

# Whys and wherefores of KiwiSaver scheme

**L** asks when can she make an early withdrawal from KiwiSaver.

A portion of your KiwiSaver can be used to contribute to a deposit on your first home. You can also access your savings before you reach 65 if:

- You are moving overseas permanently (except for Australia).
- You are suffering significant financial hardship.
- You are suffering from a serious illness.

If you have moved overseas and have been out of New Zealand for more than one year, you can withdraw your funds from KiwiSaver. The exception to this rule is if you have moved to Australia.

The governments of Australia and New Zealand have reached an agreement whereby KiwiSaver accounts are portable across the Tasman.

If you have moved to Australia, you will either be able to leave your funds in a New Zealand KiwiSaver scheme or transfer them to an Australian superannuation scheme.

If you are struggling to make ends meet, you may be eligible to withdraw some of your KiwiSaver funds.

Situations where you may be able to do this include:

- If you are unable to meet basic living expenses.
- If you are unable to make mortgage payments on your property.
- If you are required to renovate



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**ALAN KNOWSLEY**

RAINEY COLLINS LAWYERS

your home to accommodate a disabled family member.

■ If you have to pay for medical treatment for a family member who has a long-term illness or injury.

■ If you have to pay for the funeral costs of a dependant family member.

The amount you are able to withdraw will depend on the extent of your hardship. The amount will usually correspond to the amount that needs to be paid.

If you are afflicted by a serious or terminal illness, or a permanent disability that has affected your ability to work, you can withdraw the total funds of your KiwiSaver early.

This includes your contributions, your employer's contributions, the \$1000 kick-start, any member tax credits, the Government's annual contributions.

KiwiSaver can be a trap for unwary employees changing jobs.

In a recent situation, an employee transferred to a new employer and assumed that the

employer would make his KiwiSaver deductions and contributions.

After several months he discovered this was not occurring.

The obligation is on employees to notify the employer of their KiwiSaver membership, with a KS2 notice.

The employer must then make deductions and contributions.

There is no obligation for an employer to make back payments for a period before receiving the notice.

Where new employees are not members of KiwiSaver, the employer must automatically enrol them.

If they fail to do so, they must backdate the payments.

Some employers offer a remuneration package that includes any KiwiSaver contribution.

All their employees receive the same whether or not they are in KiwiSaver. If this is done, the employer contributions have to be paid on top of the minimum wage.

It is not lawful to include the employer contribution in a total remuneration package, unless that is higher than the minimum wage by the amount of the employer contribution.

■ Column courtesy of Rainey Collins Lawyers, phone 0800 733484. If you have a legal inquiry you would like discussed, email Alan on [aknowsley@raineycollins.co.nz](mailto:aknowsley@raineycollins.co.nz).