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1964, No. 125

**An Act to amend the Superannuation Act 1956**

[4 December 1964]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title**—This Act may be cited as the Superannuation Amendment Act 1964, and shall be read together with and deemed part of the Superannuation Act 1956 (hereinafter referred to as the principal Act).

**2. Interpretation**—(1) Subsection (1) of section 2 of the principal Act (as amended by subsection (3) of section 2 of the Superannuation Amendment Act 1959) is hereby further amended by inserting, after paragraph (g) of the definition of the term “Education service”, the following paragraph:

“(h) Under the controlling authority of any kindergarten training centre approved by the Minister of Education for the training of kindergarten teachers—”.

(2) Subsection (1) of section 2 of the principal Act (as so amended) is hereby further amended by adding to paragraph (g) of the definition of the term “Education service” the word “or”.

### *Government Service Superannuation*

**3. Election to contribute in respect of notional service**—

(1) The principal Act is hereby amended by inserting, after section 23, the following section:

“23A. (1) Every contributor who is an employee in the Public Service within the meaning of the State Services Act 1962 may elect to contribute to the Fund in respect of a period (in this section referred to as a period of notional service) not exceeding—

“(a) Five years in the case of a contributor who will have less than thirty-five years’ contributory service on the date on which he attains the age of sixty years if he makes no election under this section:

“(b) The period necessary to give the contributor forty years of contributory service on the date on which he attains the age of sixty years in the case of a contributor who will have thirty-five years or more contributory service on that date if he makes no election under this section.

“(2) Notwithstanding anything to the contrary in subsection (1) of this section, where any such employee is a contributor in respect of any period or periods of service or training included as Government service under paragraph (a) or paragraph (c) of subsection (2) of section 2 of this Act, the maximum period of notional service specified in respect of that contributor under subsection (1) of this section shall be reduced by the period or periods of that service or training for which he is a contributor.

“(3) Where any contributor who has elected under this section to contribute in respect of notional service subsequently elects to contribute in respect of any other period of service, the period for which he may so elect to contribute in respect of that other service shall be reduced, where necessary, to the extent that the maximum period of notional service specified under subsection (1) of this section would have been reduced under this section had the election to contribute in respect of other service preceded the election to contribute in respect of notional service.

“(4) Any election under this section shall be made before the contributor attains the age of fifty years or before the expiration of three years from the date of his appointment to the Public Service, whichever is the earlier:

“Provided that, where the contributor’s current period of service in the Public Service commenced before the first day of August, nineteen hundred and sixty-four, any election under this section shall be made before the date on which he attains the age of forty years or the first day of August, nineteen hundred and sixty-seven, whichever is the earlier.

“(5) The period of notional service covered by any election under this section shall be deemed immediately to precede the contributor’s current period of contributory service; and, in respect of each day of such notional service, he shall contribute to the Fund double the percentage of salary which he would have contributed to the Fund under section 29 of this Act had his contributory service commenced on the date so determined:

“Provided that, for the purposes of this subsection, the contributor’s salary shall be the salary payable to him at the date of his election.

“(6) On the notification by the Superintendent to the contributor of the total amount which he is required to contribute to the Fund under subsection (5) of this section in respect of the period of notional service for which he has elected to contribute, he may pay all or portion of it as a lump sum within three months after the date on which he is so notified, and may pay any balance not so paid by instalments over such period not exceeding ten years as the Board may determine:

“Provided that, where any portion of the amount so payable is paid by such instalments, interest at such rate and calculated in such manner as the Board may from time to time determine shall be payable thereon.

“(7) Section 35 of this Act, as substituted by section 8 of the Superannuation Amendment Act 1962, shall not apply by reason only of the operation of subsection (5) of the said section 35, to any female who makes an election under this section.”

(2) Section 35 of the principal Act (as inserted by section 8 of the Superannuation Amendment Act 1962) is hereby amended by inserting in subsection (5), after the expression “section 23”, the expression “or subsection (7) of section 23A”.

(3) Section 24 of the Superannuation Amendment Act 1962 is hereby amended by adding the words “or in respect of notional service within the meaning of section 23A of the principal Act (as inserted by section 3 of the Superannuation Amendment Act 1964)”.

