045	0.085	0.085	0.215
Total operating impact	-	-	0.945	0.325	0.325	0.795

Financial implications

24. The proposed introduction of "scheme pays" will have a negative impact on tax revenue with a corresponding impact on the operating balance and net debt:

Vote Revenue Minister of Revenue	\$m increase/(decrease)				
	2023/24	2024/25	2025/26	2026/27	2027/28
Crown Revenue and Receipts: Tax Revenue	0.000	0.000	0.000	0.000	(1.600)
Total operating	0.000	0.000	0.000	0.000	1.600

	2028/29	2029/30	2030/31	2031/32	2032/33 & outyears
Crown Revenue and Receipts: Tax Revenue	(0.900)	(0.900)	(1.000)	(1.100)	(1.100)
Total operating	0.900	0.900	1.000	1.100	1.100

25. The proposed amendment for “locked-in” KiwiSavers has no fiscal implications.

Next steps

26. Detailed design to support implementation of the policy will be further developed prior to introduction of the omnibus Bill. This will be in line with the proposals outlined above. We will report to you if significant policy changes are required.
27. If you agree to the initiative in this report, please refer the attached Cabinet paper to the Cabinet Office for lodgement by **10:00 a.m., Thursday 27 June 2024**.
28. If you and Cabinet agree to the recommendations, officials will develop legislative changes to give effect to this policy proposal. This will be included in the Bill scheduled for introduction in August 2024.

Recommended action

We recommend that you:

1. **agree** that there should be a "scheme pays" mechanism for the payment of New Zealand tax due on transfers of pension funds from the UK and other jurisdictions to New Zealand QROPS or other New Zealand schemes (scheme providers).

Agreed/Not agreed

Agreed/Not agreed

2. **agree** the "scheme pays" mechanism should, as a whole, have the following features:

- a. Offering the "scheme pays" mechanism should be mandatory for scheme providers.
- b. The individual transferee will elect whether to use "scheme pays" mechanism or to pay under auto-calculation or via their self-assessment tax return.
- c. Scheme providers will be responsible for providing monthly digital reports of transfers received in the form prescribed by the Commissioner of Inland Revenue and, where applicable, make the payment of the tax due to Inland Revenue.
- d. Transfers would be subject to tax at a flat rate of 28%.
- e. The new rules should apply from 1 April 2026.

Agreed/Not agreed

Agreed/Not agreed

3. **Note** that the existing Trans-Tasman retirement savings portability scheme is not affected by these changes.

Noted

Noted

4. **Agree** that transfers from KiwiSaver accounts of previously transferred UK pension funds to New Zealand QROPS should be permitted from 1 April 2025.

Agreed/Not agreed

Agreed/Not agreed

5. **Note** that detailed design to support implementation of the policy will be consistent with the above recommendations.

Noted

Noted

6. **Note** that Inland Revenue will self-fund the \$1.700 million capital cost and \$0.800 million operating cost to implement and administer this change.

Noted

Noted

7. **Note** the following changes to tax revenue as a result of recommendations 1 and 2 above, with a corresponding impact on the operating balance and/or net core Crown debt:

	\$m increase/(decrease)				
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27	2027/28

Crown Revenue and Receipts: Tax Revenue	0.000	0.000	0.000	0.000	(1.600)
Total operating	0.000	0.000	0.000	0.000	1.600
	2028/29	2029/30	2030/31	2031/32	2032/33 & outyears
Crown Revenue and Receipts: Tax Revenue	(0.900)	(0.900)	(1.000)	(1.100)	(1.100)
Total operating	0.900	0.900	1.000	1.100	1.100

Noted

Noted

8. **Agree** that the reduction in tax revenue in recommendation 7 above be charged against the Tax Policy Scorecard.

Agreed/Not agreed

Agreed/Not agreed

9. **Note** that the regulatory impact assessment has been completed and is attached to the Cabinet paper.

Noted

Noted

10. **Approve** and **lodge** the attached Cabinet paper and regulatory impact assessments with the Cabinet Office by **10:00 a.m., Thursday 27 June 2024** for consideration by Cabinet Business Committee (CBC) on **1 July 2024**.

