Preface

Brookers Employment Law Handbook contains key legislation relating to employment law. It has been consolidated to include all amendments and new legislation issued before 16 June 2016. The handbook comprises legislation in the following employment law areas; Employment Relations, Holidays, Parental Leave, Human Rights, Health and Safety, Wages, Privacy, Protected Disclosures, Industry Training and Volunteers.

In addition, Brookers Employment Law Handbook contains in-depth history and editorial notes drawn from Brookes New Zealand Law Partner, a comprehensive electronic collection of New Zealand Statutes and Regulations. The history notes are inserted after amended provisions and contain a complete record of all legislative changes to a provision since its original enactment or making. They also describe the nature of each amendment, the date on which each change came into force, and give full reference to transitional and savings provisions, and other standalone provisions. The editorial notes provide a contextual guide to alert readers to future developments. Where the amendment is not yet in force, future amendment notes have been inserted following the relevant provision to provide customers with the full-text of the piece of legislation should it come into force before the next edition of Brookers Employment Law Handbook.

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Brookers Employment Law Handbook is part of the Brookers Handbook Series, which now includes a number of titles in specialised areas of legal interest and practice. There is a complete list of titles in this or any other area of interest at <www.thomsonreuters.co.nz/catalogue>. 
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personal representative, in relation to a deceased person, means a person to whom probate of the will of the deceased person, letters of administration of the estate of the deceased person, or any other similar grant, has been granted, whether in New Zealand or anywhere else

[private domestic worker has the same meaning as in section YA 1 of the Income Tax Act 2007]

History

“private domestic worker”: this definition was inserted, as from 1 July 2007, by s 27(11) Taxation (KiwiSaver) Act 2007 (2007 No 110).

“private domestic worker”: this definition was substituted, as from 1 April 2008, by s 27(12) Taxation (KiwiSaver) Act 2007 (2007 No 110).

$product disclosure statement has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013]

History

“product disclosure statement”: this definition was inserted, as from 1 December 2014, by s 75(2) Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

promoter: Definition Repealed

History


provider has the meaning given by section 5

provisionally allocated means provisionally allocated to a KiwiSaver scheme under section 50

[register of managed investment schemes means the register of managed investment schemes kept under Schedule 2 of the Financial Markets Conduct Act 2013]

History

“register of managed investment schemes”: this definition was inserted, as from 1 December 2014, by s 75(2) Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

registered superannuation scheme: Definition Repealed

History

“registered superannuation scheme”: this definition was repealed, as from 1 December 2014, by s 75(1) Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

related company: Definition Repealed
remittance certificate [means a PAYE payment form as defined in section YA 1 of the Income Tax Act 2007]

salary or wages, in relation to any person, means salary or wages as defined in section RD 5(1)(a) to (c) of the Income Tax Act 2007] (whether the salary or wages are primary or secondary employment earnings) except that, in this Act,—

[(i) salary or wages described in sections RD 5(4), [[(6)(b) to (bc)]], [[(6)(c) and (8)]], and RD 68 of the Income Tax Act 2007; and
[(ia) a payment under a Voluntary Bonding Scheme that is funded by the Ministry for Primary Industries, the Ministry of Health, or the Ministry of Education; and]
[(ib) Repealed.]]
(ii) payments that are income under section CF (1)(b) to (e), (g), or (h) of that Act; and

(iii) expenditure on account of an employee and allowances calculated by reference to reasonable actual costs, if the expenditure or allowances are for accommodation overseas or other costs of living overseas; and

(iv) for the purposes of contributions to complying superannuation funds, bonuses, commissions, and other amounts not included in an employee’s gross base salary or wages by the relevant complying superannuation fund; and

(v) for the purposes of subpart 3A of Part 3 of this Act,—

(A) salary or wages described in [[section RD 5(1)(b)(iii), [(6)(bd) to (bg)], and (7)] of the Income Tax Act 2007; and

(B) payments of weekly compensation, as defined in the Accident Compensation Act 2001, made by an employer, unless the employer chooses to not exclude the payments from this definition of “salary or wages”:

[(b) it includes extra pay (as defined in section YA 1 of the Income Tax Act 2007), unless—

(i) otherwise excluded under paragraph (a) of this definition; or

(ii) the amount is a “redundancy payment” [[for the purposes of the Income Tax Act 2007]]]

Future Amendment

“salary or wages”: paragraph (a)(vi) of this definition is to be inserted, as from 1 April 2017, by s 209(1) Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27). See s 209(2) of that Act for the application provisions.

Future Amendment Text (comes into force on 1 April 2017)

[(vi) the amount of a benefit that an employee receives under section CE 2(2) or (4) of the Income Tax Act 2007 under a share purchase agreement when the amount is treated as an amount of extra pay of the employee:]

History

“salary or wages”: this definition before para (a) was amended, as from 1 April 2008, by s ZA 2(1) Income Tax Act 2007 (2007 No 97) by substituting “section RD 5(1)(a) to (c) of the Income Tax Act 2007” for “paragraphs (a) to (c) of the definition of “salary or wages” in section OB 1 of the Income Tax Act 2004”.

“salary or wages”: paragraph (a) of this definition was substituted, as from 1 July 2007, by s 27(13)(a) Taxation (KiwiSaver) Act 2007 (2007 No 110).

“salary or wages”: paragraph (a) of this definition was substituted, as from 1 April 2008, by s 27(13)(b) Taxation (KiwiSaver) Act 2007 (2007 No 110).

