

## **GOVERNMENT SUPERANNUATION FUND AMENDMENT BILL**

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### EXPLANATORY NOTE

THIS Bill is intended to reflect the following 2 principles:

- (a) To ensure that members of the GSF schemes continue to be provided with certainty as to the level of their future benefits:
- (b) To ensure that the GSF is able to be managed in such a way that the Crown's financial risk is clearly identified and managed efficiently, to minimise the Crown's liability associated with the schemes.

The principal features of this Bill are as follows:

- (a) The current Government Superannuation Board is replaced. The function of the new board is limited to the hearing of appeals relating to scheme interpretation and exercise of discretions (*clause 3*):
- (b) The investment procedures in respect of the Fund are altered (*clause 4*):
- (c) The Minister of Finance is to contract out scheme administration, investment management, and custodianship of assets (*clause 4*):
- (d) The GSF schemes are exempted from certain provisions of the Superannuation Schemes Act 1989 (*clause 4*):
- (e) New options are proposed for contributors who wish to stop contributing to the GSF (*clauses 5, 11 to 15*). The new options are to be set out in regulations:
- (f) The Pacific Island subschemes are closed to new members (*clauses 6, 7, and 8*):
- (g) The Government Actuary is required to do an actuarial examination of the Fund as at dates that are no more than 3 years apart (instead of up to 5-yearly at present). This is consistent with the position in respect of registered superannuation schemes under the Superannuation Schemes Act 1989 (*clause 16*):
- (h) Employers who deduct employee contributions from remuneration are explicitly required to transfer them to the GSF at such times as are reasonably specified by the Superintendent (*clause 17*):
- (i) Interest is imposed on overdue payments to the GSF. The rate is to be set by the Minister by *Gazette* notice (*clause 17*):
- (j) Employers are required to provide such information as the administration manager may reasonably require for the purpose of administering the GSF Act (*clause 17*):

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(k) Various miscellaneous technical anomalies are addressed (*Clauses 2 (2), (3), (4), (7), 19, and 20*).

### **Government Superannuation Board**

The existing Government Superannuation Board has a number of functions. One is investment of the Fund. Another is to determine questions of interpretation and discretion under the GSF Act. The Board consists of the Minister of Finance, the Secretary to the Treasury, the State Services Commissioner, the chief executive officer of New Zealand Railways Corporation, the Commissioner of Police, 6 staff representatives, and 2 other appointed members.

The proposed Board is to have only one function, namely, to hear and determine appeals from certain decisions made by or on behalf of the Superintendent. The decisions relate to scheme interpretation and exercise of discretions. The new Board is to consist of between 3 and 5 members appointed by the Minister of Finance, following consultation with such persons as the Minister thinks fit. New appeals procedures are set out in the Bill.

### **Investment procedures**

Currently, responsibility for the investment of the Fund lies with the Government Superannuation Board. The Board is obliged to comply with the “prudent person” rule of the Trustee Act 1956 as to the investment of trust funds (Regulation 10 of the Superannuation Regulations 1957). The Board is obliged to have regard to any representations made by the Minister of Finance, and to give effect to any decision of the Government conveyed to the Board in writing by the Minister of Finance (Section 12).

It is proposed that the responsibility for the investment of the Fund should no longer lie with the Board. It is intended that the “prudent person” rule of the Trustee Act 1956 will no longer apply. The Minister will determine, and lay before the House of Representatives, guidelines for the investment of money belonging to the Fund. The investment manager will be obliged to invest the Fund in accordance with those guidelines and any written instructions of the Minister. Those instructions must be consistent with the investment guidelines. A more modern range of powers in relation to the Fund is expressly provided for. For example, the Minister may authorise the entering into of swaps or other financial arrangements, as part of an investment transaction. This is based on section 65 of the Public Finance Act 1989.

### **Power to contract out scheme administration, etc.**

The GSF Act currently allows the Board to arrange for the use of “any services available in Departments of State or elsewhere” for the purpose of collecting contributions, paying retiring allowances, keeping accounts, etc. (section 10). At present, the Government Superannuation Fund Department carries out these functions.