Agreed/Not agreed

Agreed/Not agreed

s 9(2)(a)

Pamela Law
Principal Policy Advisor
Policy and Regulatory Stewardship

Hon x
Acting Minister of Revenue
/ /2024



POLICY AND REGULATORY STEWARDSHIP

Tax policy report: QROPS – change to proposed application date for “scheme pays”

Date:	19 June 2024	Priority:	Medium
Security level:	In Confidence	Report number:	IR2024/265

Action sought

	Action sought	Deadline
Minister of Finance	Agree to recommendations	25 June 2024

Contact for telephone discussion (if required)

Name	Position	Telephone
Pamela Law	Principal Policy Advisor	s 9(2)(a) [REDACTED]
Thomas Minot	Senior Policy Advisor	s 9(2)(a) [REDACTED]

19 June 2024

Minister of Finance

QROPS – change to proposed application date for “scheme pays”

Purpose

1. This report:
 - 1.1 informs you that the Cabinet Office confirmed that the Minister of Revenue has a conflict of interest in the qualifying registered overseas pension schemes (QROPS) policy proposal.
 - 1.2 seeks your agreement to defer the application date of the “scheme pays” proposal for payment of tax on transfers of foreign pension funds to New Zealand qualifying registered overseas pension schemes (QROPS) and other New Zealand pension schemes from 1 April 2025 to 1 April 2026.

Background

2. You previously reviewed the Cabinet paper for the Taxation (Annual Rates for 2024-25, Emergency Response and Remedial Measures) Bill and agreed with the recommendations in the cover report [IR2024/177] (the cover report). That report set out the background on the QROPS “scheme pays” proposal.
3. In essence, “scheme pays” would enable New Zealand pension scheme providers to report and pay New Zealand tax due on the taxable portion of a transferred overseas pension fund directly to Inland Revenue. This would resolve the issue for migrants from the United Kingdom (UK) who cannot withdraw from the fund to pay New Zealand tax under UK rules, but who struggle to make the payment from personal sources.

Conflict of interest

4. Following your agreement to the recommendations in the cover report, the Cabinet Office confirmed that the Minister of Revenue has a conflict of interest concerning the QROPS proposal. Another Minister will be delegated to take the QROPS Cabinet paper to the Cabinet Business Committee on 8 July 2024 and Cabinet on 15 July 2024.
5. We have therefore prepared a Cabinet paper for QROPS (the draft Cabinet paper) which is attached for your information. This paper contains the same information as the paper you have already seen, except for updates relating to a change in the application date, as outlined below.

Proposed change of application date for “scheme pays”

6. In the cover report we recommended that “scheme pays” apply from 1 April 2025, with provision for an optional later application date, on the basis that some scheme providers might require more time to prepare. However, following further discussions at Inland Revenue, we now recommend that “scheme pays” instead apply from 1 April 2026, with no provision for a later application date (an optional later application date should not be necessary given the deferred starting date).

7. Inland Revenue's operational team has indicated that a 1 April 2026 application date would allow sufficient time for all scheme providers to update their systems to accommodate "scheme pays". Setting this date would allow Inland Revenue to collaborate effectively on detailed design with providers on changes to systems and processes providing greater certainty.
8. The second proposal in the cover report (the "locked-in KiwiSaver" proposal) is unaffected by this change.

Administrative implications

9. The change to the application date will have a minor effect on administrative costs. The implementation cost of \$1.700 million capital and \$0.800 million operating will be recognised a year later (in the 2025/26 year). Ongoing costs (depreciation and capital costs) will be \$0.795 million over the 2025/26 to 2027/28 forecast period.

Financial implications

10. The proposed introduction of "scheme pays" from 1 April 2026 will result in a minor change to the fiscal implications, reducing the fiscal cost from \$2 million over the forecast period (2026/27 and 2027/28) to \$1.6 million (2027/28).
11. As such, the revised proposal will have a reduced negative impact on tax revenue with a corresponding impact on the operating balance and net debt as shown below:

	\$m increase/(decrease)				
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27	2027/28
Crown Revenue and Receipts: Tax Revenue	0.000	0.000	0.000	0.000	(1.600)
Total operating	0.000	0.000	0.000	0.000	1.600
	2028/29	2029/30	2030/31	2031/32	2032/33 & outyears
Crown Revenue and Receipts: Tax Revenue	(0.900)	(0.900)	(1.000)	(1.100)	(1.100)
Total operating	0.900	0.900	1.000	1.100	1.100

