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An Act to mitigate the economic hardship resulting from measures taken to protect the Cook Islands from COVID-19 (Coronavirus Disease 2019) by temporarily lowering the rate for contributions to the National Superannuation Fund for employers who received a business grant or wage subsidy under the COVID-19 Economic Response Plan after 31 March 2020, and their employees.

The Parliament of the Cook Islands enacts as follows—

(30 September 2020)

- 1 Title**
This Act is the COVID-19 (Cook Islands National Superannuation) No. 2 Act 2020.
- 2 Commencement**
This Act comes into force on 1 October 2020.

*Preliminary provisions***3 Interpretation**

In this Act, unless the context otherwise requires,—

Board has the meaning given in section 2(1) of the National Superannuation Act

Fund has the meaning given in section 2(1) of the National Superannuation Act

COVID-19 Economic Response Plan means the official plan put in place by the Ministry to address the economic impacts of COVID-19, as amended from time to time

Ministry means the Ministry of Finance and Economic Management

National Superannuation Act means the Cook Islands National Superannuation Act 2000

Trustee has the meaning given in section 2(1) of the National Superannuation Act.

4 Act binds the Crown

This Act binds the Crown.

5 Application

- (1) This Act applies to an employee and the employee's employer, if the employer received a business grant or wage subsidy under the COVID-19 Economic Response Plan after 31 March 2020.
- (2) This Act ceases to apply at the close of 31 December 2020.
- (3) However, the Queen's Representative may, by Order in Executive Council and in accordance with a recommendation of the Board and the Trustee, extend the Act's application to after 31 December 2020.
- (4) An Order in Executive Council under subsection (3)—
 - (a) may only be made before this Act ceases to apply; and
 - (b) may be made more than once; and
 - (c) may extend the application of this Act for a specified period or until the close of a specified date; and
 - (d) may extend the application of this Act no later than 31 March 2021.

*Contribution rates***6 Contributions to Fund in respect of employers who received business grant or wage subsidy**

- (1) An employee to whom this Act applies must contribute to the Fund at the rate of 1% of the employee's earnings.
- (2) An employer to whom this Act applies must contribute to the Fund at the rate of 1% of the employer's earnings.

*Relationship with other enactments***7 Relationship of this Act with National Superannuation Act**

- (1) Section 6 of this Act overrides section 39 of the National Superannuation Act in respect of employees and employers to whom it applies.

- (2) Section 6 of this Act is subject to the other provisions of the National Superannuation Act except that, in respect of employees and employers to whom it applies,—
- (a) the reference in section 41 of the National Superannuation Act to section 39(1)(a) must be read as a reference to section 6(1) of this Act; and
 - (b) the reference in section 44 of the National Superannuation Act to section 39(1)(a) must be read as a reference to section 6(1) of this Act; and
 - (c) the references in section 44 of the National Superannuation Act to section 39(1)(b) must be read as a reference to section 6(2) of this Act.

8 Relationship of this Act with Employment Relations Act 2012

Despite section 36(1) of the Employment Relations Act 2012, an employer may deduct money from an employee's wages as required by this Act.

Effect of rates on employment agreements

9 Effect of rates on employment agreements

- (1) The rates set out in section 6 of this Act apply according to their terms despite anything to the contrary in an employment agreement (including rates referred to in an enactment).
- (2) Subsection (3) applies to an express or implied term in an employment agreement (including in a reference in an enactment) of an employee and employer to whom this Act applies.
- (3) If the express or implied term refers to contributions to the Fund, it must be treated as referring to contributions at the rates applying under section 6 of this Act.
- (4) Despite subsections (1) to (3), if the conditions in subsection (5) are met,—
- (a) an employee to whom this Act applies may make higher contributions than the rate in section 6(1); and
 - (b) the employee's employer may make higher contributions than the rate in section 6(2).
- (5) The conditions are that—
- (a) the employee's and employer's higher contributions are at the same rate; and
 - (b) the employee's and employer's higher contribution rate is not more than 5% of the employee's earnings.
- (6) Nothing in this section prevents an employee to whom this Act applies from paying a voluntary contribution under section 36(2) of the National Superannuation Act.

This Act is administered by the National Superannuation Board.
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