



KiwiSaver Amendment Regulations 2014

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 3rd day of November 2014

Present:

His Excellency the Governor-General in Council

Pursuant to section 228 of the KiwiSaver Act 2006, His Excellency the Governor-General makes the following regulations, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Commerce and Consumer Affairs in respect of matters dealt with in Part 4 of that Act.

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Regulations

1 Title

These regulations are the KiwiSaver Amendment Regulations 2014.

2 Commencement

These regulations come into force on 1 December 2014.

3 Principal regulations

These regulations amend the KiwiSaver Regulations 2006 (the **principal regulations**).

4 New regulation 3A inserted (Transitional, savings, and related provisions)

After regulation 3, insert:

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

5 Regulations 4 and 5 and cross-heading above regulation 4 revoked

Revoke regulations 4 and 5 and the cross-heading above regulation 4.

6 Regulations 5A and 5B and cross-heading above regulation 5A revoked

Revoke regulations 5A and 5B and the cross-heading above regulation 5A.

7 New cross-heading above regulation 6 inserted

Before regulation 6, insert:

Requirements for annual return on KiwiSaver scheme

8 Regulation 6 amended (Purpose of annual return regulations)

In regulation 6, replace “section 125” with “section 124”.

9 Regulation 8 amended (When annual return must be provided to FMA and to what period it must relate)

In regulation 8(1), replace “trustees” with “manager”.

10 Regulation 9 amended (What is required in annual return)

- (1) In regulation 9(1), replace “be—” with “be,—”.
- (2) In regulation 9(2)(c)(ii) and (iii), replace “trustees” with “supervisor”.

11 Regulation 10 amended (Purpose of regulations on KiwiSaver fees)

In regulation 10(2), replace “section 127” with “section 118”.

12 Regulation 17 amended (Purpose of regulation on application of Financial Transactions Reporting Act 1996)

In regulation 17(1), replace “Section 204” with “Section 128”.

13 Regulation 18 amended (What must be treated as reasonable efforts under section 204 of Act)

- (1) In the heading to regulation 18, replace “**section 204**” with “**section 128**”.
- (2) In regulation 18(1), replace “section 204(3)(a)” with “section 128(3)(a)”.
- (3) In regulation 18(2), replace “section 204(2)” with “section 128(2)”.

14 Regulation 19 and cross-heading revoked

Revoke regulation 19 and the cross-heading above regulation 19.

15 Regulation 20 and cross-heading revoked

Revoke regulation 20 and the cross-heading above regulation 20.

16 Regulation 32 and cross-heading revoked

Revoke regulation 32 and the cross-heading above regulation 32.

17 New Schedule 1AA inserted

Before Schedule 1A, insert the Schedule 1AA set out in Schedule 1 of these regulations.

18 Schedule 1A revoked

Revoke Schedule 1A.

19 Schedule 1 amended

Amend Schedule 1 as set out in Schedule 2 of these regulations.

20 Schedule 2 revoked

Revoke Schedule 2.

Schedule 1
New Schedule 1AA inserted

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Schedule 1AA
Transitional, savings, and related provisions

r 3A

Provisions relating to KiwiSaver Amendment Regulations 2014

1 Transitional and savings provisions for pre-transition KiwiSaver schemes*Annual reports*

- (1) Regulations 5A and 5B and Schedule 1A, as in force immediately before the commencement of the 2014 amendment regulations, continue to apply to pre-transition KiwiSaver schemes for the purpose of any requirement to produce an annual report under section 123 of the Act (as in force immediately before 1 December 2014 and to the extent saved by Schedule 1 of the Financial Markets Conduct Regulations 2014) as if regulations 6 and 18 of the 2014 amendment regulations had not been made.
- (2) However, in Schedule 1A, clause 5(1)(b),—
 - (a) the reference to matters prescribed under section 228(1)(p) of the Act must be treated as a reference to matters prescribed under section 228(1)(j) of the Act (including matters that continue in force as if made under that section); and
 - (b) the reference to guidelines published by the FMA under section 127 of the Act must be treated as including any guidance published by the FMA that relates to the matters in section 118 of the Act.

Fees

- (3) During the transitional period, regulation 19 and Schedule 2 (other than the item relating to section 131 of the Act), as in force immediately before the commencement of the 2014 amendment regulations, continue to apply in

respect of pre-transition KiwiSaver schemes as if regulations 14 and 20 of the 2014 amendment regulations had not been made.

Trustee references

- (4) During the transitional period, the following references (as inserted by the 2014 amendment regulations) must, in relation to a pre-transition KiwiSaver scheme, be treated as a reference to the trustees of the scheme:
- (a) the reference to a manager in regulation 8(1):
 - (b) the references to a supervisor in regulation 9(2)(c)(ii) and (iii).
- (5) During the transitional period, the references in Schedule 1 to supervisor fees (as inserted by the 2014 amendment regulations) must, in relation to a pre-transition KiwiSaver scheme, be treated as a reference to trustee fees.

Interpretation

- (6) In this clause,—
- 2014 amendment regulations** means the KiwiSaver Amendment Regulations 2014
- pre-transition KiwiSaver schemes** and **transitional period** have the meanings set out in clause 2(1) of Schedule 1 of the Financial Markets Conduct Regulations 2014.

Schedule 2

Amendments to Schedule 1

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Form 1, table 1

In form 1, table 1, under the heading “**Categories of income for annual return year**”, replace “accumulations” with “accumulations”.

In form 1, table 1, under the heading “**Categories of income for annual return year**”, replace “registered superannuation schemes” with “other retirement schemes”.

In form 1, table 1, under the heading “**Categories of expenditure for annual return year**”, replace “Trustee fees” with “Supervisor fees and (in the case of a restricted scheme) trustee fees”.

Form 1, table 2

In form 1, table 2, under the heading “**Categories of entries of members for annual return year**”, replace “registered superannuation schemes” with “other retirement schemes”.

Form 2, table 1

In form 2, table 1, under the heading “**Categories of income for annual return year**”, replace “registered superannuation schemes” with “other retirement schemes”.

In form 2, table 1, under the heading “**Categories of expenditure for annual return year**”, replace “Trustee fees” with “Supervisor fees and (in the case of a restricted scheme) trustee fees”.

Form 2, table 2

In form 2, table 2, under the heading “**Categories of entries of members for annual return year**”, replace “registered superannuation schemes” with “other retirement schemes”.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 December 2014, amend the KiwiSaver Regulations 2006. The amendments—

- are mostly consequential on the changes made to the KiwiSaver Act 2006 (the **Act**) by sections 73 to 109 of the Financial Markets (Repeals and Amendments) Act 2013:

- include transitional and savings provisions reflecting the case that, for a transitional period (or for a certain purpose), some provisions of the Act that were in force immediately before 1 December 2014 will continue to apply to KiwiSaver schemes that continue to be registered in the KiwiSaver schemes register under clause 18(1)(a) of Schedule 4 of the Financial Markets Conduct Act 2013.

These regulations have no effect for annual returns for complying superannuation funds under section 124 of the Act as in force on 1 December 2014. This is because, from that date, for a transitional period, section 124 of the Act does not apply to a complying superannuation fund (*see* clause 11 of Schedule 1 of the Financial Markets Conduct Regulations 2014).

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 4 November 2014.

These regulations are administered by the Ministry of Business, Innovation, and Employment.