



## BRIEFING

### Ministerial Direction to Callaghan Innovation on the administration of a RDTI transitional support mechanism

|                                 |               |                         |           |
|---------------------------------|---------------|-------------------------|-----------|
| <b>Date:</b>                    | 24 June 2021  | <b>Priority:</b>        | High      |
| <b>Security classification:</b> | In Confidence | <b>Tracking number:</b> | 2021-4233 |

| Action sought   |   |              |
|---|---|--------------|
|   | Action sought   | Deadline     |
| Hon Dr Megan Woods<br><b>Minister of Research, Science and Innovation</b> | <p><b>Agree</b> to design choices proposed in this briefing</p> <p><b>Agree</b> to issue the new Ministerial Direction</p> <p><b>Refer</b> this briefing to the Minister of Revenue</p> | 29 June 2021 |

| Contact for telephone discussion (if required) |                                      |           |                            |             |
|--|--------------------------------------|-----------|----------------------------|-------------|
| Name   | Position                             | Telephone |                            | 1st contact |
| Dr Jess Robertson                              | Manager, Innovation Policy           |           | Privacy of Natural Persons |             |
| Dr Simon Wakeman                               | Principal Advisor, Innovation Policy |           | Privacy of Natural Persons | ✓           |
| Jonathan Mitchell                              | Policy Advisor, Innovation Policy    |           | Privacy of Natural Persons |             |

| The following departments/agencies have been consulted |
|--|
| Callaghan Innovation, Inland Revenue                   |

**Minister's office to complete:**

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

**Comments**



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#### Purpose

This briefing provides you with a draft Ministerial Direction to Callaghan Innovation on the administration of the RDTI transitional support mechanism and explains the choices made during the drafting of that Ministerial Direction.

#### Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

#### Background

- a **Note** that Cabinet agreed to introduce a transitional support mechanism that will provide further support for Growth Grant businesses transitioning to the RDTI.  
*Noted*
- b **Note** that Cabinet authorised you, in consultation with the Minister of Revenue, to make necessary operational and policy design changes in line with the policy objectives.  
*Noted*
- c **Note** that, following consultation with Callaghan Innovation and key RDTI stakeholders, we have prepared a draft Ministerial Direction.  
*Noted*

#### Design choices varying from proposals in the Cabinet paper

- d **Agree** to specify that, to be eligible for the payment, businesses must have “participated in the RDTI”, or more specifically:
  - i. For the 2019/20 income year, filed a supplementary return; or
  - ii. For the 2020/21 and 2021/22 years, submitted an application for either criteria and methodologies (CAM) approval or general approval (GA) of its activities, and received a decision on its application.  
*Agree / Disagree*
- e **Agree** that the formula for calculating a business’s entitlement be re-characterised in terms of its eligible R&D expenditure rather than payments or entitlements.  
*Agree / Disagree*
- f **Agree** that the formula for calculating a business’s entitlement be changed to refer to the three years immediately preceding the year in which a business is applying for a payment, rather than the last three years before it entered the RDTI.  
*Agree / Disagree*

- g **Agree** that, where a business did not receive a Growth Grant payment in one or more of the three immediately prior years, in place of its Growth Grant-eligible R&D expenditure for that year the following amount be used in the calculation of the three-year average:
- i. its maximum entitlement under this scheme if the business participated in the RDTI in that year; or
  - ii. zero if it did not participate in the RDTI in that year.

*Agree / Disagree*

- h **Agree** that, to be eligible for a payment under this scheme, a business must have
- i. Had an active contract under the Growth Grant scheme on the last day of its 2018/19 year; or
  - ii. Had an active Growth Grant contract during the period from 1 April 2019 to 31 March 2021 (inclusive).

*Agree / Disagree*

### **Design choices addressing situations not considered by Cabinet**

- i **Agree** that, at the time of considering an application, Callaghan Innovation rely primarily on a business's own assessment of its Growth Grant-eligible R&D expenditure, supported by an attestation that the assessment is accurate.

*Agree / Disagree*

- j **Agree** that Callaghan Innovation be required to commission the audit of a "sufficient number of applications to be able to provide [you] with an assurance as to whether businesses receiving a payment under this scheme have complied with the requirements".

*Agree / Disagree*

- k **Agree** that if it is determined through an audit that a business's self-assessment is in excess of its actual Growth Grant-eligible R&D expenditure determined by Callaghan Innovation, the business be required to repay immediately the additional funds to which it was not entitled.

*Agree / Disagree*

- l **Agree** that the business also be required to pay an additional amount set by Callaghan Innovation to ensure businesses have a strong incentive to accurately describe their eligible expenditure.

*Agree / Disagree*

- m **Note** that Callaghan Innovation would have the ability to waive repayment if the excess amount was small and the error was in good faith.

*Noted*

- n **Agree** to require that, before a business receives a payment under this scheme, it must have made a good-faith attempt to apply for funding under the RDTI.

*Agree / Disagree*

- o **Agree** that, if it is determined the business has not made a good-faith attempt to apply for funding under the RDTI, it will be required to repay funding under this scheme for expenditure on all projects and/or activities for which it has not made a good-faith attempt to apply for under the RDTI.

*Agree / Disagree*

p **Agree** that, at the time of considering the application, Callaghan Innovation will rely primarily on the business's attestation that it has made a good-faith attempt to apply for funding under the RDTI, and compliance with this requirement will be verified primarily during the audit process.

*Agree / Disagree*

q **Agree** that those businesses with balance dates after 31 March 2021 that both received a Growth Grant payment and participated in the RDTI be entitled to apply for funding under this scheme in 2020/21 year.

*Agree / Disagree*

r **Agree** that Callaghan Innovation be required to collect and report information relevant for monitoring and evaluation of this scheme, as well as future policy development.

*Agree / Disagree*

s **Agree** that the mechanism be referred to officially as the "RDTI Transition Support Payment".

*Agree / Disagree*

### **Other matters considered**

t **Note** that we carefully considered how to minimise compliance costs in the proposed design of the scheme.

*Noted*

u **Note** that we considered how to maintain incentives on businesses to use the appropriate accounting treatment of their R&D activity.

*Noted*

v **Note** that we concluded it would not be feasible to provide access to in-year payments under this scheme.

*Noted*

### **Next steps**

w **Agree** to forward this briefing to the Minister of Revenue.

*Agree / Disagree*

x **Agree** to publish the Ministerial Direction in the New Zealand Gazette as soon as practicable.

*Agree / Disagree*

y **Agree** that we may make additional, minor changes recommended by the legal team, or minor technical or proofing changes, to the draft of the Ministerial Direction before it is gazetted.

