Regulatory Impact Statement

Review of the requirement to consider income for one-time KiwiSaver withdrawals by previous homeowners.

Agency Disclosure Statement

1. This Regulatory Impact Statement has been prepared by the Ministry of Business, Innovation and Employment (MBIE).

2. It provides an analysis of options regarding the requirement to consider income that applies to previous homeowners wanting to withdraw their KiwiSaver savings one time to buy a home. The focus of this review is the unequal treatment of first home buyers and previous homeowners when they wish to make a KiwiSaver withdrawal to buy their own home. It does not review, and makes no recommendations in respect of, the KiwiSaver scheme, how it operates and whether or not withdrawals should be permitted for homeownership.

3. Proposed options are limited by policy decisions already made by Cabinet and given effect to in legislation. The requirement to consider income is set in the KiwiSaver Regulations 2006. Any amendment would need to be consistent with the purpose and intent of the KiwiSaver Act 2006. The review proceeds on the basis that expanding eligibility based on income considerations is consistent with the purpose and aim of KiwiSaver.

4. Analysis of potential impact has been conducted based on known historic data. This includes records of how many people who applied were declined because their income was too high. In contrast, we do not know how many people do not apply after determining on their own that they are not eligible because their income is too high. We have therefore proceeded on the assumption that future trends will correlate with known data.

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Executive summary

A consideration of income is required under the KiwiSaver Regulations 2006 for previous homeowners wanting to withdraw their KiwiSaver savings one time to buy their own home. This consideration of income does not apply to first home buyers wanting to make a withdrawal.

We consider the implications of current settings, and recommend removing income from consideration by amending the KiwiSaver Regulations. This would ensure equity across the scheme as it applies to previous homeowners and first home buyers. It would also be consistent with the purpose and aims of KiwiSaver.

Status quo and problem definition

Legislative settings

1. The KiwiSaver Act 2006 introduced a voluntary national superannuation scheme aimed at addressing issues with savings and financial literacy among New Zealanders. As stated in the legislation:

   > *The purpose of this Act is to encourage a long-term savings habit and asset accumulation by individuals who are not in a position to enjoy standards of living in retirement similar to those in pre-retirement. The Act aims to increase individuals' well-being and financial independence, particularly in retirement, and to provide retirement benefits.*

2. The default position is that KiwiSaver savings may not be withdrawn until the KiwiSaver member becomes eligible for superannuation at age 65. An exception to this rule is provided to allow first home buyers to make a one-time withdrawal of their KiwiSaver savings to buy their own home. This recognises that individuals who own their own home are more likely to achieve financial independence and a higher standard of living in retirement.

3. Previous homeowners who no longer own a home may also withdraw their KiwiSaver savings to buy their own home. Previous homeowners apply for the withdrawal through their KiwiSaver scheme provider in the same way as a first home buyer. However, the KiwiSaver Regulations 2006 require members to give their provider a 'notice' from the Minister of Housing before the provider may release the members' funds.

4. The KiwiSaver Regulations specify a notice may be granted if "the income, assets, and liabilities of the [previous homeowner] represent a financial position that would be expected of a person that has never held an estate in land". Housing New Zealand Corporation (HNZC) is the delegated agency that conducts this determination of financial position on behalf of the Minister.

5. The way income should be considered is not set out in the Regulations, however in practice income is considered through an income cap set by delegated Ministers. The cap is currently aligned with another measure that the government provides to support homeownership, the KiwiSaver HomeStart grant. Both schemes set their income cap at $80,000 for a single buyer and $120,000 for two or more buyers.

6. Assets are also considered through an asset cap, set at 20 per cent of the HomeStart grant's house price cap that applies in the home's region. This prevents withdrawals from members who already have enough savings to buy a home, supporting the default position that KiwiSaver savings remain in the account until the member retires and qualifies for superannuation.

7. A comparison between the eligibility criteria for the KiwiSaver withdrawal and HomeStart scheme is attached as Annex 1.

Status quo

8. KiwiSaver's current legislative framework supports retirement savings for New Zealanders. The withdrawal to buy a home is allowed as a special exception in a scheme that typically only allows for withdrawal upon retirement. This recognises that people who own their own home are likely to be better off, particularly in retirement. In financial terms, this is largely because income typically falls upon retirement while the cost of rental housing does not.

