

# **New Zealand Superannuation and Retirement Income Amendment Act 2005**

Public Act 2005 No 42  
Date of assent 20 April 2005

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the New Zealand Superannuation and Retirement Income Amendment Act 2005.
- (2) In this Act, the Act that was previously called the New Zealand Superannuation Act 2001 is called “the principal Act”.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

## **Part 1**

### **Preliminary provisions**

#### **3 Purpose**

The purpose of this Act is—

- (a) to repeal the Retirement Income Act 1993;
- (b) to alter the functions and powers of the Retirement Commissioner;
- (c) to include the provisions relating to the functions and powers of the Retirement Commissioner in the principal Act;
- (d) to alter the name of the principal Act to the “New Zealand Superannuation and Retirement Income Act 2001”.

#### **4 Act binds the Crown**

This Act binds the Crown.

## **Part 2**

### **Amendments to principal Act, amendments to other enactments, and repeals**

#### **5 Name of principal Act changed**

- (1) After the commencement of this section, the principal Act is called the New Zealand Superannuation and Retirement Income Act 2001.
- (2) Section 1 of the principal Act is consequentially amended by inserting, after the word “Superannuation”, the words “and Retirement Income”.

#### **6 New section 5A inserted**

The principal Act is amended by inserting, after section 5, the following section:

##### **“5A Interpretation of Part 4 and Schedule 6**

In Part 4 and in Schedule 6, unless the context otherwise requires,—

“**Commissioner** means the office of the Retirement Commissioner continued by this Part

“**Government** means the Executive Government of New Zealand

“**Minister** means the Minister of the Crown who is, with the authority of the Prime Minister, responsible for the administration of Part 4”

**7 New Part 4 added**

The principal Act is amended by inserting, after section 79, the following Part:

**“Part 4**

**“Retirement Commissioner**

**“80 Purpose of this Part**

The purpose of this Part is to continue the office of the Retirement Commissioner and to set out the Commissioner’s functions, powers, and duties.

**“81 Interpretation of this Part and Schedule 6**

In this Part and in Schedule 6, the terms **Commissioner**, **Government**, and **Minister** have the meanings set out in section 5A.

*“Provisions relating to constitution and appointment of Retirement Commissioner*

**“82 Retirement Commissioner**

“(1) There continues to be a Commissioner called the Retirement Commissioner.

“(2) The Commissioner continues to be a corporation sole.

“(3) The Commissioner is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(4) The Crown Entities Act 2004 applies to the Commissioner except to the extent that this Act expressly applies otherwise.

“(5) The Commissioner is the board for the purposes of section 10 of that Act.

*“Functions, powers, and duties of Commissioner*

**“83 Functions**

The functions of the Commissioner are as follows:

- “(a) to develop and promote methods of improving the effectiveness of the retirement income policies from time to time implemented by the Government of New Zealand, including the promotion of education about retirement income issues and the publication of information about those issues:
- “(b) to monitor the effects of retirement income policies that are being implemented in New Zealand:
- “(c) to review the retirement income policies being implemented by the Government and to report to the Minister by 31 December 2007 and at 3-yearly intervals thereafter, in accordance with section 84:
- “(d) to advise on retirement income issues, when requested to do so by the Minister:
- “(e) to monitor the effectiveness of persons (whether referred to as ombudsmen or by any other term) who have been appointed (other than under statutory authority) to consider complaints and disputes about savings and investments; and to consider any issues addressed to the Commissioner by any such person and, if appropriate, to make recommendations to any person:
- “(f) to collect and publish information for the purpose of enabling the fulfilment of any of the functions referred to in this section:
- “(g) to perform such other functions as are conferred on the Commissioner by this Act or any other enactment.

“Compare: 1993 No 148 s 6

#### “84 Periodic reviews

- “(1) For each review to be conducted under section 83(c), the Minister must, not later than 12 months before the date on which the review is required to be completed, specify, by notice in writing addressed to the Commissioner,—
  - “(a) the aspects of retirement income policies being implemented by the Government of New Zealand that the review is required to address; and
  - “(b) the topics to be discussed in the Commissioner’s report.

