

Regulatory Impact Statement: Taxation of transfers from overseas pension schemes

Coversheet

Purpose of Document	
Decision sought:	Analysis produced for the purpose of informing final Cabinet decisions
Advising agencies:	Inland Revenue
Proposing Ministers:	Minister of Revenue and Minister of Finance
Date finalised:	23 May 2024
Problem Definition	
There are two related problems:	
1.	Some migrants ¹ who transfer United Kingdom (UK) pension funds to a New Zealand qualifying recognised overseas pension scheme (QROPS) struggle to pay the New Zealand tax due from personal funds. This causes hardship and may be a barrier to pension transfers.
2.	UK pension funds transferred to KiwiSavers prior to 17 June 2015 are unable to be transferred or managed without UK tax implications (“locked-in KiwiSavers”). This causes issues for migrants and KiwiSaver providers.
Executive Summary	
<p>The United Kingdom’s revenue authority, His Majesty’s Revenue and Customs (HMRC), allows an individual’s UK retirement funds to be transferred to a QROPS when the individual emigrates.</p> <p>A QROPS must satisfy various criteria which ensure migrants cannot access their retirement funds sooner overseas than they would have been able to in the UK. Transfers to schemes that are not QROPS are designated unauthorised by HMRC and attract a UK tax charge of up to 55%.</p> <p>Pension transfers to New Zealand QROPS are taxable in New Zealand to the extent the migrant is not entitled to the benefit of the concessionary transitional residence regime. Under this regime, new migrants are not taxed on foreign sourced income for the first four years of their tax residence in New Zealand. Broadly speaking, the income on transfer is treated as a “catch up” of income that would have been earned had the fund been held in New Zealand and taxed under our rules in each year the individual was tax resident. The income is taxed at the migrant’s marginal rates. In practice this means a portion of the transferred funds will be taxed in New Zealand, with that portion growing the longer the migrant has been resident here before transferring the funds.</p>	

¹ In this document, the word ‘migrant’ means any individual who has moved to New Zealand from another country. This includes individuals moving to New Zealand for the first time and individuals returning to New Zealand after a period of time living overseas.

Like transfers to non-QROPS, withdrawals from QROPS before the age of 55 (the UK's minimum retirement age) are subject to unauthorised payment charges. Under the KiwiSaver rules, a migrant can withdraw money from the KiwiSaver to pay the New Zealand tax due. However, for transfers to a QROPS, a withdrawal to meet a New Zealand tax liability is subject to an unauthorised payment charge like any other withdrawal.

While the QROPS regime was intended by HMRC to make the retirement funds of UK emigrants more mobile (without creating opportunities for tax avoidance), two problems have arisen undermining this objective for emigrants to New Zealand. These are:

- 1) The inability for some migrants to pay the New Zealand tax due on transfer to a QROPS without withdrawing funds from the scheme.
- 2) The existence of "locked-in" KiwiSavers.

Resolving these issues requires legislative change in New Zealand to amend the relevant provisions for pension transfers.

Issue 1: Payment of tax on QROPS transfers

Some UK emigrants who transfer their retirement funds to a QROPS after many years in New Zealand are met with a substantial New Zealand tax liability which they struggle to pay without accessing the retirement funds. As described above, a withdrawal from the fund to pay the tax triggers UK unauthorised payment charges. The personal liability for the New Zealand tax payment and the risk of the UK's tax charge creates a barrier to QROPS transfers.

Option 1 – Status quo

The obligation to pay tax on pension transfer will continue to fall on the migrant, causing hardship in some cases. Migrants may leave their funds in the UK because of the tax barrier, which is contrary to the intent of the rules.

Option 2 – Scheme pays – flat rate (preferred option, recommended in Cabinet paper)

A migrant wanting to transfer their UK pension funds to a QROPS would be able to elect to have the QROPS provider be liable for the New Zealand tax on their transfer and to pay that tax out of the transferred funds (referred to hereafter as "scheme pays"). The tax would be at a flat 28% rate. The migrant would be liable for the correctness of the information provided and any deficiency in the tax paid. No UK tax charges would apply, because the scheme would be liable for the tax and no funds would flow to the migrant personally. QROPS would be required to do monthly information reporting on transfers to Inland Revenue. QROPS would be required to offer the scheme pays option, which migrants could elect to adopt.

Schemes receiving transfers from other countries would also be required to offer the option to ensure the treatment does not discriminate based on the fund's origin.

Inland Revenue and scheme providers will require time to implement the necessary system changes. Accordingly, officials propose that scheme pays is introduced from 1 April 2026.

Option 3 – Scheme pays – prescribed investor rate

Same as option 2 but using the migrant's prescribed investor rate (PIR) instead of a flat 28%. This would reduce the transfer tax for lower-income migrants.

Impact of preferred options

Providing for a QROPS to withhold and remit transfer tax at 28% on the migrant's behalf would ensure that migrants are able to use the transferred funds to pay the New Zealand tax due. This would remove the tax barrier to pension transfers in a relatively simple way. Migrants would still have the option to pay the tax themselves if they wanted the benefit of a lower rate. In addition, there is anecdotal evidence of non-compliance under the status quo, with some migrants not returning tax on the transferred funds in their IR3 tax return. There is an opportunity to improve understanding of, and compliance with, New Zealand's foreign superannuation rules by introducing scheme pays.