9. Furthermore, the withdrawal to buy a home better places members to develop long-term savings habits and accumulate assets. Mortgage payments will likely include asset-building principal repayments while rental payments will not. Ultimately, the home withdrawal acts as a means of enabling long-term well-being and financial independence.

Problem definition

10. The KiwiSaver home withdrawal allows members to use their KiwiSaver savings to buy their own home. Policy settings for previous homeowners, through income and asset considerations, attempt to exclude those who have no financial need to withdraw their KiwiSaver savings for this reason. Current settings, however, can undesirably capture and exclude members for whom assistance to buy their own home would be desirable.

11. There is also a disincentive to seek higher earnings for those whose incomes are close to the cap; and a disproportionate penalty when a small pay rise renders a previous homeowner ineligible for the withdrawal. It would generally be sensible for an individual to raise their income to a level at which they can comfortably make mortgage repayments. Yet although this option is available for first home buyers, it is not always available for previous homeowners.

12. A first home buyer earning $100,000 per year can withdraw their KiwiSaver savings, but a previous homeowner earning the same amount cannot. This is particularly challenging for members in areas with higher house prices such as Auckland. We have also received correspondence from sole parents who have sold their home following a relationship breakdown. After leaving their previous home they can find themselves unable to withdraw their KiwiSaver savings to buy their own home, and with no other source to form the necessary deposit.

13. An average of around 200 applications per year have been declined based on income since 1 October 2013, when the income caps were set at current levels. However, this number has increased to around 200 declines in the six months from April to September 2015, following the introduction of the KiwiSaver HomeStart package on 1 April 2015.

Objectives

14. The overarching objective is to ensure homeownership support for previous homeowners is fair within the scope of KiwiSaver and other current government policy. We therefore test each option using the following criteria:

    a. How fair would the settings be as between previous homeowners and first home buyers

    b. How consistent would the settings be with KiwiSaver's aim to support long-term savings

    c. How much more would this option cost the government

Options and impact analysis

15. We consider three potential options:

    a. Option one (recommended): Remove the consideration of income

    b. Option two: Amend the consideration of income

    c. Option three: Status quo

16. Removing the consideration of income for targeted previous homeowners, such as sole parents following a relationship breakdown, is a further possibility. However, we consider this approach would be difficult to administer and may raise New Zealand Bill of Rights and human rights issues around unlawful discrimination. We further note Cabinet rejected this option when it first provided for previous homeowners to withdraw their savings.

17. We also considered potential macroeconomic risks and unintended consequences, including the risk of 'gaming', that may arise from both options one and two. We consider macroeconomic risk would be low in both options given small uptake as a proportion of overall home sales, and as the change is likely to bring forward existing demand rather than create new demand. Gaming risks may arise from members selling their home and buying a new one with their KiwiSaver savings, which would likely go against the intent of KiwiSaver and the withdrawal. We consider that current settings effectively limit risks of gaming, and removing income from consideration would not increase this risk.

Option one (recommended): Remove the consideration of income

18. This option involves amending the KiwiSaver Regulations to remove income from consideration in the test of financial position.

Fairness

19. Removing the income consideration for previous homeowners would completely align the income criteria that apply to previous homeowners and first home buyers. It would no longer be possible to treat previous homeowners differently from first home buyers on the basis of their income.

20. At least 200 new KiwiSaver withdrawal applications would be approved if income considerations did not apply, given there have historically been this many declines. But, allowing for previously ineligible members who knew not to apply, we estimate there may be up to 1,000 new successful applications per year. This is based on historic data including divorce rates, KiwiSaver uptake, KiwiSaver member income, labour force participation and homeownership rates.

21. The high end of the range is more difficult to estimate, as we do not know how many members do not apply after determining that they are not eligible. This number is likely to increase over time as more members become eligible and apply for the withdrawal.