- “(2) Before giving a notice under subsection (1) the Minister must consult with the Commissioner about the matters to be included in it.
- “(3) The Minister must, as soon as practicable after giving a notice under subsection (1), present a copy of that notice to the House of Representatives.
- “(4) Each review conducted under section 83(c) must address the aspects of retirement income policy required to be addressed by the notice relating to that review and the report must discuss the topics required to be discussed by that notice.
- “(5) The Minister must, as soon as practicable after receiving a report under section 83(c), present a copy of the report to the House of Representatives.

**“85 Discretion in relation to performance and exercise of functions and powers**

- “(1) Subject to the provisions of this Part and of any other enactment, the Commissioner has complete discretion in the performance or exercise, and the manner of the performance or exercise, of any function or power of the Commissioner.
- “(2) Without limiting subsection (1), the Commissioner may at any time, if he or she considers it appropriate,—
  - “(a) comment publicly on any matter relating to his or her functions; or
  - “(b) deliver to the Minister a report in writing on any retirement income issues that he or she considers the Minister should be advised of.
- “(3) The Minister must, as soon as practicable after receiving a report under subsection (2)(b), present a copy of that report to the House of Representatives.

**“86 Provisions applying to Commissioner**

The provisions in Schedule 6 apply to the Commissioner.

*“Transitional and miscellaneous provisions***“87 Continuation of office, appointment of Commissioner, and employment of employees**

- “(1) The office continued by section 82 is the office of Retirement Commissioner established by section 5 of the Retirement Income Act 1993, and, accordingly, every reference to the Retirement Commissioner in an enactment or document made before the commencement of this Part is a reference to the Retirement Commissioner continued by section 82.
- “(2) On the commencement of this Part, the person who, immediately before that commencement, held office as Retirement Commissioner under the Retirement Income Act 1993 is to be taken to have been appointed as Commissioner under section 28 of the Crown Entities Act 2004—
- “(a) for a term that expires on 16 January 2010; and
  - “(b) subject to the determination under the Remuneration Authority Act 1977 that applied to the person immediately before that commencement.
- “(3) This Part does not affect the employment of any person who, immediately before the commencement of this Part, was an employee of the Retirement Commissioner.

**“88 Application of this Part to matters commenced under Retirement Income Act 1993 or Retirement Villages Act 2003**

- “(1) The Commissioner may continue or complete any act, matter, or thing commenced by the Commissioner under the Retirement Income Act 1993 or the Retirement Villages Act 2003 but not completed on the commencement of this Part.
- “(2) The provisions of this Part apply with all necessary modifications to the continuation or completion of any act, matter, or thing referred to in subsection (1).

**“89 References to New Zealand Superannuation Act 2001**

Unless the context otherwise requires, any reference to the New Zealand Superannuation Act 2001 in any enactment, rule, order, agreement, deed, or document of any other kind in force on the commencement of this section must be read as a refer-

ence to the New Zealand Superannuation and Retirement Income Act 2001.”

**8 New Schedule 6 added**

The principal Act is amended by adding the Schedule 6 set out in Schedule 1 of this Act.

**9 Amendments to other enactments**

- (1) The Acts set out in Schedule 2 are amended in the manner set out in that schedule.
- (2) The regulations set out in Schedule 3 are amended in the manner set out in that schedule.

**10 Repeals**

- (1) The Retirement Income Act 1993 (1993 No 148) is repealed.
- (2) Section 36(2) of the Retirement Villages Act 2003 (2003 No 112) is repealed.

