



Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015

Public Act 2015 No 40
Date of assent 31 March 2015
Commencement see section 2

Contents

	Page
1 Title	2
2 Commencement	2
<i>Amendments to KiwiSaver Act 2006</i>	
3 KiwiSaver Act 2006 amended	2
4 Section 4 amended (Interpretation)	2
5 Section 14 amended (Other situations when automatic enrolment rules do not apply)	2
6 Section 228 amended (Regulations)	3
7 Section 239 inserted (Protection from non-compliance: Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015)	3
239 Protection from non-compliance: Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015	3
8 Schedule 1 amended (KiwiSaver scheme rules)	4
9 Schedule 1 amended (KiwiSaver scheme rules)	6
<i>Amendments to Income Tax Act 2007</i>	
10 Income Tax Act 2007 amended	7
11 Section CF 1 amended (Benefits, pensions, compensation, and government grants)	7
12 Section CW 28 amended (Pensions)	8

13	Section MA 7 amended (Meaning of full-time earner for family scheme)	8
14	Section RD 5 amended (Salary or wages)	9

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015.

2 Commencement

- (1) This Act comes into force on the day on which it receives the Royal assent, except as provided in this section.
- (2) Sections 4(a) and (b), 11(1), 12(1), and 14(1) and (2) come into force on 7 December 2014.
- (3) Sections 6, 7, and 8 come into force on 1 April 2015.
- (4) Section 9 comes into force on 1 June 2015.

Amendments to KiwiSaver Act 2006

3 KiwiSaver Act 2006 amended

Sections 4 to 8 amend the KiwiSaver Act 2006.

4 Section 4 amended (Interpretation)

In section 4(1), in the definition of **salary or wages**,—

- (a) in paragraph (a)(i), replace “(6)(b) to (bd)” with “(6)(b) to (bc)”:
- (b) in paragraph (a)(v)(A), replace “section RD 5(1)(b)(iii) and (7)” with “section RD 5(1)(b)(iii), (6)(bd), and (7)”:
- (c) in paragraph (a)(v)(A), replace “(6)(bd)” with “(6)(bd) to (bg)”.

5 Section 14 amended (Other situations when automatic enrolment rules do not apply)

After section 14(1)(a)(iib), insert:

“(iic) section RD 5(6)(be) to (bg) (which relate to payments made under the Veterans’ Support Act 2014):”.

6 Section 228 amended (Regulations)

Replace section 228(1)(l) with:

“(l) prescribing circumstances for the purposes of clause 8(3)(a) and (3B)(a) of the KiwiSaver scheme rules or prescribing who is a qualifying person for the purpose of clause 8(3)(c)(ii) and (3B)(c)(ii) of the KiwiSaver scheme rules:”.

7 Section 239 inserted (Protection from non-compliance: Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015)

After section 238, insert:

“239 Protection from non-compliance: Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015

Non-compliance with an enactment related to securities is ignored if the non-compliance—

“(a) results from the enactment of sections 8 and 9 of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015, or from changes made by the Government to the subsidy previously known as the ‘KiwiSaver first home deposit subsidy’ that take effect on and after 1 April 2015; and

“(b) relates to—

“(i) a prospectus that is registered under the Securities Act 1978 before 1 June 2015:

“(ii) an investment statement under the Securities Act 1978 that is dated before 1 June 2015:

“(iii) a product disclosure statement under the Financial Markets Conduct Act 2013 that is lodged on or before 1 June 2015; and

“(c) if the non-compliance relates to a product disclosure statement referred to in paragraph (b)(iii), the period of the non-compliance ends before 1 April 2016.”