Issue 2: Locked-in KiwiSavers

In 2015, KiwiSaver schemes ceased to be QROPS. and some migrants reportedly still have "locked-in" funds which cannot be transferred to any other KiwiSaver without triggering UK tax charges. This creates issues both for migrants wanting to move their funds to another scheme, and for KiwiSaver providers wanting to merge schemes with low participation.

Option 1 – Status Quo

Migrants in "locked-in KiwiSavers" are subject to UK rules for a specified period (generally five UK tax years for this population). Fewer individuals should be affected over time because the UK rules ceased to apply to them and their fund. However, scheme providers remain affected by UK reporting requirements for an ongoing period, so they would need to report any unauthorised transfers to HMRC. Further, both migrants and funds are unable to transfer or manage their funds as permitted by the KiwiSaver rules.

Option 2 – Election to transfer locked-in KiwiSaver funds to QROPS (preferred option, recommended in Cabinet paper)

The KiwiSaver provider would be able to choose to move locked-in UK funds from KiwiSaver into a QROPS (subject to the migrant's consent), leaving the remaining funds in the KiwiSaver.

Officials propose that the election be available from 1 April 2025.

Option 3 – One-off expulsion of all locked-in KiwiSaver funds into QROPS

On a particular day, all locked-in UK funds in KiwiSavers would be compulsorily expelled into a QROPS.

Impact of preferred option

Allowing a KiwiSaver provider to move locked-in UK funds into a QROPS would give the provider and the migrant the flexibility to change KiwiSaver providers and reorganise KiwiSaver investments without UK tax risk.

Stakeholder views

Officials undertook three rounds of targeted consultation with scheme providers and representative bodies between 2018 and 2024. Stakeholders are generally supportive of officials' preferred options.

Stakeholders supported the introduction of a scheme pays mechanism. Some would prefer scheme pays with PIRs, but still favour officials' preferred options over the status quo.

With regards to "locked-in KiwiSavers", the majority did not comment. Those who did comment supported officials' proposal, but one stakeholder favoured one-off expulsion of all locked-in KiwiSaver funds into a QROPS.

Limitations and Constraints on Analysis

One important limitation is the acceptability of an option to HMRC. Given that the policy issues relate to the prospect of UK tax charges being imposed, it is essential for any solution to have HMRC's approval. The driver for policy changes is largely UK tax concerns, not New Zealand ones.

A second limitation is the acceptability of an option for stakeholders – in particular, pension scheme providers. It is providers who will bear the bulk of the costs of implementing any policy solution.

A third limitation is the availability of Inland Revenue resources to continue refining solutions to policy problems that first arose in 2015. By now there is a strong imperative to implement a solution that is an improvement on the status quo, even it is not regarded by all stakeholders as the optimal one.

A fourth limitation is the lack of data on certain aspects of the policy issues.

- In relation to the tax on transfer issue, we do not know to what extent pension transfers to New Zealand from countries other than the UK pose problems, or even occur. This is due to the non-availability of disaggregated return data in relation to overseas pension transfers. Accordingly, the proposal to make it compulsory for all schemes to offer scheme pays – not just QROPS – is driven more by fairness considerations than by evidence of a particular problem with non-UK transfers.
- On the locked-in KiwiSaver issue, we have relied on anecdotal evidence from providers and providers' concern over their UK tax reporting obligations.

A fifth limitation is that the administrative burden should not be excessive relative to the size of the affected population. This makes some policy options significantly cheaper and easier to administer than others.

Responsible Manager(s) (completed by relevant manager)

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23 May 2024*

Quality Assurance (completed by QA panel)

Reviewing Agency: Inland Revenue

Panel Assessment & Comment:

The Quality Assurance reviewers from Inland Revenue have reviewed the Regulatory Impact Statement: UK Pension Transfers – Qualifying Registered Overseas Pension Schemes (QROPS) prepared by Inland Revenue and consider that the information and analysis summarised in the RIS meet the quality assurance criteria.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. The United Kingdom (UK) and New Zealand have different models for taxing retirement savings. Under the UK's model, savings are exempt from tax on contribution and growth and taxed on distribution. Under New Zealand's model, by contrast, savings are taxed on contribution and growth and exempt on distribution.
2. Because UK residents enjoy the benefit of tax-free accumulation of retirement savings in registered pension schemes, HMRC has comparatively strict rules to ensure individuals cannot easily access their funds prematurely and avoid UK tax by moving overseas, transferring their pension funds to the destination country, and then withdrawing the funds tax free there. HMRC only allows tax-free transfers to 'qualifying recognised overseas pension schemes (QROPS)' – overseas pension schemes which undertake to comply with UK rules. On transfers to non-QROPS, the HMRC imposes tax charges of 40% to 55%. It imposes comparable tax charges on withdrawals from QROPS. The UK rules are complex but, generally speaking, charges can apply to migrants for up to ten years after they cease UK tax residence.
3. Meanwhile, New Zealand taxes transfers from overseas pension schemes to the extent the migrant is not a transitional resident² and thus exempt from New Zealand tax on their passive foreign-sourced income. The income accrued in the scheme since the date the migrant became tax resident is taxable at marginal rates (although most transferees use a simplified method to calculate this). The assessable amount of income is reported and paid via the migrant's IR 3 income tax return.
4. The payment at transfer is a 'catch up' of tax payments that would have been made had the fund been held in New Zealand and taxed under our rules since the person first became resident (or since their period of transitional residence ended, if later). This means that no New Zealand tax is payable if the migrant transfers their overseas pension funds here while a transitional resident, but the portion of the transferred funds accrued after the transitional period ends is subject to New Zealand tax at the migrant's marginal rates. This portion increases the longer the migrant waits to transfer their overseas pension funds here. This is most simply demonstrated by the portion chargeable under the schedular method for calculating the assessable income in these circumstances. If the transfer is made in schedule year 5, the portion charged is 23.07% of the fund. In year 20, it is 82.28%.³
5. The interaction of the UK's and New Zealand's tax regimes for pensions has given rise to two problems, which are outlined in the next section. Given that both countries'