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**Schedule 1**

s 8

**New Schedule 6 of principal Act**

**Schedule 6**

s 86

**Provisions applying to Retirement  
Commissioner**

**1 Superannuation or retiring allowances**

- (1) For the purpose of providing a superannuation fund or retiring allowance for the Commissioner, sums by way of subsidy or contribution may be paid into any superannuation scheme that is registered under the Superannuation Schemes Act 1989 and approved by the Minister of Finance for the purposes of this clause.
- (2) Despite anything in this clause, any person who, immediately before being appointed as the Commissioner or as an employee of the Commissioner, is a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 is considered, for the purposes of that Act, to be employed in the Government ser-



Schedule 6—*continued*

vice so long as that person continues to hold office as the Commissioner or as an employee of the Commissioner, and that Act applies to that person in all respects as if service as or for the Commissioner were Government service.

- (3) Subject to the Government Superannuation Fund Act 1956, nothing in subclause (2) entitles a person to become a contributor to the Government Superannuation Fund after the person has ceased to be a contributor.
- (4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subclause (2), to a person who holds office as the Commissioner or as an employee of the Commissioner and is a contributor to the Government Superannuation Fund, the term **controlling authority**, in relation to any such person, means the Commissioner.

**Delegations****2 Ability to delegate**

Despite section 73 of the Crown Entities Act 2004, the Commissioner must not delegate the power to appoint an attorney under section 129 of the Crown Entities Act 2004 without the prior written consent of the Minister.

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**Schedule 2**

s 9(1)

**Amendments to other Acts****Child Support Act 1991 (1991 No 142)**

Omit from sections 131, 240(2)(d), and 263(2)(b)(iii) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Family Proceedings Act 1980 (1980 No 94)**

Omit from section 101A the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Housing Restructuring Act 1992 (1992 No 76)**

Omit from section 46(6) and clauses 2(a) and (b) and 9(a)(ii) of Schedule 2 the words “New Zealand Superannuation Act 2001” and substitute in each case the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Human Rights Act 1993 (1993 No 82)**

Omit from sections 21(1)(i) and 70(5)(d) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Income Tax Act 1994 (1994 No 164)**

Omit from the definitions of **living alone payment**, **New Zealand superannuation**, **New Zealand superannuitant**, and **portable New Zealand superannuation** in section OB 1 the words “New Zealand Superannuation Act 2001” wherever they appear and substitute in each case where they appear the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Income Tax Act 2004 (2004 No 35)**

Omit from the definitions of **living alone payment**, **New Zealand superannuation**, **New Zealand superannuitant**, and **portable New Zealand superannuation**, in section OB 1 the words “New Zealand Superannuation Act 2001” wherever they appear and substitute in each case the words “New Zealand Superannuation and Retirement Income Act 2001”.

Omit from Schedule 21 the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)**

Omit from the definition of **New Zealand superannuation qualification age** in section 6(1) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**New Zealand Superannuation Amendment Act 2005 (2005 No 17)**

Insert in section 1(1), after the words “New Zealand Superannuation”, the words “and Retirement Income”.

Insert in section 1(2), after the words “New Zealand Superannuation”, the words “and Retirement Income”.

**Social Security Act 1964 (1964 No 136)**

Omit from the definitions of **benefit**, **income**, **income-tested benefit**, and **New Zealand superannuation** in section 3(1) the words “New Zealand Superannuation Act 2001” wherever they appear and substitute in each case the words “New Zealand Superannuation and Retirement Income Act 2001”.

Omit from sections 3(3), 11(2)(a) and (f), 12J(1)(ca), 61G(1), 61H(1)(ca), 64(1) and (2A), 69G(1), (2), and (3), 69H(1) and (3), 70(1), (3), (3C), and (4), 71(1), 74(1), 74A(5), 75(8), 77(1), 80(1), 83(2), 85A(f), 86(2), 127(a), and 132B(2)(c) the words “New Zealand Superannuation Act 2001” wherever they appear and substitute in each case the words “New Zealand Superannuation and Retirement Income Act 2001”.

