NEW ZEALAND COUNCIL OF TRADE UNIONS
Te Kauae Kaimahi

KIWISAVER – INFORMATION

A. Introduction

This paper sets out some information on KiwiSaver. Please note that there will be a guide for employers and a guide for employees available soon from IRD. These will be (we hope) a reliable source of information. This paper is our understanding of how KiwiSaver as amended by Budget 2007 will work.

A number of aspects of KiwiSaver are subject to finalisation through a Bill that has been referred to a Select Committee. This means that there could be some changes.

The CTU along with another of affiliates has produced a leaflet encouraging workers to get ready for KiwiSaver. More information on this is available on the CTU website www.union.org.nz.

See also http://www.kiwisaver.govt.nz .

Also we have also been working with the Office of the Retirement Commission on developing a programme for education of union officials. This will take the form of a 2 hour module on KiwiSaver that can be delivered to unions by trainers. The provision of this training will be in July and a letter is being sent to unions. There will also be a resource of two one-hour seminars made available electronically and can be used for members.

B. Key elements of KiwiSaver are:

- Starts 1st July 2007.
- New employees aged 18 to 65 will be automatically enrolled into KiwiSaver when they start a new job but will be able to opt out of KiwiSaver from the end of week 2 after starting their job, until the end of week 8. Contributions start on the first payday but are refunded if the employee opts out.
- Existing employees can opt in.
- $1,000 net kickstart from the government.
- Annual fee subsidy of $40.
- If a worker stays or opts in to a KiwiSaver scheme the worker must contribute 4% or 8% of income (but until 1st April 2008, employer

contributions can count towards the minimum of 4% and there are transitional provisions in that case from April 2008 until April 2011).

- Your contributions are matched by a tax credit of up to $20 per week ($1,040 per year) that will be paid directly into your KiwiSaver or complying superannuation fund account.

- From 1 April 2008, all employees contributing to KiwiSaver (and complying superannuation funds) will also be entitled to a compulsory matching employer contribution of 1% of gross pay rising by 1% each year until it reaches 4% in April 2011. There will be an employer tax credit, which will reimburse employers for matching contributions at the rate of 100 percent, up to a maximum of $20 a week.

- There is no Specified Superannuation Contribution Withholding Tax (SSCWT) on employer contributions of up to 4%.

- IRD handles deductions.

- The employer can have a preferred scheme, but a worker can opt for another scheme. If no-one chooses a scheme IRD allocates a default provider.

- A contributions holiday of up to 5 years can apply after 12 months. A worker can have more than one contributions holiday. Members will be able to apply for a contribution holiday in the initial 12 month period on the grounds of serious financial hardship.

- Contributions will be locked in until the age of eligibility for New Zealand Superannuation or five years after the first contribution (whichever is later).

- Earlier withdrawals are permitted only in circumstances of serious financial hardship, serious illness, required to be released under another enactment such as the Property (Relationships) Act 1976, permanent emigration or to assist with the purchase of a first home after at least 3 years' contributory membership.

- After three years of saving, a first home deposit subsidy of $1000 per year, up to a maximum of $5000, will be available for first home buyers who participate in KiwiSaver. This will be available in 2010.

- A couple could receive up to $10,000, provided they have a total household income below the income cap. This cap is still to be determined. Three or more people can combine all KiwiSaver participants' deposit subsidies, provided they had a total household income below the income cap

- Existing registered superannuation schemes will be able to continue operating independently of KiwiSaver, convert to a KiwiSaver scheme or establish a KiwiSaver scheme with their existing scheme under their existing trust deed. Members of exempt schemes and complying schemes will qualify for first home assistance.

- Complying funds where the existing scheme or a section of the scheme complies with the minimum contribution and lock in requirements will qualify for all KiwiSaver benefits except for the $1000 kick start and the $40 annual fee subsidy.

- After three years of saving, some savers that are first home buyers will be eligible for a housing deposit subsidy of $1,000 per year of saving, up to $5,000 in total. Eligibility for the subsidy is determined by the individual's income and house price caps.

- After one year of being enrolled in a KiwiSaver scheme, individuals will be able to divert up to half of their own contributions to make mortgage payments on their principal place of residence. This will depend on the agreement of the provider and bank and they may attach some conditions. These contributions will not be eligible for the member tax credit.