*Agree / Disagree*

z **Agree** that this briefing be proactively released alongside the Ministerial Direction.

*Agree / Disagree*

Dr Jess Robertson

**Manager, Innovation Policy**

Labour, Science and Enterprise, MBIE

24/ 06/ 2021

Hon Dr Megan Woods

**Minister of Research, Science and Innovation**

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## Background

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1. We previously provided you with advice on maintaining the level of support for Growth Grant recipients as they transition to the Research and Development Tax Incentive (RDTI) [Briefings 2021-1888, 2021-2727 and 2021-2844 refer].
2. On 7 April 2021, Cabinet agreed to the design and implementation of a transitional support mechanism that will provide further support for Growth Grant businesses transitioning to the RDTI [DEV-21-MIN-0068 refers]. The key design features of the support agreed by Cabinet include:
  - The support will take the form of an adjustment to a business's RDTI entitlement up to the level it was receiving under the Growth Grant.
  - Businesses must complete an application for the RDTI to be eligible for support.
  - Only former Growth Grant recipients that exited the scheme on or after 31 March 2019 income year are eligible.
  - The adjustment is available for expenditure in the current 2021/22 financial year, and for the 2019/20 and 2020/21 years for those companies that exited the Growth Grant early and transitioned to the RDTI. The scheme is not intended to remain in place beyond the 2021/22 year to incentivise uptake of the RDTI.
  - The maximum amount of the adjustment will be determined using the lower of:
    - The average of its Growth Grant payments for the last three years before it entered the RDTI; and,
    - The amount it would have been entitled to in the current year under the Growth Grant.

This amount will be offset by the business's entitlement under the RDTI.

  - To minimise the costs to business of receiving the support, businesses do not have to establish their R&D expenditure upfront. Instead, an approach that ensures businesses do not have an incentive to claim more than they are entitled to, such as requiring officers of the company to attest to their R&D expenditure supported by verification through an audit programme, would be used.
  - The scheme will be administered by Callaghan Innovation.
3. Cabinet also authorised you, in consultation with the Minister of Revenue, to make operational and policy design changes as needed, in line with the policy objectives. The policy objectives set out in the Cabinet paper are:
  - Maintaining business investment in R&D by providing continuity of the level of government support, while the outstanding issues in the implementation the RDTI are resolved.
  - Maintaining business engagement with the RDTI as the primary form of business R&D support.
  - Minimising disruption to the implementation of the RDTI and incentivise businesses to take up the RDTI as soon as it is feasible.
4. This briefing provides you with a proposed draft of the Ministerial Direction to Callaghan Innovation that contains instructions on how to give effect to the policy agreed by Cabinet (see Annex One). The main text of this briefing sets out our recommendations on the specific design choices incorporated into that Direction, and Annex Two provides additional explanation for those choices.

## Detailed design of the scheme

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### Consultation with Callaghan Innovation and key stakeholders

5. Following Cabinet's agreement to introduce the scheme, we consulted extensively with Callaghan Innovation and with Inland Revenue on the detailed design of the scheme. We also met with several groups of key stakeholders to hear their suggestions on the proposed design. The design choices embedded in the proposed draft of the Ministerial Direction contained in Annex One incorporates the feedback that consultation.

### Design choices varying from proposals in the Cabinet paper

6. This section sets out our recommendations on a series of design choices that vary from the design outlined in the Cabinet paper. We consider that these proposals fit within the remit of your authority to make necessary operational and policy design changes as they are consistent with the policy objectives of the scheme.

### Specify meaning of the requirement to complete a RDTI application

7. To clarify the requirement in the Cabinet paper that a business "must complete an RDTI application", we propose it be reframed as a requirement to "participate in the RDTI", defined specifically as:
  - a. *For the 2019/20 income year, it filed a supplementary return; or*
  - b. *For the 2020/21 and 2021/22 years, it:*
    - i. *Submitted an application for criteria and methodologies (CAM) approval; or*
    - ii. *Submitted an application for general approval (GA) of its activities;*

*and it received a decision on its application (ie., its application was either accepted or declined).*

### Amend formula for determining level of entitlement

8. To address issues that came to our attention during consultation, we propose several amendments or additions to the formula set out in the Cabinet paper for determining the business's level of entitlement.
  - a. *Re-characterise formula in terms of eligible R&D expenditure:* To avoid providing an additional subsidy for R&D expenditure that has already been subsidised under the RDTI, we propose the formula be re-characterised in terms of the business's "eligible R&D expenditure" under the RDTI and Growth Grant schemes (rather than its "payments" or "entitlements" under those schemes).
  - b. *Adjust period for calculating three-year average:* To avoid a situation where businesses whose Growth Grant-eligible R&D expenditure has dropped since they entered the RDTI from receiving a windfall, we propose that the formula be changed to refer to the 3 years immediately preceding the year in which the business is applying under this scheme (rather than the last 3 years before it entered the RDTI).
  - c. *Adjust formula for businesses that did not receive a Growth Grant payment in a previous year:* For those instances where a business did not receive a Growth Grant payment in one or more of the past 3 years but participated in the RDTI instead, we propose that (for the purposes of calculating the 3-year average) the business's Growth Grant-eligible R&D expenditure be substituted with its maximum eligible R&D expenditure under this scheme. If the business neither received a Growth Grant payment nor participated in the RDTI in a prior year, we propose the Ministerial Direction make clear that its Growth Grant-eligible R&D expenditure will be counted as zero.

#### Specify which former Growth Grant recipients are eligible

9. To capture all businesses that exited the Growth Grant at the end of their 2018/19 year and transitioned immediately to the RDTI, while excluding businesses that exited for other reasons, we recommend that the Ministerial Direction specify that to be eligible a business must have:
  - a. Had an active Growth Grant contract on the last day of the business's 2018/19 year and participated in the RDTI in the 2019/20 year; or
  - b. Had an active Growth Grant contract during the period from 1 April 2019 to 31 March 2021 (inclusive).

#### **Design choices addressing situations not considered by Cabinet**

10. This section sets out a series of proposed design choices that were not covered by the design set out in the Cabinet paper.

#### Specify that business should attest to its Growth Grant-eligible R&D expenditure

11. In line with the suggestion in the Cabinet paper, we propose that you specify a business do its own assessment of its Growth Grant-eligible R&D expenditure for the year in which it is applying under this scheme and attest that this amount is accurate on its application. The business would be required to retain appropriate evidence to support its self-assessment and be able to provide this information on request – for instance, in the case of an audit. Callaghan Innovation would, in most instances, rely on this attestation when assessing an application but may seek to verify the business's assessment during the application process if there are indications the assessment may be inaccurate.

