

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]
House of Representatives, 24 November 1967.

Words inserted by the Committee are shown with double rule before first line and after last line.

Hon. Mr Muldoon

FINANCE (No. 2)

ANALYSIS

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A BILL INTITULED

An Act to make provision with respect to public finance and other matters

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

1. Short Title—This Act may be cited as the Finance Act (No. 2) 1967.

2. Superannuation contributions by certain contributors
10 **to Government Superannuation Fund**—(1) This section shall apply to any contributor to the Government Superannuation Fund who receives an increase in salary effective on and from the first day of April, nineteen hundred and

sixty-seven, as a result of a general increase granted consequent upon a recommendation by the Advisory Committee on Higher Salaries in the State Services established under section 17 of the State Services Act 1962, being a general increase effective as to part thereof on and from the first day of April, nineteen hundred and sixty-seven, and as to the remaining part thereof on and from the first day of April, nineteen hundred and sixty-eight. 5

(2) If any question arises as to whether or not any increase in salary was received as a result of any such general increase, that question shall be determined by the Minister of Finance. 10

(3) Any contributor to whom this section applies may, by notice in writing addressed to the Superintendent of the said Fund, elect to contribute to the Fund as if the whole of the said general increase had been effective on and from the first day of April, nineteen hundred and sixty-seven. 15

(4) Every election under this section shall be made before the first day of April, nineteen hundred and sixty-eight, or before such later date as the Minister of Finance may determine in any particular case or class of cases. 20

(5) This section shall be deemed to have come into force on the first day of April, nineteen hundred and sixty-seven.

3. Salary of Ombudsman—The salary of the Ombudsman for the period of twelve months that ended with the thirty-first day of March, nineteen hundred and sixty-seven, shall be at the rate of four thousand two hundred and thirty-five pounds a year. 25

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3A. Assignments or settlements of income—(1) The Land and Income Tax Act 1954 is hereby amended by repealing section 105, and substituting the following section: 30

“105. (1) Where—

“(a) Any person transfers (otherwise than by will) the right to any income to any other person for a period that is less than the prescribed period; and 35

“(b) In any case where the right so transferred for a period that is less than the prescribed period is a right arising from the ownership by the transferor of property, the transferor remains the owner of that property, or, where the ownership of the property 40 is transferred, the transfer provides—

“(i) That the property shall revert to the transferor or to a relative of the transferor or to a company in which the transferor or a relative of the transferor is a shareholder, or, where the 45

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transferor is a company, shall revert to the company or to a shareholder or a relative of a shareholder in the company; or

5 “(ii) That the right to dispose or direct or control the disposition of the property shall be reserved to the transferor or to a relative of the transferor or to a company in which the transferor or a relative of the transferor is a shareholder, or, where
10 the transferor is a company, shall be reserved to the company or to a shareholder or a relative of a shareholder in the company,—

that income shall be deemed to be income derived by the transferor and by no other person as if the transfer had not
15 been made.

“(2) Where by the terms of any settlement made by any person (in this section referred to as the settlor)—

“(a) The income of the settled property or of any property substituted therefor is payable to or to be applied
20 or accumulated for the benefit of any other person or for any specified purpose or object for a period that is less than the prescribed period; and

“(b) The settlor remains the beneficial owner of the corpus of that property or the settlement provides—

25 “(i) That that corpus shall revert to the settlor or to a relative of the settlor or to a company in which the settlor or a relative of the settlor is a shareholder, or, where the settlor is a company, shall revert to the company or to a shareholder or
30 a relative of a shareholder in the company; or

“(ii) That the right to dispose or direct or control the disposition of that corpus shall be reserved to the settlor or to a relative of the settlor or to a company in which the settlor or a relative
35 of the settlor is a shareholder, or, where the settlor is a company, shall be reserved to the company or to a shareholder or a relative of a shareholder in the company,—

the income from the settled property or from any property substituted therefor shall, so long as the income is not derived
40 by a beneficiary who is entitled to the corpus, be deemed to be income derived by the settlor and by no other person as if the settlement had not been made.

