



Report of the
Government Actuary

(in respect of the KiwiSaver Act 2006)

for the year ended
30 June 2007

*Presented to the House of Representatives pursuant to
Section 194 of the KiwiSaver Act 2006*

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MINISTER OF COMMERCE

In accordance with section 194 of the KiwiSaver Act 2006, I submit my report for the year ended 30 June 2007 on the principal matters transacted under that Act. In future years this report will contain a statistical analysis of KiwiSaver schemes based on the Annual Returns lodged by each individual scheme as required by section 125 of the KiwiSaver Act 2006.

INTRODUCTION

For the purposes of this report, the relevant parts of the KiwiSaver Act 2006 (the Act) came into force on 1 December 2006. KiwiSaver schemes were developed for registration by providers over the months up to 1 July 2007, when members could first join a KiwiSaver scheme. It is anticipated that future schemes will be developed by providers for registration as needs arise.

1. BACKGROUND

- 1.1 The Act places emphasis on the role and responsibilities of trustees and makes no distinction between schemes which are provided to the general public, set up by individuals for themselves, or sponsored by private or state sector employers.
- 1.2 Initially my role has been to ensure and enable eligible KiwiSaver schemes to be registered in a timely manner. This requires a review to ensure that the trust deed complies with the requirements of the legislation, that matters covered in Schedule 2 of the Act are adequately disclosed and that fees are not unreasonable as identified in Schedule 1 of the Act and the KiwiSaver Regulations 2006 (the Regulations).
- 1.3 In time my role will be similar to my role under the Superannuation Schemes Act 1989 (the 1989 Act), namely to react to the decisions and actions (or lack of action) of persons responsible for managing KiwiSaver schemes, where necessary or appropriate. My aim is to encourage compliance with the Act and to resort to the use of my statutory powers only where that encouragement has proved ineffective, or where "encouragement" would be inappropriate due to the circumstances of the particular matter under consideration. From time to time, whether on request or when a situation comes to my attention, I may investigate whether a KiwiSaver scheme is operating in accordance with the Act under the powers given in sections 188 and 189 of the Act.
- 1.4 In practice, the services that I require for the administration of the Act have been provided by the Insurance and Superannuation Unit of the Business Services Branch of the Ministry of Economic Development (the Ministry). In this report, the operations of myself and the Insurance and Superannuation Unit in connection with the Act are referred to as "the office".

2. GENERAL OVERVIEW OF YEAR ENDED 30 JUNE 2007

- 2.1 The office's activities have been directed towards the development of the processes necessary to register KiwiSaver schemes and administer the new Act.
- 2.2 As a result of our preparation for the implementation of the Act we were well placed to process and register: new KiwiSaver superannuation schemes; "bolt on" KiwiSaver Schemes to existing registered superannuation schemes under the 1989 Act; and 3 conversions of existing 1989 Act superannuation schemes to registered KiwiSaver schemes.
- 2.3 Since late 2006 the office has been involved in discussions about particular KiwiSaver scheme design and trust deed issues with trustees and their advisers as a pre-registration service. Proposed KiwiSaver scheme fees were also reviewed to ensure that they are not unreasonable. Many ad hoc issues were raised and discussed including interpretation issues on various sections of the Act.
- 2.4 The fees charged by the office are as prescribed by Schedule 2 of the Regulations.

3. REGISTRATION OF SCHEMES

- 3.1 At midnight 30 June 2007, 34 KiwiSaver schemes had been registered. Of these 6 were the default provider schemes and 3 were schemes that had converted from the 1989 Act regime. Of the 34 schemes, 10 had "bolted on" a KiwiSaver scheme to their existing registered superannuation scheme.
- 3.2 By mid September 2007, 44 schemes had been registered. More are expected to be registered over the coming months.

4. UNREASONABLE FEES ASSESSMENT

- 4.1 As part of the registration process, under schedule 2 of the Act "a statement of the fees that will be charged in the period prior to the next annual report or the basis on which those fees will be calculated" is required.
- 4.2 I have assessed these fees in the light of both the Schedules of the Act and the Regulations. All fees reviewed were requested to be the total (gross before tax) fees for the KiwiSaver scheme. For completeness, fees include all costs charged to the scheme. Most fees had been considered in at least draft form by May 2007. Given the relatively short lead in time between when most of the Act came into force and 1 July 2007, most schemes' fees were reviewed prior to the formal application for registration. Formal applications were then able to be processed promptly and well within the permitted 28 day timeframe.