“salary or wages”: paragraph (a)(i) of this definition was amended, as from 1 April 2008, by s 210(a) Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63) by substituting “(6)(c), and (8)” for “and (6)(c)”.

“salary or wages”: paragraph (a)(i) of this definition was amended, as from 5 January 2010, by s 147(1) Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52) by substituting “(6)(b) to (bd)” for “(6)(b)”.
“salary or wages”: paragraph (a)(i) of this definition was amended, as from 7 December 2014, by s 4(a) Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40) by substituting “(6)(b) to (bc)” for “(6)(b) to (bd)”.  

“salary or wages”: paragraph (a)(ia) of this definition was inserted, as from 17 July 2013, by s 147(2) Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).  

“salary or wages”: paragraph (a)(ib) of this definition was inserted, as from 1 April 2008, by s 58(2) Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).  

“salary or wages”: paragraph (a)(ib) of this definition was repealed, as from 1 April 2008, by s 210(b) Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).  

“salary or wages”: paragraph (a)(v)(A) of this definition was amended, as from 7 December 2014, by s 4(b) Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40) by substituting “section RD 5(1)(b)(iii), (6)(bd), and (7)” for “section RD 5(1)(b)(iii) and (7)”.  

“salary or wages”: paragraph (a)(v)(A) of this definition was amended, as from 31 March 2015, by s 4(c) Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40) by substituting “(6)(bd) to (bg)” for “(6)(bd)”.  

“salary or wages”: paragraph (b) of this definition was to be amended, as from 1 April 2008, by s ZA 2(1) Income Tax Act 2007 (2007 No 97) by substituting “subparagraphs (iv), (v), (viii), (ix), or (xi) of paragraph (b) of that definition” for “(as defined in section YA 1 of the Income Tax Act 2007)”.

[scheme means any type or form of managed investment scheme]

History
“scheme”: this definition was inserted, as from 1 December 2014, by s 75(2) Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

SSCWT rules: Definition Repealed

History
“SSCWT rules”: this definition was repealed, as from 1 April 2008, by s ZA 2(1) Income Tax Act 2007 (2007 No 97).

[superannuation scheme has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013]

History
“superannuation scheme”: this definition was inserted, as from 1 December 2014, by s 75(2) Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

[supervisor has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013]
“supervisor”: this definition was inserted, as from 1 December 2014, by s 75(2) Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

tax file number has the same meaning as in [section YA 1 of the Income Tax Act 2007]

tax file number”: this definition was amended, as from 1 April 2008, by s ZA 2(1) Income Tax Act 2007 (2007 No 97) by substituting “section YA 1 of the Income Tax Act 2007” for “section OB 1 of the Income Tax Act 2004”.

[trust deed, in relation to a scheme, means the governing document of the scheme within the meaning of section 6(1) of the Financial Markets Conduct Act 2013]

“trust deed”: this definition was replaced, as from 1 May 2011, by s 4(4) KiwiSaver Amendment Act 2011 (2011 No 8). See ss 57 to 71 of that Act for the transitional provisions.


“trustee corporation”: Definition Repealed

“trustee corporation”: this definition was replaced, as from 1 December 2014, by s 75(1)Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

“trustees”: this definition was substituted, as from 1 May 2011, by s 4(5) KiwiSaver Amendment Act 2011 (2011 No 8). See ss 57 to 71 of that Act for the transitional provisions.


“umbrella trust”: this definition was repealed, as from 1 December 2014, by s 75(1)Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

“umbrella trust”: this definition was amended, as from 1 May 2011, by s 4(6) KiwiSaver Amendment Act 2011 (2011 No 8) by adding “as in force immediately before its repeal by section 35 of the KiwiSaver Amendment Act 2011””. See ss 57 to 71 of that Act for the transitional provisions.

“umbrella trust”: this definition was repealed, as from 1 December 2014, by s 75(1)Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

“workplace savings scheme” has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013]
History
“workplace savings scheme”: this definition was inserted, as from 1 December 2014, by s 75(2) Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

(2) References in a provision to a period after the Commissioner receives the first contribution in respect of a person are references to the expiry of the relevant number of days or months after the date on which the first amount of contribution is received, or treated as received, by the Commissioner for the person in the current context of the provision, ignoring any earlier contribution received in a prior context (for example, a prior automatic enrolment and opt out of the person).

(3) References in this Act to 3 months are references to a period of 92 days.

(4) An outline provision in this Act is only a guide to the general scheme and effect of the part of the Act that it describes.

History
Subsection (2) was substituted, as from 1 April 2008, by s 27(14) Taxation (KiwiSaver) Act 2007 (2007 No 110).

5 Meaning of provider

(1) For the purpose of anything that must or may be done by or to or in relation to a scheme, provider, unless the context otherwise requires,—

(a) means the person who is the manager of the scheme; and

(b) in the case of a restricted scheme, includes any person to whom the manager has made a lawful delegation to do any thing (for example, an administration manager).

(1A) Repealed.

(2) Subsection (1)(b) does not apply if a person who may or must do something to or in relation to a provider has not been given notice of, and could not reasonably be expected to know about, the delegation.

History
Subsection (1) was amended, as from 1 July 2007, by s 28 Taxation (KiwiSaver) Act 2007 (2007 No 110) by substituting “provider of a KiwiSaver scheme or a complying superannuation fund” for “provider of a scheme”.