² Broadly speaking, 'transitional residents' are individuals who have never been resident in New Zealand before or returning New Zealanders who have been absent for at least 10 years. The transitional residence period lasts four years, and during this period the individual is not required to pay New Zealand tax on any passive foreign-sourced income. An individual can only be a transitional resident once in their lifetime.

³ See section CF 3 and schedule 33 of the Income Tax Act 2007.

regimes are well-established, at least one of these problems seems very likely to persist unless there is a targeted policy change to address it.

What is the policy problem or opportunity?

6. The first and primary problem is that many UK emigrants who transfer their retirement funds to a QROPS after many years in New Zealand are met with a substantial tax liability which they struggle to pay without accessing the retirement funds. But doing so triggers UK tax charges. These create a barrier to QROPS transfers.
7. The second problem is that, as of 17 June 2015, KiwiSaver schemes ceased to receive QROPS transfers⁴ and some individuals reportedly still have 'locked-in' funds which cannot be transferred to any other KiwiSaver without triggering UK tax charges. This creates issues both for individuals wanting to move their funds to another scheme, and for KiwiSaver providers wanting to merge schemes with low participation.
8. According to Inland Revenue data, as of March 2021 there were 38 QROPS in NZ, with 12,229 members in complying funds and 4,669 members in legacy schemes. In 2021-22, 2,700 individuals reported receipt of a foreign superannuation withdrawals or transfer. The data does not specify the source of the income or whether it is a transfer. In 2022-23, 458 people reported receipt of a foreign superannuation withdrawal or transfer, with 113 reporting that the amount was sourced in the UK (chiefly England).
9. As such, the number of migrants potentially affected by the transfer issue each year are in the hundreds or low thousands at most. Of those who file their annual tax return indicating income from foreign superannuation withdrawals or transfers per year, it is not known how many are unable to pay tax arising from a transfer.
10. It is not known how many migrants still have problematic locked-in KiwiSavers. Of the 4669 members in legacy schemes, it is likely that many, if not most, would no longer be subject to UK charges if they transferred the UK funds to another New Zealand pension scheme. This is because by now (2024), many members will have been non-UK resident for at least five years and will therefore no longer be subject to UK tax charges.⁵ As some stakeholders have continued to push for a solution, we assume there must be a non-negligible number of individuals affected. However, it could be a few hundred. In addition, some scheme providers are concerned about their ongoing obligation to report unauthorised transfers to HMRC if they do allow transfers out of the KiwiSaver Schemes, which applies even if the migrant is no longer subject to a UK charge.
11. Inland Revenue became aware of QROPS issues in 2015. Targeted consultation was undertaken in 2018, 2022 and early 2024. The gap between 2018 and 2022 overlapped with the Covid pandemic, during which time this project was deprioritised.
12. The stakeholders are: QROPS providers; industry and professional bodies, including Chartered Accountants Australia and New Zealand, Certified Practising Accountants Australia, and the Financial Services Council; and other tax practitioners. Collectively these groups represent the interests of the individual UK migrants who could stand to benefit from QROPS policy changes.
13. Stakeholders unanimously agree that there is often a cashflow problem for migrants faced with a substantial tax liability on QROPS transfers and support a solution. Only a

⁴ KiwiSavers ceased to be QROPS because of the ability to withdraw funds for reasons other than retirement, such as financial hardship and first home purchase.

⁵ The increase of the tax charge period from five to ten years did not come into effect until 2017, so is not applicable for locked-in KiwiSavers, which originated in 2015, unless the individual has had a period of UK residence since that time. In that case, the tax charge window will have reset.

small subset of stakeholders are interested in the locked-in KiwiSaver issue, but those who are interested continue to support a solution.

14. A somewhat unusual feature of these problems is that they are largely caused by UK tax policy settings, and any solutions need to be acceptable to HMRC. Officials have corresponded with HMRC and HMRC have confirmed that our preferred options satisfy HMRC's requirements.

What objectives are sought in relation to the policy problem?

15. Several objectives are sought in relation to the two policy problems.
 - The primary objective in addressing problem 1 is to remove the cashflow barrier to QROPS transfers. To the extent migrants are currently choosing to leave their pension funds in the UK because they would be unable to meet a New Zealand tax liability on the transfer without tapping into the funds and incurring UK tax charges, New Zealand is missing out on capital under the status quo. This outcome is also inconsistent with the purpose of the transfer rules, which is to remove any tax barrier to leaving funds overseas.
 - It is in New Zealand's interest for migrants to bring their retirement savings here and invest in our markets. It is also in the interest of many migrants to simplify their affairs by locating their pension funds in their country of residence, rather than elsewhere. Although the problem arises in the context of QROPS, for reasons of fairness any solution should be available for transfers from other jurisdictions.
 - Anecdotally, there is suspected misunderstanding and non-compliance with New Zealand's tax rules for foreign superannuation. There is an opportunity to improve compliance via reporting requirements.
 - The main objectives in addressing problem 2 are to provide flexibility and certainty to individuals with locked-in KiwiSavers, and to the KiwiSaver providers. The risk of UK tax charges being triggered by any changes to locked-in KiwiSavers causes governance uncertainty for providers and is an obstacle to the mobility of KiwiSaver funds between providers.

