

New Zealand Superannuation and Retirement Income Amendment Bill

Government Bill

As reported from the committee of the whole House

This Bill was formerly part of the New Zealand Superannuation and Retirement Income Amendment Bill as reported from the Finance and Expenditure Committee. The committee of the whole House has further amended the Bill and divided it into the following Bills:

- this Bill comprising clauses 1 and 2, and Part 1
- the Taxation (New Zealand Superannuation and Retirement Income) Bill comprising Part 2.

**New Zealand Superannuation and Retirement Income
Amendment Bill**

Key to symbols used in reprinted bill

As reported from the committee of the whole House

text deleted

Hon Bill English

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the New Zealand Superannuation and Retirement Income Amendment Act **2015**.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the New Zealand Superannuation and Retirement Income Act 2001 (the **principal Act**).

4 Section 38 amended (Property of Fund)

In section 38, insert as subsections (2) and (3):

- (2) The Fund is not an entity separate from the Crown.
- (3) However, **subsection (2)** does not limit section 66(2) or 67(1).

5 New section 49A inserted (Saving of certain transactions)

After section 49, insert:

49A Saving of certain transactions

- (1) A failure by the Guardians to comply with any provision of this Act or the Crown Entities Act 2004 does not affect the validity or enforceability of any deed, agreement, right, or obligation that is entered into, obtained, or incurred by—
 - (a) the Guardians; or
 - (b) a Fund investment vehicle referred to in **section 59A**; or
 - (c) a Crown entity subsidiary of the Guardians.
- (2) This section applies only to the extent that the deed, agreement, right, or obligation is entered into, obtained, or incurred for the purpose of performing the functions of the Guardians.
- (3) This section applies despite anything to the contrary in this Act or the Crown Entities Act 2004 or any other enactment or rule of law.

Compare: 1986 No 124 s 21

6 Section 59 amended (No controlling interests)

After section 59(4), insert:

- (5) This section—
 - (a) does not apply to a Fund investment vehicle referred to in **section 59A**; but
 - (b) does apply to an entity in which a Fund investment vehicle has an interest, as if the investments of the Fund that are held, facilitated, or managed by the Fund investment vehicle were held directly by the Guardians as manager and administrator of the Fund.

7 New section 59A inserted (Fund investment vehicles)

After section 59, insert:

59A Fund investment vehicles

- (1) All or any of the investments of the Fund may be held in an entity that is formed or controlled by the Guardians for the purpose of holding, facilitating, or managing the investments of the Fund (a **Fund investment vehicle**).
- (1A) ~~The Guardians may exercise the power in **subsection (1)** in respect of —~~ 5
- ~~(a) passive holding entities (being entities that only hold financial products within the meaning of the Financial Markets Conduct Act 2013); or~~
- ~~(b) any other entities only with the approval of the Minister of Finance.~~
- (1B) ~~The Minister's approval under **subsection (1A)(b)** —~~ 10
- ~~(a) may be given for any class or classes of investments or entities; and~~
- ~~(b) may set conditions as to the governance framework for the implementation and operation of the entities and as to the application of this Act to the entities.~~
- (2) A Fund investment vehicle is not a Crown entity subsidiary for the purposes of section 7(1)(c) of the Crown Entities Act 2004. 15
- (3) Interests in Fund investment vehicles are Fund investments and part of the Fund.
- (3A) To avoid doubt, the Official Information Act 1982 and the Ombudsmen Act 1975 do not apply to Fund investment vehicles, but the Official Information Act 1982 applies to the Guardians in respect of information held by the Guardians about Fund investment vehicles. 20
- (4) **Subsection (1)** applies despite anything to the contrary in the Crown Entities Act 2004, this Act, or any other enactment.

8 Section 61 amended (Contents of statements of investment policies, standards, and procedures) 25

After section 61(f), insert:

- (fa) the governance framework for the implementation and operation of Fund investment vehicles referred to in **section 59A**; and

9 Schedule 3 amended

- (1) In Schedule 3, after clause 39(b), insert: 30
- (c) a Fund investment vehicle that is formed or controlled under **section 59A**.
- (2) In Schedule 3, repeal clause 40.

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Legislative history

5 November 2013
19 March 2014
30 July 2014
7 May 2015
30 June 2015

Introduction (Bill 166–1)
First reading and referral to Finance and Expenditure Committee
Reported from Finance and Expenditure Committee (Bill 166–2)
Second reading
Committee of the whole House (Divided from Bill 166–2 as Bill
166–3)

Wellington, New Zealand:

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