



## ANALYSIS

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9A. Implied provision as to alterations to scheme  
9B. Implied provision as to transfer of members, etc.

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1990, No. 80

## An Act to amend the Superannuation Schemes Act 1989

[1 August 1990]

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

**1. Short Title**—This Act may be cited as the Superannuation Schemes Amendment Act (No. 2) 1990, and shall be read together with and deemed part of the Superannuation Schemes Act 1989 (hereinafter referred to as the principal Act).

**2. New sections inserted**—The principal Act is hereby amended by inserting, after section 9, the following sections:

**“9A. Implied provision as to alterations to scheme**—There shall be implied in every trust deed of a registered superannuation scheme a provision that no alteration to the scheme that—

“(a) Would be contrary to or have the effect of nullifying or reversing or amending any matter stated in the trust deed, or any provision implied in the trust deed by this Act; or

“(b) Would have the effect of extending or varying or limiting the scope of the trust deed in any material particular—

shall be effected otherwise than by way of amendment to the trust deed in accordance with section 12 of this Act.

**“9B. Implied provision as to transfer of members, etc.**—(1) There shall be implied in every trust deed of a registered superannuation scheme a provision that no member

or beneficiary of the superannuation scheme will be transferred to another superannuation scheme without the written consent of the member or beneficiary concerned.

“(2) Where it is proposed to transfer (whether at the same time or over an extended period) all or a substantial number of members or beneficiaries—

“(a) From any registered superannuation scheme to any other superannuation scheme; or

“(b) From any superannuation scheme to a registered superannuation scheme,—

the trustees of each registered superannuation scheme affected shall, at least 1 month before the implementation of the proposed transfer, notify all members and beneficiaries of the scheme in writing of the proposal and of its implications for members and beneficiaries, and shall also forward a copy of such notification to the Government Actuary.

“(3) The giving of notice under subsection (2) of this section shall not derogate from the need to comply with any other provision of this Act.

“(4) For the purposes of section 20 of this Act, and without limiting the provisions of that section, it shall be a ground for the Government Actuary to have reasonable cause to believe that a particular registered scheme to which members are transferred fails to meet the requirements of this section if—

“(a) Over any 12 month period, either—

“(i) Twenty percent or more of the members or beneficiaries of any other superannuation scheme are transferred to the particular registered scheme; or

“(ii) The number of members or beneficiaries of the particular registered scheme is increased by 20 percent or more by reason of any transfer of members and beneficiaries from any other scheme; and

“(b) The members and beneficiaries of the particular registered scheme have not been notified of the transfer, or any notification given has not adequately set out the implications of the transfer.

“(5) For the purpose of this section, references to the transfer of members or beneficiaries from one scheme to another include references to transfers of members or beneficiaries from one section of a registered scheme to another section of the same scheme.”