8 Schedule 1 amended (KiwiSaver scheme rules)

- (1) After schedule 1, clause 8(1)(a), insert:

“(ab) the person has been a member of a complying super-annuation fund for a period of 3 years or more; or”.
- (2) In schedule 1, clause 8(3), replace “for the purchase of an estate in land” with “for the purchase of an estate in land located in New Zealand”.
- (3) After schedule 1, clause 8(3), insert:

“(3B) A member to whom this clause applies may make a withdrawal from the KiwiSaver scheme of which the member is currently a member for the purchase of an interest in a dwellinghouse on Maori land if—

 - “(a) the purchase is made in the prescribed circumstances; or
 - “(b) both of the following apply:
 - “(i) the dwellinghouse is, or is intended to be, the principal place of residence for the member or for the member and the member’s family; and
 - “(ii) the member has not, at any time before applying to make a withdrawal under this clause (whether before or after becoming a member of the Kiwi-Saver scheme), held an estate in land (whether alone or as a joint tenant or tenant in common); or
 - “(c) both of the following apply:
 - “(i) the dwellinghouse is, or is intended to be, the principal place of residence for the member or for the member and the member’s family; and
 - “(ii) the member is a qualifying person under the regulations.”
- (4) Replace schedule 1, clause 8(4)(a) with:

“(a) the amount of the contribution made by the Crown under section 226 (disregarding any positive or negative returns for the purpose of calculating the amount of that contribution):”.
- (5) In schedule 1, clause 8(5), replace “subclause (3)(b)(ii)” with “subclauses (3)(b)(ii) and (3B)(b)(ii)”.
- (6) After schedule 1, clause 8(5)(ab), insert:

“(ac) the estate in land is an interest in Maori land.”.

(7) Replace schedule 1, clause 8(6) and (7) with:

“(6) In this clause,—

“**dwellinghouse** means a building that is intended to have as its principal use occupation as a private residence

“**estate** means a fee simple estate, a leasehold estate, or a stratum estate

“**Maori land** has the same meaning as in the Te Ture Whenua Maori Act 1993.

“(7) It is a condition of subclauses (3) and (3B) that—

“(a) any withdrawal made under the relevant provision must be paid—

“(i) first, from the member’s accumulation excluding the Crown contribution (disregarding any positive or negative returns for the purpose of calculating the amount of that contribution) paid in respect of the member; and

“(ii) second, from the Crown contribution excluding the amount described in subclause (4)(a); and

“(b) any withdrawal made under the relevant provision must be paid to a practitioner (within the meaning of section 6 of the Lawyers and Conveyancers Act 2006) acting on behalf of the member; and

“(c) the manager may require from that practitioner, before payment of the withdrawal,—

“(i) a copy of an agreement for the sale and purchase (the **agreement**) of the estate in land or of the interest in a dwellinghouse on Maori land, showing the member as purchaser; and

“(ii) for an interest in a dwellinghouse on Maori land, evidence of the member’s right to occupy the Maori land; and

“(iii) an undertaking that the agreement is unconditional at the time the manager makes the request; and

“(iv) an undertaking that the funds will be paid to the vendors as part of the purchase price or will be repaid to the manager on account of the member

if settlement of the agreement is not completed by the due date or any extended date.”

- (8) In schedule 1, clause 14(1), replace “Subject to clause 14B” with “Unless clause 14B applies”.
- (9) In schedule 1, clause 14(2), replace “Subject to clause 14B” with “Unless clause 14B applies”.
- (10) Replace schedule 1, clause 14B(1) with:
 - “(1) This clause applies for a KiwiSaver scheme (but not for a complying superannuation fund) after a member’s permanent emigration to Australia.”

9 Schedule 1 amended (KiwiSaver scheme rules)

Replace schedule 1, clause 8(7)(c), as inserted by section 8(7), with:

- “(c) the manager must require from that practitioner, before payment of the withdrawal,—
 - “(i) a copy of an agreement for the sale and purchase (the **agreement**) of the estate in land or of the interest in a dwellinghouse on Maori land, showing the member as purchaser; and
 - “(ii) for an interest in a dwellinghouse on Maori land, evidence of the member’s right to occupy the Maori land; and
 - “(iii) an undertaking that the agreement is unconditional at the time the manager makes the request or, if the agreement is conditional, an undertaking that—
 - “(A) payment of any amount of the withdrawal will be held by a stakeholder; and
 - “(B) the stakeholder is obliged to hold the amount while the agreement is conditional; and
 - “(iv) if the agreement is unconditional at the time the manager makes the request, an undertaking that the amount will be paid to the vendors as part of the purchase price or will be repaid to the manager on account of the member if settlement of the agreement is not completed in accordance

with the agreement by the due date or any extended date; and

“(v) if the agreement is conditional at the time the manager makes the request, an undertaking that—

“(A) the stakeholder is obliged to repay the amount to the practitioner if settlement of the agreement is not completed in accordance with the agreement by the due date or any extended date (**non-completion**), but excepting non-completion due to the purchaser’s default; and

“(B) the practitioner will repay the amount that the practitioner receives from the stakeholder to the manager on account of the member.”