Consultation

12. The Treasury was informed of the proposed application date change.

Next steps

13. Following your agreement to this change, the draft Cabinet paper can be circulated for Ministerial consultation.
14. Following Ministerial consultation, the draft Cabinet paper will be finalised and provided to the Acting Minister of Revenue for lodgement by 10am, Thursday 4 July 2024.
15. The Cabinet paper and Regulatory Impact Statement will be considered at the Cabinet Business Committee meeting on Monday 8 July 2024 and at Cabinet on Monday 15 July 2024.

Recommended action

We recommend that you:

1. **agree** to change the application date of the “scheme pays” proposal for payment of tax on transfers of foreign pension funds to New Zealand QROPS and other New Zealand pension schemes from 1 April 2025 to 1 April 2026, with no provision for a later application date.

Agreed/Not agreed

2. **note** the following negative impact on tax revenue, with a corresponding impact on the operating balance and net debt:

	\$m increase/(decrease)				
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27	2027/28
Crown Revenue and Receipts: Tax Revenue	0.000	0.000	0.000	0.000	(1.600)
Total operating	0.000	0.000	0.000	0.000	1.600
	2028/29	2029/30	2030/31	2031/32	2032/33 & outyears
Crown Revenue and Receipts: Tax Revenue	(0.900)	(0.900)	(1.000)	(1.100)	(1.100)
Total operating	0.900	0.900	1.000	1.100	1.100

Noted

3. **note** that an updated draft Cabinet paper and Regulatory Impact Statement is attached to this report.

Noted

4. **refer** a copy of this report to the Minister of Revenue for his information.

Referred/Not referred

s 9(2)(a)

Pamela Law

Principal Policy Advisor

Policy and Regulatory Stewardship

Hon Nicola Willis

Minister of Finance

/ /2024

Hon Simon Watts

Minister of Climate Change
Minister of Revenue



24 JUN 2024

Hon Nicola Willis
Parliament Buildings
WELLINGTON

Dear Minister

Transfer of responsibility for matters relating to the tax legislative changes for qualifying recognised overseas pension schemes

- 1 My responsibilities as Minister of Revenue include proposing tax legislative changes to the House of Representatives.
- 2 Inland Revenue proposes legislative changes to the tax regime for qualifying recognised overseas pension schemes (QROPS). s 9(2)(a), s 9(2)(ba)(i)
- 3 I wish to avoid a perception of a conflict of interest between my personal interest and my responsibilities as Minister of Revenue.
- 4 Accordingly, I am transferring to you, under section 7 of the Constitution Act 1986 and with the Prime Minister's agreement, my responsibilities as Minister of Revenue for matters relating to QROPS in the 2024 omnibus taxation bill (QROPS changes).
- 5 As a consequence of this:
 - 5.1 officials will report directly to you on matters connected to the QROPS changes;
 - 5.2 any information relating to the QROPS changes will be referred to you;
 - 5.3 I will not receive Cabinet papers or official papers or reports relating to the QROPS changes; and
 - 5.4 if the QROPS changes are discussed at Cabinet committee or Cabinet meetings, I will declare my interest and withdraw from the relevant meeting.
- 6 You should sign off on decisions relating to the transaction as the Acting Minister of Revenue.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Simon Watts', written over a horizontal line.

Hon Simon Watts
Minister of Revenue

cc Prime Minister
Secretary of the Cabinet
Commissioner, Inland Revenue

In Confidence

Office of the Minister of Revenue
Chair, Cabinet Business Committee

QUALIFYING RECOGNISED OVERSEAS PENSION SCHEMES

Proposal

- 1 This paper seeks the Cabinet Business Committee's agreement to two policy measures relating to qualifying recognised overseas pension schemes (QROPS) that require changes to tax legislation.
- 2 If approved, I propose including the necessary legislative amendments in the next omnibus taxation Bill, scheduled for introduction in August 2024.

Relation to Government priorities

- 3 These measures promote Government priorities by maintaining the integrity of the tax system and making it easier for taxpayers to meet their obligations.

