

House of Representatives

Supplementary Order Paper

Tuesday, 20 August 2019

Taxation (KiwiSaver, Student Loans, and Remedial Matters) Bill

Proposed amendments

Hon Kris Faafoi, in Committee, to move the following amendments:

New clause 32B

After *clause 32* (page 18, after line 15), insert:

32B Section 101C amended (Employee's requirements)

After section 101C(c), insert:

(cb) must not have made a withdrawal under **clause 12B** of the KiwiSaver scheme rules (which relates to life-shortening congenital condition withdrawals); and

New clause 37B

After *clause 37* (page 19, after line 7), insert:

37B Section 228 amended (Regulations)

After section 228(1)(m), insert:

(mb) prescribing conditions that are regarded as life-shortening congenital conditions for the purposes of **clause 12B** of the KiwiSaver scheme rules:

37C New section 242 inserted (Protection from non-compliance: Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2019)

After section 241, insert:

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242 Protection from non-compliance: Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2019

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

- (a) results from the enactment of sections **32B, 37B, 38, 107B, and 113B** of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act **2019**; and
- (b) relates to a product disclosure statement, or to information lodged on the relevant disclosure register, under the Financial Markets Conduct Act 2013; and
- (c) the period of the non-compliance ends before 31 January 2021.

Clause 38

After *subclause (1)* (page 19, after line 17), insert:

- (2) In schedule 1, after clause 12, insert:

12B Withdrawal in cases of life-shortening congenital conditions

- (1) A member may apply under this clause for a withdrawal, in addition to a withdrawal on the grounds of serious illness under clause 11(1)(g) or 12, when the member suffers from a condition—
 - (a) that is identified as a life-shortening congenital condition by a regulation made under **section 228(1)(mb)** (a **listed condition**); or
 - (b) for which the member has medical evidence to verify that the congenital condition is expected to reduce life expectancy below the New Zealand superannuation qualification age for the member or for persons in general with the condition (a **non-listed condition**).
- (2) The member may apply under **clause 13** for a congenital condition withdrawal to the manager (in the case of a restricted KiwiSaver scheme) or supervisor (in the case of any other KiwiSaver scheme) if,—
 - (a) for a listed condition, the manager or the supervisor, as applicable, is satisfied that medical evidence has been provided to verify that the member suffers from the condition:
 - (b) for a non-listed condition, the manager or the supervisor, as applicable, is satisfied that medical evidence has been provided to verify that—
 - (i) the condition is a life-shortening congenital condition for the member or for persons in general with the condition; and

- (ii) the member suffers from the condition.
- (3) The member may choose—
 - (a) the date of a withdrawal under this clause:
 - (b) the amount of the congenital condition withdrawal, which may be up to the value of their accumulation.
- (4) For the purposes of the KiwiSaver scheme rules, a member who makes a congenital condition withdrawal is treated as if they have reached the New Zealand superannuation qualification age referred to in clause 4(1).
- (5) A withdrawal under this clause does not prevent a member continuing in paid employment. However, no Crown contribution or compulsory employer contribution is payable in relation to the member's continuing contributions.
- (6) In this clause, **life-shortening congenital condition** means a condition that—
 - (a) is identified as a life-shortening congenital condition by a regulation made under **section 228(1)(mb)**:
 - (b) exists for a person from the date of their birth and is likely to reduce the person's life expectancy below the New Zealand superannuation qualification age.
- (3) In clause 13,—
 - (a) replace the clause heading with “**Application for withdrawal for significant hardship, serious illness, or life-shortening congenital condition**”:
 - (b) in subclause (1), replace “clause 10 or 12” with “clause 10, 12, or **12B**”:
 - (c) after subclause (1B), insert:
- (1C) The application by a member for a withdrawal under **clause 12B** must include—
 - (a) a completed statutory declaration that the member does not intend to continue in full-time paid employment, or to accept full-time paid employment in the future, and wishes to make a congenital condition withdrawal; and
 - (b) medical evidence that is sufficient to verify that the member suffers from—
 - (i) a listed condition:
 - (ii) a non-listed condition that is a life-shortening congenital condition.

New clause 107B

After clause 107 (page 39, after line 12), insert:

107B Section MK 2 amended (Eligibility requirements)

After section MK 2(1)(c), insert:

- (cb) they must not have made a withdrawal under **clause 12B** of the KiwiSaver scheme rules (which relates to life-shortening congenital condition withdrawals); and

New clause 113B

After clause 113 (page 42, after line 13), insert:

113B Schedule 28 amended (Requirements for complying fund rules)

In clause 1(b), replace “9, and 17” with “9, **12B**, and 17”.

Explanatory note

This Supplementary Order Paper creates a new withdrawal category in the KiwiSaver Act 2006 that would allow members with life-shortening congenital conditions to withdraw their savings early. A member would be able to apply for a withdrawal under this new category if they have medical evidence to verify that they have a condition that is listed in regulations. Alternatively, they would be able to apply if they have medical evidence to verify that they have a condition that is a life-shortening congenital condition.

The new rules would apply to both KiwiSaver schemes and complying funds.

For the purposes of compliance with financial markets requirements related to product disclosure statements, providers would be provided a grace period, ending on 31 January 2021, to allow them to make the required changes.

Departmental disclosure statement

The Inland Revenue Department is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://disclosure.legislation.govt.nz/sop/government/2019/293>

Regulatory impact assessment

The Ministry of Business, Innovation & Employment produced a regulatory impact assessment on 14 June 2019 to help inform the new policy decisions taken by the Government relating to the contents of this Supplementary Order Paper.

A copy of this regulatory impact assessment can be found at—

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- <https://www.mbie.govt.nz/dmsdocument/6559-withdrawl-of-kiwisaver-due-to-life-shortening-congenital-conditions-full-impact-summary>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>