



ANALYSIS

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1990, No. 78

An Act to amend the State Sector Act 1988

[1 August 1990]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the State Sector Amendment Act 1990, and shall be read together with and deemed part of the State Sector Act 1988 (hereinafter referred to as the principal Act).

2. New sections substituted—The principal Act is hereby amended by repealing section 84, and substituting the following heading and sections:

“Superannuation

“84. Interpretation—For the purposes of sections 84A to 84D of this Act,—

“‘Employee’ includes a chief executive and a member of the senior executive service:

“‘Employer’—

“(a) Means, subject to paragraph (b) of this definition, any person who pays, or is liable to pay, to any person (being an employee) any earnings as an employer:

“(b) In relation to—

“(i) Any institution that is subject to Part IX of the Education Act 1989; and

“(ii) Any kindergarten recognised as a free kindergarten by the Minister of Education,—

for the period referred to in section 91 (1) of the Education Act 1989 (as amended by section 22 of the Education Amendment Act 1990), and any extension of that period under section 91 (2) of that Act, means the Secretary of the Ministry of Education:

“‘State services’ includes any university, technical institute, or teachers college:

“‘Superannuation scheme’ or ‘scheme’ has the same meaning as in the Superannuation Schemes Act 1989.

“84A. Employers may establish superannuation schemes for employees—Any employer in the State services may—

“(a) Arrange for any superannuation scheme to be established for its employees:

“(b) Join with any other employer (whether or not in the State services) in arranging for any superannuation scheme to be established for their employees:

“(c) Arrange for its employees to become members of any established superannuation scheme:

“(d) Provide arrangements in respect of the superannuation of any individual employee.

“84B. Requirements in respect of superannuation schemes—Before contributing to any superannuation scheme established or arranged in respect of one or more of its employees pursuant to section 84A of this Act, the employer shall ensure—

“(a) That the scheme is registered under the Superannuation Schemes Act 1989; and

“(b) That the amount of any benefit payable from the scheme to any member of the scheme does not exceed the sum of—

“(i) Contributions paid by or on behalf of a member and investment earnings thereon; and

“(ii) Any allocations to the member from surplus funds held within the scheme; and

“(iii) The amount paid in respect of that member from any insurance policy effected for the benefit of members of the scheme; and

- “(c) That the trust deed of the scheme defines the rates or amounts (if any) of contributions of the employer or employers and employees, or the basis on which such contributions are to be made; and
- “(d) That the trust deed of the scheme entitles the employer to cease contributing to the scheme on behalf of a person if that person ceases to be an employee of the employer; and
- “(e) That the benefits provided by the scheme are fully funded as they accrue; and
- “(f) That the scheme enables employee contributors at any time to withdraw from the scheme; and
- “(g) That the scheme enables persons withdrawing from the scheme to transfer to other superannuation schemes the value (as determined in accordance with the terms of the scheme) of the benefits attributable to that person’s membership of the scheme up to the date of withdrawal; and
- “(h) That the scheme enables any person who becomes an employee of that employer, if the employer agrees to contribute to the scheme on that person’s behalf, to become a member of the scheme and to transfer to the scheme the value of the benefits attributable to that person’s membership of other superannuation schemes; and
- “(i) That the trust deed of the scheme does not permit amendments to be made to the scheme which would result in any provision of paragraphs (a) to (h) of this section ceasing to apply to the scheme.

“84c. Employers to obtain confirmation from Government Actuary that scheme meets requirements of this Act—(1) Every employer that intends to begin contributing to a superannuation scheme on behalf of its employees shall apply to the Government Actuary for confirmation that the superannuation scheme complies with the requirements of section 84b of this Act.

“(2) If confirmation is so obtained, the scheme shall be deemed, for the purposes of this Act, to comply with the requirements of that section.

“(3) The Government Actuary may charge reasonable fees for considering any application made under this section.

“84d. Contributions to superannuation schemes—Any employer in the State services may, for the purpose of providing retirement benefits to its employees, contribute to

any superannuation scheme that complies with the requirements of section 84B of this Act.”

3. Savings provision—Notwithstanding the repeal of section 84 of the principal Act by section 2 of this Act, the Minister of Finance may continue to contribute to any superannuation scheme which is registered under the Superannuation Schemes Act 1989, out of money appropriated by Parliament for the purpose, in respect of any person in any part of the State services on whose behalf the Minister contributed before the repeal of that section.

This Act is administered in the State Services Commission.
