

Impact Summary: Rates Rebate (Statutory Declarations) Amendment Bill

Section 1: General information

Purpose
<p>The Department of Internal Affairs is solely responsible for the analysis and advice set out in this Regulatory Impact Assessment, except as otherwise explicitly indicated.</p> <p>This analysis and advice has been produced for the purpose of informing final decisions to proceed with a policy change for Cabinet consideration.</p>

Key Limitations or Constraints on Analysis
<p>This analysis is limited to changes necessary to remove the requirement to make a statutory declaration when applying to the Rates Rebate Scheme (the Scheme). The proposal was scoped narrowly to support a quick and targeted amendment to remove a known barrier to effective and efficient administration of the scheme that may be limiting access.</p> <p>Cabinet has already determined to remove the statutory declaration requirement [SWC-19-MIN-0094 and CAB-19-MIN-0401]. This was decided when Cabinet considered the Minister of Local Government’s report assessing the uptake of the Scheme and the need to drive uptake or alter settings within the Scheme in August 2019¹. Preliminary policy work to consider the removal of the statutory declaration requirement from the Scheme was undertaken prior to Cabinet’s decision, with a view to including the proposal in a Statutes Amendment Bill (SAB). However, the change did not receive support from all parliamentary parties so could not proceed via the SAB. There is no quantitative data on the number of applicants affected by the problem outlined in this RIA. For example, there is no data on the number of applicants who are eligible for a rates rebate, but do not apply because of the statutory declaration requirement. Because of this constraint on data, projection modelling was not possible.</p> <p>Qualitative data from user stories and pilots of an online application was available. This data identified the significance of the statutory declaration as a barrier to applying and burden the declaration puts on the application process.</p>
Responsible Manager (signature and date):

¹ Cabinet report and minutes available at www.dia.govt.nz/Proactive-Releases#LG.

Raj Krishnan

General Manager Policy

Department of Internal Affairs

Section 2: Problem definition and objectives

2.1 What is the policy problem or opportunity?

The Scheme is a central government funded rebate for low income ratepayers. Applicants apply to local authorities, who then grant the rebate and are subsequently refunded by central government. In 2017/18, approximately 97,500 rebates were claimed. It is estimated that between 100,000 and 105,000 rebates will have been claimed for the 2018/19 rating year.

The application process for the Scheme is set out in the Rates Rebate Act 1973. Applicants are currently required to make a statutory declaration to verify the information they have provided is true and correct as part of the application process. This requires applicants to be physically present at council offices or meet with an authorised person (such as a Justice of the Peace) to complete an application. It is both an offence for an applicant to wilfully provide false or misleading information in their application and to declare false or misleading information to be correct and true.

The statutory declaration creates physical and financial barriers to the Scheme

79% of applicants to the Scheme in 2017/18 were superannuitants. The 2013 Disability Survey found 49% of those over 65 have a physical disability. Based on these figures, we may assume that many applicants to the Scheme can have declining physical mobility, impacting their ability to get to a council office. In this case, some applicants will still go to council offices, despite the difficulty it causes them.

The requirement to be physically present also leads to costs incurred for travel, whether public or private transport. The travel costs can particularly impact on applicants in rural communities who are less likely to have access to good transport options. These costs reduce the net benefit available for these applicants, and can amount to a sizeable proportion of the modest sum available annually. It can also be embarrassing or stressful for some applicants to apply for a rebate face-to-face, particularly in smaller communities where they are well known. These negative consequences may discourage some eligible applicants from applying for the Scheme, or reduce the net benefit available to them from the rebate. Overall this reduces the effectiveness of the Scheme to assist with the affordability of rates.

Local authorities incur costs to mitigate these barriers

There is a cost associated with the requirement for a statutory declaration for local authorities. Many local authorities have staff conduct home visits to applicants who are unable to travel, or for whom travelling would cause significant physical stress, e.g. elderly or disabled applicants. During busy times, extra staff are required to witness statutory declarations. Requiring a statutory declaration creates a significant opportunity cost because it prevents councils from using technology to improve the efficiency of processing applications.