#### Specify stronger expectations regarding audit of applications

12. To compensate for the 'light touch' approach taken at the time of assessing applications, we propose you indicate that you expect Callaghan Innovation to commission a considerably higher level of audit than it does under other schemes. Rather than explicitly specifying the level of audit, we propose you state that Callaghan Innovation commission the audit of a "sufficient number of applications to be able to provide [you] with an assurance as to whether businesses receiving a payment under this scheme have complied with the requirements".

#### Specify consequences of inaccurate assessment of Growth Grant-eligible R&D expenditure

13. If it is determined through an audit that a business's self-assessment exceeds the actual amount determined by Callaghan Innovation, we propose that a business be required to repay immediately the additional funds to which it was not entitled. Moreover, to ensure businesses have a strong incentive to accurately describe their eligible expenditure, we propose that (in cases of significant non-compliance) businesses be required to pay an additional amount set by Callaghan Innovation. Callaghan Innovation would have the ability to waive this requirement if the excess amount was small and it determines the error was made in good faith.

#### Require businesses to make a good-faith attempt to apply for RDTI funding

14. To mitigate the risk of a business exerting the minimum amount of effort to meet the requirement to participate in the RDTI to maximise its claim under this scheme, we propose that a business be required to make a good-faith attempt to apply for funding under the RDTI before applying under this scheme. If it is determined that a business has not done so, its eligible expenditure would be recalculated to exclude the relevant expenditure and it would then be required to repay the funds to which it was not entitled. As for the assessment of its Growth Grant-eligible R&D expenditure, we propose that the business be required to attest that it met this requirement at the time of making an application, and Callaghan Innovation to normally rely on this attestation in assessing an application.

### Clarifying treatment of businesses transitioning within the 2020/21 year

15. We propose that businesses which were allowed both to receive a Growth Grant payment and to participate in the RDTI in the 2020/21 year (ie, those with balance dates after 31 March) be considered eligible for the scheme in the 2020/21 year. We also propose two modifications to the method for determining the level of entitlement for these businesses:
  - a. For the purpose of calculating the business's maximum eligible expenditure under this scheme, its Growth Grant-eligible expenditure for the 2020/21 year would be calculated as if the business had remained in the Growth Grant scheme for the whole year; and
  - b. For the purpose of calculating the level of a business's entitlement, its actual Growth Grant expenditure for the 2020/21 year (as well as its RDTI-eligible expenditure) should be offset against its maximum eligible expenditure.

### Require Callaghan Innovation collect and report information for specific purposes

16. To ensure that you remain informed about the scheme's performance, we propose that the Ministerial Direction require Callaghan Innovation to provide both you and MBIE with regular information on the business uptake of the scheme, expenditure of funds under the appropriation, and the activities it has undertaken to provide an assurance on business's compliance with the requirements. Moreover, to enable monitoring, evaluation, and other related activities, we recommend that you require Callaghan Innovation to make relevant business-level information available to MBIE, Inland Revenue, and Statistics New Zealand.

### Official name for the scheme

17. The Cabinet paper and preceding advice described the scheme as an "adjustment" or "transitional support mechanism". To clarify the nature of this intervention, we propose that the scheme be referred to officially as the "RDTI Transition Support Payment" (or "TSP" for short).

### **Other matters considered**

18. This section sets out other factors we have considered in arriving at the design of the scheme set out in the proposed Ministerial Direction.

### How to minimise compliance costs

19. In designing the scheme, and particularly in the design choices that are contained in the proposed Ministerial Direction, we have carefully considered various options to minimise the costs to businesses of participating in the scheme. Specifically, we sought to avoid the requirements of the scheme imposing a burden on businesses that would discourage them from fully engaging with the RDTI while still maintaining the integrity of the scheme. Having weighed those options, we believe that the approach proposed in the draft Ministerial Direction strikes the best balance between minimising compliance costs and maintaining the integrity of the scheme.

### How to maintain incentives to use appropriate accounting treatment

20. Stakeholders brought to our attention that using the conventional Growth Grant rules to determine the level of entitlement could disadvantage businesses that have begun treating more of their activity as investment in intangible capital in their accounts. We considered adjusting the design of the scheme to address this concern – in particular, allowing businesses to claim for investment in intangible capital in calculating their Growth Grant-eligible expenditure for the year in which they are applying for the scheme. However, we concluded that doing so would mean businesses could not simply use the same approach they had used under the Growth Grant scheme and risked opening up eligibility to activities not intended to be covered.

### Whether it is possible to provide access to payments in year

21. Stakeholders asked whether it was possible to make in-year payments under this scheme as it will be using many of the same processes as the Growth Grant scheme. We concluded that

it would be difficult to deliver payments in year under this scheme because the business's RDTI-eligible expenditure is an essential input to determining its entitlement, and that information is only available at the end of the year. In addition, making payments available in year requires resolving several other issues, which was not considered possible in the short timeframe over which this scheme was introduced. We also noted that officials are already working on options for enabling in-year payments in the context of the RDTI scheme.

## Next steps

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22. Cabinet authorised you to make the detailed policy and operational decisions outlined in this briefing in consultation with the Minister of Revenue. We have consulted with Inland Revenue on the Ministerial Direction. We recommend you also forward a copy of this briefing to the Minister of Revenue.
23. If you agree to proposals set out in this briefing, and to issue the Ministerial Direction contained in Annex One, it will be published in the New Zealand Gazette. We propose that the publication happen as soon as possible after you authorise it to enable Callaghan Innovation to begin standing up the appropriate processes to administer the scheme.
24. We have consulted with MBIE and Callaghan Innovation's legal advisors in drafting the Ministerial Direction. We request your permission to make any additional, minor changes recommended by the legal team, or minor technical or proofing changes, to the Direction before it is gazetted.
25. We propose that this briefing be proactively released, with any appropriate withholding, alongside the Ministerial Direction once gazetted. This will provide additional clarity to businesses around the design and rationale of the scheme.

## Annexes

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Annex One: Draft Ministerial Direction

Annex Two: Additional information on design choices

**Annex One: Draft Ministerial Direction**

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# **Direction to Callaghan Innovation—Administration of the R&D Tax Incentive Transition Support Payment**

Under section 112 of the Crown Entities Act 2004, I direct Callaghan Innovation to put in place and administer a scheme to support former Growth Grant recipients as they make the transition to the Research and Development Tax Incentive (RDTI), to be known as the RDTI Transition Support Payment.

Under section 103 of the Crown Entities Act 2004, I direct Callaghan Innovation to give effect to government policy in the administration of that scheme as specified in this direction.

In this direction I clarify the policy objective and note the funding to be used to achieve that objective. I set out criteria for Callaghan Innovation to adhere to in assessing proposals for the RDTI Transition Support Payment and the terms for payment.