Executive summary

- 4 I recommend amendments to the Income Tax Act 2007, the Tax Administration Act 1994, and the KiwiSaver Act 2006 to give effect to a "scheme pays" mechanism for QROPS and other retirement savings transfers to New Zealand and to improve the flexibility of "locked-in" KiwiSavers.

Financial implications

- 5 The "scheme pays" proposal would be funded through the Tax Policy Scorecard mechanism (the Scorecard).
- 6 The Scorecard is a memorandum account that allows the fiscal impacts of tax policy changes to be offset against one another, rather than being managed through Budget allowances or the between-Budget contingency. Use of the Scorecard requires joint Minister of Finance and Minister of Revenue agreement. The Minister of Finance and I have agreed to use of the Scorecard for this proposal.
- 7 The locked-in KiwiSaver proposal has no fiscal implications.

Background

- 8 Pension transfers to New Zealand, when made outside our four-year transitional residency period, result in New Zealand tax payable at an individual's marginal rate. The tax applies only to the amount of income derived by the pension fund (ie, fund growth) after the person became New Zealand tax resident or after their transitional period ended (where applicable). In some cases, the amount of tax payable can be substantial, such as when a person transfers a sizeable fund many years after becoming New Zealand resident.

Retirement savings transfers to New Zealand: QROPS

- 9 The United Kingdom's (UK) pensions rules are strict. Transfers of pension funds outside the UK are only permitted in limited circumstances, one being where the receiving scheme is a QROPS under UK rules. We understand that, in New Zealand, the majority of QROPS investments are in portfolio investment entities (PIEs).
- 10 Under UK tax rules, many individuals cannot withdraw from either their UK pension fund or the receiving QROPS fund to pay the New Zealand tax bill without incurring a UK unauthorised payment charge of up to 55%. The tax must be paid out of pocket by the individual. This creates a barrier to transfers and has caused hardship for some individuals.
- 11 I propose that a "scheme pays" mechanism is introduced. This would allow the New Zealand QROPS to report the transfer to Inland Revenue and pay the tax due directly from the individual's transferred pension funds (meaning the individual would not need to pay the tax). This mechanism is acceptable to the UK's His Majesty's Revenue and Customs (HMRC) and is also used in Australia to address this problem.
- 12 I propose that it will be mandatory for a QROPS to offer a "scheme pays" option. The following features apply:
- 12.1 The individual will choose whether they personally pay, or the scheme pays, the tax due.
- 12.2 Regardless of the option the individual chooses, the QROPS will be responsible for a monthly digital report of transferred funds. The report should be in the form prescribed by the Commissioner of Inland Revenue.
- 12.3 If the individual chooses "scheme pays", the QROPS will withhold tax at a flat rate of 28% (which is the top rate of tax for PIE investors) and pay it directly to Inland Revenue. Paying tax at a flat rate is much easier for Inland Revenue's systems to administer, especially given the number of individuals likely to be affected. A flat rate avoids the problems that would arise if an incorrect tax rate was applied to the transfer, such as the risk of a refund to the individual in breach of UK rules.

- 12.4 If the individual chooses to “pay as an individual”, they will be required to return the income and pay the tax due at their marginal rate (in accordance with current rules).
- 13 All submitters supported the adoption of “scheme pays”, although some preferred the use of portfolio investment rates (PIRs) over a flat rate. However, the use of PIRs would impose an excessive administrative burden relative to the population size.
- 14 Increased reporting of pension transfers received in New Zealand may assist in addressing some concerns raised about potential misunderstanding of, and non-compliance with, New Zealand’s tax rules.
- 15 To ensure that the new rules work fairly and efficiently and to prevent schemes being left liable for incorrect or incomplete information or without funds to pay the tax due, appropriate conditions will apply to transfers under the “scheme pays” mechanism. In particular, the new rules should apply only to transfers to New Zealand fund providers (as opposed to withdrawals from fund providers, which should be taxable at marginal rates).
- 16 I propose that relevant error and correction provisions in the Income Tax Act 2007 and the Tax Administration Act 1994 apply to reporting, withholding and paying tax due.
- 17 The introduction of “scheme pays” is expected to have an administrative implementation cost of \$1.700 million capital and \$0.800 million operating. Ongoing costs (depreciation and capital costs) will be \$0.795 million over the 2024/25 to 2027/28 years. Inland Revenue will absorb this cost within existing baselines, noting that there is a limit to the level of initiatives that the department can absorb. The design of “scheme pays” contemplates leveraging existing systems and processes for investment income. More than minor changes to the detailed design may incur further costs and may require the application date to be extended.
- 18 The release of “locked-in” KiwiSavers is not expected to have any administrative impact.