The statutory declaration does not provide a benefit that offsets the negative impacts

The Department considers the statutory declaration is an unnecessary requirement in the application process. The purpose of a statutory declaration is for the applicant to declare they have provided true and correct information on their application form. However, in the Rates

Rebate Scheme 1973, in addition to it being an offence to make a false declaration, it is also an offence to: provide a false statement; to wilfully mislead anyone involved in administration of the Scheme; and to provide a false or misleading answer to any question. Therefore, in the absence of a statutory declaration, there are still sufficient measures in place to address fraudulent claims and to deter them.

The Department considers those intending to make fraudulent claims to be unlikely to be deterred by the need to make a statutory declaration. Furthermore, if the statutory declaration does have an element of fraud deterrence, this function can be met through alternative means that do not require applicants to be physically present.

Removing the statutory declaration requirement would enable an online application process

DIA's Service Innovation Lab has trialled an online application process for the Scheme to improve the accessibility of the application process. This was initially successfully trialled with one council, with the trial extended to three councils from May to June 2019. This trial involved applicants filling out an online form instead of the traditional paper form. As there is still a legislative requirement for a statutory declaration to be made, applicants then attended the council office to make a declaration to complete the application.

Removing the statutory declaration requirement would enable this trial to evolve into a nationwide online application process alongside the current paper application process, if deemed to be operationally feasible. Implementing an online application system is an operational decision that will be made separately from this proposal.

Evidence of the negative impact of the statutory declaration

The Service Innovation Lab mapped the application process as part of their online application trial, which supports the Department's view the statutory declaration does not serve any practical purpose in the application process that could not be met through other means. They have also released a research report into the application process for the Rates Rebate Scheme, where the statutory declaration is identified as a significant barrier for potential applicants.² The Department has a range of user stories from council rating officials, detailing the problems the statutory declaration requirement causes to applicants and councils. We discussed these problems directly with council officials through the Society of Local Government Managers (SOLGM).

The Department's evidence base would be better supported with quantitative data on the number of eligible applicants who abandon their application due to the statutory declaration requirement. However, this data does not exist. It is not possible to test a scenario where the statutory declaration is removed from the application process as it is a statutory requirement.

2.2 Who is affected and how?

² Service Innovation Lab, *Research Report: Rates Rebate Beta*, July 2019.

Removing the statutory declaration will benefit those eligible for the Scheme (low-income ratepayers) and local authorities. Eligible ratepayers who would apply for the scheme regardless of the statutory declaration will benefit by not incurring the physical and financial costs of having to be physically present. Eligible ratepayers who would otherwise be discouraged from the physical and financial barriers of the statutory declaration will benefit from applying and receiving the rates rebate. Local authorities will benefit by the reduced cost of administering the Scheme.

Through the user stories provided to the Department, applicants to the Scheme and local authorities have both expressed support for the removal of the statutory declaration requirement.

2.3 Are there any constraints on the scope for decision making?

Cabinet has already agreed to remove the statutory declaration requirement when considering the Minister of Local Government's report back on the settings and uptake of the Scheme.

The scope is limited to the removal of the statutory declaration requirement when applying for a rates rebate. This narrow scope is to enable a quick and targeted change to the Scheme that would support applicants and local authorities, without broader consideration of the Scheme.

The Productivity Commission's local government funding and finance inquiry (the Productivity Commission Inquiry) draft report has recommended the Scheme be abolished and replaced with a national rates postponement scheme. The Productivity Commission Inquiry is expected to deliver its final report to the Government on 30 November 2019. The Government's response to the Productivity Commission's final recommendations will be a long-term work programme. This discrete change is proposed in the short-term to help optimise the existing Scheme and does not affect decisions that could be taken on the long-term approach to the Scheme.

In addition, the Department is aware of other issues with the Scheme, including:

- ineligibility of householders with certain types of property interests, such as homes located on Māori freehold land;
- the exclusion of water and wastewater charges billed by independent entities, such as Watercare, from the total rates calculation for the rebate;
- the gradual reduction in the eligibility of some applicants, such as married superannuitants, due to the current adjustment mechanism; and
- the overlap between the Scheme and other government support, such as the accommodation supplement.

However, the proposal contained in this RIA can be made without requiring broader consideration of these issues.

Section 3: Options identification

3.1 What options have been considered?

Options

There are three viable options, aside from the status quo, all of which remove the statutory declaration requirement. Each option would remove the statutory declaration barrier to the Scheme and reduce the costs incurred by applicants and local authorities, making it easier for applicants to apply for rates support from central government.