C. More details on KiwiSaver

1. The member tax credit is $20 a week. That means that if someone started making contributions half way through the tax year, the member tax credit is only half of $1,040 for that year.

2. However the member tax credit is actually paid as an annual amount of up to $1042.86 which is equivalent to $20 per week. This means that provided a worker had actually joined a KiwiSaver scheme and started making contributions then they could, even in the first year, have a break from contributions, provided that they made contributions during the year that added up to 4% of their gross wage or salary. In this situation they would still get the full entitlement to the member tax credit for the year of up to $1040. In the first year, the member will have to have enrolled on 1 July 2007 for this to occur.

3. The contributions year is 1st July to 30 June.

4. The member contributions are made to the provider. The provider advises IRD at the end of the contributions year of the level of contributions from the employer in order to work out the amount of the member tax credit.

5. If a worker is in two schemes – one which is a complying fund and one which is a KiwiSaver scheme (you can only be in one KiwiSaver scheme) then the member tax credit is split proportionately depending on the member contributions to each scheme.

6. We are not aware of any provision to adjust the $20 to take account of inflation and/or movements in the average wage. However, the value of Government assistance will diminish unless there is a regular adjustment.

7. There will be a reduction in the tax rate on earnings in superannuation schemes from 33% to 30%, to be consistent with the reduction in the company tax rate.

8. A worker is not obliged to stay with their initial choice of scheme if he or she is unhappy with their performance.

9. Funds are locked in until aged 65 or for 5 years of membership, whichever is the later. This means people aged over 60 can join up until aged 65 but they have to be a member for 5 years.

10. You can only have one KiwiSaver account that will follow you from job to job. This will help protect against accounts becoming 'lost' as people move employers.

11. Once you are a member of KiwiSaver then contributions are deducted from the job you enrolled under and any future jobs you undertake. There is a difference if you are in two or more existing jobs at time of joining - e.g. with Employer A & B and you decide to opt into KS through Employer B. The employee, in this case, decides to opt in and has the choice of naming both employers or only 1. The Provider notifies IRD of the named employer(s) and IR writes to that employer(s) requesting contributions to commence. If Employer A is not named they continue as previously - oblivious to the employee being a member of KS. Should the employee change jobs at a later date then KS contributions need to commence for that new job. The same applies where automatic enrollment occurs with Employer B. Deductions from Employer A only occur where the employee requests for that existing employer.

12. Casual employees are excluded from the automatic enrolment rules. “Casual employment” is defined by reference to the Holidays Act 2003, as employment that is “intermittent or irregular”. The effect is that if an employee is paid holiday pay regularly with their salary or wages they will be excluded from automatic enrolment. Those employees can continue to opt-in to KiwiSaver, either by providing a deduction notice to their employer or by contracting directly with a scheme provider. The current rules will continue to apply to temporary fixed-term employment. Employees are excluded from the automatic enrolment rules if their employment contract is for a period of 28 continuous days or less. If employment was extended beyond 28 days, on day 29 the employee would then become subject to the automatic enrolment rules (as if they had started new employment). Casual agricultural workers (as defined in section OB 1 of the Income Tax Act) are also excluded from automatic enrolment. If an employee ceases to be a casual agricultural worker, the

automatic enrolment rules then apply. (The proposed changes to the rules regarding casual still needs to be enacted – included in the Taxation (Annual Rates, Business Taxation, KiwiSaver, and Remedial Matters) Bill. The provision has an application date of 1 April 2008.

13. There are residency rules that apply to KiwiSaver. There are also specific rules for some groups – e.g. teachers.

14. An employer is allowed a deduction for contributions to an employee's superannuation scheme. This section will be amended to limit the amount of the deduction for these contributions to the amount for which there is no tax credit. The effect will be that the tax deduction for these contributions will be limited to contributions over $20 a week. In addition, the tax credit will be treated as excluded income for income tax purposes, which enables expenses associated with claiming the credit to be deducted. The tax credit will be treated as a non-taxable grant or subsidy for the purposes of the GST Act, to ensure that the tax credits are not subject to GST in the hands of employers.

15. All employer contributions (whether compulsory or voluntary) to a KiwiSaver scheme will be required to be paid to Inland Revenue at the same time as the employee contributions are paid. The tax credit for each employee per week is the lesser of the amount of the employer contribution paid for that employer for that week; and $20 a week.