Retirement savings transfers to New Zealand: other jurisdictions

- 19 To ensure that transfers from the UK and elsewhere are treated equally, I propose that the “scheme pays” design applies to all transfers of pension funds to New Zealand pension providers¹.

¹ Noting that transfers between Australian superannuation funds and KiwiSaver funds are treated differently under the Trans-Tasman retirement savings portability scheme. This scheme will not be affected by the proposed new rules.

“Locked-in” KiwiSaver schemes

- 20 On 17 June 2015, HMRC tightened the QROPS criteria so that any overseas pension scheme allowing withdrawal before the age of 55 could not qualify. This caused KiwiSaver schemes to lose their QROPS status. As a result, individual members could not transfer their funds to another KiwiSaver scheme without incurring a UK tax charge; they were effectively “locked in” to a particular KiwiSaver provider. “Lock in” also causes residual issues for KiwiSaver providers who wish to merge under-performing or small schemes.
- 21 I propose that the KiwiSaver rules be changed to allow “locked-in” UK retirement savings to be transferred from KiwiSaver schemes into a New Zealand QROPS with the consent of the individual member. This would allow the remaining balance of the KiwiSaver account to be transferred to another KiwiSaver provider without incurring a UK tax charge. HMRC has confirmed that this solution would be effective.
- 22 The release of “locked-in” KiwiSavers is not expected to have any administrative impact.

Application date

- 23 I recommend that the “scheme pays” proposal apply from 1 April 2026. This will allow sufficient time for both Inland Revenue and scheme providers to build the necessary systems.
- 24 I recommend that the “locked-in” KiwiSaver proposal apply from 1 April 2025.

Cost of living implications

- 25 The proposals have no cost of living implications.

Financial implications

- 26 Adoption of “scheme pays” will have a negative impact on tax revenue with a corresponding impact on the operating balance and net debt:

	\$m increase/(decrease)				
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27	2027/28
Crown Revenue and Receipts: Tax Revenue	0.000	0.000	0.000	0.000	(1.600)
	2028/29	2029/30	2030/31	2031/32	2032/33 & outyears
Crown Revenue and Receipts: Tax Revenue	(0.900)	(0.900)	(1.000)	(1.100)	(1.100)

- 27 This should be charged against the tax policy scorecard.

- 28 The changes to release “locked-in” KiwiSavers are not expected to have revenue implications.

Legislative implications

- 29 Implementing these proposals will require changes to the Income Tax Act 2007, the Tax Administration Act 1994, and the KiwiSaver Act 2006.
- 30 If approved, I propose including the legislative changes resulting from these proposals in the next omnibus taxation Bill, scheduled for introduction in August 2024.
- 31 The Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Bill holds a category 5 priority on the 2024 Legislation Programme (to proceed to select committee by the end of 2024).

Impact analysis

Regulatory Impact Assessment

- 32 The Quality Assurance panel at Inland Revenue has reviewed the *UK Pension Transfers – Qualifying Recognised Overseas Pension Schemes (QROPS)* Regulatory Impact Statement prepared by Inland Revenue and considers that the information and analysis summarised in the Regulatory Impact Statement **meets** the quality assurance criteria.

Climate Implications of Policy Assessment

- 33 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to the proposals because the threshold for significance is not met.

Population implications

- 34 The QROPS proposals will affect persons who have worked in the UK and contributed to a UK registered pension scheme. To ensure equity between persons in similar circumstances, “scheme pays” will be available to other persons who have foreign pension schemes (see paragraphs 57). Overall, the proposals are expected to be taxpayer-friendly.
- 35 A flat rate of 28% may affect persons who would be otherwise taxed at a lower rate on their annual income, whereas under the current rules the transferred sum can be taxed at rates up to 39% depending on its size. The overall impact may depend on individual circumstances.

