

[AS REPORTED FROM THE COMMERCE AND ENERGY COMMITTEE]

*House of Representatives, 15 March 1985.*

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

*House of Representatives, 27 March 1985.*

Words struck out are shown with double black rule at beginning and after last line; words inserted are shown with double rule before first line and after last line.

*Hon. David Caygill*

## GOVERNMENT SUPERANNUATION FUND AMENDMENT

### ANALYSIS

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#### PART IIA

#### NEW GOVERNMENT SERVICE SUPERANNUATION SCHEME

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A BILL INTITULED

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

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

**1. Short Title**—This Act may be cited as the Government Superannuation Fund Amendment Act 1984, and shall be read together with and deemed part of the Government Superannuation Fund Act 1956\* (hereinafter referred to as the principal Act). 10

**2. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “Board”, the following definition:

5 “ ‘Child’, in relation to any contributor, includes 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 any person whom the Board  
regards as being a member of the family of the  
contributor immediately before the contributor’s  
10 death.”

(2) Section 2 (1) of the principal Act is hereby further amended by inserting in the definition of the term “Government service”, after the words “honorary service”, the words “, or service as a member of the House of Representatives within the meaning  
15 of Part VI of this Act”.

(3) Section 2 (1) of the principal Act is hereby further amended by omitting from the definition of the term “education service” (as substituted by section 2 (2) of the Government Superannuation Fund Amendment Act 1976) the words “for  
20 not less than 20 hours a week”.

*New*

(4) Section 2 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

25 “(2A) For the purposes of this Act, a student who is admitted  
to a teachers college in any division, except the Special Division,  
shall be deemed to become permanently employed in and  
appointed to the Government service on the date on which  
he is so admitted.”

**3. Part II of principal Act not to apply to certain**  
30 **persons**—Section 20 of the principal Act is hereby amended by adding the following paragraph:

“(g) Persons contributing under **Part IIA** of this Act, except as provided in that Part of this Act.”

**4. No elections after 30 April 1985 to contribute to Fund**  
35 **under Part II of principal Act**—Section 22 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) No person shall be entitled to make any election under subsection (1) of this section after the **30th day of April 1985.**”

**5. Compulsory contribution requirements repealed**—Section 22A of the principal Act (as substituted by section 12 (1) of the Government Superannuation Fund Amendment Act 1979) is hereby repealed.

**6. Continuity of service**—The principal Act is hereby amended by repealing section 27, and substituting the following section: 5

“27. Where the Government service of any person has been interrupted (whether before or after the date of the commencement of the Government Superannuation Fund Amendment Act 1984) it shall, for the purposes of this Part of this Act, to the extent that the Board so determines and subject to such conditions as it thinks fit including payment of contributions at such rate or rates as the Board may determine in respect of the interruption, be deemed not to have been interrupted.” 10 15

**7. Right to cease to be contributor**—Section 28 (1) of the principal Act is hereby amended by omitting the expression “6 months”, and substituting the expression “3 months”.

**8. Additional contributions where contributor contributes on basis of higher salary**—Section 33 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection: 20

“(1A) Where any election is made under this section after the date of the commencement of the Government Superannuation Fund Amendment Act 1984, the Board may require the contributor to pay, in respect of the difference between the salary received by the contributor from time to time and the salary the contributor would have received from time to time, as additional contributions the amount certified by the Government Actuary as the total amount of contributions that would be required to be paid if the contributions provided the total cost of the benefits to which the contributor may become entitled under this Act, or such lesser amount as the Board may determine.” 25 30 35

**9. Retiring allowance where contributor medically unfit**—Section 36 (4) of the principal Act is hereby amended by omitting the words “, not caused by irregular or intemperate habits,”.

**10. Payments in respect of contributory service after retirement**—Section 43 (5) (b) of the principal Act is hereby 40

amended by adding the words “or such lesser amount as the Board may determine”.

**11. New sections inserted**—The principal Act is hereby amended by repealing sections 45, 46, and 47, and substituting  
5 the following sections:

**“45. Benefits where contributor under this Part dies and leaves spouse**—(1) Where any contributor under this Part of this Act dies before becoming entitled to a retiring allowance and leaves a spouse, there shall be paid out of the Fund to  
10 the spouse, at the election of the spouse,—

“**(a)** An annuity at—

“**(i)** One-half of the rate of the retiring allowance to which the contributor would have been entitled if the contributor had retired on the date of the contributor’s death on the ground of medical  
15 unfitness for further duty, disregarding the effect of any election made under section 40 or section 48 of this Act; or

“**(ii)** Where the spouse is the widow or widower of the deceased contributor, the rate of \$390 a year—  
20 whichever is the greater; or

“**(b)** The amount of the contributor’s contributions to the Fund, less any amounts received by the contributor from the Fund during the contributor’s lifetime.  
25

“(2) Where any contributor under this Part of this Act dies after becoming entitled to a retiring allowance and while still entitled to a retiring allowance and leaves a spouse—

“**(a)** Who last became the spouse of the contributor before the contributor became entitled to receive a retiring allowance; or  
30

“**(b)** Who is the widow or widower of the contributor and whom—

“**(i)** The contributor married after the contributor became entitled to a retiring allowance; and  
35

“**(ii)** The Board regards as having been the wife or husband of the contributor immediately before the contributor became entitled to a retiring allowance—

40 there shall be payable out of the Fund to the spouse, at the election of the spouse,—

“**(c)** An annuity at—

“**(i)** One-half of the rate of the retiring allowance to which the contributor was entitled at the date of

the contributor's death, disregarding the effect of any election made under section 40 or section 48 of this Act; or

“(ii) Where the spouse is the widow or widower of the contributor, the rate of \$390 a year— 5  
whichever is the greater; or

“(d) The amount of the contributor's contributions to the Fund, less any amounts received by the contributor from the Fund during the contributor's lifetime.

“(3) Where any contributor under this Part of this Act dies 10  
and leaves a spouse who last became the spouse of the contributor after the contributor became entitled to a retiring allowance and who is not entitled to any payment under **subsection (2)** of this section, there shall be payable out of the Fund to the spouse at the election of the spouse,— 15

“(a) An annuity at the appropriate proportion of the retiring allowance to which the deceased contributor was entitled at the date of the contributor's death, which shall be—

“(i) Ten percent of that allowance where the 20  
contributor dies less than 2 years after the spouse last became the spouse of the contributor:

“(ii) Twenty percent of that allowance where the contributor dies 2 or more years but less than 3 25  
years after the spouse last became the spouse of the contributor:

“(iii) Thirty percent of that allowance where the contributor dies 3 or more years but less than 4 30  
years after the spouse last became the spouse of the contributor:

“(iv) Forty percent of that allowance where the contributor dies 4 or more years but less than 5  
years after the spouse last became the spouse of the contributor:

“(v) Fifty percent of that allowance where the 35  
contributor dies 5 or more years after the spouse last became the spouse of the contributor; or

“(b) The amount of the contributor's contributions to the Fund, less any amounts received by the contributor from the Fund during the contributor's lifetime. 40

“(4) Every election under **subsection (1)**, **subsection (2)**, or **subsection (3)** of this section shall be made in writing delivered to the Superintendent, and shall not be capable of revocation or variation after the first payment from the Fund in accordance with the election is accepted by the spouse. 45

“(5) Where any person who is receiving an annuity under this section marries,—

5 “(a) Except as provided in **subsection (6)** of this section, the annuity shall not be payable while the person remains the husband or wife of any person; and

“(b) The annuity shall again become payable if the person again becomes a widow or widower or the marriage is dissolved, and shall continue to be payable while the person remains unmarried.

10 “(6) Notwithstanding **paragraph (a) of subsection (5)** of this section, an annuity shall be paid while a person to whom that subsection applies remains a husband or wife if—

15 “(a) There is a separation order under Part III of the Family Proceedings Act 1980 or a separation agreement in force in respect of that person; or

“(b) The Board is satisfied that the person is living apart from the person’s husband or wife and would be likely to be granted a separation order under Part III of the Family Proceedings Act 1980 if an application were made for such an order.

20 “(7) No person shall be entitled to receive more than one annuity under this section.

25 “(8) This section shall apply in respect of every contributor under this Part of this Act, whether the contributor died before the date of the commencement of the Government Superannuation Fund Amendment Act **1984** or dies after that date, but shall not apply in respect of any period before that date.

30 “(9) Where any person has received any payment under the first proviso to section 45 (1) (a) (ii) or the first proviso to section 46 (1) (a) (ii) of this Act as repealed by **section 11** of the Government Superannuation Fund Amendment Act **1984**, that person shall be deemed to have made an election and received a payment under **subsection (3) (b)** of this section.

35 “(10) Nothing in this section shall apply in respect of any spouse of a contributor who died before the 1st day of November 1976, unless that spouse was the wife or husband of the contributor at the date of the contributor’s death.

40 “**46. Refund of contributions where contributor under this Part dies without leaving spouse**—Where a contributor under this Part of this Act dies and leaves no spouse there shall be paid to the contributor’s personal representatives in trust for the persons entitled to receive them under the contributor’s will or under the Acts relating to the distribution  
45 of intestate estates, as the case may be, the contributor’s contributions to the Fund, without interest, less—

“(a) Any amounts received by the contributor from the Fund during the contributor’s lifetime; and

“(b) Any amounts that have been paid or may become payable out of the Fund to or on behalf of any child of the contributor.

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“47. **Children’s allowance**—(1) Where any contributor under this Part of this Act dies, whether before or after becoming entitled to a retiring allowance, and leaves a child or children under the age of 16 years, there shall be paid out of the Fund to or on behalf of every such child an allowance at the rate of \$78 a year until the child attains the age of 16 years.

10

“(2) Where any child of a deceased contributor under this Part of this Act has attained the age of 16 years and would be entitled to an allowance under **subsection (1)** of this section if that child had not attained that age, the Board may grant or continue an allowance to that child—

15

“(a) For assisting in the education of that child up to the end of the calendar year in which the child attains the age of 18 years:

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“(b) Where the child has a physical or mental disability that prevents the child from earning a living, for such period as the Board thinks fit.

“(3) Any money payable out of the Fund under this section to or on behalf of a child of a deceased contributor may, at the discretion of the Board, be either paid to the child directly, or expended by the Board for the benefit of the child, or paid to the Public Trustee or any other person to be expended on behalf of the child in such manner as the Public Trustee or that other person thinks fit.

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“(4) Any receipt given by an infant or any other person for any money paid under the authority of this section shall be a good discharge to the Board.

“(5) This section shall apply in respect of the child or children of every contributor under this Part of this Act, whether the contributor died before the date of the commencement of the Government Superannuation Fund Amendment Act **1984** or dies after that date, but shall not apply in respect of any period before that date.”

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**12. Contributors to Federated Superannuation Scheme for Universities**—(1) Section 52B of the principal Act (as inserted by section 17 of the Government Superannuation Fund Amendment Act 1959) is hereby amended by repealing paragraphs (a) and (b) of subsection (2), and substituting the following paragraphs:

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“(a) For the purposes of determining the person’s rate of contribution to the Fund; and

5 “(b) In determining any reduction of a retiring allowance relating to a previous period of contributory service that has been surrendered under section 91 of this Act.”

(2) Section 52B of the principal Act (as so inserted) is hereby amended by omitting from subsection (3) (as amended by section 36(1) of the Government Superannuation Fund Amendment Act 1976) the words “subsection (3) of section 35 of this Act”, and substituting the words “determining whether or not the person is entitled to receive a retiring allowance”.