16. Compulsory employer contributions will vest in the employee immediately. Employers may impose vesting requirements on any contributions over the compulsory amount.

17. At present, section 66 of the KiwiSaver Act allows employer contributions to count towards the employee's contribution rate (at the election of the employee). From 1 April 2008, an employee, who has not used this provision before that date will be required to contribute a minimum 4 percent of his or her salary or wages to a KiwiSaver scheme. The new rules provide a transitional mechanism for employees who have chosen to have employer contributions count towards their contribution rate during the period 1 July 2007 and 31 March 2008. This transitional mechanism will apply, if:

    - The employee is employed by the employer on 1 April 2008;
    - the employee is a member of KiwiSaver on 1 April 2008; and
    - the employer agreed before 1 April 2008 with the employee to make employer contributions.

    If this new rule applies to an employee, the amount of the employee's contribution rate will increase incrementally from 2 percent to 4 percent over four years.

This also applies to complying superannuation funds if employer contributions count towards the requirement for the employee to contribute 4 percent of their gross salary or wages.

18. Under the transitional arrangements where say a 2+2 arrangement is entered into by April 2008, that can continue until April 2010 when both employer and employee contributions must go to 3% and then 4% by April 2011. The member tax credit applies during that time. The Bill refers to the employer contributions during the transitional period as a minimum contribution. This means that the employer could pay more than 2% during the transitional period up until 2010 and still get the full employer tax credit of up to $20 a week. Such a course may be a good one for low paid workers. In other words if it was agreed with the employer that in March 2008, the employer and the worker each pay 2%, then the member tax credit applies from March 2008. From April 2008, the employer is also entitled to a tax credit. Perhaps this could be up to the full $20 even under circumstances where the employer paid a higher than 2% contribution from that point on.

19. At present, under the KiwiSaver Act the payment of employer contributions to a KiwiSaver scheme via Inland Revenue is optional. From 1 July 2007, a provision in the Taxation (KiwiSaver and Company Tax Rates Amendments) Bill will mandate that all employer contributions (both compulsory and voluntary employer contributions) be paid via Inland Revenue using the PAYE processes. This provides a mechanism to allow Inland Revenue to police the payment by employers of the compulsory employer contribution.

20. In relation to complying superannuation funds, employee contributions and compulsory employer contributions will be paid by the employer directly to the fund provider. The payment must be no later than one month after the payment of salary or wages to which the contributions relate. In keeping with current practice, it will be the responsibility of the provider to ensure that employer contributions are paid.

21. The compulsory matching employer contribution provisions will apply to KiwiSaver or complying superannuation fund contributions deducted from an employee’s gross salary or wages on or after 1 April 2008. The provisions that allow the Government Actuary to notify the Commissioner of an amount of unpaid compulsory employer contributions payable to a complying superannuation fund come into force on 1 April 2009.

22. The requirement for employer contributions will apply to employers that are tax-resident or that carry on a business from a fixed establishment in New Zealand (see section 6(2) of the KiwiSaver Act). Furthermore, it will apply only to contributions made for employees who are over 18 years of age and under the age of eligibility to withdraw their KiwiSaver or complying superannuation fund member funds – that is, the age of eligibility for New Zealand superannuation (currently 65 years of age) or five years of membership, whichever occurs later.

23. To minimise compliance cost and cash-flow implications of the compulsory employer contributions, payment of the tax credit will be integrated into the PAYE remittance process so that the value of the tax credit is given to employers at the same time the employer is required to remit the contributions to providers or to Inland Revenue.

24. For employer contributions to a KiwiSaver scheme the tax credit will be offset against the amount of the contribution that the employer is required to remit to the IRD as part of the PAYE remittance process. The employer will remit the difference between the employer contribution and the amount of the tax credit claimable. If the amount of credit exceeds the employer contributions, the credit will be used against other PAYE liabilities (including PAYE, child support, and student loan repayments) payable by the employer for that PAYE period. Inland Revenue will on-pay the employer's contributions to the employee's KiwiSaver provider at the same time it pays the employee's contributions. If an employer does not remit the employer contributions or short pays, Inland Revenue will still on-pay the value of the employer tax credit to the provider.

25. There will be no requirement for ACC or Inland Revenue to make compulsory employer contributions if a person is having KiwiSaver contributions deducted from his or her ACC weekly compensation or paid parental leave (paid under Part 7A of the Parental Leave and Employment Act 1987).

