

The Treasury

Budget 2024 Information Release

September 2024

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- [31] 9(2)(f)(ii) - to maintain the current constitutional conventions protecting collective and individual ministerial responsibility
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- [37] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice
- [38] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [39] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage
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Reference: T2024/211

Date: Wednesday 31 January 2024

To: Minister of Finance (Hon Nicola Willis)

Deadline: Review ahead of phone or in-person discussion with Minister of Immigration, which MBIE requests occurs as soon as possible (ideally by Friday 2 February)

Aide Memoire: Immigration fee and levy review – key context for discussion with Minister of Immigration

The Minister of Immigration is seeking a steer from you as the Minister of Finance on a proposed approach to the immigration fee and levy review (the “fee and levy review”). The fee and levy review is the proposed mechanism for achieving the “immigration savings” item of \$123 million per annum outlined in the fiscal plan. The issues the Minister is interested in discussing with you are largely related to level of risk, associated revenue, and timing of different options.

The Minister of Immigration is leading the fee and levy review work with MBIE as the policy lead, but given the fiscal implications of the review and its explicit reference in the fiscal plan, they are seeking an early steer from you on some key choices before progressing the draft cabinet paper.

The cabinet paper is planned to be lodged for a 20 March Cabinet Committee, but we have advised MBIE that this timing may need to change to align with the early decisions Budget cabinet paper once the timing and details of that paper is confirmed.

There are key issues to consider around risk tolerance and timing.

While the \$123 million p.a. savings amount is achievable, Ministers have choices on the level of risk you are willing to take to achieve the level of savings and timeframes outlined in the Government’s fiscal plan.

We set out below:

- The key questions we understand the Minister of Immigration wants to specifically test with you,
- Treasury comments in response to those questions, and
- Some questions you may wish to raise with the Minister of Immigration (these are included in an Annex for ease of reference).

This Aide Memoire is intended to complement MBIE's note which has also been shared with both Ministers, which has some additional detail. You have also received a separate briefing on extending the expiry date of an immigration tagged contingency which mentions plans for addressing broader immigration cost pressures [Tracking Number 2324-1490]. We have focussed this Aide Memoire only the specific issues we understand the Minister of Immigration wants to test with you, as we understand the options on addressing cost pressures will be picked up as part of the Budget 2024 savings and March Baseline Update processes.

[33]

Question: Do you support use of the Immigration Levy to part-cover ESOL in school costs, which are currently fully funded by the Crown through Vote Education?

There is also an opportunity to achieve immigration savings by transferring some of the cost of ESOL in schools from Vote Education to the Immigration Levy, which MBIE is preparing more detailed advice to their Minister on. ^[33]

depending on how much of the costs Ministers choose to transfer to the Immigration Levy.

There is precedent and justification for funding some ESOL in school costs through the Immigration Levy, but this has been a reasonably small percentage (around 8%). If 50% of ESOL costs were transferred to the Immigration Levy, this would achieve approximately \$37 million in Crown savings. This means you could reach the \$123 million p.a. savings amount while keeping refugee quota costs as fully Crown funded (i.e. Option B above).

Treasury view

Noting that MBIE is still to provide more substantive advice on the ESOL proposal, at this stage we recommend ^[33] as the best option from a fiscal perspective if you wish to achieve the \$123 million p.a. savings amount while ^[33]

MBIE has advised that a higher proportion of migrant-background learners are now receiving ESOL in schools than in the past, and that this strengthens the case for a greater portion of the costs being funded through the Immigration Levy than the previous 8%.

There are many moving parts with this review, and we see merit in the March fee and levy cabinet paper having options for Cabinet to decide on. This avoids prematurely constraining Cabinet decisions, and allows the ultimate decision to be informed by broader Budget 2024 decisions which will be progressing in tandem. For example:

- The cabinet paper could include options on the level of ESOL costs that are transferred to the Immigration Levy ^[33]
- Another option would be to propose transferring ^[33]

While we would not recommend this option with the current information we have from MBIE ^[33]

you may wish to raise this option with the Minister of Immigration if you would like the inclusion of this option in the cabinet paper.

Question: Are you comfortable delaying implementation of the fee and levy adjustments by approximately two months (from July to September) to allow targeted consultation with key stakeholders, in line with Treasury cost recovery guidance?

The other key choice we understand the Minister of Immigration wants to discuss with you is whether or not to undergo targeted consultation as part of the fee and levy review process. MBIE advises that undergoing targeted consultation pushes out the timeline for completion of the review by approximately two months.

Treasury view

On balance, we support an approach that includes time for targeted consultation as part of the fee and levy review as we consider the risks of forgoing any consultation likely outweigh the fiscal gains of a faster implementation date in the 24/25 financial year; and could potentially mitigate risks to fee and levy income in subsequent years.

Treasury and the Office of the Auditor General guidelines on cost recovery state that consultation should be appropriate to the significance and complexity of the changes. Current cost modelling indicates that significant increases (particularly to the Immigration Levy) are needed to meet the \$123 million savings target. This supports the case for at least some targeted consultation to mitigate potential legal challenges.

In-principle decisions in March from Cabinet can be sufficient for the expected fiscal impact to be incorporated into the Budget Economic and Fiscal Update (BEFU) 2024 if the proposed fee and levy rate changes are clearly outlined in the cabinet paper. This means that, while consultation may slightly delay full implementation of the fee and levy changes, the fiscal implications can still be incorporated for BEFU for the 24/25 and subsequent years.

Cabinet taking in-principle decisions ahead of consultation does risk constraining the scope of what the consultation can achieve. The consultation process can still be used to better understand the impact of proposed rate adjustments on different sectors and stakeholders (such as employers) and for officials to give more detailed and specific advice to Cabinet on where potential risks of challenge may arise.

If Ministers chose to not progress with targeted consultation, we understand MBIE could fully implement the fee and levy adjustments by July 2024, rather than September as currently planned. MBIE's initial analysis indicates that each month implementation of the fee and levy adjustments is brought forwards could bring in additional revenue of approximately \$5 million in 24/25; it would make no difference to fee and levy revenue in subsequent years.

Katie Keir, Senior Analyst, Communities Learning and Work, ^[39]
Thomas Parry, Manager, Communities Learning and Work, ^[39]

Annex: Questions you may wish to ask the Minister of Immigration

- [33]

- How do the proposed options for fee and levy adjustments align with the Government's commitment in the fiscal plan to "Not allow any fees to cost more than 90% of Australia's equivalent fees"?

- [33]

- What is the shortest amount of time MBIE advises is needed to undergo targeted consultation, and who does this targeted consultation involve? Is there any scope to undertake targeted consultation in time to make final decisions as part of the final Budget cabinet paper in April?