

CHECK LIST

PROVISIONS COMPRISING COMPLYING FUND RULES AS DEFINED IN THE INCOME TAX ACT 2007, SCHEDULE 28 AND THE SUPERANNUATION SCHEMES ACT 1989

<p>“Complying fund rules” under the Income Tax Act 2007 and “Section 35” SSA 1989 requirements</p>	<p>Trust Deed/Participation Agreement – corresponding clause reference</p>
<p>Section 35</p> <p>The Scheme and any relevant participation agreement evidence rules that subject the following to complying fund rules:</p> <ul style="list-style-type: none"> (a) relevant contributions (b) returns on relevant contributions (c) relevant benefits <p>The scheme has 20 or more non-associated members;</p> <p>The scheme was registered on or before 1 July 2007;</p> <p>Relevant participating agreement(s) have been entered into on or before 1 July 2007.</p>	<p>AS/</p>
<p>1 KiwiSaver Rules</p> <p>(1) Rules must be the same as the rules for KS schemes in Schedule 1, clauses 2, 4(1) to (4), 7, 9, and 17 of the KS Act 2006 (with necessary modifications).</p> <p>Rules must be the same as the rules in section 101G and 196 of the KS Act 2006 for KS schemes (with necessary modifications) i.e:</p> <p>Any interest in a KS scheme must not be assigned or charged or passed to any other person whether by way of security, operation of law or any other means.</p>	<p>1 KiwiSaver Rules</p>

<p>“Complying fund rules” under the Income Tax Act 2007 and “Section 35” SSA 1989 requirements</p>	<p>Trust Deed/Participation Agreement – corresponding clause reference</p>
<p>However, this does not prevent a member's interest or any future benefits from being released, assigned or charged, or from passing to any other person, if that is required by the provisions of any enactment (including a requirement by order of the Court under any enactment).</p>	
<p>2 Withdrawals</p> <p>(2) Rules may allow withdrawals in some or all of the circumstances described in regulations made under s.229(1) of the KS Act 2006 the rules for KS schemes in Schedule 1, clauses 8 and 10 to 14 of the KS Act 2006 (with necessary modifications), or in none of those circumstances; and</p> <p>Rules must not allow withdrawals under any other circumstances except those described here and in “Lock-in” above.</p> <p>Rules must require the trustees, at the member's request, to pay any permitted withdrawal as a lump sum, as if the withdrawal were a permitted withdrawal to which schedule 1, clause 5 of the KiwiSaver Act 2006 applied (with necessary modifications).</p>	<p>2 Withdrawals</p>

<p>“Complying fund rules” under the Income Tax Act 2007 and “Section 35” SSA 1989 requirements</p>	<p>Trust Deed/Participation Agreement – corresponding clause reference</p>
<p>3 Transfer requirements</p> <p>(3)(a) Rules must require a transfer of all or part of an employee's superannuation accumulation (i.e. Locked-in Balance) to another CSF , or to a KS scheme, if the employee requests such a transfer and, in the case of a transfer to a KS scheme, the requirements of the KS Act 2006 are met.</p> <p>(3)(b) Rules must also require that an employee's superannuation accumulation is subject to complying fund rules, if it is transferred to another complying superannuation fund.</p> <p>(3)(c) Rules must require a transfer of an employee's superannuation accumulation to a KiwiSaver scheme if the employee does not request a transfer and:</p> <ul style="list-style-type: none"> (i) ceases to be eligible to be a member of their complying superannuation fund; and (ii) may not remain a member for any reason except a transfer in accordance with paragraphs (a), (b) and (d), or a withdrawal of some or all of an employee's superannuation accumulation in accordance with complying fund rules. 	<p>3 Transfer requirements</p>

<p>“Complying fund rules” under the Income Tax Act 2007 and “Section 35” SSA 1989 requirements</p>	<p>Trust Deed/Participation Agreement – corresponding clause reference</p>
<p>(3)(d) Rules must require a transfer of an employee's superannuation accumulation to a KiwiSaver scheme if the Government Actuary revokes approval of the superannuation fund as a complying superannuation fund and the accumulation is not transferred to another complying superannuation fund and is not subject to complying fund rules.</p>	
<p>4, 5 Notification</p> <p>(4),(5) Rules must require that the Commissioner is notified that the employee's superannuation accumulation must be transferred in accordance with paragraphs (c) and (d), and the notice must include the name, address, and tax file number of the employee, the name and address of their employer, and the name and tax file number of the employee's complying superannuation fund.</p>	<p>4, 5 Notification</p>
<p>6 Age Restriction</p> <p>(6) Rules must prevent a person over New Zealand Superannuation age from joining a CSF.</p>	<p>6 Age Restriction</p>

<p>“Complying fund rules” under the Income Tax Act 2007 and “Section 35” SSA 1989 requirements</p>	<p>Trust Deed/Participation Agreement – corresponding clause reference</p>
<p>7 Minimum contribution</p> <p>(7) Rules must require as a minimum, while locked-in contributions are being made, the same contribution as required by section 66 or section 66A of the KiwiSaver Act 2006.</p>	<p>7 Minimum contribution</p>
<p>8 Funding benefits</p> <p>(8) Rules must require an employee’s superannuation accumulation is used to fund benefits calculated only by reference the accumulation.</p>	<p>8 Funding benefits</p>
<p>9 Commitment</p> <p>(9) Rules must commit an employee to continue to be a member except in accordance with clauses 1 to 8.</p>	<p>9 Commitment</p>

(Note: This checklist ignores those aspects of the complying fund rules that are implied into trust deeds by provisions of the KiwiSaver Act).