Subsection (1) was amended, as from 1 May 2011, by s 5(1) KiwiSaver Amendment Act 2011 (2011 No 8) by inserting “restricted” after “provider of a”. See ss 57 to 71 of that Act for the transitional provisions.

Subsection (1) was replaced, as from 1 December 2014, by s 76 Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

Subsection (1A) was inserted, as from 1 May 2011, by s 5(2) KiwiSaver Amendment Act 2011 (2011 No 8). See ss 57 to 71 of that Act for the transitional provisions.

Subsection (1A) was repealed, as from 1 December 2014, by s 76 Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

6 Application

(1) This Act applies to an employee or other natural person only if, at the time when the person becomes subject to the automatic enrolment rules or opts in, the person—
KiwiSaver Act 2006

(1) This Act applies to an employer only if—

(a) is, or normally is, [living] in New Zealand, or is an employee of the State services (within the meaning of the State Sector Act 1988) [who is—]

[i] serving outside New Zealand; and

[ii] employed on New Zealand terms and conditions; and

[iii] serving in a jurisdiction where offers of KiwiSaver scheme membership are lawful; and

(b) is a New Zealand citizen or is entitled, in terms of the [Immigration Act 2009], to be in New Zealand indefinitely.

(2) This Act applies to an employer only if—

(a) the employer is [a New Zealand resident …; or

(b) the employer [carries on a business from a fixed establishment in New Zealand (within the meaning of section YA 1 of the Income Tax Act [2007]); or][ ]

[c] the employer does not meet the requirements in subsections (a) and (b), and the employer chooses to apply this Act.

(3) This Act applies to an employer only in respect of the employer’s employees who are referred to in subsection (1).

History

Subsection (1)(a) was amended, as from 21 May 2007, by s 59 Taxation (KiwiSaver and Company Tax Rate Amendments) Act 2007 (2007 No 19) by substituting “who is—” for “who is serving outside New Zealand; and”.

Subsection (1)(a) was amended, as from 1 April 2008, by s 29(1) Taxation (KiwiSaver) Act 2007 (2007 No 110) by substituting “living” for “personally present”.

Subsection (1)(a)(i) to (iii) were inserted, as from 21 May 2007, by s 59 Taxation (KiwiSaver and Company Tax Rate Amendments) Act 2007 (2007 No 19).

Subsection (1)(b) was amended, as from 23 November 2010, by s 406(1) Immigration Act 2009 (2009 No 51) by substituting “Immigration Act 2009” for “Immigration Act 1987”. See ss 409 to 474 of that Act for the transitional and savings provisions. See cl 2(2) Immigration Act 2009 Commencement Order 2010 (SR 2010/185).

Subsection (2)(a) was amended, as from 1 April 2008, by s ZA 2(1) Income Tax Act 2007 (2007 No 97) by substituting “a New Zealand resident (within the meaning of sections YD 1 or YD 2 (excluding section YD 2(2) of the Income Tax Act 2007))” for “a New Zealand resident (within the meaning of sections OE 1 and OE 2 of the Income Tax Act 2004)”. See ss 57 to 71 of that Act for the transitional provisions.

Subsection (2)(a) was amended, as from 1 May 2011, by s 6 KiwiSaver Amendment Act 2011 (2011 No 8) by omitting “(within the meaning of sections YD 1 or YD 2 (excluding section YD 2(2) of the Income Tax Act 2007))”.

Subsection (2)(b) was amended, as from 1 April 2008, by s ZA 2(1) Income Tax Act 2007 (2007 No 97) by substituting “carries on a business from a fixed establishment in New Zealand (within the meaning of section YA 1 of the Income Tax Act 2007)” for “carries on a business from a fixed establishment in New Zealand (within the meaning of section OB 1 of the Income Tax Act 2004)”.

Subsection (2)(b) was amended, as from 1 April 2008, by s 29(2) Taxation (KiwiSaver) Act 2007 (2007 No 110) by substituting “2007); or “2007).”

Subsection (2)(c) was inserted, as from 1 April 2008, by s 29(2) Taxation (KiwiSaver) Act 2007 (2007 No 110).

7 Act binds the Crown

This Act binds the Crown.
8 Outline

(1) Part 2 provides for employees and other persons to become members of a KiwiSaver scheme.

(2) Part 3 provides for the deduction and treatment of KiwiSaver contributions.

(3) Part 4 contains additional governance provisions relating to KiwiSaver schemes.

(4) Schedule 1 sets out the KiwiSaver scheme rules. These are some of the main terms and conditions of KiwiSaver schemes, and are implied in the trust deeds of those schemes.

(5) Part 5 contains miscellaneous provisions.

(6) This Act also contains some of the rules that apply to complying superannuation funds. However, other rules about those funds are contained in the Income Tax Act 2007 ....]

(7) Also, other rules about KiwiSaver schemes and complying superannuation funds are contained in the Financial Markets Conduct Act 2013 (for example, rules about registration, governance, and offers of interests).

History

Subsection (3) was amended, as from 1 December 2014, by s 77(1) Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70) by substituting “contains additional governance provisions relating to” for “regulates”. See el 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

Subsection (5) was amended, as from 1 December 2014, by s 77(2) Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70) by substituting “contains” for “and Schedules 2 and 3 contain”. See el 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

Subsection (6) was inserted, as from 1 April 2008, by s 30 Taxation (KiwiSaver) Act 2007 (2007 No 110).