The first option is to prescribe a form of verification in the Act that does not require the applicant to be physically present. The Act could specify a form of verification other than a statutory declaration, for example a signature box on the application form that asks applicants to verify that what they have written is true and correct.

The second option is to include an administrative provision in the Act for there to be a prescribed form of verification. This option would replace the statutory declaration with an administrative power to the Secretary for Local Government to determine the verification required for an application. Should the Secretary for Local Government approve it, this would allow applicants to verify the information they have provided in their application is true and correct without having to be physically present.

The third option is to delete the requirement for a statutory declaration and not replace it. Since it is an offence in the Act to knowingly give false or misleading answers in the application form, in the absence of a verification statement there are still measures to protect against the risk of fraud. The design of the application form could still fulfil the function of requiring applicants to assert the truth of the application, and alerting applicants to the consequences of submitting a false application. These would be regarded as administrative matters, rather than a legislative requirement.

Criteria

The following criteria were used to assess the likely impacts of these options:

- Whether the accessibility of the Scheme would be improved.
- Whether penalties for submitting false information would be enforceable.
- Whether the Scheme would be efficient to administer.
- Whether there was any increased risk of fraud associated with the application process.

Each option improves accessibility to the Scheme and retains current penalties for submitting false information. Adding a legislative requirement for an alternative form of verification would provide certainty but lose the benefits of flexibility, including benefits that may be realised from an online application process. Conversely, option three would provide a high level of flexibility but less certainty and clarity. Of the three options, our preference is for option two: enabling the Secretary of Local Government to set the necessary verification requirements and stating this in the legislation.

Perceived risk of fraud

Removing the requirement for a statutory declaration may create the perception it would be easier for applicants to fraudulently claim a rebate. However, when witnessing a statutory declaration, council officers (or other authorised witnesses) are not required to verify whether the information provided is correct. Instead, the purpose of a statutory declaration is for the applicant to confirm the information they have provided is correct. The decision about what fraud prevention checks are necessary is an operational decision made based on the level of perceived risk, rather than needing to be prescribed in the legislation. The Department considers the risk of fraud to be low for the following reasons:

- the Department is not aware of any prosecutions under the Act;
- there is a small number of allegations of incorrect applications (less than 10) each year. These are typically resolved by the provision of further information by the applicant;
- the Scheme is targeted at a small group of people (ratepayers on low incomes), who are easily identifiable by checking the ratepayers' database;
- the benefits from defrauding the Scheme are minimal (a current maximum rebate of \$640) and the risks are high (imprisonment of up to 12 months and a fine of up to \$500); and
- given the modest sums available under the Scheme, anyone who did apply fraudulently to the Scheme is likely to be involved in other fraudulent activity and therefore subject to other checks such as the Ministry of Social Development's auditing processes.

However, out of the three options, the third may pose the greatest risk of increasing the fraudulent claims as the verification statement may encourage applicants to consider the seriousness of providing incorrect information.

Another risk that all three options share is that there won't be enough funding in the appropriation for an increase in uptake from the Scheme that may arise from making it easier for eligible applicants to apply to the Scheme. There is no data on the number of eligible applicants who do not apply because of the statutory declaration requirement. However, there is existing headroom in the Rates Rebate Appropriation that the Department is confident will cover any increased uptake from this proposal. There still, however, remains some risk that there won't be enough funding in the appropriation.

3.2 Which of these options is the proposed approach?

The preferred option is to replace the statutory declaration requirement with an administrative power to the Secretary for Local Government to specify the required verification for an application. This would:

- remove a barrier for eligible applicants that are currently discouraged from applying to the Scheme because of the statutory declaration requirement; and
- reduce the administrative burden currently faced by local authorities, as they would be required to conduct fewer home visits and witnessing of statutory declarations

- carry a lower risk of increasing fraud than not replacing the requirement of a statutory declaration.

This option would also enable an online system to be implemented alongside the existing channel and support the work being done by the Service Innovation Lab. Implementing an online system is an operational decision that will be made separately from this proposal.

The preferred option is compatible with the Government's 'Expectations for the design of regulatory systems'.