15 **13. New Part inserted**—(1) The principal Act is hereby amended by inserting, after section 61, the following heading and sections:

“PART IIA

NEW GOVERNMENT SERVICE SUPERANNUATION SCHEME

*Eligibility and Contributions*

“**61A. Election to become contributor under this Part**—

20 (1) Subject to this section, any person who is employed in the Government service, and is not for the time being a contributor to the Fund or required to contribute under any other Part of this Act, may elect to become a contributor to the Fund under this Part of this Act.

25 “(2) Subject to **subsection (3)** of this section, every election under **subsection (1)** of this section shall take effect from—

“(a) The date of the election; or

30 “(b) The commencement of, or any date during, the contributor’s period of continuous Government service immediately preceding the date of the election—

at the option of the contributor.

35 “(3) No election under **subsection (1)** of this section shall have effect in respect of any period of Government service before the **1st day of May 1985**.

“(4) Except with the consent of the Board, and subject to such conditions as it thinks fit, no election may be made under **subsection (1)** of this section by any person—

40 “(a) Who is not a permanent full-time employee in the Government service; or

“(b) In respect of any period during which the contributor was not a permanent full-time employee in the Government service; or

- “(c) Whose permanent full-time employment in the Government service commences before the contributor attains the age of 50 years and who has not made the election under **subsection (1)** of this section in respect of that service before the contributor attains that age or within 6 months after the commencement of that service, whichever is the later; or 5
- “(d) Whose permanent full-time employment in the Government service commences after the contributor attains the age of 50 years, unless the election under **subsection (1)** of this section in respect of that service is made within 6 months after the commencement of that service; or 10
- “(e) Who has previously made more than one election under **section 61R (1)** of this Act; or 15
- “(f) Who has ceased to be a contributor to the Fund by virtue of **(section 61z (1)) section 92G (1)** of this Act.

“61B. **Rate of contribution**—(1) Except as provided in **subsection (2)** of this section, the contribution to be made by a contributor who has made an election under **section 61A (1)** of this Act shall be 6.5 percent of the contributor’s salary, and shall be deducted from the salary and paid to the Fund as the salary becomes payable from time to time. 20

“(2) Where a contributor to whom **section 61F (1) (b)** of this Act applies has made an election that **section 61R (4)** of this Act shall apply in respect of the contributor and his contributions, and that contributor subsequently makes an election under **section 61A (1)** of this Act, the contribution to be made by the contributor shall be 7 percent of the contributor’s salary, and shall be deducted from the salary and paid to the Fund as the salary becomes payable from time to time. 25 30

“61C. **Contributor may elect to contribute in respect of prior service**—(1) Subject to **subsection (2)** of this section, where any contributor under this Part of this Act has service in the Government service that is not at present included in his contributory service, the contributor may elect to contribute to the Fund under this Part of this Act in respect of that service. 35

“(2) Except with the consent of the Board, and subject to such conditions as it thinks fit, including payment of contributions at such rate or rates as may be determined by the Board, no election may be made under **subsection (1)** of this section by any person— 40

“(a) Who is not a permanent full-time employee in the Government service; or

“(b) In respect of any period during which the contributor was not a permanent full-time employee in the Government service; or

5

“(c) Who has attained the age of 50 years.

“(3) Where any contributor under this Part of this Act was, at the time of becoming a contributor under this Part, a contributor under section 30 of this Act, the contributor may elect to contribute in respect of the service to which that section applies at the standard rate of contribution within the meaning of that section and, where such an election is made, paragraphs (a) and (b) of section 30 (6) of this Act shall apply in respect of the contributor and his contributions.

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*New*

“(4) Without limiting the power of the Board to require greater contributions in any case to which **subsection (2)** of this section applies, where a contributor makes an election to contribute under this section, the contributor shall pay contributions in respect of the period to which the election relates at the appropriate rate under this Part of this Act—

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“(a) On the salary received by the contributor in respect of that period; or

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“(b) As if the contributor received salary in respect of that period at the rate of salary payable to the contributor at the date of the election—

whichever is the greater.

“61D. **Continuity of service for the purposes of this Part**—Where the Government service of any person has been interrupted it shall, for the purposes of this Part of this Act, to the extent that the Board so determines, and subject to such conditions including payment of contributions at such rate or rates as it thinks fit, be deemed not to be interrupted.

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*Application of this Part to Contributors under Part II*

35 “61E. **Contributors under Part II may become contributors under this Part**—(1) Any person who, immediately before the **1st day of May 1985**, is a contributor under Part II of this Act and is not required to remain a contributor under that Part may elect to contribute to the Fund  
40 under this Part of this Act.

“(2) Any person who immediately before the **1st day of May 1985** is a contributor under Part II of this Act may, at any time before the **1st day of November 1985**, notify the Superintendent that the contributor elects that this Part of this Act shall not apply to the contributor, and that Part II of this Act shall continue to apply in respect of the contributor. 5

“(3) Any person who, immediately before the **1st day of May 1985**, is a contributor under Part II of this Act and has not made an election under **subsection (1) or subsection (2)** of this section before the **1st day of November 1985**, shall, if the person 10 remains a contributor under Part II of this Act on that date, be deemed to have elected to contribute to the Fund under this Part of this Act.

“(4) The Board may, in any case or class of cases,—

“(a) Allow any person to make an election under **subsection (2)** 15 of this section at any time after the **1st day of November 1985**, notwithstanding that the person has or is deemed to have elected to contribute to the Fund under this Part of this Act; and every such person shall pay to the Fund, within such period as the 20 Board may determine, the difference (if any) between the person’s contributions under this Part of this Act and the contributions the person would have been liable to pay if the person had remained a contributor under Part II of this Act: 25

“(b) Determine that **subsections (1) and (2)** of this section shall apply to persons who are contributors to the Fund under Part II of this Act but were not paying contributions under that Part immediately before the **1st day of May 1985**, and determine the period 30 within which any such person may make any election under those subsections.

“(5) Every election made under **subsection (1)** of this section or deemed to have been made under **subsection (3)** of this section shall take effect on and from the **1st day of May 1985**, and the 35 contributions payable by the contributors who make or are deemed to have made such elections and the benefits payable in respect of contributions by such contributors shall be calculated accordingly.

“(6) Where any contributor has at any time made an election 40 of postponement under section 61 (1) of this Act, and the period of postponement has not expired or been terminated, the contributor may elect to become a contributor under this Part of this Act at any time during the period of postponement, and shall thereupon be deemed to be a contributor under this 45 Part of this Act.

“(7) Where any contributor has made an election under **subsection (6)** of this section,—

5 “(a) The contributor shall not be liable or entitled to pay any contributions under this Part of this Act until the contributor again becomes employed in the Government service; and

10 “(b) Any period for which contributions are not payable by virtue of **paragraph (a)** of this subsection shall not constitute contributory service for the purposes of this Act.

“**61F. Rate of contributions by former contributors under Part II**—(1) The contribution to be made by a contributor who makes or is deemed to have made an election under **section 61E** of this Act to contribute to the Fund under this Part of this Act shall be—

15 “(a) Six and one-half percent of the contributor’s salary if, immediately before the **1st day of May 1985**, the contributor was contributing at the rate of 6 or 7 percent of the contributor’s salary under subparagraph (i) or subparagraph (ii) of section 29 (1)(a) of this Act, or the contributor was contributing under section 30 of this Act:

20 “(b) Seven percent of the contributor’s salary if, immediately before the **1st day of May 1985**, the contributor was contributing at the rate of 8, 9, 10, or 11 percent of the contributor’s salary under any of subparagraphs (iii) to (vi) of section 29 (1)(a) of this Act.

25 “(2) For the purposes of this section, where any contributor who makes or is deemed to have made an election under **section 61E** of this Act to contribute to the Fund under this Part of this Act was, by virtue of **section 27** or section 61 of this Act, not contributing to the Fund immediately before the **1st day of May 1985**, the provision of section 29 (1)(a) of this Act under which the contributor last contributed shall be deemed to be the provision under which the contributor was contributing immediately before that date.

30 “(3) For the purposes of this section, where any contributor who makes or is deemed to have made an election under **section 61E** of this Act to contribute to the Fund under this Part of this Act—

35 “(a) Elected before the **1st day of May 1985** under **section 60A** of this Act to leave all the contributor’s contributions in the Fund on a contingent basis; and

40 “(b) Becomes a contributor to the Fund again before uplifting those contributions under that section,—

the provision of section 29 (1) (a) of this Act under which the contributor would have contributed had the contributor been entitled to elect to contribute under Part II of this Act shall be determined by the operation of section 60A (4) of this Act, and the contributor shall be deemed to be contributing under that provision immediately before the **1st day of May 1985**. 5

**“61G. Contribution rates where contributor under Part II was also contributing in respect of previous service—**

Where any contributor who makes or is deemed to have made an election under **section 61E** of this Act to contribute to the Fund under this Part of this Act has, before the **1st day of May 1985**, made an election under section 23, section 23A, or section 24 of this Act to contribute in respect of prior service, notional service, or previous contributory service (in this section each referred to as ‘previous service’) and payment of those contributions has not been completed,— 10 15

“(a) The contributor shall continue to pay contributions in respect of the previous service in terms of the election; and

“(b) Upon the completion of the payment of the contributions in respect of the previous service, the contributor shall,— 20

“(i) If the contributor is contributing at the rate specified in **section 61F (1) (b)** of this Act; and

“(ii) If the contributor remained a contributor under Part II of this Act the contributor would then have been entitled to contribute under subparagraph (i) or subparagraph (ii) of section 29 (1) (a) of this Act,— 25 30

be entitled to contribute from that date at the rate specified in **section 61F (1) (a)** of this Act. 30

**“61H. Effect of contributions in respect of period before person becomes contributor—**Where any contributor who makes or is deemed to have made an election under **section 61E** of this Act to contribute to the Fund under this Part of this Act has elected under Part II or **section 61C** of this Act to contribute to the Fund in respect of any period before the date on which he became a contributor, the contributor’s contributory service shall be deemed not to have commenced at any date in that period until the contributor has paid into the Fund such contributions as the Board has determined in respect of that period; and, where necessary, any adjustment of the contributor’s contribution rate by reference to the contributor’s age at the commencement of that period shall be made only— 35 40 45

“(a) From the date on which payment of those contributions is completed; and

“(b) In respect of service after that date.

*Benefits and Withdrawal Rights*

“61I. **Entitlement to retiring allowance**—(1) Every contributor to whom this section applies who ceases to be employed in the Government service shall, subject to this Part of this Act, thereafter be entitled to receive an annual retiring allowance calculated under **section 61L** of this Act.

“(2) This section applies to all contributors under this Part of this Act who have attained the age of 60 years.

“(3) This section also applies to all contributors under this Part of this Act—

“(a) Who have made an election under **section 61s (1) (d)** of this Act to receive a retiring allowance; or

“(b) Who have made an initial election under **section 61s (1) (d)** of this Act and who die before making the further election provided for in that paragraph or before the date specified in that further election.

“(4) This section also applies to all contributors under this Part of this Act—

“(a) Who have attained the age of 50 years; and

“(b) Who have completed not less than 10 years' contributory service; and

“(c) Who have agreed in writing that this section should apply to them; and

“(d) Whose controlling authority has agreed in writing that this section should apply to them.