Part 2

Membership of overall KiwiSaver scheme

(s 9 to s 59D)

Subpart 1—Becoming members of overall KiwiSaver scheme

(9) Outline of how people become members of overall KiwiSaver scheme

(1) This subpart provides for employees and other persons to become members of the overall KiwiSaver scheme by—

(a) the operation of the automatic enrolment rules when an employee starts new employment, with the effect that a person becomes subject to automatic deductions from his or her salary or wages, but may opt out within specified time limits; or

(b) opting in (whether as an employee who becomes liable for automatic deduction of contributions from his or her salary or wages or otherwise).
(2) Subpart 4 of Part 4 also provides for employers to be exempt employers, with the effect that the automatic enrolment rules will not apply to their employees when they start new employment.

**History**
Subsection (2) was amended, as from 1 December 2014, by s 78 Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70) by substituting “Subpart 4 of Part 4” for “This subpart”. See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

### Automatic enrolment rules

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<tr>
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<th><strong>Who automatic enrolment rules apply to</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>The automatic rules apply to an employee who—</td>
<td></td>
</tr>
<tr>
<td>(a)</td>
<td>starts new employment with an employer that is not an exempt employer; and</td>
</tr>
<tr>
<td>(b)</td>
<td>is not a secondee; and</td>
</tr>
<tr>
<td>(c)</td>
<td>when they start the new employment, is aged—</td>
</tr>
<tr>
<td>(i)</td>
<td>18 years or more; and</td>
</tr>
<tr>
<td>(ii)</td>
<td>less than the New Zealand superannuation qualification age.</td>
</tr>
</tbody>
</table>

**History**
Section 10 before para (a) was amended, as from 19 December 2007, by s 31 Taxation (KiwiSaver) Act 2007 (2007 No 110) by substituting “who is not a secondee and” for “who”.
Section 10 was replaced, as from 2 June 2016, by s 210 Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

### 11 Meaning of [new employment and secondee]

**New employment** means any employment that is started on or after the date of commencement of the automatic enrolment rules, but—
(a) does not include temporary employment (except as provided in section 12); and |
(b) does not include employment in respect of which the employee remains on the same payroll as the payroll that he or she was on immediately before starting that employment; and |
(c) does not include employment with an employer that carries on the same business as the business in which the employee was employed immediately before starting the employment; and |
(d) does not include employment, at the end of a secondment, by the employer from which a secondee was seconded. |

**Same business** means a business that, in substance, carries on the same or a similar role (regardless of whether or not the legal entity carrying on the business changes), and includes, without limitation,—
(a) a company that results from, or continues after, an amalgamation under the Companies Act 1993 involving the company by which the employee was employed immediately before that employee started the employment; and |
(b) a business that takes over as a going concern the business in which the employee was employed immediately before that employee started the employment.
[(2B) **Secondee** means an employee seconded from an employer to the employment of another employer (employer B), in respect of which the employee is on employer B’s payroll.]

(3) However, subsection (1)(c) applies only if an employer has given to the Commissioner the notice (if any) that is required by the Commissioner for the purposes of the administration of this section.

### History

The heading to s 11 was amended, as from 19 December 2007, by s 32(1) Taxation (KiwiSaver) Act 2007 (2007 No 110) by substituting “new employment and secondee” for “new employment”.

Subsection (1)(c) was amended, as from 19 December 2007, by s 32(2) Taxation (KiwiSaver) Act 2007 (2007 No 110) by substituting “employment; and” for “employment.”.

Subsection (1)(d) was inserted, as from 19 December 2007, by s 32(2) Taxation (KiwiSaver) Act 2007 (2007 No 110).

Subsection (2B) was inserted, as from 19 December 2007, by s 32(3) Taxation (KiwiSaver) Act 2007 (2007 No 110).

### 12 Temporary employment

(1) Employment is **temporary**, and the automatic enrolment rules do not apply, if—

   (a) the employment is as a [casual agricultural worker within the meaning of section YA 1 of the Income Tax Act 2007]; or

   (b) the employment is under a contract of service that is for a period of 28 continuous days [or less; or]

   [(c) the employment is described in section 28(1)(a)(ii) of the Holidays Act 2003.]

(2) However, employment ceases to be temporary, and the automatic enrolment rules then apply (as if the employee then started new employment)—

   (a) on the day after the date on which the employee ceases to be a [casual agricultural worker within the meaning of section YA 1 of the Income Tax Act 2007]; or

   [b) in the case of employment which was temporary under subsection (1)(b), on the 28th day after the employee started the employment.]

### History

Subsection (1)(a) was amended, as from 1 April 2008, by s ZA 2(1) Income Tax Act 2007 (2007 No 97) by substituting “casual agricultural worker within the meaning of section YA 1 of the Income Tax Act 2007” for “casual agricultural worker within the meaning of section OB 1 of the Income Tax Act 2004”.

Subsection (1)(b) was amended, as from 1 April 2008, by s 33(1) Taxation (KiwiSaver) Act 2007 (2007 No 110) by substituting “or less, or” for “or less.”

Subsection (1)(c) was inserted, as from 1 April 2008, by s 33(1) Taxation (KiwiSaver) Act 2007 (2007 No 110).

Subsection (2)(a) was amended, as from 1 April 2008, by s ZA 2(1) Income Tax Act 2007 (2007 No 97) by substituting “casual agricultural worker within the meaning of section YA 1 of the Income Tax Act 2007” for “casual agricultural worker within the meaning of section OB 1 of the Income Tax Act 2004”.

Subsection (2)(b) was substituted, as from 1 April 2008, by s 33(2) Taxation (KiwiSaver) Act 2007 (2007 No 110).

