

## KiwiSaver contribution rate increases from 1 April 2013 – what do they mean for employers?

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The rate of compulsory employee and employer contributions to KiwiSaver schemes is due to increase from 2% to 3% of an employee's salary and wages for pay periods starting on or after 1 April 2013.

### KiwiSaver employer contributions

For many employers, this should be a relatively easy procedural change when employees are only members of a KiwiSaver scheme. However, some employees may be members of both a KiwiSaver scheme and another superannuation scheme that is not a KiwiSaver scheme, such as a registered superannuation scheme or a defined benefit fund (a 'non-KiwiSaver superannuation scheme'). In this situation some employers are required to make employer contributions to both the KiwiSaver scheme and the non-KiwiSaver superannuation scheme.

As a general rule, for pay periods starting on or after 1 April 2013 an employer in this situation will be required to increase their employer contribution to the employer's KiwiSaver scheme from 2% to 3%, regardless of the contribution that the employer is also making to the employee's non-KiwiSaver superannuation scheme.

### Exceptions to KiwiSaver employer contributions

However, an employer will not be required to increase their employer contribution to an employee's KiwiSaver scheme from 1 April 2013 if the employer's combined contributions to the employee's KiwiSaver scheme and non-KiwiSaver superannuation scheme are already at least 3%, and certain other requirements are met. Briefly, the key requirements are either that:

- The employee be a member of a complying superannuation fund. Only a very restricted number of non-KiwiSaver superannuation schemes are complying superannuation funds, and a full list is maintained by the [Financial Markets Authority](#)
- The employee be a member of a registered superannuation scheme, and the employer is committed to, and agreed with the employee, to contribute to the registered superannuation scheme prior to 1 April 2008. Registered superannuation schemes may be searched on the Superannuation Scheme register maintained by the [New Zealand Companies Office](#).

The technical detail of the KiwiSaver Act 2006 on these requirements is very complex, and the above points are only a summary. Other employees or schemes (including certain defined benefit schemes) may fall within the exception removing an obligation on the employer to increase their contributions to a KiwiSaver scheme, depending on when the employer first offered eligible employees access to the non-KiwiSaver superannuation scheme and the terms of employment.

We would be happy to assist in determining whether any exceptions to KiwiSaver employer contributions apply in the circumstances of any particular employees or schemes.

### KiwiSaver employee contributions

The effect of the upcoming contribution rate change is simpler for employee contributions when employees are members of both a KiwiSaver scheme and a non-KiwiSaver superannuation scheme. Unless an employee has been granted a contributions holiday or has provided a non-deduction notice, if that employee has elected a 2% contribution rate the employer must automatically increase the employee's contribution paid to the employee's KiwiSaver scheme to 3% for pay periods starting on or after 1 April 2013.

### Can employers reduce employees' salaries by the amount of the increase?

Generally, the answer to this question is 'no'. The legislation does not allow employers to reduce any other aspect of remuneration in response to the contribution increase, unless that has been expressly agreed under a 'total remuneration' approach that incorporates KiwiSaver.

Employers who take this approach should consider how best to respond to the increase in light of their employment

agreements. Whether other remuneration can be adjusted to account for the contribution increase will depend on the wording of the specific total remuneration clause. Employers would be well advised to consider other practical and relationship factors when deciding how best to respond.

### **Further information**

If you have any questions, or would like any specific advice about your KiwiSaver obligations, please contact one of our KiwiSaver specialists.

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