“61J. **Retiring allowance of contributor who has been contributing since before 1946**—(1) Every contributor to whom this section applies shall be entitled to receive an annual retiring allowance calculated under **section 61L (1)** of this Act as if the contributor had attained the age of 60 years on the date on which the contributor ceased Government service.

“(2) This section applies to all contributors under this Part of this Act who have been employed in the Government service continuously from a date before the 1st day of January 1946, or whose period of contributory service commenced before the 1st day of January 1946 and is of not less than 40 years' duration.

“61K. **Retiring allowance where contributor medically unfit**—(1) Every contributor who, before becoming entitled under **section 61i (2)** of this Act to receive a retiring allowance, ceases Government service with the consent of the controlling authority on the ground of medical unfitness for further duty shall, subject to this Part of this Act, thereafter be entitled to receive an annual retiring allowance calculated under **section 61L (1)** of this Act.

“(2) The Board may from time to time suspend, reduce, or cancel any retiring allowance payable under this section to any contributor who has not attained the age of 60 years if—

- “(a) The contributor resumes employment, whether in the Government service or elsewhere, or becomes gainfully self-employed; or 5
- “(b) The contributor has ceased to be medically unfit for further duty, and fails to accept any employment offered by a controlling authority that is considered by the Board to be suitable and reasonable for the contributor; or 10
- “(c) The Board is satisfied that the degree of disability of the contributor is not sufficient to justify the payment of part or all of the allowance; or
- “(d) The contributor fails without sufficient justification to submit himself for medical examination when and as often as required by the Board; or 15
- “(e) The Board does not know the present whereabouts of the contributor, or whether the contributor is alive or dead. 20

“(3) Any suspension, reduction, or cancellation of a retiring allowance under **subsection (2)** of this section shall cease when the contributor attains the age of 60 years.

“(4) For the purposes of this section, a contributor shall be considered to be medically unfit for duty if, on the certificate of at least 2 registered medical practitioners approved by the Board, it is established to the satisfaction of the Board that, by reason of physical or mental disability, the contributor is and is likely to remain substantially unable to perform any duties which the controlling authority and the Board consider are suitable and reasonable for the contributor. 25 30

“(5) Any decision of the Board under **subsection (2)** of this section to suspend, reduce, or cancel a retiring allowance shall be disregarded for the purposes of **sections 61N, 61O, and 61Q** of this Act. 35

“(6) This section shall apply to all persons who have elected that **section 61R (4)** of this Act shall apply in respect of them and their contributions as if they were contributors.



“61L. **Computation of retiring allowance**—(1) The retiring allowance of every contributor to the Fund who is entitled under **section 61I (2), section 61J, or section 61K** of this Act to receive a retiring allowance shall be 1.5 percent of the contributor’s final average earnings for every full year of contributory service, and a proportionate part of 1.5 percent of the contributor’s final average earnings for any fraction of a year of contributory service; and shall be further increased by 0.002 percent in respect of every month or part of a month before the date of retirement during which the contributor is over the age of 60 years but under the age of 65 years.

“(2) The retiring allowance of every contributor to the Fund who is entitled under **subsection (3) or subsection (4) of section 61I** of this Act to receive a retiring allowance shall be 1.5 percent of the contributor’s final average earnings for every full year of contributory service and a proportionate part of 1.5 percent of the contributor’s final average earnings for any fraction of a year of contributory service less,—

“(a) In respect of every month or part of a month after the date of retirement and during which the contributor is of or over the age of 55 years but under the age of 60 years, 0.004 percent of the contributor’s final average earnings; and

“(b) In respect of every month or part of a month after the date of retirement and during which the contributor is under the age of 55 years, 0.002 percent of the contributor’s final average earnings.

“(3) Where a contributor’s contributory service includes employment otherwise than on a full-time basis the length of the contributory service shall, for the purposes of **subsections (1) and (2)** of this section, be reduced to the extent that the Board considers appropriate in the circumstances.

“(4) The retiring allowance of any contributor to the Fund who is entitled under **section 61I (4)** of this Act to receive a retiring allowance may be increased to such amount as the Board thinks fit (being not more than the retiring allowance that would be payable to that person if that retiring allowance had been calculated under **subsection (1)** of this section), subject to such terms and conditions, including payments into the Fund by or on behalf of the contributor, as the Board thinks fit.

“(5) Where any contributor has, with the consent of the Board, elected under the proviso to section 44 (1) of this Act (as applied by **section 61ZD (2)** of this Act) to have his retiring allowance computed in respect of the total length of his periods of contributory service as if they were continuous, the retiring

allowance of any contributor to the Fund calculated under this section shall be reduced by the amount of any retiring allowance that relates to any previous period of contributory service and has been surrendered by the contributor under section 91 of this Act. 5

“(6) For the purposes of this section—

“‘Earnings’ means the salary on which a contributor paid contributions to the Fund, whether or not the contributor actually receives that salary and, in the case of a contributor whose contributory service has not been on a full-time basis at any time, shall include the earnings on which the contributor would have paid contributions if the contributory service had been on a full-time basis: 10

“‘Final average earnings’ means— 15

“(a) The final average earnings of a contributor computed in accordance with the following formula:

$$\begin{aligned} \text{FAE} = & \left[ (E1 \times \frac{P5}{P1}) + (E2 \times \frac{P5}{P2}) + (E3 \times \frac{P5}{P3}) \right] \\ & + (E4 \times \frac{P5}{P4}) + E5 \div 5 \end{aligned} \quad 20$$

where

FAE is the final average earnings:

E5 is the earnings of the contributor in respect of the 12 months ending with the day before the day on which the contributor is entitled to receive a retiring allowance: 25

E4 is the earnings of the contributor in respect of the 12 months immediately before E5:

E3 is the earnings of the contributor in respect of the 12 months immediately before E4: 30

E2 is the earnings of the contributor in respect of the 12 months immediately before E3:

E1 is the earnings of the contributor in respect of the 12 months immediately before E2:

P5 is the all groups index number of the New Zealand Consumer Price Index for the second quarter preceding the quarter in which the contributor retires: 35

P4 is the all groups index number of the New Zealand Consumer Price Index for the quarter that occurred 40

4 quarters before the quarter from which P5 is derived:

5 P3 is the all groups index number of the New Zealand Consumer Price Index for the quarter that occurred 4 quarters before the quarter from which P4 is derived:

10 P2 is the all groups index number of the New Zealand Consumer Price Index for the quarter that occurred 4 quarters before the quarter from which P3 is derived:

P1 is the all groups index number of the New Zealand Consumer Price Index for the quarter that occurred 4 quarters before the quarter from which P2 is derived; or

15 “(b) The earnings of the contributor in respect of the 12 months ending with the day before the day on which the contributor is entitled to receive a retiring allowance—  
whichever is the lesser.

20 “(7) Notwithstanding **subsection (6)** of this section, where a contributor’s contributory service has not been continuous during the 5 years immediately before the day on which the contributor becomes entitled to receive a retiring allowance, and the contributor has paid contributions in respect of all or  
25 part of the period of 12 months immediately before that day, the contributor’s final average earnings shall comprise—

“(a) The contributor’s final average earnings as determined under **paragraph (a)** of the definition of the term ‘final average earnings’ in **subsection (6)** of this section; and

30 “(b) One-fifth of the contributor’s earnings before that 5 year period for a period equal to the period of interruption of the contributory service, as adjusted by the Board, which shall make the adjustments having regard to the formula set out in  
35 **subsection (6)** of this section for the adjustment of earnings by reference to appropriate quarters of the all groups index number of the New Zealand Consumer Price Index—

40 but shall not exceed the earnings of the contributor during the 12 months immediately before the day on which the contributor is entitled to receive a retiring allowance, increased to an annual basis in any case where the contributor did not pay contributions in respect of the whole of that period.

“(8) Notwithstanding **subsection (6)** of this section, where a contributor’s contributory service has not been continuous during the 5 years immediately before the day on which the contributor becomes entitled to receive a retiring allowance, and the contributor has not paid contributions in respect of any part of the 12 months immediately preceding that day, the contributor’s final average earnings shall comprise— 5

“(a) The contributor’s final average earnings as determined under **paragraph (a)** of the definition of the term ‘final average earnings’ in **subsection (6)** of this section; and 10

“(b) One-fifth of the contributor’s earnings before that 5 year period for a period equal to the period of interruption of the contributory service as adjusted by the Board, which shall make the adjustments having regard to the formula set out in **subsection (6)** of this section for the adjustment of earnings by reference to appropriate quarters of the all groups index number of the New Zealand Consumer Price Index,— 15

but shall not in any event exceed the earnings of the contributor during the 12 months immediately before the day on which the last interruption to the contributor’s contributory service commenced, increased to an annual basis in any case where the contributor did not pay contributions in respect of the whole of that period; and further increased by the percentage (if any) as certified by the Government Statistician by which the all groups index number of the New Zealand Consumer Price Index for the quarter which immediately precedes the date upon which the retiring allowance is first to be paid exceeds the index number for the quarter immediately following the date on which contributions were last paid. 20 25 30

“61M. **Benefits where contributor under this Part dies before becoming entitled to retiring allowance and leaves spouse**—(1) Where any contributor under this Part of this Act dies before becoming entitled to a retiring allowance and leaves a spouse, there shall be paid out of the Fund to the spouse, at the election of the spouse,— 35

“(a) A lump sum being—

“(i) One year’s salary of the contributor calculated at the rate of salary payable to the contributor when the contributor was last a contributor to the Fund; 40  
or

“(ii) A refund of the contributor’s contributions to the Fund including interest, as if the contributor had ceased Government service on the date of the 45

contributor's death and made an election under **section 61s (1) (a)** of this Act—

whichever is the greater, and the spouse shall have no further claim against the Fund; or

5 “(b) Both—

“(i) If the spouse so elects, a lump sum being not more than 80 percent of the maximum sum that the contributor could have elected to receive under section 91 of this Act had the contributor been entitled to make an election under that section at the date of the contributor's death; and

10 “(ii) An annuity at one-half of the rate of the retiring allowance to which the deceased contributor would have been entitled if the contributor had retired on the date of the contributor's death on the ground of medical unfitness for further duty, reduced by the same proportion as that which the spouse has elected to surrender under **subparagraph (i)** of this paragraph.

15 “(2) Every election under **subsection (1)** of this section shall be made in writing delivered to the Superintendent, and shall not be capable of revocation or variation after the first payment from the Fund in accordance with the election is accepted by the spouse.

20 “(3) The entitlement of any spouse to any lump sum or annuity under this section shall not be affected by any change in the marital status of that spouse.

25 “**61N. Benefits where contributor under this Part dies after becoming entitled to retiring allowance and leaves spouse—**(1) Where any contributor under this Part of this Act dies after becoming entitled to a retiring allowance and leaves a spouse who last became the spouse of the contributor before the contributor became entitled to a retiring allowance, there shall be paid out of the Fund to the spouse, at the election of

30 the spouse,—  
“(a) The amount that the contributor would have been entitled to receive if the contributor had made an election under **section 61s (1) (a)** of this Act on the date from which the first payment of the retiring allowance was payable, less any amounts received by the contributor from the Fund; or

40 “(b) An annuity at one-half of the rate of the retiring allowance to which the deceased contributor was entitled at the date of the contributor's death disregarding the effect of any election made under

45

section 40 or section 48 of this Act (as applied by section 61zd (2) of this Act).