**4. Computation of retiring allowance**—(1) Section 35 of the principal Act, as inserted by section 8 of the Superannuation Amendment Act 1962, is hereby amended by repealing the provisos to paragraph (b) of subsection (1), and substituting the following provisos:

“Provided that in any case where the annual amount added under this paragraph is computed as if the contributor’s annual salary had been six hundred pounds the amount so added shall not exceed two hundred pounds or the annual salary on the basis of which the contributor was contributing to the Fund at the date of his or her retirement, whichever is the less:

“Provided also that in any other case the amount added under this paragraph shall not exceed one-third of the annual salary of the contributor as determined under section 38 of this Act.”

(2) In any case where the effect of subsection (1) of this section would be to reduce the amount of the retiring allowance which may become payable to a person who was a contributor at the commencement of this section or of any annuity which may become payable under section 45 or section 46 of the principal Act to the widow or dependent widower of such a contributor, the said section 35 shall be read as if this section had not been passed.

(3) This section shall be deemed to have come into force on the fourteenth day of November, nineteen hundred and sixty-three; and any retiring allowance or annuity that was payable under the principal Act immediately before that date shall be recomputed as at that date and thereafter paid in accordance with the provisions of the principal Act,

as amended by this section, if the effect of the recomputation would be to increase the amount of the retiring allowance or annuity but not otherwise.

**5. Retiring allowance of future employees in Public Service**—Section 35 of the principal Act, as inserted by section 8 of the Superannuation Amendment Act 1962, is hereby further amended by inserting in paragraph (c) of subsection (3), after the words “Superannuation Amendment Act 1962”, the words “or who became employed in the Public Service within the meaning of the State Services Act 1962 after the thirty-first day of July, nineteen hundred and sixty-four, being a contributor”.

**6. Election of variable retiring allowance to secure a level income**—Section 40 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Nothing in the foregoing provisions of this section shall apply with respect to a contributor who retires on the ground of being medically unfit for further duty. Before the Board consents to an election under this section by any other contributor, it may, in its discretion, obtain such medical evidence as to the health of the contributor as it may require.”

**7. Children’s allowances**—Section 47 of the principal Act is hereby amended by adding the following subsection:

“(5) For the purposes of sections 45 and 46 of this Act the term ‘child’, in relation to any contributor who has died before the commencement of this subsection or thereafter dies, shall be deemed to include, as from the commencement of this subsection or the death of that contributor (whichever is the later), any child in respect of whom an interim order under section 5 of the Adoption Act 1955 has been made in favour of that contributor and in respect of whom an adoption order under that Act is made within one year after the date of the death of the contributor in favour of the widow or widower of the deceased contributor.”

**8. Permanent officers of Cook Islands Public Service**—Section 50 of the principal Act, as amended by section 2 of the Superannuation Amendment Act 1958, is hereby further amended by adding the following subsections:

“(10) Where at any time after the commencement of this subsection any person becomes a permanent officer of the Cook Islands Public Service after having attained the age of fifty years, if he is not a contributor to the Fund, he may at any time before the expiration of six months from the date of his permanent appointment to that Service, by notice in writing to the Superintendent, elect to become a contributor to the Fund from the date of his election or from the date of that appointment.

“(11) Where any person who is a permanent officer of the Cook Islands Public Service at the commencement of this subsection had attained the age of fifty years at the date of his permanent appointment to that Service, if he is not a contributor to the Fund, he may at any time before the expiration of six months from the date of the commencement of this subsection, by notice in writing to the Superintendent, elect to become a contributor to the Fund from the date of his election or from any date during the period of his continuous service in that Service immediately preceding the date of his election.”

*Superannuation of Magistrates and Maori Land Court Judges and the Solicitor-General*

**9. Retiring allowances of Magistrates and Maori Land Court Judges and the Solicitor-General**—(1) Subsection (2) of section 73 of the principal Act is hereby amended—

- (a) By inserting, after the words “sixty-eight years”, the words “and after not less than five years service”;
- (b) By omitting the word “one-fortieth” in each place where it appears, and substituting in each case the words “one thirty-sixth”;
- (c) By adding the following proviso:

“Provided that the annual amount of any retiring allowance payable under this section to any person who has become incapable of performing the duties of his office by reason of any permanent infirmity shall be not less than fifteen per cent of the annual salary receivable by him at the date of his retirement.”

(2) Section 73 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsection:

“(5) A contribution at the rate of eight per cent shall be deducted from the salary of every person to whom this section

applies and paid into the Fund from time to time as his salary becomes payable:

“Provided that, where this section first becomes applicable to a person after the commencement of this subsection and after he attains the age of sixty-three years, he may, within three months after the date on which this section first becomes applicable to him, elect not to contribute to the Fund, and, if he so elects, none of the provisions of this Part of this Act except this proviso shall apply or be deemed ever to have applied to or in respect of him.”