Human rights

- 36 The proposals have no implications for human rights.

Consultation

- 37 Targeted consultation has been undertaken with private sector fund providers and tax advisors, industry representatives and professional bodies in connection with the proposed changes to the pension transfer rules. Officials also consulted the Financial Markets Authority and MBIE concerning these proposals.

Communications

- 38 I will make an announcement regarding the proposals in this paper when the omnibus tax Bill containing the proposals is introduced (currently scheduled for August 2024). A commentary on the Bill will also be released at this time. Inland Revenue will include details of the new legislation in a *Tax Information Bulletin* after the Bill is enacted.

Proactive Release

- 39 I propose to delay the proactive release of this Cabinet paper, associated minutes, and key advice papers until after the introduction of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Bill containing these proposals. The expected introduction date for this Bill is August 2024.

Recommendations

The Acting Minister of Revenue recommends that the Committee:

Qualifying recognised overseas pension schemes

1. **Agree** that there should be a “scheme pays” mechanism for the payment of New Zealand tax due on transfers of pension funds from the UK and other jurisdictions to New Zealand QROPS or other New Zealand schemes (“scheme providers”).
2. **Agree** the “scheme pays” mechanism should have the following features:
 - 2.1. Offering the “scheme pays” mechanism should be mandatory for scheme providers.
 - 2.2. The individual transferee will elect whether to use “scheme pays” mechanism or to pay under current rules.
 - 2.3. Scheme providers will be responsible for providing monthly digital reports of transfers received in the form prescribed by the Commissioner of Inland Revenue and, where applicable, making the payment of the tax due to Inland Revenue.
 - 2.4. Transfers would be subject to tax at a flat rate of 28%.
 - 2.5. The new rules should apply from 1 April 2026.
3. **Agree** that transfers from KiwiSaver accounts of previously transferred UK pension funds to New Zealand QROPS should be permitted from 1 April 2025.
4. **Note** the following changes to tax revenue as a result of recommendations 1 and 2 above, with a corresponding impact on the operating balance and/or net core Crown debt:

	\$m increase/(decrease)				
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27	2027/28
Crown Revenue and Receipts:					
Tax Revenue	0.000	0.000	0.000	0.000	(1.600)
Total Operating	0.000	0.000	0.000	0.000	1.600
	2028/29	2029/30	2030/31	2031/32	2032/33 & outyears
Crown Revenue and Receipts:					
Tax Revenue	(0.900)	(0.900)	(1.000)	(1.100)	(1.100)
Total Operating	0.900	(0.900)	1.000	1.100	1.100

5. **Note** the reduction in tax revenue in recommendation 4 above will be charged against the Tax Policy Scorecard as agreed by Joint Ministers (IR2024/177 refers).

Next steps

6. **Agree** that the above item be included in the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Bill scheduled for introduction in August 2024.
7. **Agree** to delegate authority to the Minister of Revenue to make minor and technical changes to the policy included in this paper before introduction of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Bill.
8. **Agree** to defer the proactive release of this Cabinet paper, associated minutes, and key advice papers until after the introduction of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Bill containing this proposal.

Authorised for lodgement

Hon Nicola Willis

Acting Minister of Revenue



Cabinet Business Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Qualifying Recognised Overseas Pension Schemes

Portfolio Finance / Revenue

On 8 July 2024, the Cabinet Business Committee:

Qualifying Recognised Overseas Pension Schemes (QROPS)

- 1 **noted** that:
 - 1.1 some pension transfers to New Zealand result in New Zealand tax being payable at an individual's marginal tax rate;
 - 1.2 United Kingdom (UK) pension rules restrict the transfer of pension funds and withdrawals from the fund or the receiving QROPS, limiting individuals' ability to pay the resulting New Zealand tax bill;
- 2 **agreed** that there should be a "scheme pays" mechanism for the payment of New Zealand tax due on transfers of pension funds from the UK and other jurisdictions to New Zealand QROPS or other New Zealand schemes ("scheme providers");
- 3 **agreed** that the "scheme pays" mechanism should have the following features:
 - 3.1 offering the "scheme pays" mechanism is mandatory for scheme providers;
 - 3.2 the individual transferee will elect whether to use the "scheme pays" mechanism or to pay under current rules;
 - 3.3 scheme providers will be responsible for providing monthly digital reports of transfers received in the form prescribed by the Commissioner of Inland Revenue and, where applicable, making the payment of the tax due to Inland Revenue;
 - 3.4 transfers will be subject to tax at a flat rate of 28 percent;
 - 3.5 the new rules should apply from 1 April 2026;
- 4 **agreed** that transfers from KiwiSaver accounts of previously transferred UK pension funds to New Zealand QROPS be permitted from 1 April 2025;