“(2) Where any contributor dies after becoming entitled to a retiring allowance and leaves a spouse who last became the spouse of the contributor after the contributor became entitled to a retiring allowance, there shall be paid out of the Fund to the spouse, at the election of the spouse,—

“(a) The amount that the contributor would have been entitled to receive if the contributor had made an election under section 61s (1) (a) of this Act on the date from which the first payment of the retiring allowance was payable, less any amounts received by the contributor from the Fund; or

“(b) An annuity being the appropriate proportion of the retiring allowance to which the deceased contributor was entitled at the date of the contributor’s death, which shall be—

“(i) Ten percent of that allowance where the contributor dies less than 2 years after the spouse last became the spouse of the contributor:

“(ii) Twenty percent of that allowance where the contributor dies 2 or more years but less than 3 years after the spouse last became the spouse of the contributor:

“(iii) Thirty percent of that allowance where the contributor dies 3 or more years but less than 4 years after the spouse last became the spouse of the contributor:

“(iv) Forty percent of that allowance where the contributor dies 4 or more years but less than 5 years after the spouse last became the spouse of the contributor:

“(v) Fifty percent of that allowance where the contributor dies 5 or more years after the spouse last became the spouse of the contributor.

“(3) Every election under subsection (1) or subsection (2) of this section shall be made in writing delivered to the Superintendent, and shall not be capable of revocation or variation after the first payment from the Fund in accordance with the election is accepted by the spouse.

“(4) The entitlement of any spouse to any annuity under this section shall not be affected by any change in the marital status of that spouse.

“61o. **Benefit where contributor under this Part dies without leaving spouse**—(1) Where any contributor under this

Part of this Act dies whether before or after becoming entitled to a retiring allowance and does not leave a spouse, there shall be paid out of the Fund to the contributor's personal representatives in trust for the persons entitled to receive them under the contributor's will or under the Acts relating to the distribution of intestate estates, as the case may be,—

“(a) Where the contributor dies before becoming entitled to a retiring allowance, the contributor's contributions to the Fund, including interest, as if the contributor had ceased Government service on the date of the contributor's death and made an election under **section 61s (1) (a)** of this Act:

“(b) Where the contributor dies after becoming entitled to a retiring allowance, the amount that the contributor would have been entitled to receive if the contributor had made an election under **section 61s (1) (a)** of this Act on the date from which the first payment of the retiring allowance was payable, less any amounts received by the contributor from the Fund.

“(2) Any money payable out of the Fund under **subsection (1)** of this section to the personal representatives of a deceased contributor may, if no grant of probate or of letters of administration is obtained within 3 months after the death of the contributor, be paid to the Public Trustee in trust for the persons beneficially entitled to that money.

“**61P. Reduction of allowance or annuity where contributor was a contributor under section 30**—(1) Where any contributor who has made or is deemed to have made an election under **section 61E** of this Act to contribute to the Fund under this Part of this Act was a contributor under section 30 of this Act immediately before the **1st day of May 1985**, every allowance or annuity payable to any person by reason of the contributor's contributions to the Fund shall be reduced in respect of contributory service before that date by reducing that contributory service by the proportion by which the actual rate of the contributor's contributions under section 30 (2) of this Act was less than the contributor's standard rate of contribution within the meaning of that section.

“(2) Nothing in **subsection (1)** of this section shall apply in respect of any allowance payable to a child under **section 61a** of this Act.

“**61Q. Children's allowance**—(1) Where any contributor under this Part of this Act dies, whether before or after

becoming entitled to a retiring allowance, and leaves a child or children under the age of 16 years, there shall be paid out of the Fund to or on behalf of every such child an allowance at the rate calculated under **subsection (7)** of this section until the child attains the age of 16 years. 5

“(2) Where a child of a deceased contributor under this Part of this Act has attained the age of 16 years and would be entitled to an allowance under **subsection (1)** of this section if that child had not attained that age the Board may grant or continue an allowance to that child at such rate as the Board may determine, not exceeding the rate calculated under **subsection (7)** of this section,— 10

“(a) For assisting in the education of that child, up to the end of the calendar year in which the child attains the age of 18 years: 15

“(b) Where the child has a physical or mental disability that prevents the child from earning a living, for such period as the Board thinks fit.

“(3) No allowance shall be paid to any child of a deceased contributor under this section if an allowance is already payable to that child under this section as the child of another contributor. 20

“(4) Where an allowance is payable to any child under **section 47** of this Act and the child becomes entitled to an allowance under this section, the allowance payable under this section shall be paid, and the allowance payable under **section 47** of this Act shall cease. 25

“(5) Any money payable out of the Fund under this section to or on behalf of a child of a deceased contributor may, at the discretion of the Board, be either paid to the child directly, or expended by the Board for the benefit of the child, or paid to the Public Trustee or any other person to be expended on behalf of the child in such manner as the Public Trustee or that other person thinks fit. 30

“(6) Any receipt given by an infant or any other person for any money paid under the authority of this section shall be a good discharge to the Board. 35

“(7) The rate of the allowance payable each financial year to or on behalf of any child under this section shall be—

$$\$1,000 \times \frac{A}{B} \quad 40$$

where—

A is the all groups index number of the New Zealand Consumer Price Index for the December quarter preceding



the financial year in respect of which the allowance is payable:

B is the all groups index number of the Consumer Price Index for the December quarter in the year 1982.

5     “61R. **Right to cease to be contributor**—(1) Any contributor under this Part of this Act may at any time deliver to the Superintendent notice in writing of the contributor’s intention to cease to be a contributor to the Fund on the expiration of 3 months from the date on which the notice is delivered and,  
10 if the contributor will not have attained the age of 50 years on the expiration of that period, the contributor may elect that **subsection (4)** of this section shall apply in respect of the contributor and his contributions.

“**(2)** On the expiration of that period, unless the notice is  
15 sooner varied or withdrawn by the contributor, **subsection (3)** or, if the contributor has so elected, **subsection (4)** of this section shall apply in respect of the contributor and the contributor’s contributions.

“**(3)** This subsection shall apply to every contributor who has  
20 given a notice under **subsection (1)** of this section that has not been withdrawn, and who has not elected that **subsection (4)** of this section shall apply, and on the expiration of the period specified in **subsection (1)** of this section—

“**(a)** The contributor shall cease to be a contributor to the  
25 Fund; and

“**(b)** The contributor shall be entitled to receive from the Fund a refund without interest of the total amount of the contributor’s contributions (less any amounts already received by the contributor from the Fund).

30 “**(4)** Where this subsection applies in respect of the contributor and the contributor’s contributions—

“**(a)** The contributor shall cease to be a contributor to the Fund; and

35 “**(b)** The contributor shall leave the contributor’s contributions in the Fund, subject to the right to elect to take a refund under **subsection (5)** of this section.

“**(5)** Any person to whom **subsection (4)** of this section applies may at any time elect to have paid to the person the amount  
40 left by the person in the Fund, which shall be paid to the person without interest, except to the extent that the person qualifies under **section 61s** of this Act to have interest paid on part or all of that amount by reason of the person’s having ceased Government service.

“(6) In any case where a person has left contributions in the Fund under **subsection (4)** of this section and has not elected to take a refund under **subsection (5)** of this section—

“(a) If, at the time when the person attains the age of 50 years, the person has not again become a contributor to the Fund, the amount so left by the person in the Fund shall be refunded to the person without interest except to the extent that the person qualifies under **section 61s** of this Act to have interest paid on all or part of that amount by reason of the person’s having ceased Government service or, if the person’s whereabouts cannot be ascertained, paid to the person’s credit in an appropriate scheme of the National Provident Fund Board:

“(b) If the person again becomes a contributor to the Fund before attaining the age of 50 years, the person’s contributions shall not be refunded to the person, and the person’s previous record of contributory service shall be reactivated and count as continuous contributory service for the purpose of calculating benefits under this Act, but shall be discounted in the following manner:

“(i) A discount of 1.25 percent for each complete year of the period of the person’s ineligibility to be a contributor for which the person has a corresponding period of contributory service that will be reactivated in accordance with this section, and of a relative proportion of that percentage in respect of any additional fraction of a year of ineligibility for which the person has a corresponding period of such contributory service:

“(ii) A discount of 2.25 percent for each complete year of the period of the person’s ineligibility to be a contributor that is in excess of the person’s period of contributory service that will be reactivated in accordance with this section, and of a relative proportion of that percentage in respect of any additional fraction of a year of ineligibility for which the person has no corresponding period of such contributory service.

“(7) Any such period of discounted contributory service shall be deemed to precede immediately the date on which the person again became a contributor to the Fund.

“(8) While any contributions are held in the Fund under this section on behalf of a person who has ceased to be a

contributor and who dies before again becoming a contributor,—

5 “(a) **Sections 61m and 61o** of this Act shall not apply and, if the contributor leaves a spouse, there shall be paid out of the Fund to the spouse, at the election of the spouse,—

10 “(i) A refund of the contributor’s contributions to the Fund increased in respect of contributions paid in respect of any period after the **1st day of May 1985** under this Part of this Act by 0.25 percent for every month beginning on or after the **1st day of May 1985** between the date on which the contributor became a contributor under this Part of this Act and the date of the contributor’s death; or

15 “(ii) An annuity at one-half of the rate of the retiring allowance to which the deceased contributor would have been entitled if the contributor had become entitled to a retiring allowance calculated under **section 61L (2)** of this Act on the date of the contributor’s death—

20 and the entitlement of the spouse to the refund or annuity shall not be affected by any change in the marital status of that spouse:

25 “(b) **Sections 61o and 61q** of this Act shall not apply and, if the contributor dies without leaving a spouse, there shall be paid out of the Fund to the contributor’s personal representatives in trust for the persons entitled to receive them under the contributor’s will or under the Acts relating to the distribution of intestate estates, as the case may be, the contributor’s contributions to the Fund increased in respect of contributions paid in respect of any period after the **1st day of May 1985** under this Part of this Act by 0.25 percent for every month beginning on or after the **1st day of May 1985** between the date on which the contributor became a contributor under this Part of this Act and the date of the contributor’s death.

35 “(9) For the purposes of determining the retiring allowance that would have been payable to any person in any case to which **subsection (8)** of this section applies, the retiring allowance shall be calculated under **section 61L** of this Act, except that—

40 “(a) The contributor’s final average earnings shall be determined under **section 61L** of this Act as if the date on which the contributor ceased Government service was the date of the contributor’s retirement:

45

“(b) The final average earnings shall be increased by the percentage (if any) as certified by the Government Statistician by which the all groups index number of the New Zealand Consumer Price Index for the quarter which immediately precedes the date upon which the retiring allowance is first to be paid exceeds the index number for the quarter immediately following the date of resignation: 5

“(c) For the purposes of **section 61L (2)** of this Act, the date of the contributor’s death shall be treated as the date of the contributor’s retirement. 10

“(10) Where any contributions are refunded under this section the refund shall include any amount payable to or in respect of the contributor under section 35 (1) of the Government Superannuation Fund Amendment Act 1976. 15

“**61s. Rights and benefits where contributor ceases Government service**—(1) Where the Government service of any contributor under this Part of this Act ceases for any reason (other than the death of the contributor) the contributor may—

“(a) Elect to receive a refund of the total amount of the contributor’s contributions to the Fund (less any amounts already received by the contributor from the Fund) increased, in respect of contributions paid in respect of any period after the **1st day of May 1985** under this Part of this Act, by 0.25 percent for every month beginning on or after the **1st day of May 1985** between the date on which the contributor became a contributor under this Part of this Act and the date of the payment of the refund pursuant to the contributor’s election under this paragraph: 20 25 30

“(b) If the contributor has not attained the age of 50 years, make an election that **section 61R (4)** of this Act shall apply in respect of the contributor and **(his) the contributor’s** contributions: 30

“(c) If the contributor has not less than 10 years’ contributory service, elect to have the transfer value of the contributor’s contributions as determined in accordance with **subsection (6)** of this section, paid to any superannuation scheme nominated by the contributor that is approved by the Board and is approved under the Superannuation Schemes Act 1976 and classified under that Act as an employee pension superannuation scheme or a personal pension superannuation scheme: 35 40

5 “(d) If the contributor has not less than 10 years’ contributory  
service, elect, not more than 6 months after the date  
of the contributor’s ceasing to be in Government  
service or such extended period as the Board may  
allow, to leave the contributor’s contributions in the  
Fund on the basis that the contributor may make  
a further election not sooner than 3 months before  
the contributor attains the age of 50 years to receive  
10 a retiring allowance which shall commence to be  
payable to the contributor on such date as the  
contributor may elect being a date on or after the  
day on which the contributor attains the age of 50  
years and shall continue to be payable to the  
contributor during any period in which the  
15 contributor is not a contributor to the Fund.