This notice uses the following format:

- Policy objective
- Funding to be allocated by Callaghan Innovation
- Basis for funding decisions
- Administrative processes
- Collection and provision of information

## **Policy objective**

The objective of this scheme is to maintain business investment in R&D by providing continuity of the level of government support provided to former Growth Grant recipients as they make the transition to the RDTI. It is designed to ensure that those businesses do not reduce their level of R&D activity as a result of uncertainty around the level of support they will receive under the RDTI scheme while they make the transition from the Growth Grant Scheme to the RDTI scheme.

I intend the RDTI Transition Support Payment scheme to be in place only for the time necessary to allow businesses to become familiar with the new R&D-eligibility criteria and the process under the RDTI. I do not intend it to continue providing support to businesses over the longer term.

While payments under the scheme may be made to former Growth Grant businesses in relation to any of the three first tax years of the RDTI, I anticipate that the large majority of businesses will only be eligible to apply for the TSP in the 2021/22 year.

## **Funding to be allocated by Callaghan Innovation**

Callaghan Innovation will use funds from the 'Research, Science and Innovation: Transitional Support to R&D Performing Businesses' appropriation for making payments under this scheme.

Callaghan Innovation will use funds from the 'Research, Science and Innovation: Callaghan Innovation – Operations' appropriation to cover costs incurred in administering this scheme.

## **Basis for funding decisions**

### **Business eligibility**

To be eligible for a payment under this scheme in the relevant year a business must have:

- a. Either
  - i. Had an active Growth Grant contract on the last day of the business's 2018/19 year and participated in the RDTI in the 2019/20 year; or
  - ii. Had an active Growth Grant contract during the period from 1 April 2019 to 31 March 2021 (inclusive);

and

- b. Participated in the RDTI in the relevant year; and
- c. Not received a Project Grant in the relevant year.

All references to 'year' in this notice should be interpreted as referring to the business's income year (used for tax purposes), unless otherwise stated. References to the 'relevant year' refer to the year in which the business is applying to receive the RDTI Transition Support Payment.

A business may be eligible to receive the RDTI Transition Support Payment under this scheme in any of the 2019/20, 2020/21, or 2021/22 years.

A business with a balance date after 31 March 2021 that both received a Growth Grant payment and participated in the RDTI in the 2020/21 year will be eligible to receive the RDTI Transition Support Payment in that year.

A business will be deemed to have participated in the RDTI in a given year if:

- c. For the 2019/20 income year, it filed a supplementary return; or
- d. For the 2020/21 and 2021/22 years:
  - i. It submitted an application for criteria and methodologies (CAM) approval; or
  - ii. It submitted an application for general approval (GA) of its activities;

and it received a decision on its application (ie, its application was either accepted or declined).

Callaghan Innovation will develop and publish appropriate business grouping rules that it will use to determine whether, if two related entities have satisfied different elements of the criteria described above, those entities will be treated as the same business for the purposes of determining eligibility.

### **Level of entitlement**

The amount that a business is entitled to receive under the scheme in the relevant year is equal to 20 percent of the business's TSP Eligible R&D Expenditure, where its TSP Eligible R&D Expenditure is its Maximum TSP Eligible R&D Expenditure under this scheme less its RDTI Eligible R&D Expenditure in the relevant year.

A business's Maximum TSP Eligible R&D Expenditure under this scheme in the relevant year is the lower of:

- the average of the business's Growth Grant Eligible R&D Expenditure in the 3 years immediately preceding the relevant year; and
- the business's Growth Grant Eligible R&D Expenditure during the relevant year.

A business's RDTI Eligible R&D Expenditure is the amount of expenditure determined by Inland Revenue to be eligible for the RDTI in that year.

A business's Growth Grant Eligible R&D Expenditure is to be calculated by applying the definition of Eligible R&D Expenditure under the Growth Grant scheme (<https://gazette.govt.nz/notice/id/2020-go1694>) to those activities for the relevant year. In line with the Growth Grant scheme, a business's Growth Grant Eligible R&D Expenditure is capped at a maximum of \$25 million.

If a business did not receive a Growth Grant payment during any of the previous 3 years then, for the purposes of calculating the average of the business's Growth Grant Eligible R&D Expenditure in the previous 3 years, its Growth Grant Eligible R&D Expenditure for the year in which it did not receive a Growth Grant payment should be substituted with:

- its Maximum TSP Eligible R&D Expenditure under this scheme for that year if it participated in the RDTI in that year; or
- zero if it did not participate in RDTI in that year.

If a business both received a Growth Grant payment and participated in the RDTI in the 2020/21 year:

- For the purpose of calculating its Maximum TSP Eligible R&D Expenditure, its Growth Grant Eligible R&D Expenditure for the 2020/21 year should be calculated as if the business had remained in the Growth Grant scheme for the whole year.
- For the purpose of calculating its TSP Eligible R&D Expenditure for the 2020/21 year, its Growth Grant Eligible R&D Expenditure for the period in which it received a Growth Grant payment should be offset against its Maximum TSP Eligible R&D Expenditure (ie, its TSP Eligible R&D Expenditure is its Maximum TSP Eligible R&D Expenditure under this scheme less its RDTI Eligible R&D Expenditure in the relevant year and its Growth Grant Eligible R&D Expenditure for the period for which it received a Growth Grant payment).

Before applying for a payment under this scheme, a business must accurately assess the level of its Growth Grant Eligible R&D Expenditure for the relevant year and provide this information to Callaghan Innovation in its application. It must also retain evidence to support its self-assessment of its Growth Grant Eligible R&D Expenditure for the relevant year and be in a position to provide this evidence to Callaghan Innovation immediately on request.

Callaghan Innovation should ensure that the business applies the same accounting treatment to expenditure claimed under this scheme as it applied to the same expenditure in its application under the RDTI.

### **Requirement to make good-faith attempt to apply for funding under the RDTI**

A business receiving a payment under this scheme must have made a good-faith attempt to apply for funding for its R&D expenditure under the RDTI. In determining that a business made a good-faith attempt, the following matters will be considered:

- Whether the business included in its application(s) under the RDTI all activities that it could reasonably be expected to have considered as eligible under the RDTI;
- Whether the business included in its application(s) under the RDTI all information on those activities that it could reasonably have been expected to consider as relevant for considering its application; and
- Whether the business provided all information requested by the RDTI team as necessary to assess the eligibility of the business's activities under the RDTI.

For the avoidance of doubt, it is not expected that a business will include in its application(s) under the RDTI information relating to activities that it could not reasonably be expected to have considered as eligible under the RDTI.

