



21 July 2023

Requestor
fyi-request-23442-402e91f4@requests.fyi.org.nz

Dear Requestor

Thank you for your request made under the Official Information Act 1982 (OIA), received on 10 July 2023. You requested the following:

- 1. Is an eligible person's participation in the Kiwisaver scheme voluntary or a legal requirement?*
- 2. At any time can a person, who no longer wishes to have ongoing involvement or membership with Kiwisaver, exercise the right to choose to opt out permanently?*
- 3. At any time can a person exercise the right to revoke consent to participate in Kiwisaver?*
- 4. Does IRD take into consideration a person's decision to refrain from joining to be free from compulsion, intimidation, coercion, incentives, or disincentives of magnitude that effectively removes the exercise of choice?*
- 5. Can the freedom of association be limited by IRD's policy?*
- 6. Does IRD have special exemptions for people who do not wish to be Kiwisaver members?*

Your request does not constitute a request for official information under the OIA, rather it is a request for advice. Official information is any information held by an agency subject to the OIA. This includes:

- documents, reports, memoranda, letters, emails, and drafts
- non-written information, such as video or tape recordings
- the reasons for any decisions that have been made about you
- manuals that set out internal rules, principles, policies, or guidelines for decision-making
- agendas and minutes of meetings, including those not open to the public

The OIA does not require agencies, such as Inland Revenue, to engage in debate or create explanations (see the Ombudsman's website).¹

However, in the spirit of the OIA, I have responded to your queries as follows:

1. KiwiSaver is a voluntary-based savings scheme set up by the government, designed to encourage and help New Zealanders save for their retirement. There are two ways to join KiwiSaver, through an employer or directly with a KiwiSaver scheme provider.

For most people, KiwiSaver is work-based. This means those who meet the eligibility criteria are automatically enrolled by their employer when they start working (for them).

¹ [Your ability to request official information | Ombudsman New Zealand](#)

Employers must provide new employees who are automatically enrolled with a KiwiSaver information pack. The KiwiSaver information pack includes:

- KiwiSaver deduction form (KS2)
- Your introduction to KiwiSaver -employee information (KS3)
- Opt-out request (KS10)

Only people over 18 years of age and under the qualifying age for New Zealand Superannuation will be eligible for automatic enrolment through their employer. People who do not qualify for automatic enrolment can enrol directly through a provider.

2. According to section 16 of the KiwiSaver Act 2006, 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. Individuals who have opted out within the timeframe can choose to opt back in later. People who enrol directly are unable to opt out.
3. Once a member has enrolled into KiwiSaver (and the 8-week opt out period described in paragraph 2 above, has passed if they were automatically enrolled), they cannot opt out.
4. Before being passed into legislation, the Ministry of Justice considered whether the KiwiSaver Bill was consistent with the New Zealand Bill of Rights Act 1990. Their view was that the Bill appeared to be consistent with the rights and freedoms affirmed in the Bill of Rights Act. Refer: www.justice.govt.nz/assets/bora-kiwisaver-bill.pdf.pdf.
5. Refer to 4 above.
6. Generally, employees who belong to KiwiSaver must have contributions deducted from their salary/wages. If a person has been a contributing member of KiwiSaver for one year or more, they can take a temporary break from contributing to KiwiSaver by applying for a savings suspension for a period from 92 days to one year. If a member has been contributing for less than 12 months, they may be eligible for a savings suspension if they meet any of the financial hardship reasons.

Thank you for writing. I trust this information is of assistance.

Yours sincerely



Tony Donoghue
Team Lead – Ministerial and Escalated Complaints