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

Problem 1 – Payment of tax on transfer

16. The criteria for options to address problem 1 are: facilitation of transfer, fiscal cost, compliance costs, administration costs, and vertical and horizontal equity. The definition of each criterion in this context is given below.
17. **Facilitation of transfer** is the extent to which the option reduces the tax barrier to pension transfers.
18. **Fiscal cost** is measured by reference to the impact on Government revenue.
19. **Compliance costs** are the net monetary, time, or other costs associated with the migrant availing themselves of the option. 'Net' means the sum of the individual's and the scheme provider's compliance costs to recognise the efficiencies of a smaller population (scheme providers) bearing the compliance burden on behalf of a larger population (individual migrants).
20. **Administrative costs** are the monetary, time, or other costs associated with Inland Revenue and other agencies implementing the option.
21. **Vertical equity** is the degree to which the option results in migrants with higher incomes paying a proportionally higher amount of tax than migrants with lower incomes.
22. **Horizontal equity** is a measurement of fairness based on whether the option discriminates against the fund's country of origin.
23. Increasing vertical equity necessitates increasing the complexity of the policy option. Thus, it entails increased administration and compliance costs.

Problem 2 – Locked-in KiwiSavers

24. The criteria for options to address problem 2 are: flexibility, certainty, proportionality, and integrity. The definition of each criterion in this context is given below.
25. **Flexibility** is the ability for migrants with locked-in KiwiSavers and KiwiSaver providers to manage their portfolios according to their commercial preferences without tax risk.
26. **Certainty** is the unambiguous knowledge of migrants with locked-in KiwiSavers and KiwiSaver providers that there will cease to be any UK tax risk in relation to their investments following the implementation of the option.
27. **Proportionality** is the degree to which the costs of the option are commensurate with the scale of the problem.
28. **Integrity** is the degree to which the proposal conforms to general KiwiSaver rules.
29. There is a potential trade-off between certainty and proportionality, wherein achieving absolute certainty that all locked-in KiwiSavers no longer carry any UK tax risk requires a disproportionately costly policy intervention given the apparently small scale of the problem.
30. As there are no expected fiscal or administrative costs for the Government or Inland Revenue in relation to this problem, these have not been considered in this regulatory impact statement. Compliance costs have also been excluded from consideration as

affected scheme providers seek this change on the basis that it ultimately benefits their ability to manage retirement savings.

What scope will options be considered within?

31. One important scope limitation is the acceptability of an option to the UK's revenue authority, HMRC. Given that the policy issues relate to the prospect of tax charges being imposed by HMRC, it is essential for any solution to have HMRC's approval. In contrast to most other policy changes, QROPS tax policy changes are largely driven by UK tax concerns, not New Zealand ones.
32. A second limitation is the acceptability of an option for stakeholders – in particular, pension scheme providers. It is providers who will bear the bulk of the costs of implementing any policy solution.
33. A third limitation is the availability of Inland Revenue resources to continue refining solutions to policy problems that were first raised in 2015. By now there is a strong imperative to implement a solution that is an improvement on the status quo, even if it is not regarded by all stakeholders as the optimal one.
34. A fourth limitation is the lack of data on certain aspects of the policy issues. In relation to the tax on transfer issue:
 - We are unable to determine the number of migrants affected by the inability to pay New Zealand tax due. This is in part because current tax return data does not distinguish between withdrawals from an overseas superannuation scheme and transfers from such schemes. It is also because cashflow issues do not arise in every case, they are brought to Inland Revenue's attention by individuals or their advisors.
 - We do not know to what extent pension transfers to New Zealand from countries other than the UK pose problems, or even occur. This is due to the non-availability of disaggregated return data in relation to overseas pension transfers.
35. A fifth limitation is that the administrative burden should not be excessive relative to the population size. Options such as using an effective marginal tax rate or a prescribed investor rate (PIR) would require Inland Revenue to "square-up" the tax paid to ensure it was at the correct rate. If this was incorporated into income tax it would add complexity to the customer's income tax assessments and it would be nearly impossible to ensure over-payments from the scheme weren't refunded to the customer (in breach of HMRC's requirements). Alternatively, if this was separated into a new account type with its own tax square-up it would significantly increase administrative costs.
36. For simplicity, a flat rate deduction from the scheme means the tax is full and final and there is no need to build a two-way interface to send money back to the scheme.
37. On the locked-in KiwiSaver issue, we do not know how many individuals are affected. We have relied on anecdotal evidence from providers.
38. There are no non-regulatory options available. Resolving these issues requires legislative change in New Zealand to amend the relevant provisions for pension transfers.
39. In determining the appropriate way forward, we have noted that a version of scheme pays is offered under Australian rules.

What options are being considered?