(3) Section 73 of the principal Act is hereby amended by adding to subsection (8) the following proviso:

“Provided that the annuity payable under section 45 or section 46 of this Act shall be not less than fifteen per cent of the salary receivable by the person at the date of his retirement or death, and shall not exceed twenty-five per cent of that salary.”

(4) Any person who immediately before the commencement of this Act was a contributor under Part IV of the principal Act may, at any time before the first day of April, nineteen hundred and sixty-five, by notice in writing to the Superintendent, elect that he shall not be affected by the provisions of subsections (1), (2), and (3) of this section; and, where any such person so elects, as from the commencement of this Act any contributions payable by that person, and any retiring allowance payable to that person, and any annuity payable to the widow or widower of that person, shall be computed as if this section had not been passed.

### *Superannuation of Judges*

**10. Interpretation**—(1) Section 75 of the principal Act is hereby amended by repealing the definition of the term “contributor”, and substituting the following definition:

“‘Contributor’ means a Judge who is a contributor under section 78 of this Act.”

(2) Section 75 of the principal Act is hereby further amended by repealing paragraph (b) of the definition of the term “Judge”, and substituting the following paragraph:

“(b) A Judge or additional Judge of the Court of Arbitration appointed to hold office during good behaviour:”.

**11. Retiring allowances of Judges**—(1) Section 76 of the principal Act is hereby amended by adding the following subsections:

“(3) Where any person who is a contributor under this Part of this Act retires or resigns the office of Judge under circumstances entitling him to a retiring allowance, he may, at any time before accepting the first instalment of his retiring allowance, elect to accept a refund of the total amount of his contributions under this Part of this Act, less any sums payable under section 80 of this Act, instead of his retiring allowance, in which case he shall be entitled to receive that refund accordingly without interest, but no further sum shall be payable under this Part of this Act in the event of his death.

“(4) Where any person who is a contributor under this Part of this Act retires or resigns the office of Judge under circumstances not entitling him to a retiring allowance, he shall be entitled to a refund without interest of the amount of his contributions under this Part of this Act, less any sums payable under section 80 of this Act, and no further sum shall be payable under this Part of this Act in the event of his death.”

(2) Subsection (2) of section 76 of the principal Act is hereby amended—

(a) By omitting the words “but not less than five years”:

(b) By inserting in paragraph (a), after the words “seventy-two years”, the words “after not less than five years’ service”:

(c) By adding the following additional proviso:

“Provided also that in the case of any Judge in respect of whom paragraph (b) of this subsection applies his annual retiring allowance shall be not less than fifteen per cent of his annual salary at the time of resigning his office.”

**12. Repeal**—Section 77 of the principal Act is hereby repealed.

**13. Contributions**—Section 78 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) From the salary payable to any Judge in respect of any period after the commencement of this subsection a contribution at the rate of seven per cent shall be deducted as the salary becomes payable from time to time:

“Provided that the provisions of this subsection shall not apply to any person who was a Judge at the commencement of this section and had not previously elected under section 77 of this Act to become a contributor, being a person whose right to so elect had expired:



“Provided also that any person who was a Judge at the commencement of this subsection and had previously made an election under section 77 of this Act to become a contributor may, at any time before the first day of April, nineteen hundred and sixty-five, by notice in writing to the Minister of Justice, elect to continue to contribute at the rate of five per cent; and, in respect of any such contributor, any annuity payable under section 79 of this Act shall be paid at the rate that would have been payable if the Superannuation Amendment Act 1964 had not been passed:

“Provided further that where a person first becomes liable to contribute under this subsection after the commencement of this subsection and after he attains the age of sixty-seven years, he may, within three months after the date on which he first becomes a Judge, elect not to so contribute; and, if he so elects, none of the provisions of this Part of this Act except this proviso shall apply or be deemed ever to have applied to or in respect of him.”