“(3) Where under any transfer or settlement income is
45 payable to or to be applied or accumulated for the benefit of or for two or more persons or purposes or objects in

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succession, the transfer or settlement shall be deemed for the purposes of this section to be a separate transfer or settlement in respect of each such person or, as the case may be, each such purpose or object. 5

“(4) In this section, unless the context otherwise requires,—

‘Income’ includes any amount that would, if the right thereto had not been transferred or a settlement in respect thereof had not been made, have been treated as income of the person making the transfer or settlement, as the case may be: 10

‘The prescribed period’ means—

“(a) Where the transferor or, as the case may be, the settlor is not a company—

“(i) In the case of a transfer to or a settlement in favour of a child of the transferor or settlor (whether or not it is also to or in favour of some other person), either a period which cannot be less than seven years calculated from the date from which income is payable to or to be applied or accumulated for the benefit of the child under the transfer or settlement, or the period calculated from that date which must elapse before the child will attain the age of twenty-one years, whichever period is the longer: 15 20 25

“(ii) In the case of a transfer to or a settlement in favour of a person other than a child of the transferor or settlor or for any specified purpose or object, a period which cannot be less than seven years from the date from which income is payable to or to be applied or accumulated for the benefit of the transferee or beneficiary or applied or accumulated for that purpose or object under the transfer or settlement: 30

“Provided that where the transfer or settlement includes a provision whereby the payment or application or accumulation of income shall, or may, cease upon the death of the transferor or settlor before the expiry of the period specified in the transfer or settlement, that provision shall not be taken into account for the purposes of this paragraph: 35 40

“(b) Where the transferor or, as the case may be, the settlor is a company, a period which cannot be less than seven years from the date from which income is payable to or to be applied or accumulated 45

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for the benefit of the transferee or beneficiary, or applied or accumulated for any specified purpose or object, as the case may be, or, where the transferee or beneficiary is a person under the age of twenty-one years at the date of the transfer or settlement, either a period which cannot be less than seven years from the date from which income is payable to him or to be applied or accumulated for his benefit or the period calculated from the last-mentioned date which must elapse before the transferee or beneficiary will attain the age of twenty-one years, whichever period is the longer:

'Relative' means a husband or wife, or a relative by blood within the fourth degree of relationship (whether legitimate or illegitimate), or a relative by marriage or adoption; and includes a trustee for a relative:

'Settlement' includes any disposition, trust, covenant, agreement, arrangement, or transfer of assets:

'Transferor' and 'settlor' include a trustee for a transferor or settlor, as the case may be.

"(5) This section shall not apply with respect to any transfer or settlement made before the ninth day of November, nineteen hundred and sixty-seven, nor to any transfer or settlement under which the income is payable to or be applied for any person during the whole of his life."

(2) Notwithstanding the substitution by subsection (1) of this section of a new section for section 105 of the Land and Income Tax Act 1954, the last-mentioned section shall continue to apply, as if it had continued in force, with respect to every transfer or settlement to which it applied immediately before the ninth day of November, nineteen hundred and sixty-seven.

4. Annual report and accounts of Air New Zealand Limited to be presented to Parliament—(1) As soon as may be reasonably practicable after the thirty-first day of March in every year, Air New Zealand Limited shall furnish to the Minister of Civil Aviation a report of its operations for its financial year that ended with that date, together with a copy of its audited balance-sheet and profit and loss account for that year.