5 **noted** the following changes to tax revenue as a result of the decisions in paragraphs 2 and 3 above, with a corresponding impact on the operating balance and/or net core Crown debt:

	\$m increase/(decrease)				
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27	2027/28
Crown Revenue and Receipts:					
Tax Revenue	0.000	0.000	0.000	0.000	(1.600)
Total Operating	0.000	0.000	0.000	0.000	1.600
	2028/29	2029/30	2030/31	2031/32	2032/33 & outyears
Crown Revenue and Receipts:					
Tax Revenue	(0.900)	(0.900)	(1.000)	(1.100)	(1.100)
Total Operating	0.900	0.900	1.000	1.100	1.100

6 **noted** that the reduction in tax revenue above will be charged against the Tax Policy Scorecard, as agreed by the Ministers of Finance and Revenue (IR2024/177);

Next steps

7 **agreed** that the above decisions be included in the Taxation (Annual Rates for 2024– 25, Emergency Response, and Remedial Measures) Bill (the Bill) scheduled for introduction in August 2024;

8 **authorised** the Acting Minister of Revenue (Hon Nicola Willis) to make minor and technical changes to the above policy prior to the introduction Bill.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Christopher Luxon (Chair)
Rt Hon Winston Peters
Hon David Seymour
Hon Chris Bishop
Hon Dr Shane Reti
Hon Simeon Brown
Hon Paul Goldsmith
Hon Louise Upston
Hon Judith Collins KC
Hon Mark Mitchell
Hon Tama Potaka

Officials present from:

Department of the Prime Minister and Cabinet



Hon Simon Watts

Minister of Climate Change
Minister of Revenue

27 AUG 2024

Hon Nicola Willis
Parliament Buildings
Wellington

cc Prime Minister
Secretary of the Cabinet
Commissioner, Inland Revenue

Dear Minister

Change to arrangements regarding responsibility for matters relating to the tax legislative changes for qualifying recognised overseas pension schemes

1. My responsibilities as Minister of Revenue for proposed legislative changes to the tax regime for qualifying recognised overseas pension schemes (QROPS) were transferred to you by letter to you dated 24 June 2024, in order to avoid a perception of a conflict of interest between my personal interest and my responsibilities as Minister of Revenue.
2. I am now amending the arrangements that I put in place at that time, under section 7 of the Constitution Act 1986 and with the Prime Minister's agreement, in order to allow me to progress the Taxation (Annual Rates for 2024-25, Emergency Response, and Remedial Measures) Bill through the House.
3. As a consequence of this:
 - 14.1 I will take the Bill in its entirety through the House (including the parts of the Bill relating to QROPS changes), including making press releases and speeches and answering questions about the Bill;
 - 14.2 information relating to QROPS in relation to the passage of the Bill through the House will be provided to me as well as to you;
 - 14.3 officials will report directly to me on the passage of the Bill, including matters connected to QROPS, and will also keep you informed of the passage of the Bill in relation to QROPS;
 - 14.4 in the event that non-minor changes to those parts of the Bill relating to QROPS need to be considered as the Bill progresses through the House (e.g. as a result of changes recommended at Select Committee), officials will report directly to you on these matters (I will be kept informed but will not participate in any discussions);

- 14.5 if those parts of the Bill relating to QROPS are discussed at Cabinet committee or Cabinet meetings, I will declare my interest and withdraw from the relevant meeting.
4. Where you are required to sign off on decisions relating to the matters above, you should sign off as the Acting Minister of Revenue.

Yours sincerely

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Hon Simon Watts
Minister of Revenue