### 13 Employment in schools (**Repealed**)

### History

Section 13 was repealed, as from 6 October 2009, by s 716 Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).
14 Other situations when automatic enrolment rules do not apply

(1) Despite sections 10 to 13, the following are not new employment, and the automatic enrolment rules do not apply:

(a) if the person is an employee only because they are in receipt of payments of salary or wages of a type referred to in any of the following sections in the Income Tax Act 2007:

(i) section RD 5(1)(b)(iii) (which relates to certain ACC payments):
(ii) section RD 5(3) (which relates to payments to working partners):
[(iib) section RD 5(3B) (which relates to payments to working owners):]
[(iic) section RD 5(6)(be) to (bg) (which relate to payments made under the Veterans’ Support Act 2014):]
(iii) section RD 5(7) (which relates to parental leave payments paid under Part 7A of the Parental Leave and Employment Protection Act 1987):
[(b) if the new employment is as an election day worker or a private domestic worker as those terms are defined in section YA 1 of the Income Tax Act 2007:]
[(c) if the employee is not required to have tax deductions made from his or her salary or wages under the PAYE rules:]
[(d) if amounts are withheld for an employee under the PAYE rules solely because section YD 1(7) of the Income Tax Act 2007 applies to them.]

(2) Despite sections 10 to 13, the automatic enrolment rules do not apply if the employee is already a member of a KiwiSaver scheme.

History

Subsection (1)(a) was replaced, as from 1 April 2008, by s ZA 2(1) Income Tax Act 2007 (2007 No 97).
Subsection (1)(a)(iib) was inserted, as from 1 April 2011, by s 172 Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).
Subsection (1)(a)(iic) was inserted, as from 31 March 2015, by s 5 Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).
Subsection (1)(b) was replaced, as from 1 April 2008, by s ZA 2(1) Income Tax Act 2007 (2007 No 97).
Subsection (1)(c) was amended, as from 21 May 2007, by s 60 Taxation (KiwiSaver and Company Tax Rate Amendments) Act 2007 (2007 No 19) by substituting “PAYE rules:” for “PAYE rules.”.
Subsection (1)(d) was inserted, as from 21 May 2007, by s 60 Taxation (KiwiSaver and Company Tax Rate Amendments) Act 2007 (2007 No 19).

15 Effect of automatic enrolment

(1) An employee who is subject to the automatic enrolment rules—

(a) becomes liable in accordance with subpart 1 of Part 3 to automatic deduction of contributions—

(i) from the salary or wages paid in respect of the new employment that triggered the automatic enrolment rules; and
(ii) from the salary or wages paid in respect of any other new employment that the employee starts after becoming subject to the automatic enrolment rules; and

(b) must become a member of a KiwiSaver scheme under subpart 2 of this Part.

(2) The employee must continue to be a member of a KiwiSaver scheme until the earliest of—

(a) an opt-out notice taking effect; or
(b) the KiwiSaver end payment date referred to in clause 4 of the KiwiSaver scheme rules (which relates to lock-in of funds); or
(c) the provider terminating the employee’s membership of a KiwiSaver scheme under clause 4(5) of the KiwiSaver scheme rules (which relates to zero account balances); or
(d) the date of withdrawal or transfer to a foreign scheme in the case of permanent emigration under clause 14 of the KiwiSaver scheme rules.

(3) The employee continues to be liable for automatic deduction of contributions in accordance with subsection (1)(a) in respect of salary or wages until the earliest of—

(a) the dates referred to in subsection (2); or
(b) the date on which section 62 otherwise applies to that payment of salary or wages.

16 Time limit for opting out

Every employee to whom the automatic enrolment rules apply when starting new employment may opt out at any time in the period beginning on the 13th day after the date on which the person started the new employment and ending on the close of the 55th day after the date on which the person started the new employment.

17 How to opt out

(1) Every employee who wishes to opt out must, within the time limit in section 16, give an opt-out notice either—

(a) to the Commissioner; or
(b) to the employer in respect of the new employment that triggered the automatic enrolment rules.

(2) An opt-out notice must be—

(a) given in the form of the opt-out notice in an information pack; or
(b) given in any other form and manner permitted by the Commissioner.

(3) In order to be effective, an opt-out notice must contain the information required by that form or by the Commissioner, as the case may be.

(4) An opt-out takes effect on the later of—

(a) the 13th day after the date on which the person started the new employment that triggered the automatic enrolment rules; and
(b) the date on which the opt-out notice is—

(i) accepted by the Commissioner, in the case of a notice given to the Commissioner; or
(ii) received by the employer, in the case of a notice given to the employer.
An employer who receives an opt-out notice must give notice of that opt-out to the Commissioner no later than the time that the next employer monthly schedule is required to be delivered to the Commissioner under sections RA 5, RA 20, RD 2(3), RD 4(1), and RD 22 of the Income Tax Act 2007 and sections 24J and 24P of the Tax Administration Act 1994.

For the purposes of sections 17 to 20, a PAYE intermediary (within the meaning of section YA 1 of the Income Tax Act 2007) acting under sections RP 2 and RP 6 to RP 16 of that Act is treated as an employer.