**14. Annuity to widow or refund of contributions on death of contributor**—(1) Section 79 of the principal Act is hereby amended by repealing subparagraphs (i) and (ii) (but not the proviso) to paragraph (a) of subsection (1), and substituting the following subparagraphs:

“(i) An annuity during her widowhood at the rate of one-half of the retiring allowance under this Part of this Act to which the contributor was entitled at the date of his death or to which he would have been entitled under section 76 of this Act if he had retired or resigned his office at the date of his death and nothing in that section required him to serve as a Judge for any minimum period; or

“(ii) The amount of the contributions of the deceased Judge under this Part of this Act, less any sums received by him under this Part of this Act during his lifetime:”

(2) Section 79 of the principal Act is hereby further amended by adding to paragraph (a) of subsection (1) the following additional proviso:

“Provided also that no annuity payable under this section shall be less than fifteen per cent of the salary of the contributor at the date of his retirement or death or exceed twenty-five per cent of that salary.”

(3) Section 79 of the principal Act is hereby amended by inserting in paragraph (c) of subsection (1), after the words “contributions under this Part of this Act”, the words “less any sums received by him under this Part of this Act in his lifetime, and less any sums which have been paid or may become payable under this section to or on behalf of any child or children of the deceased contributor”.

(4) Section 79 of the principal Act is hereby further amended by adding the following subsections:

“(3) If the contributor leaves a child or children under the age of sixteen years, there shall be paid to or on behalf of each such child an allowance at the rate of thirty-nine pounds a year until the child attains the age of sixteen years.

“(4) The provisions of section 47 of this Act shall apply to any allowance payable under this section to or on behalf of any child of a deceased contributor as if the allowance were payable under section 45 of this Act.”

**15. Refund of contributions where Judge unmarried after retirement**—Section 80 of the principal Act is hereby amended—

(a) By omitting the word “contributor”, and substituting the words “person who was a Judge at the commencement of the Superannuation Amendment Act 1964”:

(b) By adding the following proviso:

“Provided that the provisions of this section shall not apply to that portion of any Judge’s contributions in excess of five per cent of his salary.”

#### *Parliamentary Superannuation*

**16. Annuity to dependent widower and allowance to children**—(1) Paragraph (b) of subsection (1) of section 87 of the principal Act is hereby amended—

(a) By inserting, after the word “widow”, the words “or the dependent widower”:

(b) By adding the words “or by him”.

(2) Section 87 of the principal Act is hereby further amended by repealing paragraph (c) of subsection (1), and substituting the following paragraphs:

“(c) If the deceased person is a female who ceased to be a member after the first day of October, nineteen hundred and sixty-four, and leaves a husband (not being a husband whom she married after she ceased

to be a member) who in the opinion of the Board was totally or partially dependent on her immediately before her death, there shall be paid to the widower, at his election, either—

“(i) An annuity during his widowhood at one-half of the rate of the retiring allowance to which the deceased person was entitled at the time of her death, or to which she would have been entitled if she had then attained the age of fifty years, disregarding the effect of any election made under section 40 of this Act, or (if she were then a member) at one-half of the rate of the retiring allowance to which (disregarding any such election) she would have been entitled under section 84 of this Act if she had retired at the date of her death and nothing in that section required her to serve as a member for any minimum period, or at the rate of one hundred and thirty pounds a year, whichever is the greater; or

“(ii) The amount of the deceased person’s contributions under this Part of this Act, less any sums received by her under this Part of this Act during her lifetime:

“Provided that, if the widower remarries after becoming entitled to an annuity under this paragraph, the annuity shall not be payable while he is married, but if he again becomes a widower the annuity shall be payable during his subsequent widowhood; but no person shall by virtue of this proviso be entitled to more than one annuity under this Part of this Act:

“(d) If the deceased person being a male leaves no widow or being a female leaves no dependent widower to whom a retiring allowance is payable as aforesaid, the amount of his or her contributions under this Part of this Act, less any sums which he or she has received under this Part of this Act in his or her lifetime, and less any sums which have been paid or may become payable under this section to or on behalf of any child or children of the deceased member, shall be paid to the personal representatives of the deceased person in trust for the persons entitled thereto under his or her will or under the statutes relating to the distribution of intestates’ estates, as the case may be:

- (e) If the deceased person ceased to be a member after the first day of October, nineteen hundred and sixty-four, and leaves a child or children under the age of sixteen years, there shall be paid to or on behalf of each such child an allowance at the rate of thirty-nine pounds a year until the child attains the age of sixteen years:
- “Provided that the provisions of section 47 of this Act shall apply to any allowance payable to any such child as if that allowance were payable under section 45 or section 46 of this Act.”
- (3) This section shall be deemed to have come into force on the first day of October, nineteen hundred and sixty-four.

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This Act is administered in the Treasury.

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