A business applying for a payment under this scheme must retain evidence to show that it has made a good-faith attempt to apply for funding under the RDTI and be in a position to provide this evidence to Callaghan Innovation immediately on request.

## **Administrative Processes**

### **Acceptance of applications**

Callaghan Innovation will open the scheme to applications as soon as possible after this Ministerial Direction comes into effect and keep it open until three months after the last eligible business is notified of a decision on its RDTI supplementary return by Inland Revenue, unless otherwise agreed with the Minister of Research, Science and Innovation.

### **Assessment of applications**

Callaghan Innovation must ensure that funding decisions are made in accordance with the Public Finance Act 1989.

Before making a payment under this scheme, Callaghan Innovation will establish that the business satisfies the business eligibility criteria.

Callaghan Innovation will require the business to attest, at the time of its application, that:

- a. it has accurately assessed the level of its Growth Grant Eligible R&D Expenditure in the relevant year;
- b. it has made a good-faith attempt to apply for funding under the RDTI; and
- c. it is in a position to provide evidence in support of statements (a) and (b) immediately on request.

Callaghan Innovation will develop and publish guidelines to ensure that the applicant understands the nature of the evidence that it is required to retain.

In assessing whether a business is eligible to receive a payment under this scheme and determining a level of entitlement, Callaghan Innovation will normally rely on the business's attestations as to the matters covered by these statements. It will, however, seek additional information from the business on these matters before making a payment under this scheme if there are indicators that the business may not have met these requirements.

### **Timing of payment**

Callaghan Innovation will make the payment to the business as soon as possible after it receives:

- an application for a payment; and
- notice of the business's RDTI Eligible R&D Expenditure for the relevant year.

### **Audit of applications**

Callaghan Innovation will commission an audit of a sufficient number of applications to be able to provide the Minister of Research, Science and Innovation with an assurance as to whether businesses receiving a payment under this scheme have complied with the requirements set out in this notice. In selecting which businesses to audit, Callaghan Innovation will take into account indicators that the business may not have met these requirements.

### **Consequences of not complying with requirements**

In making a payment to a business under the scheme, Callaghan Innovation will specify the consequences of not complying with the requirements set out in this notice. In particular:

- If it is determined after a payment has been made that the level of its Growth Grant Eligible R&D Expenditure in the relevant year assessed by the business exceeds the actual level of its Growth Grant Eligible R&D Expenditure as determined by Callaghan Innovation, it will be required to immediately repay those funds it has received that exceed the actual level of its Growth Grant Eligible R&D Expenditure.
- In addition to being required to repay the funds that exceed the actual level of its Growth Grant Eligible R&D Expenditure, the business will also be required to pay an amount set by Callaghan Innovation at a level to ensure businesses have a strong incentive to accurately self-assess their Growth Grant Eligible R&D Expenditure in the relevant year. In setting the amount, Callaghan Innovation should take into consideration that the scheme relies on business's accurate self-assessment of its Growth Grant Eligible R&D Expenditure to minimise the costs to business of complying with the scheme. Callaghan Innovation may waive the requirement on the business to pay this additional amount if the excess amount the business received was small (relative to its actual Growth Grant Eligible R&D Expenditure) and it determines that the error in its self-assessment was made in good faith or if other exceptional circumstances apply.
- If it is determined after a payment has been made that a business has not made a good-faith attempt to apply for funding under the RDTI then, for the purposes of calculating the level of its entitlement under this scheme, the business's Growth Grant Eligible R&D Expenditure for the relevant year will be recalculated to exclude all expenditure relating to those projects and/or activities for which it has not made a good-faith attempt to apply for under the RDTI. The business will be required to immediately repay those funds that it has already received to which it was not entitled.

## **Use of funding for administration costs**

The funds allocated to cover administration costs must be spent in a prudent manner, and may only be used to cover Callaghan Innovation's incremental costs associated with operating the RDTI Transition Support Payment.

## **Collection and provision of information**

Callaghan Innovation will provide the Minister of Research, Science and Innovation and MBIE with regular reports on the scheme, including business uptake, expenditure of funds under the appropriation, and the activities undertaken to provide an assurance as to whether businesses receiving a payment under this scheme have complied with the requirements. This will include the amount of auditing commissioned, the level of compliance (or non-compliance) revealed as a result, and the amount of funds recovered from businesses that have not complied with the requirements.

Callaghan Innovation will collect business-level information relevant for the monitoring and evaluation of the scheme and policy development more generally, analysis of business performance, and other related research. It will make this information available:

- To the Ministry of Business, Innovation, and Employment (MBIE), upon request, for the purposes of monitoring and evaluation of the scheme and policy development more generally;
- To Inland Revenue, upon request, for the administration of the RDTI; and
- To Statistics New Zealand, on an annual basis, for the purpose of making it available to researchers on a de-identified basis through the Longitudinal Business Database.

Callaghan Innovation will ensure that all applicants have provided the consent necessary for sharing of this information as described above.

Dated this XXX day of XXX 2021.

Hon MEGAN WOODS, Minister of Research, Science and Innovation.

## Annex Two: Additional information on design choices

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### Suggestions from key stakeholders

26. After we developed an initial draft of the Ministerial Direction based on the outline of the scheme set out in the Cabinet paper, and conducted an initial consultation with Callaghan Innovation and Inland Revenue, we met with several groups of key stakeholders that have been consulted in development of the R&D Tax Incentive. More specifically, we met with representatives from the following groups:
- Corporate Taxpayers Group (CTG)
  - Research and Development Advisory Group (RDAG)
  - Chartered Accountants Australia and New Zealand (CAANZ)
27. The stakeholders welcomed the introduction of the scheme and in general expressed support for the design. At the same time, they made a number of helpful suggestions:
- Preventing 'pro forma' applications for the RDTI: If there is no incentive to the contrary, a business that knows it will benefit from the scheme may put in only a token or 'pro forma' claim to the RDTI. This is because it would not only save costs of participating in the RDTI but also allow it to put off engaging in the RDTI for another year.
  - Avoiding double subsidisation of RDTI-eligible expenditure: Because the RDTI and Growth Grant entitlements are calculated using different rates (15% post-tax vs 20% pre-tax respectively), the formula for calculating a business's entitlement implied in the Cabinet paper could lead to the situation where the scheme is providing an additional subsidy on top of R&D expenditure that has already been subsidised under the RDTI.<sup>1</sup>
  - Minimising compliance costs: To obtain funding under both the RDTI and this scheme, businesses may need to keep separate records and to account for their expenditure under both the RDTI and Growth Grant rules. This will impose additional compliance costs and could distract them from taking the steps necessary to transition to the RDTI.
  - Maintaining incentives to use appropriate accounting treatment: While the RDTI rules for determining R&D eligibility are agnostic to the way that activity is treated in the accounts, under the Growth Grant scheme only R&D activity treated as expenditure (as opposed to activity treated as investment in intangible capital) was eligible. Since the introduction of the RDTI, some businesses have taken steps to treat more of their activity as investment in intangible capital (vs expenditure) in their accounts.<sup>2</sup> However, not all of that activity will be eligible under the RDTI rules because it does not satisfy the RDTI eligibility criteria. This means that those businesses will not be able to claim that expenditure under either scheme.
  - Providing access to payments in-year: Some stakeholders asked whether it was possible to make payments under this scheme in year (eg, quarterly) as it will be using the same processes as the Growth Grant scheme.
  - Providing clear communication to businesses about the scheme: Stakeholders had a number of comments/questions around how the scheme will be communicated to businesses, noting the material is quite complex, companies will not know if they need