It is proposed that the Minister of Finance be required to appoint, on such terms and conditions as he or she thinks fit, one or more persons (including any department) to undertake each of the following functions:

- (a) The management of the administration of the schemes:
- (b) The management of the investment of the Fund:
- (c) The custodianship of the Fund.

The fees of the managers and custodian will be paid out of money appropriated by Parliament, and not from the Fund. The Superintendent (the Chief Executive of the Government Superannuation Fund Department) is appointed as the first administration manager and investment manager. The Superintendent is also appointed as the first custodian. The appointments of the

Superintendent will terminate on 3 months' notice in writing or 30 June 1996, whichever is earlier.

#### **Application of Superannuation Schemes Act 1989**

The GSF schemes are registered under the Superannuation Schemes Act 1989. The provisions of that Act therefore currently apply to the GSF schemes. Some of those provisions are inappropriate in the context of the GSF schemes. Exemptions are therefore provided from sections 7 to 22 of the Superannuation Schemes Act 1989. These sections—

- (a) Relate to trust deeds, which are inapplicable since the GSF schemes are enshrined in statute and do not have trust deeds; or
- (b) Deal with investment, which is discussed above; or
- (c) Give rights to information before becoming a member of a scheme, which is inapplicable since the GSF schemes are closed to new members; or
- (d) Deal with accounts, annual reports, and actuarial examination, which are covered in *clause 16*; or
- (e) Deal with members' rights to information, by giving members of registered schemes the right to be given a copy of the annual report and, upon request, to receive an estimate of benefits, to look at the trust deed and any report of an actuarial examination, and to receive copies of those documents upon payment of a reasonable fee. The Bill proposes that contributors be entitled upon request, to receive an estimate of benefits, to be given a copy of the annual report, and to look at any report of an actuarial examination (*clause 4: proposed new section 19H*); or
- (f) Give powers to the Government Actuary to cancel registration, which are inapplicable, since the Bill states that the GSF schemes are registered superannuation schemes.

#### **New options to cease contributions to the Fund**

The Bill allows new options to be provided for members who wish to stop contributing to the GSF.

The general schemes and the Prison officers' scheme already allow members to withdraw from the GSF while still in Government service. In these cases, the 2 new options proposed are a deferred pension option and a deferred lump sum option.

The other schemes are currently compulsory for members employed before 1 July 1992. In these cases, a right is proposed to allow members to stop contributing to the GSF, with 3 new options, namely, a deferred pension option, a deferred lump sum option, or a refund of contributions.

The new options are to be in accordance with regulations made under section 97 of the GSF Act.

#### **Closure of the Pacific Island subschemes**

The Pacific Island subschemes are to be closed to new members. The subschemes form part of the general scheme. Employees of the Cook Islands Public Service, the Niue Public Service, and the Tokelau Public Service are the only persons who may currently elect to join the general scheme. The general scheme has been closed to other new contributors since 1 July 1992. The Bill provides that the general scheme is closed to employees of the Cook Islands Public Service from 27 May 1995, to employees of the Niue Public Service from 9 June 1995, and to employees of the Tokelau Public Service from 21 October 1995. The Bill also provides that membership of the Pacific Island subschemes will cease to be compulsory for existing members with effect from those dates.

#### **Clause by clause analysis**

*Clause 1* provides, broadly, that—

- (a) The proposed amendments relating to the restructuring of the Board, the management of the Fund and the schemes, and the new options to cease contributions to the Fund, are to come into force on 1 October 1995; and
- (b) The amendments relating to the closure of the Pacific Islands subschemes and the technical issues have effect from a variety of dates.

*Clause 2* amends the interpretation section of the principal Act. Most of the changes flow from the restructuring of the Board, and of the management of the Fund and schemes. The exceptions are—

- (a) That *subclauses (2) and (3)* amend the definition of “controlling authority”—
  - (i) To remove the outdated reference, in respect of contributors employed in the Health Service, to the general manager of the appropriate area health board; and
  - (ii) To add a catch-all provision to cover contributors who are not covered by the existing law, e.g. employees of privatised state enterprises;
- (b) That *subclause (4)* repeals the outdated definition of the term “health service”;
- (c) That *subclause (7)* provides that references in the Act to a person again becoming a contributor to the Fund are to be read and construed as references to a person resuming contributions to the Fund. The existing references have become misleading now that the schemes have been closed.