26. The bill introduces new rules for taxing contributions to retirement savings schemes in order to facilitate the Ngai Tahu retirement scheme that has been established. These rules allow distribution from a Maori authority, company or widely-held unit trust to an approved retirement savings scheme to be subject to a final withholding tax rather than being taxed in the hands of the individual. The effect is that such income is not included as income for Working for Family tax credits, student loans and child support.

27. A worker can choose which sort of investment fund to go for. For example, a younger person might carry a bit more risk and perhaps invest in a growth fund. As you get older and nearer retirement you may want to minimise the risk, and shift your investments to either a balanced or conservative fund.

28. Employer contributions to an existing registered superannuation scheme will count towards the employer compulsory contribution rate in the following circumstances: The employer provides access to a registered superannuation scheme on 17 May 2007 (the date of announcement); The employer contributions are for employees who are members of that scheme before 1 April 2008 (the start-date for compulsory employer contributions) or, in the case of existing employees (employed before 1 April 2008), the employment contract provides access to that scheme; The employer contributions must be for employees who are employed

before 1 April 2008. This provision is to mitigate the risk of wind-up of existing schemes if employers were required to contribute 4 percent of the employee's salary or wages to KiwiSaver in addition to contributing to an existing scheme. It will apply to defined contribution and defined benefit schemes regardless of whether the contributions are subject to complying fund rules.

29. An employer with an existing superannuation scheme will be required to make compulsory employer contributions in certain circumstances. This would apply, if an employee is a member of a KiwiSaver scheme and the employer contributions to an existing scheme that count towards the compulsory contributions are less than the compulsory contribution rate. In this situation, the amount of the compulsory contribution will be the difference between the compulsory contribution rate and the employer contributions to the existing scheme that count.

30. The rules for complying funds now include defined benefit and "hybrid" schemes. A complying fund is an existing scheme, or section of a scheme, which meets the contribution and lock-in requirements of KiwiSaver.

31. The serious illness withdrawal facility applies only when the member is permanently and totally disabled or when death is imminent. The member will then be able to withdraw the $1,000 Crown contribution. An amendment to clause 13 of the KiwiSaver scheme rules also ensures that applications for withdrawal on the grounds of serious illness can be made without the need to complete a statutory declaration of the assets and liabilities of the applicant. (This amendment to serious illness provisions regarding permanently and totally disabled and the ability to withdraw the $1000 Crown contribution when enacted will apply from date of amendment).

32. Currently, the KiwiSaver Act allows a member to withdraw employer contributions that have vested in an employee in the following situations:

- to assist with purchase of the member's first home;
- for significant financial hardship;
- for serious illness;
- on permanent emigration from New Zealand;
- on the death of the member;
- as required by any statute such as an order made under section 31 of the Property (Relationships) Act 1976; and
- upon the age of eligibility of New Zealand superannuation or five years of membership, whichever is the later.

As compulsory employer contributions will vest immediately in the member, the contributions can continue to be withdrawn under the above situations. The KiwiSaver Act prevents employer contributions being diverted under a mortgage diversion facility and this will continue to apply for compulsory employer contributions.

33. The first home deposit subsidy is available to members of KiwiSaver schemes, work-based saving schemes that are exempt from KiwiSaver automatic enrolment rules and complying superannuation funds (providing members meet the eligibility criteria). The first home deposit subsidy will first become available from 2010 as a member must have been regularly contributing about 4% of their income to a scheme for three years before they are eligible to apply for the subsidy (e.g., regularly contributing in 2007 to be eligible for the subsidy in 2010). Eligibility for the first home deposit subsidy is governed by the type of scheme a member is part of, income price caps and regional house price caps. A member must:

- Be a member of: KiwiSaver, a scheme that is exempt from KiwiSaver automatic enrolment rules, or a complying superannuation fund;
- Have gross (before tax) household income of less than $100,000 per year (for one or two people), or less than $140,000 per year (for more than two people); and
- Be purchasing a lower-quartile priced home (e.g., currently this is $400,000 for higher priced areas such as North Shore City, Auckland City and Queenstown Lakes District, and $300,000 for the rest of New Zealand).

The eligibility criteria relating to the income caps and regional house price caps will be reviewed in 2009 before the policy takes effect.