Omit from the definition of **income** in section 69FA(1) the words “New Zealand Superannuation Act 2001” and substitute in each case the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Social Security (Long-term Residential Care) Amendment Act 2004 (2004 No 101)**

Omit from the heading to section 12 the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

Omit from section 12 the words “New Zealand Superannuation Act 2001” wherever they appear and substitute in each case the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Social Security (Working for Families) Amendment Act  
2004 (2004 No 51)**

Omit from Schedule 3 the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Social Welfare (Transitional Provisions) Act 1990 (1990 No 26)**

Omit from section 19(1)(b) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**War Pensions Act 1954 (1954 No 54)**

Omit from the definition of **New Zealand superannuation** in section 67(1) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

Omit from section 70(4) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

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**Schedule 3**

s 9(2)

**Amendments to regulations****Court of Appeal Fees Regulations 2001 (SR 2001/309)**

Omit from regulation 5(3)(ii) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Customs and Excise Regulations 1996 (SR 1996/232)**

Omit from regulation 81A(2)(b)(ii) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**District Courts Fees Regulations 2001 (SR 2001/106)**

Omit from regulation 4A(3)(b)(ii) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Health Entitlement Cards Regulations 1993 (SR 1993/169)**

Omit from paragraph (a) of the definition of **net income** in regulation 2(1) the words “Social Welfare (Transitional Provisions) Act 1990” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

Omit from the definition of **superannuitant** in regulation 2(1) the words “Social Welfare (Transitional Provisions) Act 1990” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

Omit from regulation 8(1)(a)(vi) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**High Court Fees Regulations 2001 (SR 2001/310)**

Omit from regulation 6(3)(b)(ii) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**New Zealand Superannuation (Political Commitment) Order 2003 (SR 2003/278)**

Omit from the headings to clauses 3 and 4 the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

Omit from clauses 3 and 4 the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Sheriffs' Fees Regulations 1988 (SR 1988/34)**

Omit from regulation 2A(3)(b)(ii) the words "New Zealand Superannuation Act 2001" and substitute the words "New Zealand Superannuation and Retirement Income Act 2001".

**Social Security (Monetary Benefits) Regulations 1971 (SR 1971/167)**

Omit from the definition of **benefit or monetary benefit** in regulation 2 the words "that Part of the Act" and substitute the words "Part 1 of the New Zealand Superannuation and Retirement Income Act 2001".

**Social Security (Period of Income Assessment) Regulations 1996 (SR 1996/128)**

Omit from the Schedule the words "New Zealand Superannuation Act 2001" and substitute the words "New Zealand Superannuation and Retirement Income Act 2001".

**Social Security (Rates of Benefits and Allowances) Order 2005 (SR 2005/42)**

Omit from the heading to clause 6 the words "New Zealand Superannuation Act 2001" and substitute the words "New Zealand Superannuation and Retirement Income Act 2001".

Omit from clause 6 the words "New Zealand Superannuation Act 2001" and substitute the words "New Zealand Superannuation and Retirement Income Act 2001".

Omit from the heading to Schedule 2 the words "New Zealand Superannuation Act 2001" and substitute the words "New Zealand Superannuation and Retirement Income Act 2001".

**Social Welfare (Reciprocity with Australia) Order 2002 (SR 2002/119)**

Omit from clause 4(c) the words "New Zealand Superannuation Act 2001" and substitute the words "New Zealand Superannuation and Retirement Income Act 2001".

**Social Welfare (Reciprocity with the Netherlands) Order  
2003 (SR 2003/216)**

Omit from clause 4(c) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Student Allowances Regulations 1998 (SR 1998/277)**

Omit from paragraph (c)(iii) of the definition of **supported child** in regulation 2(1), the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Summary Instalment Orders (District Courts) Rules 1970 (SR  
1970/271)**

Omit from rule 33A(3)(b)(ii) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

**Supreme Court Fees Regulations 2003 (SR 2003/359)**

Omit from regulation 5(3)(b)(ii) the words “New Zealand Superannuation Act 2001” and substitute the words “New Zealand Superannuation and Retirement Income Act 2001”.

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**Legislative history**

6 April 2004	Introduction (Bill 119-1)
4 May 2004	First reading and referral to Social Services Committee
26 October 2004	Reported from Social Services Committee (Bill 119-2)
12 April 2005	Second reading, committee of the whole House, third reading

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