“**(2)** Every election under **subsection (1)** of this section may,  
subject to **subsection (3)** of this section, be revoked and the  
contributor may thereupon make an election under any other  
paragraph of that subsection.

20 “**(3)** Every election under **subsection (1)** of this section shall  
be in writing delivered to the Superintendent, and shall be  
irrevocable once any payment has been accepted from the  
Fund pursuant to the election.

25 “**(4)** Where a contributor who has made an election under  
**subsection (1) (d)** of this section dies before becoming entitled  
to a retiring allowance either because the contributor has not  
made the further election provided for in that paragraph or  
because the contributor dies before a date specified in such  
an election,—

30 “**(a) Sections 61M and 61O** of this Act shall not apply and, if  
the contributor leaves a spouse, there shall be paid  
out of the Fund to the spouse, at the election of the  
spouse,—

35 “**(i)** A refund of the contributor’s contributions to  
the Fund increased in respect of contributions paid  
in respect of any period after the **1st day of May 1985**  
under this Part of this Act by 0.25 percent for every  
month beginning on or after the **1st day of May 1985**  
between the date on which the contributor became  
40 a contributor under this Part of this Act and the  
date of the contributor’s death; or

45 “**(ii)** An annuity at one-half of the rate of the  
retiring allowance to which the deceased contributor  
would have been entitled if the contributor had  
become entitled to a retiring allowance calculated  
under **section 61L (2)** of this Act on the date of the  
contributor’s death—

and the entitlement of the spouse to the refund or annuity shall not be affected by any change in the marital status of that spouse:

“(b) **Sections 61o and 61a** of this Act shall not apply and, if the contributor dies without leaving a spouse, there shall be paid out of the Fund to the contributor’s personal representatives in trust for the persons entitled to receive them under the contributor’s will or under the Acts relating to the distribution of intestate estates, as the case may be, the contributor’s contributions to the Fund increased in respect of contributions paid in respect of any period after the **1st day of May 1985** under this Part of this Act by 0.25 percent for every month beginning on or after the **1st day of May 1985** between the date on which the contributor became a contributor under this Part of this Act and the date of the contributor’s death.

“(5) Where any contributor who is entitled to make an election under **paragraph (a) or paragraph (b) or paragraph (c) of subsection (1)** of this section or an initial election under **paragraph (d)** of that subsection dies before making such an election, there shall be paid out of the Fund to the contributor’s personal representatives in trust for the persons entitled to receive them under the contributor’s will or the Acts relating to the distribution of intestate estates, as the case may be, the contributor’s contributions, including interest, as if the contributor had made an election under **subsection (1) (a)** of this section on the date of the contributor’s death, and no person shall have any claim on the Fund for any allowance or annuity arising from the contributor’s contributions to the Fund.

“(6) For the purposes of **subsection (1) (c)** of this section, the transfer value of a contributor’s contributions shall be—

“(a) The amount of the refund that the contributor would be entitled to receive if the contributor made an election under **subsection (1) (a)** of this section, increased by 10 percent of that amount for every complete year of the contributor’s contributory service in excess of 10 years’ contributory service, and an appropriate portion of 10 percent for any part year of such contributory service; or

“(b) Twice the amount of the refund that the contributor would be entitled to receive if the contributor had made an election under **subsection (1) (a)** of this section—

whichever is the lesser, and the amount that would be included in any refund of contributions payable to the contributor by virtue of section 35 (1) of the Government Superannuation Fund Amendment Act 1976.

5 “(7) For the purposes of determining the retiring allowance payable to a person who has made an election under **subsection (1) (d)** of this section to receive a retiring allowance, the retiring allowance shall be calculated under **section 61L** of this Act, except that—

10 “(a) The contributor’s final average earnings shall be determined under **section 61L** of this Act as if the date on which the contributor ceased Government service was the date of the contributor’s retirement:

15 “(b) The final average earnings shall be increased by the percentage (if any) as certified by the Government Statistician by which the all groups index number of the New Zealand Consumer Price Index for the quarter which immediately precedes the date upon which the retiring allowance is first to be paid exceeds the index number for the quarter immediately following the date of resignation:

20 “(c) For the purposes of **section 61L (2)** of this Act, the date upon which the allowance is to be paid shall be treated as the date of the contributor’s retirement.

25 “(8) For the purposes of determining the amount of any refund of contributions payable to or in respect of any contributor under any provision of this section other than **subsection (6)**, the amount of the refund shall include any amount payable to or in respect of the contributor under  
30 section 35 (1) of the Government Superannuation Fund Amendment Act 1976.

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*Charging of Contributions*

35 **“61T. Contributor may grant charge over contributions—**(1) Any contributor under this Part of this Act may grant a charge over the contributor’s contributions to the Fund in favour of any other person.

40 “(2) The Superintendent shall maintain a register of all charges notified to him showing the time and date of registration or release, and no charge or release of a charge shall be of any validity unless it is entered in that register.

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“(3) No charge shall be registered against the contributions of any contributor if—

“(a) There is already a charge registered against those contributions; or

“(b) A copy of any order made under section 25 of the Matrimonial Property Act 1976 or any arrangement or deed entered into pursuant to section 31 (1) of that Act has been served on the Superintendent in respect of the contributions of the contributor, and is still in force; or

“(c) A charging order has been served on the Superintendent in accordance with section 120 (4) of the Family Proceedings Act 1980 in respect of the contributions of the contributor and is still in force; or

“(d) The contributor has notified the Superintendent that the contributor intends to cease Government service or wishes to cease to be a contributor to the Fund.

“(4) Every notification of a charge shall be in the appropriate form specified in the **First Schedule** to this Act or a form to like effect, and shall be accompanied by the fee (if any) prescribed in any regulations made under section 97 of this Act.

“(5) It shall not be necessary for the notification of a charge to specify any amount or any maximum amount of contributions to be charged.

“(6) The chargeholder shall forthwith notify the Superintendent in writing if any charge is to be released.

“(7) The Superintendent shall, on being notified by a chargeholder that any charge has been released, or where a charge is deemed to be released under **section 61x (2)** of this Act, or is released by any order of any Court, remove the charge from the register.

“**61u. Contributor and chargeholder or potential chargeholder entitled to certain information—**(1) Any contributor may, by written request to the Superintendent, obtain—

“(a) A written statement of the amount that the contributor would be entitled to receive if the contributor had withdrawn from the Fund while continuing in Government service at the end of the preceding financial year; and

“(b) A statement as to whether any charge is currently registered against the contributor’s contributions under **section 61r** of this Act; and



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- 5 “(c) A statement as to whether or not it would be possible for the contributor to grant a charge over the contributor’s contributions that could be registered under this Act, and the reason (if any) why a charge could not be registered.
- 10 “(2) The Superintendent shall inform any person whom the Superintendent is satisfied is a person who has entered or is about to enter into any transaction with a contributor whereby the contributor grants a charge over the contributor’s contributions as to—
- 15 “(a) The amount of the contributor’s contributions as at the end of the preceding financial year:
- “(b) Whether or not the person is currently contributing to the Fund:
- 20 “(c) Whether any notice of withdrawal from the Fund or notice indicating that the contributor is about to cease Government service or cease to be a contributor to the fund under this Part of this Act has been received by the Superintendent:
- “(d) Whether any charge is currently registered over the contributions of the contributor:
- 25 “(e) Whether or not there is any other reason why a charge could not be registered in favour of that person, but without disclosing the reason.
- “(3) The Superintendent shall not be under any obligation to inform any chargeholder or potential chargeholder of any change in respect of any of the matters specified in subsection (2) of this section after the information has been given.
- 30 “(4) Every request under this section shall be signed by the contributor, and if the request is made under subsection (2) of this section shall also be signed by the chargeholder or potential chargeholder, and shall specify—
- 35 “(a) The full name and address of the contributor and the chargeholder or potential chargeholder (if any):
- “(b) The department, service, agency, or corporation in which the contributor is employed, and its location:
- “(c) The date of birth of the contributor:
- 40 “(d) The date on which the contributor became a contributor to the Fund.
- “(5) The Superintendent shall decline to give any information under this section where the Superintendent is not satisfied as to the identity of the contributor concerned.

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**“61v. Procedure where charge notified—**(1) Where the Superintendent has received notification of a charge under **section 61t** of this Act and has registered that charge, the Superintendent shall, as soon as practicable and in any event before making any payment pursuant to the charge, notify the chargeholder and the contributor that the charge has been registered. 5

**“(2)** Where the Superintendent has received notification of a charge under **section 61t** of this Act and the charge cannot be registered for any reason, the Superintendent shall forthwith notify the contributor and the chargeholder accordingly. 10

**“61w. Payment of charge—**Where any amount becomes payable to or in respect of any contributor under this Part of this Act (including any payment pursuant to an election made under **section 61s (1) (c)** of this Act), and a charge is registered under the contributor’s contributions,— 15

**“(a)** The entitlements of the contributor, or the contributor’s spouse and any children, or estate, shall be calculated without regard to the charge, but shall not be paid to any person or superannuation scheme until notification from the chargeholder has been received or is deemed to have been received under **section 61x** of this Act: 20

**“(b)** The Superintendent shall notify the chargeholder that the chargeholder may make an election under **section 61x** of this Act, and the consequences of the chargeholder’s failure to make an election under that section. 25

**“61x. Rights of chargeholder—**(1) Where any chargeholder receives any notice under **section 61w (b)** of this Act the chargeholder shall, subject to the terms of the charge, have the right to elect, by written notice to the Superintendent,— 30

**“(a)** To receive the amount secured by the charge or the total amount of the contributor’s contributions, without interest, whichever is the lesser, in which case the charge shall be released on payment of such amount; or 35

**“(b)** To release the charge without receiving payment of any amount secured by it. 40

**“(2)** Where no election is made by a chargeholder within 28 days after notice has been given to the chargeholder under

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subsection (1) of this section the chargeholder shall be deemed to have elected to release the charge without receiving payment of any amount secured by it.

5     “61Y. **Procedure for payment of charge**—(1) Where any chargeholder gives written notice to the Superintendent that the chargeholder wishes to claim from the Fund any specified amount in respect of any charge registered under **section 61r** of this Act, the Superintendent shall, within 14 days after he  
10 receives the notice, give written notice to the contributor or, if the contributor is deceased, to the contributor’s personal representative, that the Superintendent has received such a notice.