Problem 1 – Payment of tax on transfer

Option One – Status quo

40. Under the status quo, many migrants wanting to transfer their UK pension to a QROPS will continue to face the choice between paying the New Zealand tax on transfer:
 - out of their own pocket; or
 - out of a withdrawal from the fund itself, thus incurring UK tax charges
41. **Facilitation of transfer:** The status quo does not facilitate pension transfers, as some migrants struggle or are unable to pay the New Zealand tax on transfer out of their own pockets, and therefore decide not to transfer their pensions to New Zealand at all.
42. **Fiscal cost:** There is no fiscal cost for this option.
43. **Compliance costs:** As no action will be taken, additional compliance costs will not arise. Migrants will continue having to report and pay in their annual self-assessment tax return.
44. **Administration costs:** As no action will be taken, additional admin costs will not arise. However, Inland Revenue will continue to deal with cases of hardship under existing rules, e.g. instalment arrangements.
45. **Vertical equity:** Under the status quo, progressive rates apply to the taxable portion of the lump sum transferred. However, the progressivity of this approach is variable due to factors such as the lump sum effect (which pushes the amount into a higher tax bracket as all the income must be reported in a single year even though it arose in several subsequent years), and the fact that lower-income migrants may not have sufficient personal funds to pay the tax.
46. **Horizontal equity:** As no action will be taken, migrants will continue to pay tax at marginal tax rates, regardless of the fund's origin or the person's ability to pay.
47. We think this option is not effective as it does not address the problem and the issues will continue. It is likely that many migrants will continue to leave their pension funds in the UK. In addition, concerns about potential non-compliance with New Zealand's tax rules will continue as no improvement on the current system will be made.

Option Two – Scheme pays – flat rate

48. Under this option, a migrant wanting to transfer their UK pension funds to a QROPS would be able to elect to have the QROPS provider be liable for the New Zealand tax and pay it out of the transferred funds. The tax would be at a flat 28% rate. The QROPS will be responsible for reporting the funds liable for New Zealand tax on the transfer (as this ensures that it is not a withdrawal in breach of QROPS rules). The scheme will also be responsible for providing monthly digital reports of transfers received and tax payments where due. However, liability for providing information and the correct calculation will rest with the migrant (meaning the migrant will be liable for any under-payment of the tax, based on the information provided, rather than the fund).
49. If the migrant opts to pay as an individual, then the scheme will file an information only return. The migrant will file and pay via their self-assessment return (status quo), or the

information can be pre-populated their MyIR account, and the tax paid at year end. In both cases, the migrant's marginal tax rate will apply (status quo).

50. To ensure that transfers from the UK and elsewhere are treated equally, we intend this design to apply to all transfers of pension funds to New Zealand pension providers⁶.
51. Inland Revenue and scheme providers will require time to implement the necessary system changes. Accordingly, we propose that scheme pays be introduced from 1 April 2026.
52. **Facilitation of transfer:** This option would eliminate the cashflow barrier to paying the tax on pension transfers, enabling all migrants who want to transfer their pensions to New Zealand to do so.
53. **Fiscal cost:** There is a small fiscal cost associated with this option, estimated at \$1.6 million in the first year (2027/28), and \$0.9 million in the second and third years, increasing gradually each year thereafter. The cost is small because the average tax rate applied to foreign superannuation withdrawals and transfers is approximately 29%, which is only marginally higher than the proposed 28% flat rate. In addition, the removal of the requirement for a migrant to pay the New Zealand tax due from personal sources means that it is possible that more migrants will transfer their foreign pension funds to New Zealand, which will increase revenue. To the extent that scheme pays improves compliance with the rules revenue should also increase.
54. **Compliance costs:** There will be a one-off increase in compliance costs for providers in implementing scheme pays. Thereafter, compliance costs are expected to be minimal, as they will be driven by transfers received. Schemes already must comply with monthly investment reporting requirements. Migrants will no longer have to include their transfer on an annual IR 3 income tax return. Accordingly we expect this option to result in a net reduction of compliance costs across both funds and migrants compared with the status quo.
55. **Administration costs:** There will be a one-off increase in administration costs of \$2.5 million (capital and operating costs) in implementing scheme pays, however the design will broadly follow the investment income reporting requirements. The ongoing costs will be minimal.
56. **Vertical equity:** The flat rate closely mimics the average rate of tax paid on overseas pension withdrawals and transfers – 29%. We also note that the highest rate of portfolio investment entity (PIE) tax is 28%.⁷
 - For migrants on the 10.5% or 17.5% personal rate, the 28% flat rate may be higher than they otherwise would have paid. However, these individuals will have the option to fund the tax due from personal sources or make an instalment arrangement with Inland Revenue. The amount of tax due at lower rates is, by its nature, capped.
 - For migrants on the 30% and above rates, the tax payable may be lower than under the status quo. However, for these individuals, a flat rate avoids the lump sum effect which causes income to be taxed at a higher effective marginal rate than it would have been had the income accrued and tax been paid annually.
57. **Horizontal equity:** Migrants will be able to use scheme pays regardless of the origin of the funds, allowing all migrants to use the flat rate. This option will also allow all

⁶ Noting that transfers between Australian super funds and KiwiSavers are treated differently under the Trans-Tasman retirement savings portability scheme. We intend this scheme to be unaffected by the proposed changes.