Section 4: Impact Analysis (Proposed approach)

4.1 Summary table of costs and benefits

Affected parties (<i>identify</i>)	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	Impact <i>\$m present value, for monetised impacts; high, medium or low for non-monetised impacts</i>
---	--	--

Additional costs of proposed approach, compared to taking no action

Regulated parties (applicants)	None	None
Regulators	There may be an increase in applicants to the Scheme from removing the statutory declaration barrier.	Low
Wider government (local and central government)	Support to local authorities to understand the changes Increased rates rebates granted from removing statutory declaration barrier	Low Low
Other parties		
Total Monetised Cost		
Non-monetised costs		<i>Low</i>

Expected benefits of proposed approach, compared to taking no action

Regulated parties (applicants)	Ongoing reduction in costs incurred to apply to the Scheme There may be an increase in applicants to the Scheme from removing the statutory declaration barrier.	Medium Low
Regulators		
Wider government (local and central government)	Ongoing reduction in local authority staff needed to support applications	Medium
Other parties		
Total Monetised Benefit		
Non-monetised benefits		<i>Medium</i>

4.2 What other impacts is this approach likely to have?

Refer to section 3.

Section 5: Stakeholder views

5.1 What do stakeholders think about the problem and the proposed solution?

Stakeholders are territorial authorities, which administer the Scheme, applicants to the Scheme, and those who are eligible for the Scheme but do not currently apply.

We consulted with SOLGM to elicit the views of territorial authorities, as well as the territorial authorities involved in the online trial undertaken by the Department's Service Innovation Lab. As discussed in section 2.1, the Department was provided with applicants' user stories by territorial authorities included in the online trial. We also discussed the proposal with members of the Service Innovation Lab's team working on the online rates rebate application trial, who engaged with users of the Scheme in the course of the trial.

Consulted stakeholders share the same view as the Department as to the nature of the problem created by the statutory declaration requirement and support the proposed approach to replace it.

Our analysis indicates the issue does not affect Māori in particular. As a result, there has not been any consultation with iwi, hapū or Māori organisations.

The Department of the Prime Minister and Cabinet, Parliamentary Counsel Office, Ministry of Defence (Veteran's Affairs), the Treasury, The Ministry of Social Development (Disability Issues, and Seniors), Te Puni Kōkiri, and the Ministry of Justice were consulted on a draft Cabinet paper for this proposed change. The Ministry of Defence (Veteran's Affairs) and the Ministry of Social Development (Disability Issues, and Seniors) all expressed support for the proposed approach. No agencies raised concerns with the proposal.

Section 6: Implementation and operation

6.1 How will the new arrangements be given effect?

The proposed approach will be given effect through an amendment bill to the Rates Rebate Act 1973. The Bill has a category three priority on the 2019 Legislation Programme (to be passed in 2019 if possible). The new arrangements will come into effect three months after the date of Royal assent to allow time for necessary administrative changes and to provide information to local authorities. If the Bill is passed in 2019, the new arrangements will likely commence around April 2020.

Application forms are updated and reprinted for the beginning of each rating year (1 July). The proposed change would enable the Secretary for Local Government to allow the current form with a statutory declaration to be used alongside other forms of verification until 30 June 2020. This would reduce administrative costs by enabling the current supply of application forms to be used.

The Department will continue to be responsible for ongoing operation and enforcement of the new arrangements. Local government will continue to administer the Scheme with applicants. No concerns have been raised about their ability to do this as a result of this change.

The only identified implementation risk is that local authorities will not be aware of the change, meaning the benefits may not be realised by local authorities or applicants. Local authorities will be made aware of this change through existing communication channels during the three-month period mentioned above.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

The Department monitors the number of applications received. We will monitor these numbers to see if the change has had an overall impact on the number of people applying for a rebate. If an online application process is implemented, we will also seek feedback from the pilot councils as to the impact of the change. This feedback could take the form of updated user stories following implementation.

7.2 When and how will the new arrangements be reviewed?

The Department regularly discusses challenges for the local government sector with the Society of Local Government Managers and Local Government New Zealand. The local government sector will have opportunities to raise any concerns as a result of the proposed changes through these groups. The Department does not plan to review these changes unless concerns are raised.

The Productivity Commission's final report into local government funding and finance, due 30 November 2019, may include a recommendation for a broader review of the Scheme. Any concerns raised as a result of the proposal in this RIA will be considered as part of the work programme that arises from the Government's response to the Productivity Commission's final report.