Consistency with KiwiSaver's aim to support long-term savings

22. We consider option one would be most consistent with the aim of KiwiSaver to support long-term savings habits, in this case via mortgage repayments. KiwiSaver aims to encourage a long-term savings habit for those "who are not in a position to enjoy standards of living in retirement similar to those pre-retirement". The issue is one of savings rather than income. "Standards of living in retirement" is placed in the context of an individual's long-term savings, which do not automatically accrue just because the individual earns more than a certain amount.

23. Option one would include those on higher incomes who may have difficulty developing long-term savings habits. Asset considerations would continue to restrict previous homeowners from withdrawing their KiwiSaver savings if they already have sufficient savings to form a deposit for a home. This option would shift the focus away from income and direct it purely to savings, in line with the focus of KiwiSaver.

Cost to government

24. We expect that any costs to the government would be minor. No budget amendments or changes to forecasting would be required other than for HNZC on an operational level. An increase in demand for KiwiSaver withdrawal notices may have administrative implications for HNZC. HNZC have noted they are currently at the capacity of the KiwiSaver Administration appropriation, and additional administration costs of up to $100,000 may arise from a large uptake. Removing income considerations may simplify administration by not having to test for a member's income, and may offset some of these costs.

25. Changing or amending the settings may encourage more people to register for a KiwiSaver scheme. This would create new financial costs through the KiwiSaver interest and member tax credit appropriations. However, we would not expect many new KiwiSaver scheme applications to arise, even from removing the consideration of income altogether, as a member must wait three years before being eligible for a withdrawal.

26. Existing KiwiSaver appropriations would likely cover new KiwiSaver uptake in the short to medium term. Longer-term increases in demand can be accounted for in future appropriations. Nonetheless, we see any increase in KiwiSaver uptake to be positive, as savings are then restricted towards use for the member's well-being in retirement.

Option two: Amend the consideration of income

27. Ministers are able to amend the income consideration and set an income cap amount without any change to the KiwiSaver Regulations being required. The second option is therefore to increase the amount of the income cap that applies to previous homeowners.

Fairness

28. This option increases eligibility for the withdrawal while restricting access against those who may be less likely to need it based on their income. However, regardless of the level at which the income cap is raised there would continue to be different treatment between first home buyers and previous homeowners. The equity problem would therefore continue to exist should this option be implemented, albeit shift from one set of income caps to a higher set.

Consistency with KiwiSaver's aim to support long-term savings

29. Although this option would increase the number of members eligible to make a withdrawal to buy their own home, it would still draw the line somewhere, meaning some members with higher incomes would be excluded. Yet, members with higher incomes are not necessarily better placed to develop long-term savings habits. They too can benefit from the additional savings that would occur via mortgage repayments.

Cost to government

30. Having different income caps across schemes is likely to be confusing for both applicants and administrators. This is recognised in the current settings that align caps across the schemes despite their differences. Different caps may result in a greater likelihood of processing errors and longer processing times, leading to higher costs for HNZC and frustration for the public.

31. Amending the consideration of income may also encourage increased uptake in KiwiSaver. However, to the extent that income considerations are amended, the impact on uptake would be less than the impact of removing income considerations altogether. We consider increased KiwiSaver uptake to be positive, despite the additional cost that would arise through KiwiSaver appropriations. As this option would not encourage uptake to the same extent as removing the consideration of income, we consider this option would be less desirable.

Table 1: Options for reviewing the consideration of income for KiwiSaver withdrawals by previous homeowners, compared to the status quo

Criteria	Remove income consideration (recommended)	Amend income consideration
Fairness	More fair	Similar fairness
Consistency with KiwiSaver aim to support long-term savings	More supportive	Slightly more supportive
Cost effectiveness	Slightly higher cost	Slightly higher cost

Consultation

32. Treasury, the Inland Revenue Department, HNZC and Workplace Savings[1] have been consulted in the drafting of this policy proposal.

33. We have incorporated feedback from these agencies into this Regulatory Impact Statement. Treasury, HNZC and Workplace Savings are supportive of the policy change. Workplace Savings confirms it is likely to have little or no administrative and cost impact on KiwiSaver providers. Inland Revenue had no comments to make.

Conclusions and recommendations

34. We recommend amending the KiwiSaver Regulations to remove the consideration of income that applies to previous homeowners wanting to withdraw their KiwiSaver savings to buy their own home. This best addresses the unequal treatment between first home buyers and previous homeowners regarding income.