(2) A copy of the report and of such balance-sheet and profit and loss account shall be laid before Parliament within twenty-eight days after their receipt by the Minister of Civil Aviation if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

5. Authorising the taking for a motorway of part of the Bolton Street Cemetery situated in the City of Wellington—
 Whereas the land described in subsection (5) of this section (in this section referred to as the said land) is part of the closed cemetery known as Bolton Street Cemetery (in this section referred to as the Cemetery) situated in the City of Wellington: And whereas by Order in Council made pursuant to the Cemeteries Act 1882 on the twenty-eighth day of July, eighteen hundred and ninety-one, and published in the *Gazette* on the thirtieth day of that month at page 869, the Cemetery was declared closed and vested in the Mayor, Councillors, and Citizens of the City of Wellington (in this section referred to as the Corporation): And whereas section 43 of the Burial and Cremation Act 1964 prevents the said land from being sold or leased or otherwise disposed of or diverted to any purpose other than a closed cemetery: And whereas the said land is required for the Nauranga - Basin Reserve Motorway (in this section referred to as the motorway): And whereas it is desirable that special provision be made to authorise the taking of the said land pursuant to the Public Works Act 1928 for the motorway: And whereas it is desirable that suitable provision be made for the reinterment of human remains removed in preparation for the construction of the motorway and for certain other matters relating to those human remains: Be it therefore enacted as follows:

(1) The Governor-General is, pursuant to the powers conferred on him by the Public Works Act 1928, hereby empowered to take the said land or any part of it for the motorway, freed and discharged from all trusts, reservations, and restrictions.

(2) Notwithstanding anything to the contrary in the Public Works Act 1928 or any other enactment or in any rule of law, no compensation shall be payable to the Corporation by the Crown or any other person in respect of the taking of the said land or any part of it in accordance with subsection (1) of this section.

(3) Notwithstanding anything to the contrary in the Burial and Cremation Act 1964 or any other enactment or in any rule of law, the National Roads Board established under the National Roads Act 1953 may construct a motorway on any part of the said land, and may carry out ancillary works—

(a) Resulting from the construction of the motorway; and

(b) Associated with the restoration and the landscaping of any portion of the said land not required for the motorway and of any adjacent land vested in the Crown or the Corporation.

5 (4) Notwithstanding anything to the contrary in the Burial and Cremation Act 1964 or any other enactment or in any rule of law, where the construction of the motorway requires the prior removal of any human remains from the said land, the Wellington City Council (in this subsection referred to
10 as the Council) shall, with the concurrence of and at the expense of the National Roads Board, but subject to such directions as may be notified to it by the Minister of Health,—

(a) Arrange for the excavation of any grave and the
15 removal of any headstone, tablet, monument, or surround of any such grave, and provide for the re-erection or disposal in a respectful and fitting manner of any such headstone, tablet, monument, or surround in such manner as it may consider appropriate, having regard to such wishes as may
20 have been made known to the Council by any relative or legal personal representative of the deceased person buried in the grave:

(b) Arrange for the removal of the remains of any such
25 deceased person and, having regard to such wishes as may have been made known to the Council by any surviving relative or legal personal representative of the deceased, cause the remains to be re-interred in a respectful and fitting manner in any part of the said land not required for the motorway or any cemetery under the control of the Corporation or in such other place as may be
30 approved by the Minister of Health:

35 Provided that the Council, having regard to any wishes that the deceased person or any relative or legal personal representative of the deceased person may have expressed, may authorise the remains of that deceased person to be cremated:

(c) Cause to be compiled as complete a record as practicable of the names of all persons whose remains
40 are removed as aforesaid and of the names of the persons who were their next of kin at their deaths:

(d) Cause to be designed and erected on any part of the said land not required for the motorway, or, if it is not practicable to do so, on any part of the Cemetery adjacent to the said land, suitable memorials (including a memorial grave) inscribed with the names of the persons whose remains have been removed as aforesaid. 5

(5) The land to which this section relates is more particularly described as follows:

All that area of land in the Wellington Land District situated in the City of Wellington containing five acres and twenty-eight perches, more or less, being part Lot 1 on Deposited Plan numbered 8370, being part Public Cemetery No. 1 and part Church of England Cemetery No. 2, and being part of the land comprised and described in certificate of title, Volume 403, folio 203, Wellington Land Registry; as more particularly shown on S.O. Plan 26952 lodged in the office of the Chief Surveyor at Wellington, and thereon coloured blue. 10 15