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<sup>1</sup> Businesses would receive an additional 5% (before-tax) subsidy under the TSP on top of the 15% (after-tax) subsidy they have received under the RDTI for that same R&D expenditure.

<sup>2</sup> Whether a business claims for expenditure on an activity as investment in intangible capital or as expenditure is dictated primarily by the accounting rules, but there is some discretion (resolved between the business's accountants and its auditors). Because R&D activity treated as expenditure was eligible under the Growth Grant scheme, but R&D activity treated as an investment in an intangible asset was not, some businesses exercised that discretion to treat activity as expenditure.

the scheme for 12-18 months, and businesses will want confidence around the mechanics of the scheme, particularly where there is risk (ie, audit requirements, potential penalties, etc.).

28. We have made a number of design choices to address this feedback as well as other considerations. This section presents the proposed design choices that vary from the changes outlined in the Cabinet paper. We consider that these proposals fit within the remit of the authority delegated to you by Cabinet as they are consistent with the policy objectives of the scheme.
29. The next section sets out other proposed design choices that were not covered by the design set out in the Cabinet paper. The final section of this annex sets out other factors considered in arriving at the design of the scheme set out in the proposed Ministerial Direction.

## **Design choices varying from proposals in the Cabinet paper**

### Specify meaning of the requirement to complete a RDTI application

30. An objective of this scheme is to encourage former Growth Grant recipients to engage with the RDTI as the primary form of businesses R&D support, and particularly to investigate whether the business's activities are eligible under the RDTI's definition of R&D. The Cabinet paper proposed that, to be eligible, the business must "complete an RDTI application". However, this left it unclear what specifically a business needed to do to satisfy this requirement.
31. We propose this be clarified by reframing it as a requirement to "participate in the RDTI". More specifically, we propose that a business be deemed to have participated in the RDTI if:
  - e. For the 2019/20 income year, it filed a supplementary return; or*
  - f. For the 2020/21 and 2021/22 years, it:*
    - i. Submitted an application for criteria and methodologies (CAM) approval; or*
    - ii. Submitted an application for general approval (GA) of its activities;*

*and it received a decision on its application (ie, its application was either accepted or declined).*
32. Under this proposal the threshold for participation is lower for the 2019/20 year – specifically, a business does not need to have pursued its application all the way through the process to receive a decision. This allows for the uncertainty around the eligibility requirements during the period in which businesses would have been applying for the RDTI in the 2019/20 year, and that some businesses may have withdrawn their applications as a result.

### Amend formula for determining level of entitlement

33. The Cabinet paper stated that the size of the adjustment is intended to approximate what a business would have received if the Growth Grant scheme had continued, offset by its RDTI entitlement. In particular, the Cabinet paper set out the following formula for determining the business's level of entitlement:

*The maximum that a business is entitled to under the adjustment will be the lower of:*

  - a. the average of its Growth Grant payments in the last 3 years before it entered the RDTI; and*
  - b. the amount it would have been entitled to in the current year under the Growth Grant scheme.*
34. We propose several amendments or additions to this formula to address issues that came to our attention during consultation.

### *Re-characterise formula in terms of eligible expenditure*

35. As noted above, it was pointed out during consultation that, because the RDTI and Growth Grant entitlements are calculated at a different rate (15% and 20% respectively), the calculation implied in the Cabinet paper could lead to a situation where the scheme is providing an additional subsidy on top of R&D expenditure that has already been subsidised under the RDTI.
36. To correct for this unintended effect, we propose that the formula for calculating a business's entitlement under this scheme be re-characterised in terms of its eligible R&D expenditure (rather than the payments or entitlements) under the RDTI and Growth Grant schemes. This will make it clear that the amount of the business's RDTI-eligible expenditure is to be deducted before calculating the business's entitlement under this scheme. As a result this scheme will subsidise only the amount of expenditure that is over and above the amount of expenditure that is eligible under RDTI.

### *Adjust period for calculating three-year average*

37. In addition, it came to our attention that the formula in the Cabinet paper meant a business that entered the RDTI in the 2019/20 and 2020/21 years would receive a payment in the 2020/21 and 2021/22 years based on its R&D in the 2016/17, 2017/18 and 2018/19 years. If its Growth Grant-eligible R&D expenditure had dropped in 2019/20, this would result in it receiving a windfall, relative to a business with the same spending that had remained on the Growth Grant scheme.
38. To avoid this inequity, we propose that the formula be changed to refer to the 3 years immediately preceding the year in which the business is applying for funding (rather than the last 3 years before it entered the RDTI). This only affects the calculation for businesses that entered the RDTI in the 2019/20 and 2020/21 years and whose Growth Grant-eligible R&D fell during those years.

### *Adjust formula for businesses that did not receive a Growth Grant payment in a previous year*

39. This change to the period for calculating the three-year average means that there may be some instances in which a business has not received a Growth Grant payment in one or more of the past 3 years. In some instances that will be because the business entered the RDTI, but in others because it was not apply for any form of government support.
40. In those instances in which the business participated in the RDTI, we propose that (for the purposes of calculating the 3-year average) the business's Growth Grant-eligible R&D expenditure be substituted with its maximum eligible R&D expenditure under this scheme. If the business has maintained its R&D expenditure at the same level then this will not affect the amount it receives (ie, it will receive the three-year average of its last three years of Growth Grant payments). However, if not its entitlement will fall to account for the lower R&D expenditure.
41. Alternatively, if a business neither received a Growth Grant payment nor participated in the RDTI in a prior year, we propose that the Ministerial Direction make clear that its Growth Grant-eligible R&D Expenditure be counted as zero. In previous advice on the formula to be included in the Cabinet paper [2021-2844 refers] we noted that "If a business did not receive a Growth Grant payment in any of the past three years (eg, it was only on the Growth Grant scheme for the last two years), that year counts as a zero". Even without this statement, we believe that would be the natural interpretation.
42. Counting years in which a business neither received a Growth Grant nor participated in the RDTI as zero when calculating the average will lower the maximum entitlement a business can receive under this scheme. We consider that this is consistent with the overall objective of maintaining continuity in the level of government support because those businesses were not receiving government support in those years.