⁷ PIEs are a widely used investment vehicle, which include KiwiSavers. Many QROPS are PIEs.

migrants to use the funds to pay the New Zealand tax due, removing the barrier caused by QROPS requirements.⁸

58. The scheme pays mechanism will enable migrants to pay New Zealand tax due without breaching HMRC's requirements, so it is an improvement on the status quo. A flat rate also provides certainty for providers and migrants. The choice of flat rate means the scheme can be implemented with low fiscal cost. Further, increased reporting of pension transfers received in New Zealand should assist in addressing some concerns raised about non-compliance with New Zealand's rules.
59. Scheme pays should be open all migrants who transfer their retirement savings to New Zealand as a matter of fairness. The simplicity, effectiveness and the concessionary nature of scheme pays for many migrants, in our view, justifies any compliance cost for scheme providers.

Option Three – Scheme pays – prescribed investor rates

60. This option would operate the same way as option 2, except the scheme would pay the tax at the migrant's PIR, as declared by the migrant. The PIRs are currently 10.5%, 17.5% and 28%, depending on the migrant's taxable income in the preceding two income years.⁹
61. **Facilitation of transfer:** Same as option 2.
62. **Fiscal cost:** The fiscal cost of this option would be higher than that of option 2, given the greater divergence of rates from the average.
63. **Compliance costs:** The cost to the schemes of implementing would be similar to that in option 2, however the ongoing costs will be higher because the scheme will need assurance that it is using the correct PIR for each individual migrant.
64. **Admin costs:** The cost to Inland Revenue would be greater, assuming that it had to build safeguards to prevent money being refunded directly or indirectly to the migrant. The cost of building these safeguards is, in our view, disproportionate to the size of the population that would benefit from scheme pays.
65. **Vertical equity:** This option is more vertically equitable than option 2, because there are three PIRs as opposed to one flat rate, and it avoids over-taxation of lower-income migrants. Some stakeholders preferred PIRs for this reason. However, officials consider that on balance, the additional costs of a PIR model are not justified. Instead, to address the vertical equity concerns, we have retained the option for the migrant to pay the tax.
66. **Horizontal equity:** This option has the same horizontal equity effect as option 2.
67. As noted in option 2, scheme pays is an effective mechanism to resolve the problem. However, option 3 is less effective than option 2 because it could result in money flowing back to the migrant if the PIR was too high (breaching HMRC's requirements and resulting in a UK tax charge), or the migrant having further tax to pay if the PIR was too low. Ensuring that square ups are not required would entail increased administration costs compared with option 2.

⁸ The KiwiSaver Act 2006 allows for withdrawals to meet a New Zealand tax liability. However, this did not solve the issue for transfers from the UK.

⁹ The use of effective marginal tax rates was also considered under a "scheme pays" model but this was complex and did not progress in later consultation. The administrative burden would be the same, or higher, than under option 3, meaning that it was not feasible to proceed.

How do the options compare to the status quo/counterfactual?

	Option One – <i>Status Quo</i>	Option Two – <i>Scheme pays – flat rate</i>	Option Three – <i>Scheme pays - PIR</i>
Facilitation of transfer	0	++	++
Fiscal cost	0	-	--
Compliance costs	0	+	0
Administrative costs	0	-	--
Vertical equity	0	-	0
Horizontal equity	0	0	0
Overall assessment	0	++	+

Example key for qualitative judgements:

- ++ much better than doing nothing/the status quo/counterfactual
- + better than doing nothing/the status quo/counterfactual
- 0 about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

68. In officials' view, the 'scheme pays – flat rate' option is likely to best meet the policy objectives. Allowing the scheme to pay the tax on the migrant's behalf will solve the cashflow issue migrants face under the status quo, and making the tax a flat rate will simplify compliance and significantly simplify the administration of the policy. Unlike the PIR option, where there would be the possibility of a subsequent square up if the wrong rate was chosen, the final flat rate would provide greater certainty and eliminate extra compliance and administrative steps.
69. Scheme pays will increase compliance and administrative costs for funds and Inland Revenue compared to the status quo, since it will be a new process. However, we will mitigate these as far as possible by leveraging existing processes for investment income. Scheme pays will reduce compliance costs for migrants, as they will no longer need to file an IR 3 income tax return to report the income from the transfer. Overall we think the flat rate option should result in a net reduction in compliance costs across schemes and migrants over the medium to long term.
70. Flat rate scheme pays would technically decrease vertical equity compared to the status quo, since all migrants would be entitled to the 28% rate, regardless of income. Currently, migrants pay the tax at marginal rates (if at all), which are on a progressive tax scale. PIR scheme pays would only marginally decrease vertical equity compared to the status quo, since there are three PIRs (applying to different income brackets), compared with five personal income tax rates.
71. As scheme pays would be available for transfers from the UK and other jurisdictions, there is no change to horizontal equity. All transfers will be subject to the same rules.
72. An additional factor is that officials understand anecdotally that there is some non-compliance with existing rules. Reporting of pension transfers as part of the scheme pays proposal will address this problem to some extent.

What are the marginal costs and benefits of the option?