### Extension of opt-out period

This section applies if—

(a) an employee gives an opt-out notice outside the time limit in section 16; and

(b) 1 or more of the following applies:

(i) the employer did not supply the employee with an information pack within 7 days of the employee starting new employment with the employer; or

(ii) the Commissioner did not send the product disclosure statement under section 50(3)(c); or

(iii) the employer did not supply the product disclosure statement under section 43 (if an employer’s choice of KiwiSaver scheme is effective); or

(iv) events outside the control of the employee meant that the opt-out notice could not be given within the time limit and, in the opinion of the Commissioner, it is reasonable that a late opt-out notice be accepted; or

(v) a mistake described in section 59A(b)(i) has occurred.

The Commissioner may accept the [opt-out notice, if it is received by the Commissioner or the employer] in the period that ends 3 months after the date on which the Commissioner receives the first contribution in respect of the employee.

If an opt-out notice is received by the Commissioner outside the time limit in section 16, and the Commissioner does not exercise his or her discretion to accept it under this section, the Commissioner must treat the notice as if it were an application for a contributions holiday under section 102, if the person could have applied under that provision.

### History


Subsection (6) was inserted, as from 1 July 2007, by s 34(1) Taxation (KiwiSaver) Act 2007 (2007 No 110).

Subsection (6) was substituted, as from 1 April 2008, by s 34(2) Taxation (KiwiSaver) Act 2007 (2007 No 110).
19 Commissioner must give notice to employer of opting out

The Commissioner must, as soon as practicable after accepting an opt-out notice from an employee, give notice to the employee’s employer in respect of the new employment that triggered the automatic enrolment rules stating that—

(a) the employee has opted out; and
(b) the employer must not make any further deductions of contributions in respect of the employee, from the effective date of the opt-out.

20 Effect of opting out

(1) An employee who opts out ceases, on the date on which the opt-out takes effect under section 17(4), to be a member of any KiwiSaver scheme of which the employee might have become a member.

(2) The employer must stop making deductions, with effect on the next payment of salary or wages that the employer calculates,—

(a) if the employee opts out by giving the opt-out notice to the employer, after the effective date of the opt-out notice under section 17(4); or
(b) if the employee opts out by giving the opt-out notice to the Commissioner, after the date on which the employer receives notice of the employee opting out under section 19.

(3) The employer may refund any deduction to the employee, rather than pay it to the Commissioner.

21 Opt-out only applies to employment that triggered automatic enrolment rules

An opt-out notice given in respect of one employment terminates the application of the automatic enrolment rules only in respect of that 1 employment, and does not apply to any other new employment in respect of which the employee may become subject to the automatic enrolment rules in the future.

Notice requirements for [employees and employers]

History

This heading was amended, as from 7 September 2010, by s 177(1) Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109) by substituting “employees and employers” for “people who start new employment”.

22 Employees [giving] information to employers

(1) Every person who starts new employment must give notice to the employer of—

(a) his or her name and address; and
(b) his or her tax file number; and
(c) whether or not he or she is already a member of a KiwiSaver scheme and, if that person is a member, must either—

(i) give to his or her employer a KiwiSaver deduction notice; or

(ii) give or show to his or her employer a copy of a notice given by the Commissioner under section 105 that grants a contributions holiday that has not yet ended; or

[iii] give his or her employer a non-deduction notice.

(2) That information must be given as soon as practicable after the person starts the new employment.

[(3) A person who is in temporary employment and who is a member of a KiwiSaver scheme may give their temporary employer a KiwiSaver deduction notice.]

### History

The heading to s 22 was amended, as from 7 September 2010, by s 177(2) Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109) by substituting “giving” for “must give”.

Subsection (1)(c)(ii) was amended, as from 1 July 2012, by s 229 Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88) by substituting “ended; or” for “ended.”

Subsection (1)(c)(iii) was inserted, as from 1 July 2012, by s 229 Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Subsection (3) was inserted, as from 7 September 2010, by s 177(3) Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

### 23 Employers must give information to Commissioner

(1) Every employer of a person who starts new employment must give notice to the Commissioner of the information referred to in section 22(1)(a) and (b) that the employee gives the employer, if the employer is satisfied that the employee is subject to the automatic enrolment rules.

(2) That information must be given no later than the time that the employer is next required to deliver an employer monthly schedule to the Commissioner under sections RA 5, RA 20, RD 2(3), RD 4(1), and RD 22 of the Income Tax Act 2007 and sections 24J and 24P of the Tax Administration Act 1994 after the information is given to the employer.

### History


### [23A PAYE intermediaries

For the purposes of sections 22 and 23, a PAYE intermediary (within the meaning of section YA 1 of the Income Tax Act 2007) acting under sections RP 2 and RP 6 to RP 16 of that Act is treated as an employer.

### History

Section 23A was inserted, as from 1 July 2007, by s 36(1) Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section 23A was substituted, as from 1 April 2008, by s 36(2) Taxation (KiwiSaver) Act 2007 (2007 No 110).
Exempt employers (Repealed)

History
This heading was repealed, as from 1 December 2014, by s 80 Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

24 Purpose of being exempt employer (Repealed)

History
Sections 24 to 32 were repealed, as from 1 December 2014, by s 80 Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

25 Eligibility to be exempt employer (Repealed)

History
Sections 24 to 32 were repealed, as from 1 December 2014, by s 80 Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

Subsection (1)(b) was substituted, as from 6 October 2009, by s 718 Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Subsection (1)(b) was amended, as from 7 October 2009, by s 178(1) Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109) by substituting “7 October 2009” for “the day after the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 receives the Royal assent”.