35. Although it is possible this option will cost more than the status quo, any such costs are minor and outweighed by the benefits. Removing the consideration of income would encourage the use of savings for long-term well-being through homeownership. Ultimately, this would allow more New Zealanders an opportunity to ensure their well-being and financial independence in retirement.

Implementation plan

36. HNZC will continue to administer the assessment of financial position for previous homeowners, and will therefore be most affected by the proposed change. Given an expected annual increase in uptake of between 200 to 1,000 applicants, we expect the administrative impact will be minor.

[1] Workplace Savings is an industry group representing the interests of a wide range of superannuation scheme stakeholders, and whose membership includes KiwiSaver scheme providers.

37. As part of the standard legislative process, a change to the KiwiSaver Regulations would only take effect 28 days after notification in the *New Zealand Gazette*.

Monitoring, evaluation and review

38. The primary measure of the impact of this proposal will be the uptake in KiwiSaver withdrawals by previous homeowners. HNZC already collects this data, including the number of applications received and granted. This data is made publicly available through HNZC's financial products quarterly reporting, accessible at: <http://www.hnzc.co.nz/our-publications/Financial-Products-Quarterly-Report/>.

39. Secondary measures relate to the administrative cost and macroeconomic impact arising from uptake in the KiwiSaver withdrawal from previous homeowners. Appropriations, including the HNZC administration appropriation, are reported on and reviewed under existing processes. The extent of any macroeconomic impact will come through HNZC's reporting in comparison to publicly released sales volumes data.

40. MBIE reviews the progress of all homeownership support products as part of its regular monitoring activities. We do not envisage additional reporting or review requirements arising from the recommended change.

Annex 1: Eligibility criteria for KiwiSaver first home withdrawal and KiwiSaver HomeStart grant

<table>
<tr><td>Scheme</td><td>First home withdrawal</td><td>First home withdrawal (previous homeowners)</td><td>HomeStart grant (first home buyers)</td><td>HomeStart grant (previous homeowners)</td></tr>
<tr><td>Benefit</td><td colspan="2">Withdraw KiwiSaver savings (less $1,000)</td><td colspan="2">Grant of up to $5,000 to buy an existing home ($10,000 for 2+ buyers), double for a new home</td></tr>
<tr><td>Years of KiwiSaver membership</td><td colspan="2">3</td><td colspan="2">3 years of meeting at least the minimum employer contribution rate[1] (maximum grant after 5 years)</td></tr>
<tr><td>Income cap</td><td>Nil</td><td colspan="3">$80,000 ($120,000 for 2+ buyers)</td></tr>
<tr><td>Asset cap[2]</td><td>Nil</td><td>20% of the HomeStart house price cap for the relevant region[3]</td><td>Nil</td><td>20% of the HomeStart house price cap for the relevant region[3]</td></tr>
<tr><td>House price cap</td><td colspan="2">Nil</td><td colspan="2">Yes[3]</td></tr>
<tr><td>Occupancy requirement</td><td colspan="2">Home must be declared principal place of residence</td><td colspan="2">Must live in the home for 6 months from settlement date</td></tr>
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Further notes:

- A member may not make a KiwiSaver withdrawal or receive a HomeStart grant more than once
- Applicants cannot currently own a home or land

1. The minimum KiwiSaver contribution rate is currently set at 3% of income.
2. Considered to be ‘net realisable assets’, including: all money held in a bank account, fixed and term deposit; shares, stocks and bonds; investments in banks or financial institutions; money paid to or held by a real estate agent or solicitor as a deposit on a home; boats or caravans valued over $5,000; vehicles not used as usual method of transport; other assets valued over $5,000. Does not include any savings held in the KiwiSaver account.
3. The house price caps are:
   - **$550,000** Auckland;
   - **$450,000** Wellington, Queenstown, Christchurch, Selwyn District, Hamilton, Tauranga, Western Bay of Plenty, Hutt City, Porirua, Tasman, Nelson, Waimakariri, Upper Hutt and Kapiti Coast;
   - **$350,000** all other areas.