Affected groups	Comment <i>nature of cost or benefit (e.g., ongoing, one-off), evidence and assumption (e.g., compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium, or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
QROPS & other pension scheme providers	One-off financial and time cost to build systems to comply with 28% tax on transfer on behalf of migrant.	Unquantified	Medium
	Ongoing marginal costs to pay tax where required and comply with monthly information reporting requirements (noting that schemes already must report other information to Inland Revenue).	Low	Medium
Migrants from the UK and other countries	N/A	N/A	N/A
Inland Revenue	One-off and ongoing negative impact on revenue. One-off cost to build new system mechanism for 28% scheme pays and ongoing administrative costs.	Estimated at \$1.6 million in 2027-28 and \$0.9 million in the 2028-29 year, gradually increasing each year thereafter. Estimated at \$2.5 million in implementation costs.	High
Total monetised costs		Fiscal cost of \$1.6 million over the forecast period	High
Non-monetised costs		Low	Medium
Additional benefits of the preferred option compared to taking no action			
QROPS & other pension scheme providers	Ability to attract more clients by offering 'scheme pays' for tax on transfer.	Unquantified	Medium

Migrants from the UK and other countries	Reduced compliance costs – including time and monetary cost – for the migrant if scheme pays tax out transferred funds. And reduces potential hardship.	High	High
Inland Revenue	Better reporting on overseas pension transfers and better tax compliance.	High	High
Total monetised benefits		Unquantified	Medium
Non-monetised benefits		High	High

73. We assume that if a scheme pays option is offered, many migrants who would not otherwise transfer their overseas pensions to New Zealand will now do so. This will be beneficial for migrants, who will be able to have their pension funds in their country of residence and thus have simpler tax affairs. Further, the tax burden will not be paid out of the migrant's pocket. It will also be beneficial for QROPS, as they will receive more money to invest in the capital markets and increase their potential returns. The increase in investment should in turn benefit New Zealand.
74. We assume that the information reporting requirements associated with scheme pays will give Inland Revenue much better data on pension transfers from overseas and improve compliance generally. There is anecdotal evidence of non-compliance under the status quo, with some migrants not returning the tax due on transfer in their IR3 tax return. Since all QROPS transfers will now be required to be reported to Inland Revenue by schemes, Inland Revenue will be better positioned to enforce the foreign superannuation scheme tax rules.
75. The impacts on each affected group have been determined through stakeholder consultation.

What options are being considered?

Problem 2 – Locked-in KiwiSavers

Option One – Status Quo

76. Under this option, transfers of pension funds from the UK would remain locked into KiwiSaver and grandfathered for QROPS purposes. Under UK rules, the QROPS portion of the fund can only be transferred to another QROPS, which is not currently permitted by KiwiSaver rules. The KiwiSaver portion of the fund cannot be a QROPS. The combination of UK and New Zealand rules causes complexity and tax risk for both migrants and scheme providers.
77. **Flexibility:** There would be no change to the ability of migrants or scheme providers to transfer or manage locked-in KiwiSavers.
78. **Certainty:** There will be no change to certainty, as UK tax risk will remain.
79. **Proportionality:** It is arguable that, given the small scale of the problem, no change is needed. This is because the period since UK pension funds in KiwiSaver schemes became 'locked in' (2015) will get longer as time goes on, so the number of migrants affected by the issue should slowly decrease even if there is no policy change. However scheme providers will remain affected as they will need to report any unauthorised transfers that remain subject to UK requirements to HMRC. This period differs depending on the date the individual member was last a UK tax resident.

However, in most cases, it is expected that the period would lapse on 6 April 2026 at the latest.

80. **Integrity:** As there would be no change, the integrity of the KiwiSaver rules would not be affected. However, KiwiSavers could not operate as intended as transfers between funds are not possible without potential breach of the QROPS rules.

Option Two – Election to transfer locked-in KiwiSaver funds to QROPS (preferred)

81. Under this option, the KiwiSaver rules would be changed so that a KiwiSaver scheme could elect to transfer a migrant's 'locked in' UK retirement savings into a QROPS with the migrant's consent. This would then allow the remaining balance of the KiwiSaver account to be managed by the existing provider or transferred to another KiwiSaver provider without a UK tax charge being incurred. This option is supported by stakeholders.
82. Officials propose that the election be available from 1 April 2025.
83. **Flexibility:** This option would improve the ability of migrants and scheme providers to manage locked-in KiwiSavers without UK tax risk.
84. **Certainty:** Assuming that migrants or scheme providers take up this option, there is an opportunity to reduce tax risk and improve certainty for KiwiSaver schemes, since the locked-in UK funds will no longer be in a KiwiSaver.
85. **Proportionality:** Because we will not be imposing a requirement to transfer locked-in funds to a QROPS, compliance costs will be proportional to the scale of the problem.
86. **Integrity:** There will be a decrease in the integrity of the KiwiSaver rules, in that QROPS funds are accessible at the age of 55 under current UK rules, rather than 65 under KiwiSaver rules. However, we think this is an acceptable compromise given that the issue is very limited. The affected population is small and the funds to be transferred will relate to the original transfer from the UK rather than subsequent participation in KiwiSaver. Overall, the separation of KiwiSaver and QROPS funds will improve the ability to manage the affected KiwiSaver schemes.

Option Three – One-off expulsion of all locked-in KiwiSaver funds into QROPS

87. Under this option, on a particular date, all locked in KiwiSaver funds would be compulsorily expelled into a QROPS. This would be coordinated between all KiwiSaver providers with members with locked-in funds. As a result, after the date of expulsion, there would cease to be any locked-in KiwiSaver funds. One stakeholder advocated for this option.
88. **Flexibility:** Like option 2, this option would provide flexibility for migrants and scheme providers to manage locked-in KiwiSavers without UK tax risk.
89. **Certainty:** If executed successfully, this option would create the most certainty, in that there would no longer be any locked-in UK funds.
90. **Proportionality:** A compulsory transfer of all locked-in KiwiSavers funds to a QROPS could be difficult to execute because it would require coordination between all affected providers and members, whether or not they seek the change. The risks associated with this option and the associated compliance and administration costs mean it is disproportionate to the size of the problem.
91. **Integrity:** The integrity effect will be the same as for option 2.