### *Proposed new formula*

43. After the first two changes are made, the formula for calculating a business's entitlement would be specified in the Ministerial Direction as:

*The amount that a business is entitled to receive under the scheme in the relevant year is equal to 20 percent of the business's TSP Eligible R&D Expenditure, where its TSP Eligible R&D Expenditure is its Maximum TSP Eligible R&D Expenditure under this scheme less its RDTI Eligible R&D Expenditure in the relevant year.*

*A business's Maximum TSP Eligible R&D Expenditure under this scheme in the relevant year is the lower of:*

- *the average of the business's Growth Grant-eligible R&D Expenditure in the 3 years immediately preceding the relevant year; and*
  - *the business's Growth Grant-eligible R&D Expenditure during the relevant year.*
44. To implement the third recommendation, the Ministerial Direction would include an additional clause stating:

*If the business did not receive a Growth Grant payment during any of the previous 3 years then, for the purposes of calculating the average of the business's Growth Grant-eligible R&D Expenditure in the previous 3 years, its Growth Grant-eligible R&D Expenditure for that year in which it did not receive a Growth Grant payment will be substituted with:*

- *its Maximum TSP Eligible R&D Expenditure under this scheme for that year if it participated in the RDTI in that year; or*
- *zero if it did not participate in RDTI in that year.*

### Specify which former Growth Grant recipients are eligible

45. The Cabinet paper stated that this scheme would be available only to existing Growth Grant recipients and those who exited the Growth Grant scheme on or after 31 March 2019. The reason stated for including businesses who exited the scheme on 31 March 2019 was to capture those who exited the scheme early to take part in the RDTI pilot.
46. It came to our attention during consultation that, because businesses were able to enter the RDTI from the beginning of the 2019/20 year (which for businesses with an early financial balance date could be as early as 2 October 2018), some businesses may have exited the Growth Grant scheme before 31 March 2019 to participate in the RDTI. At the same time, some businesses may have exited the Growth Grant scheme on 31 March 2019 for other reasons – in particular, because they were no longer eligible to receive a Growth Grant – without transitioning to the RDTI.
47. To capture all businesses that exited the Growth Grant at the end of their 2018/19 year and transitioned immediately to the RDTI, while excluding businesses that exited for other reasons, we recommend that the Ministerial Direction specify that to be eligible a business must have:
- a. Had an active Growth Grant contract on the last day of the business's 2018/19 year and participated in the RDTI in the 2019/20 year; or
  - b. Had an active Growth Grant contract during the period from 1 April 2019 to 31 March 2021 (inclusive).

### **Design choices addressing situations not considered by Cabinet**

#### Specify how level of Growth Grant-eligible R&D expenditure will be determined

48. The Cabinet paper noted that, to minimise the costs to business of complying with the scheme, businesses would not have to prove their R&D expenditure upfront. Instead, it suggested that the scheme would use an approach such as requiring officers of the company to attest to their R&D expenditure.

49. We propose you specify that a business do its own assessment of its Growth Grant-eligible R&D expenditure for the year in which it is applying under this scheme, and then at the time of its application the business be required to attest that this amount is accurate. The business would be required to retain appropriate evidence to support its self-assessment and be able to provide this information on request – for instance, in the case of an audit.
50. In most instances, Callaghan Innovation would rely on this attestation when considering an application. However, if the team assessing an application observes indications suggesting the business's assessment may be inaccurate it may seek to verify the business's assessment during the application process.

#### Specify stronger expectations regarding audit of applications

51. The Cabinet paper noted that the attestation would be backed by a risk-based audit programme to provide assurance that businesses have complied with this requirement. The 'light touch' approach to be taken at the time of assessing applications (as described above) means that there will be no upfront check on the amount of expenditure or the nature of the activities that a business claims for under this scheme. This differs from both the Growth Grant scheme and the RDTI, in which each business's R&D activity is independently verified prior to any payment being made. Moreover, under the Growth Grant scheme, the business is required to have an accountant certify the level of its Growth Grant-eligible expenditure at the end of the year before the final payment is made.
52. To compensate for this, we propose you indicate that Callaghan Innovation should commission a considerably higher level of audit than for other schemes. The costings for the scheme prepared by Callaghan Innovation assumed that 30 percent (approximately one in three) applications would be audited. We do not propose that you explicitly specify the level of audit in the Ministerial Direction. Instead, we propose the Ministerial Direction state that Callaghan Innovation is required to commission the audit of a "sufficient number of applications to be able to provide [you] with an assurance as to whether businesses receiving a payment under this scheme have complied with the requirements".

#### Specify consequences of inaccurate assessment of Growth Grant-eligible R&D expenditure

53. If it is determined through an audit that a business's self-assessment exceeds the actual amount estimated by Callaghan Innovation, we propose that a business be required to repay immediately the additional funds it received to which it was not entitled. Moreover, to ensure businesses have a strong incentive to accurately describe their eligible expenditure, we propose that (in cases of significant non-compliance) businesses be required to pay an additional amount set by Callaghan Innovation.
54. The purpose of requiring payment of an additional amount is to give the business a strong incentive to make sure that its self-assessment is accurate before applying for funding under this scheme. Moreover, it also recognises that the design of the scheme relies on a business's accurate self-assessment to minimise the costs of businesses of complying.
55. We propose Callaghan Innovation be given the ability to waive the requirement to repay this additional amount if the excess amount is small and it determines the error was made in good faith.

#### Requiring businesses to make a good-faith attempt to apply for RDTI funding

56. As noted earlier, during the consultation stakeholders highlighted the risk a business that knows it will benefit from the scheme may exert the minimum amount of effort to meet the requirement to participate in the RDTI. To mitigate this risk, we propose the scheme include a requirement on a business to make a good-faith attempt to apply for funding under the RDTI.
57. More specifically, a business will be deemed to have made a good-faith attempt if it:
  - a. Included in its application(s) all activities that it could reasonably be expected to have considered as eligible;

- b. Included in its application(s) all information on those activities that it could reasonably have been expected to consider as relevant for considering its application; and
  - c. Provided all information requested by the RDTI team as necessary to assess the eligibility of the business's activities.
58. As for the assessment of its Growth Grant-eligible R&D expenditure, we propose that a business would not normally be required to establish it met this requirement at the time of making an application. Instead, the business would be required to attest to this. Similarly, Callaghan Innovation would normally rely on this attestation in considering the application, although it may ask for more information if there are indications suggesting the business may not have made a good-faith attempt (eg, the amount of RDTI-eligible expenditure claimed is zero).
59. The assurance that businesses have met this requirement will primarily come through audit. If it is determined that a business has not made a good-faith attempt to apply for funding under the RDTI, then its eligible expenditure will be recalculated to exclude expenditure on those projects and/or activities on which it has not made a good-faith attempt to apply for funding under the RDTI. The business that has already received a payment for a larger amount would then be required to repay those funds to which it was not entitled.