“ (2) Where any notice has been given to the Superintendent  
15 under **subsection (1)** of this section and the Superintendent has no reason to believe that there is any dispute or doubt as to the amount that should be paid to the chargeholder, the Superintendent shall, on the expiration of a period of 60 days commencing with the date on which the Superintendent  
20 received the notice, or such lesser period as is agreed to by the contributor or, if the contributor is deceased, the contributor’s personal representative, pay the amount demanded by the chargeholder or the total amount of the contributor’s contributions without interest, whichever is the  
25 lesser, to the chargeholder.

“ (3) The Superintendent may require any chargeholder to produce such documents as are in the chargeholder’s possession or under the chargeholder’s control relating to the charge in order to satisfy the Superintendent as to the terms of the charge  
30 and any amount payable to the chargeholder under it, and, for that purpose, may require the chargeholder to make a statutory declaration as to any matter relating to the charge.

“ (4) Where any notice has been given to the Superintendent under **subsection (1)** of this section and the Superintendent has  
35 reason to believe that there is a genuine dispute or doubt as to the amount that should be paid to the chargeholder, the Superintendent shall not make any payment to the chargeholder unless that payment is—

“ (a) Agreed to by the contributor or, if the contributor is  
40 deceased, the contributor’s personal representative;  
or

“ (b) Made pursuant to an order of a Court under **section 61zc** of this Act.

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**“61z. Effect on contributor of payment to chargeholder—**(1) Where any payment is made to any chargeholder from the Fund under **section 61v** of this Act the contributor shall, if the contributor is then a contributor to the Fund, cease to be a contributor to the Fund and the contributor shall be entitled to receive from the Fund a refund of the total amount of the contributor’s contributions to the Fund, less any amount already received by the contributor from the Fund and any amounts paid from the Fund to the chargeholder. 5

“(2) The payment to the contributor shall be without interest unless the contributor is entitled to make and has made an election under **section 61s (1) (a)** of this Act. 10

**“61zA. Effect on annuities, allowances, and other payments of payment to chargeholder—**(1) Subject to **subsection (2)** of this section, where any payment is made to any chargeholder from the Fund under **section 61v** of this Act and any retiring allowance, annuity, other allowance, or payment is payable in respect of the contributor’s contributions, the amount paid to the chargeholder shall be deducted from any such retiring allowance, annuity, other allowance, or payment either in total before any such benefit is paid or from such benefits at such rate as the Superintendent may determine. 15 20

“(2) No deduction shall be made under **subsection (1)** of this section from any allowance payable to any child under **section 61a** of this Act. 25

**“61zB. Giving of notices—**(1) Any notification of a charge required to be given to the Superintendent under **section 61r** of this Act, and any notice given to the Superintendent under **section 61x** or **section 61y** of this Act shall be sufficiently given— 30

“(a) If it is delivered to the office of the Superintendent at Wellington and accepted on the Superintendent’s behalf; or

“(b) If it is posted in a registered letter addressed to the Superintendent at his postal address at Wellington. 35

“(2) Any notice required to be given to a chargeholder or a contributor or the personal representative of any contributor under **section 61v**, **section 61w**, or **section 61y** of this Act shall be sufficiently given—

“(a) If it is delivered to that person; or

“(b) If it is posted in a registered letter addressed to that person at the address given in the notice of charge 40

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5 or subsequently given to the Superintendent as the address at which such notices may be given to that person, or by such a letter addressed to the person at the person's usual or last known place of abode, business, or employment.

“(3) Where any notice is posted in accordance with **subsection (1) or subsection (2)** of this section it shall, in the absence of evidence to the contrary, be deemed to have been given and received,—

“(a) In the case of a letter posted to an address within New Zealand, on the fourth day after the day on which the letter was posted:

15 “(b) In the case of a letter posted to an address outside New Zealand, at the time at which the letter would have been delivered in the ordinary course of post.

“(4) Notwithstanding anything in **subsections (1) to (3)** of this section, a District Court Judge may in any case make an order directing the manner in which any notice under **section 61v**, **section 61w**, **section 61x**, or **section 61y** of this Act is to be given to any person, and specifying the date or method of determining the date on which the notice shall be deemed to have been given and received.

25 “61zc. **Superintendent may apply to Court for directions**—Without limiting any right of any person to take any action in any Court, the Superintendent or any contributor or chargeholder, or any person claiming to be a chargeholder may apply to any Court of competent jurisdiction for an order—

30 “(a) As to whether or not any charge should be or should have been registered in respect of any contributor or chargeholder; or

35 “(b) As to whether any payment is to be made to any chargeholder or person claiming to be a chargeholder; or

“(c) As to the amount of any payment to be made to any chargeholder or person claiming to be a chargeholder; or

“(d) As to the release of any charge.

40

*Application of Other Provisions*

“61zd. **Sections to apply to contributors and contributions under this Part**—(1) Except as provided in

subsection (2) of this section, nothing in Part II of this Act shall apply to contributors or contributions under this Part of this Act.

“(2) Sections 23A, 25, 32, 33, 37, 40, 42 (except subsections (1) and (2)), 43, 44, 48, 52B, 55, 58, 59, and 60 of this Act shall apply to contributors and contributions under this Part of this Act as if those sections were also included in this Part of this Act.” 5

(2) The principal Act is hereby amended by renumbering the Schedule as the Second Schedule, and inserting before that Schedule the First Schedule set out in the First Schedule to this Act. 10

**14. Special provision in respect of contributors under Part II of principal Act who retire between 1 December 1984 and 1 May 1985 or die between 1 December 1984 and 1 November 1985**—(1) Any person to whom a retiring allowance first becomes payable under Part II of the principal Act on or after the **1st day of December 1984** and before the **1st day of May 1985** may elect, before the **1st day of November 1985**, or such later date as the Board may allow, that **Part IIA** of the principal Act shall apply in respect of that person. 15 20

(2) Where any person to whom **subsection (1)** of this section dies before making the election that the person is entitled to make under that subsection, or any contributor under Part II of this Act dies between the **1st day of December 1984** and the **1st day of November 1985** without making an election under **subsection (1) or subsection (2) of section 61E** of the principal Act (as inserted by **section 13** of this Act), the spouse of that person or, if there is no spouse of that person, the personal representative of that person may elect, before the **1st day of May 1986** or such later date as the Board may allow, that **Part IIA** of the principal Act (as so inserted) shall apply in respect of the deceased person. 25 30

(3) Where any election is made under **subsection (1) or subsection (2)** of this section,— 35

- 5 (a) Contributions shall be payable by or in respect of the contributor for the period beginning with the **1st day of December 1984** and ending with the date on which the retiring allowance first became payable to the contributor under Part II of the principal Act or the date of death of the contributor, whichever first occurs, as if an election had been made under **section 61E** of the principal Act (as so inserted), and **section 61F** of the principal Act (as so inserted) shall apply as if every reference in that section to the **1st day of May 1985** were a reference to the **1st day of December 1984**:
- 10
- 15 (b) The benefits payable in respect of the contributions of the contributor shall be calculated as if **Part IIA** of the principal Act (as so inserted) applied in respect of the contributor and every reference in that Part to the **1st day of May 1985** were a reference to the **1st day of December 1984**.

20 **15. New sections inserted**—The principal Act is hereby amended by inserting, after section 89A (as inserted by section 9 of the Government Superannuation Fund Amendment Act 1967), the following sections:

25 “**89B. Allowances may be declared to be salary**—(1) The Governor-General may from time to time, by Order in Council, declare that any allowance or class of allowances specified in the Order shall be deemed to be salary for the purposes of this Act.

30 “(2) Every Order in Council under this section shall take effect on such date as may be specified in that behalf in the Order which may be before or after the date of the Order.

“(3) Except as otherwise provided by an Order in Council under this section, no allowance shall be deemed to be or to have at any time been salary.

35 “(4) If any question arises as to whether any payment is an allowance for the purposes of this section it shall be determined by the Minister of Finance, and his decision shall be final.

40 “(5) Nothing in any Order in Council under this section shall apply with respect to any contributor who has retired from the Government service before the date on which the Order takes effect.

“(6) Nothing in this section or in any Order in Council under this section shall have any force or effect with respect to any payments or benefits which by or under any enactment are expressly declared to be or not to be salary for the purposes of this Part of this Act.

5

“89C. **Refund of contributions on allowances no longer included in salary**—(1) Where any contributor has paid to the Fund or to any Superannuation Fund abolished by the Superannuation Act 1947 any contributions in respect of any allowance for any period during which the allowance was deemed to be salary, and the allowance has ceased to be salary for the purposes of this Act, the contributor shall, on application, be entitled to receive a refund of the contributions so paid.

10

“(2) If the contributions paid by any contributor in respect of any such allowance for any such period have not been refunded to him, the allowance shall be deemed to be and always to have been salary for the purposes of this Act in respect of that period, but not in respect of any subsequent period.

15  
20

“89D. **Interest payments by contributor not to count as contributions**—Where any contributor is required or permitted to make payments to the Fund that include the payment of interest that interest shall not comprise part of the contributions of the contributor.

25

“89E. **Options where contributions not fully paid**—Where, on the death or retirement of any contributor, the contributor has not paid to the Fund all the contributions for which the contributor is liable, the Board shall permit the contributions to be paid to the Fund within a reasonable period determined by the Board and, if the contributions remain unpaid, the Board may—

30

“(a) Deduct the unpaid contributions from any retiring allowance, annuity, other allowance, or payment (other than a child allowance) payable in respect of the contributor’s contributions; or

35

“(b) If the unpaid contributions exceed the likely amount of the benefits from which the unpaid contributions may be deducted under **paragraph (a)** of this section or the recipient of the benefit so requires, direct that an appropriate reduction be made in the period of contributory service of the contributor to take account of the unpaid contributions.”

40



**16. Capitalisation of part of retiring allowance**—Section 91 of the principal Act (as substituted by section 5 of the Government Superannuation Fund Amendment Act 1980) is hereby amended by inserting in subsection (1), after the  
5 expression “9 times”, the words “or, in the case of a contributor to the Fund under **Part IIA** of this Act, 10 times”.

**17. Capitalisation of part of annuity**—Section 91A of the principal Act (as inserted by section 19 (1) of the Government Superannuation Fund Amendment Act 1979) is hereby  
10 amended by inserting in subsection (2), after the expression “9 times”, the words “or, in the case of an annuity payable to the spouse of a person who was a contributor under **Part IIA** of this Act, 10 times”.

*New*

15 **17A. New sections inserted relating to charging of contributions**—The principal Act is hereby amended by inserting, after section 92, the following heading and sections:

*Charging of Contributions*

20 **“92A. Contributor may grant charge over contributions**—(1) Any contributor may grant a charge over the contributor’s contributions to the Fund in favour of any other person.

25 “(2) The Superintendent shall maintain a register of all charges notified to him showing the time and date of registration or release, and no charge or release of a charge shall be of any validity unless it is entered in that register.

“(3) No charge shall be registered against the contributions of any contributor if—

30 “(a) There is already a charge registered against those contributions; or

35 “(b) A copy of any order made under section 25 of the Matrimonial Property Act 1976 or any arrangement or deed entered into pursuant to section 31 (1) of that Act has been served on the Superintendent in respect of the contributions of the contributor, and is still in force; or

40 “(c) A charging order has been served on the Superintendent in accordance with section 120 (4) of the Family Proceedings Act 1980 in respect of the contributions of the contributor and is still in force; or

New

“(d) The contributor has notified the Superintendent that the contributor intends to cease Government service or wishes to cease to be a contributor to the Fund.