How do the options compare to the status quo/counterfactual?

	Option One – Counterfactual	Option Two – Election to transfer locked-in KiwiSaver funds to QROPS	Option Three – One-off expulsion of all locked-in KiwiSaver funds into QROPS
Flexibility	0	++	+
Certainty	0	+	++
Proportionality	0	0	--
Integrity	0	-	-
Overall assessment	0	+	0

Example key for qualitative judgements:

- ++ much better than doing nothing/the status quo/counterfactual
- + better than doing nothing/the status quo/counterfactual
- 0 about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

92. Option two strikes the best balance between effectiveness and cost. While a one-off expulsion of all locked-in KiwiSaver funds into a QROPS would solve the problem once and for all, the effort required to do this successfully does not seem justified given the small scale of the issue and the likelihood that for many schemes and migrants the locked-in period has expired, or will expire, at some point in the short to medium term.
93. Option two would give migrants and schemes who elect to use it the flexibility to reorganise investments after opting to transfer the UK retirement funds out of KiwiSaver and into a QROPS. As a result the change will enable the ability to transfer and manage KiwiSaver schemes to work effectively, in line with the policy intent. This change will come at the cost of enabling a small number of people to access the funds before the age of 65 (or by meeting other withdrawal criteria). Given the limitations of population and fund origin, we think it is an acceptable compromise to achieve the separation of KiwiSaver and QROPS.

What are the marginal costs and benefits of the option?

Affected groups <i>(identify)</i>	Comment <i>nature of cost or benefit (e.g., ongoing, one-off), evidence and assumption (e.g., compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium, or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
Migrants with locked-in UK funds in their KiwiSavers	No additional costs, as it will be scheme providers which have to transfer the funds	N/A	High
KiwiSaver providers managing locked-in UK funds	Additional one-off compliance cost of transferring a migrant's locked-in UK funds from the KiwiSaver to a QROPS	Low	Medium
Inland Revenue	No additional costs	N/A	High
MBIE	No additional costs	N/A	Medium
Total monetised costs	None	N/A	Medium
Non-monetised costs	Low	Low	Medium
Additional benefits of the preferred option compared to taking no action			
Migrants with locked-in UK funds in their KiwiSavers	Flexibility to switch KiwiSaver funds without risk of UK tax charges	Medium	High
KiwiSaver providers managing locked-in UK funds	Flexibility to reorganise KiwiSaver funds without risk of UK tax implications. Ongoing reduction in compliance with UK reporting requirements.	Medium	High
Inland Revenue	None	N/A	High
MBIE	None	N/A	High
Total monetised benefits	None	None	High
Non-monetised benefits	Medium	Medium	High

94. The above analysis assumes that affected schemes and migrants will avail themselves of the option to transfer the locked-in UK funds to a QROPS. It is virtually certain that at least some will, given ongoing stakeholder interest in the change.

Section 3: Delivering an option

How will the new arrangements be implemented?

Problem 1 – Payment of tax on transfer

95. The new arrangements will be implemented legislatively by amendments to the Income Tax Act 2007 and the Tax Administration Act 1994 as required. Inland Revenue will issue guidance on how the new arrangements will work. On balance we think it will drive better compliance with foreign superannuation tax rules.
96. Inland Revenue will also update its systems to make scheme pays operable.
97. QROPS and other schemes will update their systems to facilitate scheme pays. It will be mandatory for QROPS and other schemes to offer the “scheme pays” option to individuals, and the individual will choose whether they or the scheme pays the tax. Regardless, the scheme will be responsible for sending to Inland Revenue a monthly digital report of transferred funds in the form prescribed by the Commissioner of Inland Revenue.
98. Inland Revenue and scheme providers will require time to implement system changes. Accordingly, we propose that scheme pays be introduced from 1 April 2026.

Problem 2: “Locked-in KiwiSavers”

99. The new arrangements will be implemented legislatively by amendments to the KiwiSaver Act 2006, with effect from 1 April 2025. KiwiSaver providers currently managing locked-in UK funds will be able to arrange to transfer the UK funds to a QROPS, leaving any remaining funds in the KiwiSaver. It will be up to the individual KiwiSaver member and scheme providers to decide how or when to do this. Inland Revenue will not prescribe any particular approach.
100. No implementation risks have been identified with the proposed arrangement. We expect that affected stakeholders will follow the policy through the legislative process and/or be updated on the change by Inland Revenue relationship managers.

How will the new arrangements be monitored, evaluated, and reviewed?

Problem 1 – Payment of tax on transfer

101. Inland Revenue would monitor the effectiveness of scheme pays through its normal compliance processes. The information gathered can be used to assess the success of scheme pays over time. Stakeholders are likely to raise any concerns with Inland Revenue’s policy team, which would feed into the evaluation of the policy.

Problem 2 – “Locked-in KiwiSavers”

102. Monitoring of the solution for locked-in KiwiSavers will be qualitative, by way of intermittent contact with stakeholders.