Amendments to Income Tax Act 2007

10 Income Tax Act 2007 amended

Sections 11 to 14 amend the Income Tax Act 2007.

11 Section CF 1 amended (Benefits, pensions, compensation, and government grants)

(1) Replace section CF 1(1)(h) with:

“(h) a veteran’s pension:

“(i) a retirement lump sum paid under Part 5, subpart 7 of the Veterans’ Support Act 2014.”

(2) Replace section CF 1(1)(i) with:

“(i) a retirement lump sum paid under Part 5, subpart 7 of the Veterans’ Support Act 2014:

“(j) weekly income compensation paid under Part 3, subpart 4 of that Act:

“(k) weekly compensation paid under Part 4, subpart 5 of that Act:

“(l) weekly compensation or aggregated payments, as applicable, paid under schedule 2, part 4, clause 54, 55, 58, or 59 of that Act.”

(3) Repeal section CF 1(2)(i).

12 Section CW 28 amended (Pensions)

- (1) Replace section CW 28(1)(a) with:
- “(a) a pension or allowance under the Veterans’ Support Act 2014, including a lump sum paid pursuant to an election under section 53(1)(b) of that Act, but excluding—
 - “(i) a veteran’s pension:
 - “(ii) a retirement lump sum paid under Part 5, subpart 7 of that Act.”.
- (2) After section CW 28(1)(a)(ii), insert:
- “(iii) weekly income compensation paid under Part 3, subpart 4 of that Act:
 - “(iv) weekly compensation paid under Part 4, subpart 5 of that Act:
 - “(v) weekly compensation or aggregated payments, as applicable, paid under schedule 2, part 4, clause 54, 55, 58, or 59 of that Act.”.

13 Section MA 7 amended (Meaning of full-time earner for family scheme)

Replace section MA 7(3), other than the heading, with:

- “(3) The incapacity referred to in subsection (2)(b) and (d) is an incapacity due to—
- “(a) personal injury by accident for which an accident compensation earnings-related payment has been, is being, or will be paid:
 - “(b) a service-related (as defined in section 7 of the Veterans’ Support Act 2014) injury, illness, condition, or whole-person impairment for which a payment has been, is being, or will be paid, under the Veterans’ Support Act 2014, and the payment is—
 - “(i) weekly income compensation paid under Part 3, subpart 4 of that Act:
 - “(ii) weekly compensation paid under Part 4, subpart 5 of that Act:
 - “(iii) weekly compensation or aggregated payments, as applicable, paid under schedule 2, part 4, clause 54 or 55 of that Act.”.

14 Section RD 5 amended (Salary or wages)

- (1) Repeal section RD 5(1)(b)(iv).
- (2) After section RD 5(6)(bc), insert:
“(bd) a retirement lump sum paid under Part 5, subpart 7 of the Veterans’ Support Act 2014:”.
- (3) After section RD 5(6)(bd), insert:
“(be) weekly income compensation paid under Part 3, subpart 4 of the Veterans’ Support Act 2014:
“(bf) weekly compensation paid under Part 4, subpart 5 of the Veterans’ Support Act 2014:
“(bg) weekly compensation or aggregated payments, as applicable, paid under schedule 2, part 4, clause 54, 55, 58, or 59 of the Veterans’ Support Act 2014:”.

Legislative history

1 December 2014	Introduction (Bill 2–1)
4 December 2014	First reading and referral to Finance and Expenditure Committee
13 March 2015	Reported from Finance and Expenditure Committee (Bill 2–2)
24 March 2015	Second reading
25 March 2015	Committee of the whole House (Bill 2–3)
26 March 2015	Third reading
31 March 2015	Royal assent

This Act is administered by the Inland Revenue Department.