“(4) Every notification of a charge shall be in the appropriate form specified in the **First Schedule** to this Act or a form to like effect, and shall be accompanied by the fee (if any) prescribed in any regulations made under section 97 of this Act. 5

“(5) It shall not be necessary for the notification of a charge to specify any amount or any maximum amount of contributions to be charged. 10

“(6) The chargeholder shall forthwith notify the Superintendent in writing if any charge is to be released.

“(7) The Superintendent shall, on being notified by a chargeholder that any charge has been released, or where a charge is deemed to be released under **section 92E** of this Act, or is released by any order of any Court, remove the charge from the register. 15

“**92B. Contributor and chargeholder or potential chargeholder entitled to certain information—**(1) Any contributor may, by written request to the Superintendent, obtain— 20

“(a) A written statement of the amount that the contributor would be entitled to receive if the contributor had withdrawn from the Fund while continuing in Government service at the end of the preceding financial year; and 25

“(b) A statement as to whether any charge is currently registered against the contributor’s contributions under **section 92A** of this Act; and 30

“(c) A statement as to whether or not it would be possible for the contributor to grant a charge over the contributor’s contributions that could be registered under this Act, and the reason (if any) why a charge could not be registered. 35

“(2) The Superintendent shall inform any person whom the Superintendent is satisfied is a person who has entered or is about to enter into any transaction with a contributor whereby the contributor grants a charge over the contributor’s contributions as to— 40

“(a) The amount of the contributor’s contributions as at the end of the preceding financial year:

“(b) Whether or not the person is currently contributing to the Fund:

“(c) Whether any notice of withdrawal from the Fund or notice indicating that the contributor is about to 45

*New*

- cease Government service or cease to be a contributor to the Fund under this Part of this Act has been received by the Superintendent:
- 5 “(d) Whether any charge is currently registered over the contributions of the contributor:
- “(e) Whether or not there is any other reason why a charge could not be registered in favour of that person, but without disclosing the reason.
- 10 “(3) The Superintendent shall not be under any obligation to inform any chargeholder or potential chargeholder of any change in respect of any of the matters specified in **subsection (2)** of this section after the information has been given.
- “(4) Every request under this section shall be signed by the contributor, and if the request is made under **subsection (2)** of this section shall also be signed by the chargeholder or potential chargeholder, and shall specify—
- 15 “(a) The full name and address of the contributor and the chargeholder or potential chargeholder (if any):
- 20 “(b) The department, service, agency, or corporation in which the contributor is employed, and its location:
- “(c) The date of birth of the contributor:
- “(d) The date on which the contributor became a contributor to the Fund.
- 25 “(5) The Superintendent shall decline to give any information under this section where the Superintendent is not satisfied as to the identity of the contributor concerned.
- “92C. **Procedure where charge notified**—(1) Where the Superintendent has received notification of a charge under
- 30 **section 92A** of this Act and has registered that charge, the Superintendent shall, as soon as practicable and in any event before making any payment pursuant to the charge, notify the chargeholder and the contributor that the charge has been registered.
- 35 “(2) Where the Superintendent has received notification of a charge under **section 92A** of this Act and the charge cannot be registered for any reason, the Superintendent shall forthwith notify the contributor and the chargeholder accordingly.
- “92D. **Payment of charge**—Where any amount becomes
- 40 payable to or in respect of any contributor under this Part of this Act (including any payment pursuant to an election made under **section 61s (1) (c)** of this Act), and a charge is registered over the contributor’s contributions,—
- 45 “(a) The entitlements of the contributor, or the contributor’s spouse and any children, or estate, shall be calculated without regard to the charge, but shall

## New

not be paid to any person or superannuation scheme until notification from the chargeholder has been received or is deemed to have been received under **section 92E** of this Act: 5

“(b) The Superintendent shall notify the chargeholder that the chargeholder may make an election under **section 92E** of this Act, and the consequences of the chargeholder’s failure to make an election under that section. 10

“**92E. Rights of chargeholder**—(1) Where any chargeholder receives any notice under **section 92D (b)** of this Act the chargeholder shall, subject to the terms of the charge, have the right to elect, by written notice to the Superintendent,—

“(a) To receive the amount secured by the charge or the total amount of the contributor’s contributions, without interest, whichever is the lesser, in which case the charge shall be released on payment of such amount; or 15

“(b) To release the charge without receiving payment of any amount secured by it. 20

“(2) Where no election is made by a chargeholder within 28 days after notice has been given to the chargeholder under **subsection (1)** of this section the chargeholder shall be deemed to have elected to release the charge without receiving payment of any amount secured by it. 25

“**92F. Procedure for payment of charge**—(1) Where any chargeholder gives written notice to the Superintendent that the chargeholder wishes to claim from the Fund any specified amount in respect of any charge registered under **section 92A** of this Act, the Superintendent shall, within 14 days after he receives the notice, give written notice to the contributor or, if the contributor is deceased, to the contributor’s personal representative, that the Superintendent has received such a notice. 30 35

“(2) Where any notice has been given to the Superintendent under **subsection (1)** of this section and the Superintendent has no reason to believe that there is any dispute or doubt as to the amount that should be paid to the chargeholder, the Superintendent shall, on the expiration of a period of 60 days commencing with the date on which the Superintendent received the notice, or such lesser period as is agreed to by the contributor or, if the contributor is deceased, the contributor’s personal representative, pay the amount demanded by the chargeholder or the total amount of the 40 45

*New*

contributor's contributions without interest, whichever is the lesser, to the chargeholder.

5 “(3) The Superintendent may require any chargeholder to produce such documents as are in the chargeholder's possession or under the chargeholder's control relating to the charge in order to satisfy the Superintendent as to the terms of the charge and any amount payable to the chargeholder under it, and, for that purpose, may require the chargeholder to make a  
10 statutory declaration as to any matter relating to the charge.

“(4) Where any notice has been given to the Superintendent under **subsection (1)** of this section and the Superintendent has reason to believe that there is a genuine dispute or doubt as to the amount that should be paid to the chargeholder, the  
15 Superintendent shall not make any payment to the chargeholder unless that payment is—

“**(a)** Agreed to by the contributor or, if the contributor is deceased, the contributor's personal representative;  
or

20 “**(b)** Made pursuant to an order of the Court under **section 92J** of this Act.

“**92G. Effect on contributor of payment to chargeholder**—(1) Where any payment is made to any chargeholder from the Fund under **section 92F** of this Act the  
25 contributor shall, if the contributor is then a contributor to the Fund, cease to be a contributor to the Fund and the contributor shall be entitled to receive from the Fund a refund of the total amount of the contributor's contributions to the Fund, less any amount already received by the contributor  
30 from the Fund and any amounts paid from the Fund to the chargeholder.

“**(2)** The payment to the contributor shall be without interest unless the contributor is entitled to make and has made an election under **section 61s (1) (a)** of this Act.

35 “**(3)** Where any person who is required to be a contributor under this Act ceases to be a contributor to the Fund by virtue of **subsection (1)** of this section, that person shall forthwith again become a contributor to the Fund as if that person had not previously been a contributor to the Fund.

40 “**92H. Effect on annuities, allowances, and other payments of payment to chargeholder**—(1) Subject to **subsection (2)** of this section, where any payment is made to any chargeholder from the Fund under **section 92F** of this Act and any retiring allowance, annuity, other allowance, or  
45 payment is payable in respect of the contributor's contributions,

*New*

the amount paid to the chargeholder shall be deducted from any such retiring allowance, annuity, other allowance, or payment either in total before any such benefit is paid or from such benefits at such rate as the Superintendent may determine. 5

“(2) No deduction shall be made under **subsection (1)** of this section from any allowance payable to any child under **section 61a** of this Act.

“92I. **Giving of notices**—(1) Any notification of a charge required to be given to the Superintendent under **section 92A** 10 of this Act, and any notice given to the Superintendent under **section 92E** or **section 92F** of this Act shall be sufficiently given—

“(a) If it is delivered to the office of the Superintendent at Wellington and accepted on the Superintendent’s behalf; or 15

“(b) If it is posted in a registered letter addressed to the Superintendent at his postal address at Wellington.

“(2) Any notice required to be given to a chargeholder or a contributor or the personal representative of any contributor under **section 92C**, **section 92D**, or **section 92F** of this Act shall be 20 sufficiently given—

“(a) If it is delivered to that person; or

“(b) If it is posted in a registered letter addressed to that person at the address given in the notice of charge or subsequently given to the Superintendent as the 25 address at which such notices may be given to that person, or by such a letter addressed to the person at the person’s usual or last known place of abode, business, or employment.

“(3) Where any notice is posted in accordance with **subsection (1)** or **subsection (2)** of this section it shall, in the absence of evidence to the contrary, be deemed to have been given and received,— 30

“(a) In the case of a letter posted to an address within New Zealand, on the fourth day after the day on which 35 the letter was posted:

“(b) In the case of a letter posted to an address outside New Zealand, at the time at which the letter would have been delivered in the ordinary course of post.

“(4) Notwithstanding anything in **subsections (1) to (3)** of this section, a District Court Judge may in any case make an order directing the manner in which any notice under **section 92c**, **section 92D**, **section 92E**, or **section 92F** of this Act is to be given to any person, and specifying the date or method of 40 determining the date on which the notice shall be deemed to have been given and received. 45

*New***“92J. Superintendent may apply to Court for directions—**

Without limiting any right of any person to take any action in any Court, the Superintendent or any contributor or chargeholder, or any person claiming to be a chargeholder may apply to any Court of competent jurisdiction for an order—

“(a) As to whether or not any charge should be or should have been registered in respect of any contributor or chargeholder; or

“(b) As to whether any payment is to be made to any chargeholder or person claiming to be a chargeholder; or

“(c) As to the amount of any payment to be made to any chargeholder or person claiming to be a chargeholder; or

“(d) As to the release of any charge.”

(2) The principal Act is hereby amended by renumbering section 92A (as inserted by section 3 of the Government Superannuation Fund Amendment Act 1970) as section 92K.

(3) The principal Act is hereby amended by renumbering the Schedule as the Second Schedule, and inserting before that Schedule the First Schedule set out in the **First Schedule** to this Act.

*Struck Out*

**18. Annual subsidies**—Section 95 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) For the purposes of this section, the term ‘benefits’ means any payment to or in respect of a contributor under Part II, Part IIA, or Part III of this Act, Part II of the Government Superannuation Fund Amendment Act 1962, or Part II of the Government Superannuation Fund Amendment Act 1970, and includes any payments—

“(a) Made in respect of any employer’s contributions in connection with the making of refunds of contributions or providing transfer values under section 35 of the Government Superannuation Fund Amendment Act 1976; or

“(b) Made in respect of transfer values determined under **section 61s (6)** of this Act or **section 21** of the Government Superannuation Fund Amendment Act 1984.”

**19. Annual adjustments to retiring allowances and annuities payable under Part IIA of principal Act—**

(1) Section 2 of the Government Superannuation Fund

Amendment Act 1969 is hereby amended by adding the following subsection:

“(9) Nothing in subsection (8) of this section shall apply in respect of any contributor under **Part IIA** of the principal Act.”