6. Validating certain Orders in Council under Milk Act 1944—Whereas under the Milk Act 1944 the Governor-General is authorised, by Order in Council, to constitute, unite, alter the boundaries of, and abolish milk districts, and to constitute and alter the Milk Authority for any milk district: And whereas by section 15 (3) of the Local Government Commission Act 1961 it is provided that where a request or recommendation is made under any enactment other than that Act to the Governor-General asking for or recommending that any action be taken for the purpose of or with a view to giving effect to any proposal which could be provided for in a reorganisation scheme under that Act, the request or recommendation shall be referred to the Local Government Commission and no such action shall be taken under the enactment unless the Commission so recommends, and corresponding provisions formerly appeared in section 15 (2) of the Local Government Commission Act 1953 and in section 24 (1) of the Local Government Commission Act 1946: And whereas many Orders in Council have been made under the Milk Act 1944 making provision for matters that could have been provided for in a reorganisation scheme, but the provisions of section 15 (3) of the Local Government Commission Act 1961, or, as the case required, the said corresponding former provisions, were not complied with: 20 25 30 35 40

And whereas doubts have arisen as to the validity of those Orders in Council and it is expedient that they should be validated: Be it therefore enacted as follows:

5 Every Order in Council under the Milk Act 1944 made before the passing of this Act making provision for any matter that could have been provided for in a reorganisation scheme under the Local Government Commission Act 1961 or, as the case may require, the Local Government Commission Act 1953 or the Local Government Commission Act 10 1946, which would have been valid if the provisions of section 15 (3) of the Local Government Commission Act 1961 or, as the case may require, section 15 (2) of the Local Government Commission Act 1953 or section 24 (1) of the Local Government Commission Act 1946, had been complied 15 with and the Local Government Commission had recommended that provision for that matter be made by Order in Council under the Milk Act 1944 is hereby validated and declared to have been lawfully made on and from the date of the making thereof.

20 **7. Empowering certain local authorities to make grants to Societies for the Prevention of Cruelty to Animals**—It shall be lawful and be deemed always to have been lawful for any County Council, Borough Council, or Town Council or the Waiheke Road Board to expend money out of its general 25 fund or account to make grants to the bodies known as Societies for the Prevention of Cruelty to Animals.

8. Electricity Advisory Council Act 1962 repealed—The Electricity Advisory Council Act 1962 is hereby repealed.

30 **9. Master and Apprentice Act 1908 repealed**—(1) The enactments specified in the First Schedule to this Act are hereby repealed.

(2) The regulations specified in the Second Schedule to this Act are hereby revoked.

SCHEDULES

Section 9 (1)FIRST SCHEDULE

ENACTMENTS REPEALED

- 1908, No. 115—The Master and Apprentice Act 1908. (1957 Reprint, Vol. 9, p. 409.)
- 1918, No. 10—The War Legislation and Statute Law Amendment Act 1918: Section 39. (1931 Reprint, Vol. VIII, p. 1078; 1957 Reprint, Vol. 9, p. 416.)
- 1941, No. 26—The Statutes Amendment Act 1941: Section 52. (1957 Reprint, Vol. 9, pp. 412 and 419; Vol. 15, p. 146.)
- 1954, No. 71—The Labour Department Act 1954: Subsection (3) of section 17 and so much of the First Schedule as relates to the Master and Apprentice Act 1908. (1957 Reprint, Vol. 6, p. 836.)
- 1961, No. 43—The Crimes Act 1961: So much of the Third Schedule as relates to the Master and Apprentice Act 1908.
- 1962, No. 132—The State Services Act 1962: Subsection (4) of section 70.

Section 9 (2)SECOND SCHEDULE

REGULATIONS REVOKED

Title or Description of Statutory Regulations	Gazette Reference or Serial Number
Regulations under the Master and Apprentice Amendment Act 1920 made by Order in Council on the 23rd day of March 1925	1925, Vol. I, p. 927.
Regulations under the same Act made by Order in Council on the 19th day of December 1932	1932, Vol. III, p. 2768.
The Master and Apprentice Amendment Regulations 1937	S.R. 1937/169.