Subsection (1)(bb) was inserted, as from 6 October 2009, by s 718 Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Subsection (1)(bb) was repealed, as from 7 October 2009, by s 178(2) Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Subsection (3) “permanent employees”: this definition was replaced, as from 21 May 2007, by s 61 Taxation (KiwiSaver and Company Tax Rate Amendments) Act 2007 (2007 No 19).

Section 25 was amended, as from 1 May 2011, pursuant to s 85(1) Financial Markets Authority Act 2011 (2011 No 5) by substituting “FMA” for “Government Actuary” in each place.

26 How 4% minimum amount may be calculated for exempt employer defined contribution schemes (Repealed)

History
Sections 24 to 32 were repealed, as from 1 December 2014, by s 80 Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

Subsection (1)(d) was amended, as from 1 April 2008, by s ZA 2(1) Income Tax Act 2007 (2007 No 97) by substituting “ESCT payable under the ESCT rules” for “specified superannuation contribution withholding tax payable under the SSCWT rules”.

27 Eligibility of employers who provide access to more than one scheme (Repealed)

History
Sections 24 to 32 were repealed, as from 1 December 2014, by s 80 Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).
Section 27 was amended, as from 1 May 2011, pursuant to s 85(1) Financial Markets Authority Act 2011 (2011 No 5) by substituting “FMA” for “Government Actuary”.

28 Eligibility of employers who have schemes established under master trusts (Repealed)

History
Sections 24 to 32 were repealed, as from 1 December 2014, by s 80 Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

Paragraph (b) was amended, as from 1 July 2007, by s 37 Taxation (KiwiSaver) Act 2007 (2007 No 110) by inserting “scheme; and” for “scheme.”

Paragraph (c) was inserted, as from 1 July 2007, by s 37 Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section 28 was amended, as from 1 May 2011, pursuant to s 85(1) Financial Markets Authority Act 2011 (2011 No 5) by substituting “FMA” for “Government Actuary” in each place.

29 How to apply to be exempt employer (Repealed)

History
Sections 24 to 32 were repealed, as from 1 December 2014, by s 80 Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

Subsection (1) was substituted, as from 7 October 2009, by s 179(1) Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Subsection (3) was inserted, as from 7 October 2009, by s 179(2) Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section 29 was amended, as from 1 May 2011, pursuant to s 85(1) Financial Markets Authority Act 2011 (2011 No 5) by substituting “FMA” for “Government Actuary” in each place.

30 How applications to be exempt employer must be dealt with (Repealed)

History
Sections 24 to 32 were repealed, as from 1 December 2014, by s 80 Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

Subsection (1) before paragraph (a) was amended, as from 7 October 2009, by s 180 Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109) by substituting “receiving an application that may be made under section 29(1) and the documents required under section 29(2)” for “receiving an application under section 29 and the documents required”.

Subsection (1) was amended, as from 1 May 2011, by s 82 Financial Markets Authority Act 2011 (2011 No 5) by substituting “FMA” for “Government Actuary”.

Subsection (1)(a) was amended, as from 1 May 2011, by s 82 Financial Markets Authority Act 2011 (2011 No 5) by substituting “he or she” for “the FMA”.

Subsection (2) was amended, as from 1 May 2011, by s 82 Financial Markets Authority Act 2011 (2011 No 5) by substituting “FMA” for “Government Actuary”.

31 Revocation of exempt employer approval (Repealed)

History
Sections 24 to 32 were repealed, as from 1 December 2014, by s 80 Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).
Subsection (2) was amended, as from 1 May 2011, by s 82 Financial Markets Authority Act 2011 (2011 No 5) by substituting “FMA’s” for “Government Actuary’s”.

32 FMA must give notice to Commissioner of exempt employers (Repealed)

History

Sections 24 to 32 were repealed, as from 1 December 2014, by s 80 Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70). See cl 3 Financial Markets Legislation (Phase 2) Commencement Order 2014 (LI 2014/325).

Section 32 was amended, as from 1 May 2011, pursuant to s 85(1) Financial Markets Authority Act 2011 (2011 No 5) by substituting “FMA” for “Government Actuary”.

Opting in

33 Certain persons may opt in

A person may opt in at any time provided—
(a) the person is less than the New Zealand superannuation qualification age; and
(b) the person is not already a member of a KiwiSaver scheme; and
(c) the person is not subject to the automatic enrolment rules.

34 [Opting in by person 18 years or more]

(1) [A person who is 18 years or more and who] wishes to opt in may do either or both of the following:
(a) contract directly with a provider of a KiwiSaver scheme to become a member of a KiwiSaver scheme:
(b) if the person is an employee, give his or her employer a KiwiSaver deduction notice.

(2) A person who opts in by giving his or her employer a KiwiSaver deduction notice must give the employer—
(a) his or her name and address; and
(b) his or her tax file number.

(3) The employer must give notice to the Commissioner of the information that the employee gives the employer under subsection (2), if the employer is satisfied that the employee is eligible to opt in under section 33.

(4) That information must be given no later than the time that the employer is next required to deliver an employer monthly schedule to the Commissioner under [sections RA 5, RA 20, RD 2(3), RD 4(1), and RD 22 of the Income Tax Act 2007 and sections 24J and 24P of the Tax Administration Act 1994].

[5) For the purposes of sections 34 to 37, a PAYE intermediary (within the meaning of section YA 1 of the Income Tax Act 2007) acting under sections RP 2 and RP 6 to RP 16 of that Act is treated as an employer.]