#### Clarifying treatment of businesses transitioning within the 2020/21 year

60. There are a small number of businesses with balance dates after 31 March that were allowed both to receive a Growth Grant payment and to participate in the RDTI in the 2020/21 year. This situation was not covered in the Cabinet paper. On the face it is unclear both whether these businesses would be eligible for the scheme in the 2020/21 year and, if so, how the level of entitlement be calculated.
61. We propose that these businesses be considered eligible for the scheme in the 2020/21 year (as well as the 2021/22). We also propose two modifications to the method for determining the level of entitlement for these businesses:
- a. For the purpose of calculating the business's maximum eligible expenditure under this scheme, its Growth Grant-eligible R&D expenditure for the 2020/21 year would be calculated as if the business had remained in the Growth Grant scheme for the whole year; and
  - b. For the purpose of calculating the level of a business's entitlement, its actual Growth Grant-eligible expenditure for the 2020/21 year (as well as its RDTI-eligible expenditure) should be offset against its maximum eligible expenditure.
62. This will mean that a business that transitioned from the Growth Grant scheme to the RDTI in the 2020/21 will receive a payment in that year if its Growth Grant-eligible R&D expenditure for the whole 2020/21 year or the average of its Growth Grant-eligible R&D expenditure for the three prior years (whichever is lower) was higher than the sum of its Growth Grant-eligible R&D expenditure for the part of the year in which it participated in the Growth Grant scheme and its RDTI-eligible R&D expenditure for the part of the year in which it participated in the RDTI.

#### Requiring Callaghan Innovation collect and report information for specific purposes

63. To ensure that you remain informed of the scheme's performance, we propose that the Ministerial Direction require Callaghan Innovation to provide both you and MBIE with regular information on the business uptake of the scheme, expenditure of funds under the appropriation, and the activities it has undertaken to provide an assurance on business's compliance with the requirements.
64. Moreover, to enable MBIE to monitor Callaghan Innovation's implementation of the scheme, as well as to inform policy development, it is also important that Callaghan Innovation makes available to MBIE the business-level information that would enable MBIE to do its own analysis. Similarly, there may be instances in which information from the scheme is relevant

to the administration of the RDTI, and so we propose that Callaghan Innovation be required to make this information available to Inland Revenue also.

65. Finally, we recommend that you require Callaghan Innovation to make relevant business-level information available to Statistics New Zealand for uploading to the Integrated Data Infrastructure/Longitudinal Business Database. This is consistent with the requirements imposed for the RDTI and the R&D Loans Scheme. It will also help build a rich dataset on government R&D support activity that can be used to enable an independent evaluation of the impact of the scheme that will inform future policy choices.

#### Proposing an official name for the scheme

66. The Cabinet paper and preceding advice described the scheme as an “adjustment” or “transitional support mechanism”. To clarify the nature of this intervention, we propose that it be officially referred to as the “RDTI Transition Support Payment”, or the “TSP” for short.

### **Other matters considered**

#### How to minimise compliance costs

67. In designing the scheme, and particularly in crafting the requirements specified in the proposed Ministerial Direction, we carefully considered how to minimise the costs to businesses of participating in the scheme. Specifically, we sought to avoid requirements of the scheme imposing a burden on businesses that would discourage them from fully engaging with the RDTI while still maintaining the integrity of the scheme.
68. We considered whether it would be feasible to rely entirely on a business’s self-assessment for the information on the business’s eligible R&D expenditure in the current year needed for the second limb of the formula, or alternatively to rely on the information the business was already required to submit under the RDTI. More specifically on the latter, we considered whether it would be possible to rely on the business’s estimate of its expected RDTI-eligible R&D expenditure when it applies for general approval (GA) under the RDTI in place of the business’s estimate of its Growth Grant-eligible expenditure for the year in which it is applying under this scheme.
69. We concluded that the former approach would expose the Government to the risk that businesses could claim more than their entitlement without any consequence. Meanwhile, we concluded that the information in the latter did not provide a sufficiently reliable basis on which to make determinations of a business’s entitlement to funding under this scheme. The amount contained in the GA application is an estimate only and there are no obligations on the business to ensure that it is accurate. Moreover, the estimate is made prior to the RDTI team’s review of the business’s GA application, so may include expenditure on activities that are subsequently deemed ineligible.
70. We believe that the approach taken in the draft Ministerial Direction strikes the best balance between minimising compliance costs and maintaining the integrity of the scheme.

#### How to maintain incentives to use the appropriate accounting treatment

71. Stakeholders brought to our attention that using the traditional Growth Grant rules for determining the level of entitlement under the scheme risks disadvantaging businesses that have moved towards treating more of their activity as investment in intangible capital in their accounts.
72. We considered adjustments to the design of the scheme that would address this concern – in particular, allowing businesses to include investment in intangible capital in calculating their Growth Grant-eligible expenditure for the year in which they are applying for the scheme.<sup>3</sup>

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<sup>3</sup> Under the traditional Growth Grant rules investment in intangible capital is ineligible. However, allowing it in this case would reduce the incentive on businesses to characterise their activity as expenditure to be able to claim a payment under this scheme.

However, we concluded that doing so would mean businesses could not simply use the same approach they had used under the Growth Grant scheme and risked opening up eligibility to activities not intended to be covered.

73. We propose, therefore, that you do not attempt to address this issue directly through changes to the policy design, and instead leave it to businesses to make a determination about the most appropriate accounting treatment as long as they use consistent accounting treatment when applying for funding under the RDTI and this scheme.

Whether it is possible to provide access to payments in year

74. Stakeholders asked whether it was possible to make in-year payments under this scheme, since it will be using many of the same processes as the Growth Grant scheme. We concluded that it would be difficult to deliver payments in year under this scheme because the business's RDTI-eligible expenditure is an essential input to determining its entitlement, and that information is only available at the end of the year.
75. In addition, making payments available in year requires resolving several other issues, which was not considered possible in the short timeframe over which this scheme was introduced. We also noted, however, that officials are already working on options for enabling in-year payments in the context of the RDTI scheme.