Where issues were identified discussion took place with the provider, and fees have been adjusted.

The objective was to establish KiwiSaver as a low cost work-based savings scheme at both the individual and employer level. The Act makes no distinction between schemes which are provided to the general public or to employers.

In general terms, the result has been a range of fees which have some variations. The style of investment management, for example, will lead to different fee levels. But in general terms, the higher the investment risk, the higher the potential return and the higher the fee.

It is anticipated that once all fees are visible in the market place, comparisons will be available between providers and the market will settle.

At present I would expect to review fees on an annual basis following receipt of the (audited) financial reports of the KiwiSaver scheme.

I would also expect changes in fee levels in any form to be provided to my office in advance of application.

5. EXEMPT EMPLOYER, COMPLYING SUPERANNUATION FUND STATUS

- 5.1 At midnight 30 June 2007, 201 private sector employers had applied and received exempt employer status. This means that from 1 July 2007 new employees to those companies would not be subject to the automatic enrolment rules prescribed in the Act. Of the 201 private sector employers, 76 were associated with 19 stand alone employer superannuation schemes whilst the balance of 125 employers were spread between 4 master trust multi employer superannuation schemes.
- 5.2 A further 2522 schools, government departments and agencies had also obtained exempt employer status.
- 5.3 By mid September 2007 a total of 2943 employers had obtained exempt employer status.
- 5.4 With respect to Complying Superannuation Fund status, as at 1 July 2007 there were 13 schemes that had obtained this status, of which 7 schemes were stand alone employer schemes. The other 6 were multi-employer schemes. One of the multi employer schemes had 41 participating employers which had received relevant participating employer complying fund status.
- 5.5 By mid September 2007, 16 superannuation schemes had obtained Complying Superannuation Fund status and 110 employers of multi employer schemes had received relevant participating employer complying fund status.

6. COMMUNICATIONS

- 6.1 The office endeavours to maintain effective communication with those concerned with KiwiSaver schemes in whatever capacity.
- 6.2 The office continues to be willing to discuss particular problems on an informal basis with trustees and their professional advisers. Within the office a facility is provided to respond to telephone enquiries from trustees and their professional advisers.
- 6.3 Guidance notes can be issued under section 127 of the Act from time to time. These guidance notes will usually be subject to a “peer review” process before being issued.
- 6.4 At the time of writing, a guideline (KSGN1) on unreasonable fees was being prepared and will be released in the near future.
- 6.5 Additionally, two newsletters were issued under the 1989 Act, series numbers 60 and 61, which dealt with KiwiSaver issues. Draft newsletters are produced within the office and then sent to selected external experts for comment. However, where the content of the newsletter is not contentious, this procedure may be condensed.

Newsletter 60, December 2006:

This newsletter contained information relating to the introduction of the Act. A checklist was included for the registration process and for employers who provided existing schemes to seek an exemption from the KiwiSaver automatic enrolment rules and amendments to the Superannuation Schemes Act 1989.

Newsletter 61, May 2007:

This newsletter contained a checklist for Complying Super Fund applications.

Website:

We have re-launched our website at www.isu.govt.nz which contains pdf and html versions of Government Actuary Newsletters and Annual Reports. The website also contains the electronic KiwiSaver Scheme Register and the Exempt Employer Register. It will also contain future Guidance Notes that are published under the Act.

7. STAFF AND EXTERNAL ADVISERS

The office has a small team of dedicated individuals with particular skills and expertise. The office supplements its resources, where and if appropriate, by making use of other resources within the Business Services Branch of the Ministry, and by seeking external assistance from experts in the private sector in dealing with particular problems as they arise.

In seeking external professional advice, the office looks for persons who have particular skills and experience that match the nature of the problem. Appropriate external private sector professional advice is also sought to provide quality assurance processes.

During the year I have appreciated the assistance and advice given by Hugh Rennie QC, Chapman Tong and the Ministry's in house legal team.

The staff carrying out the work of the Insurance and Superannuation Unit have shown ongoing dedication and commitment, and I would like to record my appreciation for the efforts during the year of Gavin Quigan, Manager Insurance and Superannuation Unit, Lesley Carrig, Superannuation Officer and Cecilia Heath, Technical Specialist.

A handwritten signature in black ink, appearing to be 'D G Benison', with a long horizontal line extending to the right.

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Government Actuary