New Zealand Superannuation and Retirement Income Amendment Act 2019

Public Act	2019 No 77
Date of assent	13 December 2019
Commencement	see section 2

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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 2019.

2 Commencement

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 3 amended (Purpose)

(1) In section 3(b), after "Fund", insert "(the **Fund**)".

(2) Replace section 3(d) with:

(d) to establish a Crown entity called the Guardians of New Zealand Superannuation, which will manage and administer the Fund and the Venture Capital Fund established under the Venture Capital Fund Act 2019:

5 Section 5 amended (Interpretation of Parts 2 and 3 and Schedule 3)

In section 5(1), insert in its appropriate alphabetical order:

VCF means the Venture Capital Fund established under section 8 of the Venture Capital Fund Act 2019

6 Part 2 heading amended

In the Part 2 heading, after "**Fund**", insert "**and Guardians of New Zealand Superannuation**".

7 Section 36 amended (Outline of Part)

(1) In section 36(c), after "Fund", insert "and the VCF".

(2) In section 36(g), after "Fund", insert ", the VCF,".

8 New section 41A inserted (Guardians may apportion obligations)

After section 41, insert:

41A Guardians may apportion obligations

(1) This section applies if the Guardians reasonably consider that an expense or other obligation is related to the operation of both the Fund and the VCF.

(2) The Guardians may apportion the obligation in the manner that the Guardians consider reasonable so as to determine—

(a) the part of the obligation that is to be met out of the Fund under section 41(2)(b); and

(b) the part of the obligation that is to be met out of the VCF under section 12(1)(b) of the Venture Capital Fund Act 2019.

(3) The part of the obligation determined in relation to the Fund or the VCF must be treated as an obligation that is directly related to the operation of the Fund or the VCF (as the case may be).

9 Section 49A amended (Saving of certain transactions)

(1) In section 49A(1) and (3), after "this Act", insert ", the Venture Capital Fund Act 2019,".

(2) After section 49A(1)(b), insert:

(ba) a VCF investment vehicle referred to in section 25 of the Venture Capital Fund Act 2019; or

10 Section 51 amended (Functions)

Replace section 51(1) with:

(1) The functions of the Guardians are to manage and administer—

(a) the Fund in accordance with this Act; and

(b) the VCF in accordance with the Venture Capital Fund Act 2019.

11 Section 68 amended (Annual report)

In section 68(g), after "Guardians", insert "in relation to the Fund".

12 Section 71 amended (Performance reviews)

(1) In section 71(1), after "functions", insert "in relation to the Fund".

(2) In section 71(4)(a) and (b), after "Guardians", insert "in relation to the Fund".

13 Section 72 amended (Political commitment)

After section 72(4), insert:

(5) In this section, a reference to Part 2 is a reference to Part 2 to the extent that it relates to the Fund (rather than to the VCF).

14 Section 73 amended (Amendments to Act)

After section 73(2), insert:

(2A) Subsection (2)(a) relates to amendments to Part 2 to the extent that the amendments relate to the Fund (rather than to the VCF).

15 Schedule 3 amended

In Schedule 3, replace clause 39 with:

39 Additional persons to whom delegations can be made

(1) The board may, in relation to the Fund, delegate any of the functions or powers of the board or the entity to all or any of the following, despite section 73(1)(d) of the Crown Entities Act 2004:

(a) a person appointed to undertake the investment of any part of the Fund under section 62:

(b) a custodian:

(c) a Fund investment vehicle that is formed or controlled under section 59A.

(2) The board may, in relation to the VCF, delegate any of the functions or powers of the board or the entity to all or any of the following, despite section 73(1)(d) of the Crown Entities Act 2004:

(a) a person appointed to undertake the investment of any part of the VCF under section 29 of the Venture Capital Fund Act 2019:

(b) a person appointed under section 30 of the Venture Capital Fund Act 2019 to act as custodian of the VCF, or any part of the VCF:

(c) a VCF investment vehicle that is formed or controlled under section 25 of the Venture Capital Fund Act 2019.

16 Schedule 4 amended

In Schedule 4, in the Part 2 heading, after "**Act**", insert "**(to extent that it relates to Fund)**".

17 Other amendments

The Acts set out in the Schedule are amended as set out in that schedule.

Schedule
Other amendments

s 17

Crown Entities Act 2004 (2004 No 115)

In Schedule 2, item relating to New Zealand Venture Investment Fund Limited, in the column relating to section 165 of the Crown Entities Act 2004, delete the tick.

Income Tax Act 2007 (2007 No 97)

After section CW 38(5)(d), insert:

(db) a VCF investment vehicle as referred to in section 25 of the Venture Capital Fund Act 2019:

In section CW 38(5)(e), after "Fund", insert "and VCF".

In section CW 38, list of defined terms, insert "VCF".

After section CX 55(1)(bc), insert:

(bd) the Crown as owner of the VCF:

(be) a VCF investment vehicle, as referred to in section 25 of the Venture Capital Fund Act 2019, that is treated as being wholly owned by the Crown under section HR 4B:

In section CX 55, list of defined terms, insert "VCF".

In the heading to section HR 4B, after "**Fund**", insert "**and Venture Capital Fund**".

In section HR 4B(1), after "(the **Fund**)", insert "and the VCF".

Replace section HR 4B(2) and (3) with:

Activities of the Crown relating to Fund or VCF

(2) Amounts of income derived and expenditure incurred by the Crown in activities relating to the Fund or the VCF are determined as if the amounts were being derived or incurred by a company (the **Fund/VCF company**), other than a public authority, that was a special corporate entity wholly owned by,—

(a) in the case of the Fund, the Minister of the Crown who was for the time being responsible for the administration of the New Zealand Superannuation and Retirement Income Act 2001, Parts 2 and 3:

(b) in the case of the VCF, the Minister of the Crown who was for the time being responsible for the administration of the Venture Capital Fund Act 2019.

Fund investment vehicles and VCF investment vehicles

(3) The consolidation rules, continuity provisions, and other rules relating to groups of companies apply to the Crown as owner of the Fund and of the VCF, to a Fund investment vehicle as referred to in section 59A of the New Zealand Superannuation and Retirement Income Act 2001, to a VCF investment vehicle

Income Tax Act 2007 (2007 No 97)—*continued*

as referred to in section 25 of the Venture Capital Fund Act 2019, and to a company in which the Guardians of New Zealand Superannuation (the **Guardians**) hold interests for the Crown, as if—

(a) the Crown were the Fund/VCF company; and

(b) interests in the Fund investment vehicle, VCF investment vehicle, or company held by the Guardians were owned by the Crown as the Fund/VCF company.

In section HR 4B, list of defined terms, insert "VCF".

In section YA 1, insert in its appropriate alphabetical order:

VCF means the Venture Capital Fund established under section 8 of the Venture Capital Fund Act 2019

In Schedule 1, Part A, after clause 11, insert:

12 Taxable income: Venture Capital Fund

The basic rate of income tax on each dollar of taxable income derived by the Crown through the VCF is the rate applying to companies set out in clause 2.

In Schedule 29, Part A, after item 4, insert:

4BA The Crown as owner of the VCF.

In Schedule 29, Part A, after item 4B, insert:

4BB A VCF investment vehicle, as referred to in section 25 of the Venture Capital Fund Act 2019, that is treated as being wholly owned by the Crown under section HR 4B.

Legislative history

10 December 2019	Divided from Venture Capital Fund Bill (Bill 167–2) as Bill 167–3A
11 December 2019	Third reading
13 December 2019	Royal assent

This Act is administered by the Treasury.

Wellington, New Zealand:
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