(2) Section 3 of the Government Superannuation Fund Amendment Act 1969 is hereby amended by inserting, after paragraph (e), the following paragraphs: 5

“(ea) Retiring allowances payable under **section 61I, section 61J, section 61K, or section 61S (1) (d)** of the principal Act:

“(eb) Annuities payable under **section 61M, section 61N, section 61R (8) (a) (ii), or section 61S (4) (a) (ii)** of the principal Act.” 10

(3) The Second Schedule to the Government Superannuation Fund Amendment Act 1969 is hereby amended by adding to the first column of clause 2 the words “and the case is not one to which (**clause 4**) any other clause of this Schedule applies”. 15

(4) The Second Schedule to the Government Superannuation Fund Amendment Act 1969 is hereby further amended by adding the following clause: 20

“4. Where the retiring allowance, annual allowance, or annuity is payable under **Part IIA** of the principal Act 100 percent.”

**20. Annual adjustments to other retiring allowances and annuities**—(1) Section 2 (8) of the Government Superannuation Fund Amendment Act 1969 (as added by section 11 of the Government Superannuation Fund Amendment Act 1976) is hereby amended: 25

(a) By omitting the expression “70 percent”, and substituting the expression “80 percent”: 30

(b) By omitting the formula, and substituting the following formula:

$$\frac{20p}{h + p}$$

(2) The Second Schedule to the Government Superannuation Fund Amendment Act 1969 (as amended by section 2 of the Government Superannuation Fund Amendment Act 1974) is hereby amended— 35

(a) By omitting from item 1 and from item 2 the expression “70 percent”, and substituting in each case the expression “80 percent”: 40

(b) By omitting from item 2 the expression “30 percent”, and substituting the expression “20 percent”.

(3) The adjustments to any retiring allowance, annual allowance, or annuity payable before the coming into force of 45



this section shall be made as if this section had come into force on the 31st day of March 1956; but no increased payment shall be made in respect of any period before the **4th day of April 1985**.

5     **21. Transfer value of interest in Fund where contributor elects to become contributor to National Provident Fund Superannuation Scheme for Ships Officers**—(1) This section shall apply to every person who is a contributor under Part II of the principal Act and who would have been entitled to be  
10 a contributor to the National Provident Fund Superannuation Scheme for Ships Officers on the date of the commencement of the Government Superannuation Fund Amendment Act **1984** if that contributor were not on that date a contributor under Part II of the principal Act.

15     (2) Every person to whom this section applies may, before the **1st day of November 1985**, elect to cease to be a contributor under Part II of the principal Act and to become a contributor to the National Provident Fund Superannuation Scheme for Ships Officers.

20     (3) Nothing in section 28 of the principal Act shall apply to any person who makes an election under **subsection (2)** of this section.

25     (4) Where any person makes an election under **subsection (2)** of this section, there shall be paid from the Fund to the National Provident Fund—

30     (a) The amount of the person's contributions to the Fund increased by 0.25 percent for every month of contributory service of that person under Part II of the principal Act; and

35     (b) Ten percent of the amount calculated under **paragraph (a)** of this subsection for every complete year of the person's contributory service under Part II of the principal Act, and an appropriate portion of 10 percent of that amount for any part year of such contributory service; and

40     (c) Any amount that would be included in any refund under the principal Act to the contributor by virtue of section 35 (1) of the Government Superannuation Fund Amendment Act 1976.

45     **22. Amendments and repeals**—(1) The principal Act is hereby consequentially amended in the manner indicated in **Part I of the Second Schedule** to this Act.

50     (2) The enactments specified in **Part II of the Second Schedule** to this Act are hereby consequentially amended in the manner indicated in that Part of that Schedule.

55     (3) The enactments specified in the **Third Schedule** to this Act are hereby repealed.

SCHEDULES

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Section 13 (2)

## FIRST SCHEDULE

NEW SCHEDULE INSERTED IN PRINCIPAL ACT

## "FIRST SCHEDULE

**(Section 61r (4) Section 92A (4))**

## NOTICE OF CHARGE

To: The Superintendent of the Government Superannuation Fund

From [Name]

CONTRIBUTOR

Date of birth .....

Employed at .....

Employed by .....

Address for giving of notices .....

AND [Name]

CHARGEHOLDER

Address for giving of notices .....

This is to inform you that [Name], a contributor to the Fund, has granted a charge over his or her contributions to the Fund in favour of [Name], chargeholder.

It is accepted that the charge is of no effect until it has been registered in the register of charges maintained under **(section 61r) section 92A** of the Government Superannuation Fund Act 1956.

The contributor and the chargeholder each agree that notices under **(section 61v, section 61w (b), section 61x, or section 61y) section 92c, section 92d (b), section 92E, or section 92F** of the Government Superannuation Fund Act 1956 may be given by registered post addressed to them at their respective addresses given above, or such other address as may from time to time be notified by them to the Superintendent.

Signature of contributor

Signature of chargeholder

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SECOND SCHEDULE

Section 22 (1), (2)

PART I

CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT

Provision Amended	Amendment
Section 2 .. ..	By repealing the proviso to the definition of the term "spouse" (as inserted by section 2 (1) of the Government Superannuation Fund Amendment Act 1976).
Section 36 (5) (as added by section 10 (2) of the Government Superannuation Fund Amendment Act 1959)	By omitting the expression "sections 45, 46, and 47", and substituting the expression "section 45".
Section 51 (3) (as amended by section 12 (3) (a) of the Government Superannuation Fund Amendment Act 1962)	By omitting the words "the widow's annuity and the children's allowances payable under section 45 of this Act or (in the case of a female contributor) the total annual amount of the widower's annuity and the children's allowances payable under section 46 of this Act", and substituting the words "any annuity payable under section 45 of this Act and any children's allowances payable under section 47 of this Act".
Section 52A (13) (as inserted by section 17 of the Government Superannuation Fund Amendment Act 1959)	By omitting the expression "sections 45, 46, and 47", and substituting the expression "sections 45 and 47".
Section 58 (6) .. ..	By omitting the expression "section 57", and substituting the expression "section 89c".
Section 61 (9) (as added by section 2 (2) of the Government Superannuation Fund Amendment Act 1960)	By omitting the expression "sections 45, 46, and 47", and substituting the expression "sections 45 and 47".
Section 68 (6) (as added by section 6 (2) of the Government Superannuation Fund Amendment Act 1963)	By omitting the expression "sections 45, 46, and 47", and substituting the expression "sections 45 and 47".
Section 69 (1B) (as substituted by section 24 of the Government Superannuation Fund Amendment Act 1959)	By omitting the expression "sections 45, 46, and 47", and substituting the expression "sections 45 and 47".
Section 71 (4) .. ..	By omitting the words "under the provisions of section 45 or section 46 of this Act", and substituting the words "or allowance under section 45 or section 47 of this Act".

SECOND SCHEDULE—*continued*

Provision Amended	Amendment
Section 74j (2) (as substituted by section 2 of the Government Superannuation Fund Amendment Act 1980)	By omitting the expression "or section 46".
Section 79 .. ..	By repealing subsections (3) and (4) (as added by section 14 (4) of the Government Superannuation Fund Amendment Act 1964), and substituting the following subsection: " (3) Section 47 of this Act shall apply in respect of any child of a Judge in respect of whom this section applies."
Section 87 (1) .. ..	By repealing paragraph (d), and substituting the following paragraph: " (d) If the deceased person ceased to be a member after the 1st day of October 1964, section 47 of this Act shall apply in respect of any child of that member."
Section 99 (1) .. ..	By inserting, before the word "Schedule", the word "Second".

## PART II

## CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

Provision Amended	Amendment
1964, No. 125—The Government Superannuation Fund Amendment Act 1964 (R.S. Vol. 13, p. 242)	By omitting from section 4 (2) the expression "or section 46".
1969, No. 38—The Government Superannuation Fund Amendment Act 1969 (R.S. Vol. 13, p. 246)	By repealing section 3 (d). By omitting from section 7 (4) (as amended by section 13 (3) of the Government Superannuation Fund Amendment Act 1976) the expression "or section 46". By repealing section 9, and substituting the following section:

## SECOND SCHEDULE—continued

Provision Amended	Amendment
<p>1972, No. 33—The Government Superannuation Fund Amendment Act 1972 (R.S. Vol. 13, p. 267)</p> <p>1979, No. 46—The Government Superannuation Fund Amendment Act 1979 (R.S. Vol. 13, p. 283)</p>	<p>“9. <b>Adjustments to annuities</b>—Where any annuity payable to a spouse under <b>section 45</b>, <b>section 79</b>, or <b>section 87</b> of this Act has ceased to be payable because of the marriage of that spouse and has again become payable, any adjustments to the annuity shall be made as if it had been payable throughout the period during which it was not payable; but nothing in this section shall be construed so as to enable the payment of any adjustment in respect of any period during which the annuity was not payable under <b>section 45</b>, <b>section 79</b>, or <b>section 87</b> of the principal Act.”</p> <p>By omitting from the first column of clause 2 of the Third Schedule (as amended by section 9 (b) of the Government Superannuation Fund Amendment Act 1970) the expression “, 46”.</p> <p>By adding to that Schedule the following clauses:</p> <p>“4. A retiring allowance payable under the provisions of <b>section 61I</b>, <b>section 61J</b>, <b>section 61K</b>, or <b>section 61S (1) (d)</b> of the principal Act</p> <p>The day immediately preceding the date on which the first instalment of the retiring allowance was or will be payable.</p> <p>“5. Annuity payable under the provisions of <b>section 61M</b>, <b>section 61N</b>, <b>section 61R (8) (a) (ii)</b>, or <b>section 61S (4) (a) (ii)</b> of the principal Act</p> <p>The day immediately preceding the date on which the first instalment of the annuity was or will be payable.”</p> <p>By omitting from section 6 (4) the expression “section 46 or”.</p> <p>By omitting from section 6 (5) the expression “or section 46”.</p> <p>By omitting from section 6 (6) (b) the expression “or section 46”.</p> <p>By omitting from section 9 the expression “section 45 (1) (a) (i) or section 46 (1) (a) (i)”, and substituting the expression “<b>section 45</b>”.</p>

**Section 22 (3)**

**THIRD SCHEDULE**

**ENACTMENTS REPEALED**

- 1956, No. 47—The Government Superannuation Fund Act 1956 (R.S. Vol. 13, p. 97): Sections 31 and 39, subsections (8), (9), and (10) of section 40, sections 44 (2), 56, and 57.
- 1959, No. 85—The Government Superannuation Fund Amendment Act 1959 (R.S. Vol. 13, p. 227): Section 11.
- 1962, No. 130—The Government Superannuation Fund Amendment Act 1962 (R.S. Vol. 13, p. 233): Section 12 (3) (a).
- 1964, No. 125—The Government Superannuation Fund Amendment Act 1964 (R.S. Vol. 13, p. 242): Sections 7 and 14 (4).
- 1974, No. 138—The Government Superannuation Fund Amendment Act 1974 (R.S. Vol. 13, p. 271): Section 2.
- 1976, No. 30—The Government Superannuation Fund Amendment Act 1976 (R.S. Vol. 13, p. 271): Sections 8, 9, 15, and 31, and so much of the Second Schedule as relates to section 20 of the principal Act.
- 1977, No. 153—The Government Superannuation Fund Amendment Act 1977 (R.S. Vol. 13, p. 282).
- 1979, No. 46—The Government Superannuation Fund Amendment Act 1979 (R.S. Vol. 13, p. 283): Sections 12, 13, 14 (1), and 20 (2).