History

The heading to s 34 was substituted for the heading “How to opt in”, as from 7 September 2010, by s 181(1) Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).
Subsection (1) was amended, as from 7 September 2010, by s 181(2) Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109) by substituting “A person who is 18 years or more and who” for “A person who”.


Subsection (5) was substituted, as from 1 April 2008, by s 38(2) Taxation (KiwiSaver) Act 2007 (2007 No 110).

Subsection (5) was inserted, as from 1 July 2007, by s 38(1) Taxation (KiwiSaver) Act 2007 (2007 No 110)

35 Opting in by persons under 18

[(1) A person who is less than 18 years may only opt in in accordance with this section.]

[(2) A person who is less than 16 years may opt in if all their guardians contract directly with a provider, in the name of the person. If the provider accepts the person, then the person is treated as—

(a) contracting directly with the provider; and
(b) 18 years for the purposes of the Minors’ Contracts Act 1969; and
(c) opting in under section 34(1)(a).]

[(3) A person who is 16 or 17 years old with a guardian [[or a CYPFA guardian]] may opt in if the person and 1 of their guardians [[or CYPFA guardians]] jointly contract directly with a provider, in the name of the person. If the provider accepts the person, then the person is treated as—

(a) contracting directly with the provider; and
(b) 18 years for the purposes of the Minors’ Contracts Act 1969; and
(c) opting in under section 34(1)(a).]

[(4) A person who is 16 or 17 years old with no guardian may opt in if the person contracts directly with a provider. If the provider accepts the person, then the person is treated as—

(a) 18 years for the purposes of the Minors’ Contracts Act 1969;
(b) opting in under section 34(1)(a).]

[(5) A person who is less than 16 years with a CYPFA guardian may opt in if the CYPFA guardian (independently from the person, and from all other, if any, CYPFA guardians, guardians, or both, of the person) contracts directly with a provider, in the name of the person. If the provider accepts the person, then the person is treated as—

(a) contracting directly with the provider; and
(b) 18 years for the purposes of the Minors’ Contracts Act 1969; and
(c) opting in under section 34(1)(a).]

[(6) A person who is less than 16 years with a CYPFA guardian is a member of a KiwiSaver scheme (whether opted into before or while the CYPFA guardian’s guardianship has effect), the CYPFA guardian has for the purposes of this Act authority (instead of all guardians, if any, of the person, and independently from the person, and from all other, if any, CYPFA guardians of the person) to make decisions (for example, voluntary transfer decisions), or to take other steps, in respect of the person’s membership of the scheme.]
36 Effect of opting in by employees

(1) An employee who [opts in under section 34(1)(a) or (b)]—

(a) [is] liable in accordance with subpart 1 of Part 3 to … deduction of contributions—

(i) from the salary or wages paid by [the employee’s employer]; and

(ii) from the salary or wages paid in respect of any other new employment that the employee starts after opting in; and

(b) must become a member of a KiwiSaver scheme under subpart 2 of this Part.

(1B) If an employee to whom subsection (1)(a)(i) applies has more than 1 employer who pays salary or wages to them, then, despite subsection (1)(a)(i), they may choose 1 or more employers who must make deductions of contributions from salary or wages in accordance with subpart 1 of Part 3.

(2) The employee must continue to be a member of a KiwiSaver scheme until the earliest of—

(a) the KiwiSaver end payment date referred to in clause 4 of the KiwiSaver scheme rules (which relates to lock-in of funds); or

(b) the provider terminating the employee’s membership of a KiwiSaver scheme under clause 4(5) of the KiwiSaver scheme rules (which relates to zero account balances); or

(c) the date of withdrawal or transfer to a foreign scheme in the case of permanent emigration under clause 14 of the KiwiSaver scheme rules.

(3) The employee continues to be liable for automatic deduction of contributions in accordance with subsection (1)(a) in respect of salary or wages until the earliest of—

(a) the dates referred to in subsection (2); or

(b) the date on which section 62 (other than section 62(a)) otherwise applies to that payment of salary or wages.

History

Subsection (1) was amended, as from 19 December 2007, by s 39(a) Taxation (KiwiSaver) Act 2007 (2007 No 110) by substituting “opts in under section 34(1)(a) or (b)” for “opts in” in the words before para (a).

Subsection (1)(a) was amended, as from 19 December 2007, by s 39(b)(i) Taxation (KiwiSaver) Act 2007 (2007 No 110) by substituting “is” for “becomes” in the words before subpara (i).

Subsection (1)(a) was amended, as from 19 December 2007, by s 39(b)(ii) Taxation (KiwiSaver) Act 2007 (2007 No 110) by omitting “automatic” in the words before subpara (i).

Subsection (1)(a)(i) was amended, as from 19 December 2007, by s 39(b)(iii) Taxation (KiwiSaver) Act 2007 (2007 No 110) by substituting “the employee’s employer” for “the employer to whom the opting in relates”.

Subsection (3) before para (a) was amended, as from 1 July 2014, by s 5(1)(a) KiwiSaver (Vulnerable Children) Amendment Act 2014 (2014 No 42) by inserting “or a CYPFA guardian” after “with a guardian”.

Subsection (3) before para (a) was amended, as from 1 July 2014, by s 5(1)(b) KiwiSaver (Vulnerable Children) Amendment Act 2014 (2014 No 42) by inserting “or CYPFA guardians” after “and 1 of their guardians”.

Subsections (5) and (6) were inserted, as from 1 July 2014, by s 5(2) KiwiSaver (Vulnerable Children) Amendment Act 2014 (2014 No 42).