*Clause 3* relates to the restructuring of the Board and sets out the membership of the Board and its function and appeal procedures.

*Clause 4* relates to the restructuring of the management of the Fund and the schemes.

*Clause 5* relates to the proposed new options to cease contributions under the old general scheme (Part II).

*Clauses 6, 7, and 8* relate to the closure of the Pacific Island subschemes.

*Clauses 9 and 10:* These clauses propose that 2 special committees be abolished and their functions transferred to the Superintendent. The 2 committees are—

- (a) A committee to determine the value of any concession or benefit in respect of a house, board, or lodging that may be added to salary for contributory purposes. Section 58 of the GSF Act enables certain contributors to contribute as if that value were part of salary. The committee consists of the Secretary to the Treasury, a member of the State Services Commission, together with certain employers;
- (b) A committee to determine the salary of overseas representatives and their officers for contributory purposes. Section 59 of the GSF Act enables a committee consisting of the Secretary to the Treasury, a member of the State Services Commission, and the Secretary of Foreign Affairs to determine what part of such a person’s total remuneration is deemed to be salary.

*Clause 11* relates to the proposed new options to cease contributions under the new general scheme (Part II A). The existing section which applies to general scheme members who wish to cease contributions while remaining in Government service (section 61R) currently provides that the member may elect either—

- (a) For a refund of contributions without interest; or
- (b) To have the transfer value (as determined by regulation) paid to any new superannuation scheme subsidised by his or her employer; or

- (c) If the contributor is not 50, to leave contributions in the Fund. Contributions to the Fund may be resumed at a later date under this option.

There is no change to the existing rights to elect to receive a refund of contributions or to leave contributions in the Fund.

The election in respect of transfer values is not carried forward by the Bill. No election may currently be made in respect of transfer values after the later of—

- (a) 31 December 1991; or
- (b) 6 months after the contributor first becomes entitled to become a member of any registered superannuation scheme that is subsidised by his or her employer.

In many cases, therefore, this right has expired. No regulations have, in any event, been made to set transfer values.

Provision is made for the new options of a deferred pension or a deferred lump sum. The new options are to be in accordance with regulations.

*Clauses 12 to 15* relate to the proposed new options to cease contributions under the schemes for members of the armed forces (Part IIIA), members of the judiciary and the Solicitor-General (Part VA), members of Parliament (Part VI), and members of the Police (Part VIA). Masters of the High Court who have elected to contribute under Part VA will be covered by the new options by virtue of the application of that Part to them. Prison officers will be covered by the new options by virtue of the application of section 61R to them (see section 88PA of the GSF Act).

*Clause 16* relates to financial statements, audit, annual reports, and actuarial examinations.

*Clause 17* inserts new sections relating to—

- (a) The timing of transfer of employee contributions to the Fund. People (such as employers) who deduct GSF contributions from remuneration are to be required to pass on contributions to the Fund at such times as are reasonably specified by the Superintendent in a written notice to the person or a notice in the *Gazette*:
- (b) Interest on overdue payments to the Fund:
- (c) Recovery of debts:
- (d) Information to be provided by controlling authorities.

*Clause 18* replaces the regulation-making power in the GSF Act. Section 97 currently empowers the Governor-General to make such regulations as he thinks necessary in order to give full effect to the Act. Regulations may specifically be made under the existing section—

- (a) Prescribing the powers, functions, and procedure of the Board. It is now proposed that no regulation-making power is needed in this respect, given the provisions of the Bill as to the function and powers of the Board and given that the Board's procedure is partly contained in the **First** Schedule and that otherwise the Board is empowered by that Schedule to set its own procedure:
- (b) Prescribing the mode of investment of money belonging to the Fund. This becomes obsolete in the light of the new investment procedures proposed by the Bill:
- (c) Relating to transfer values, which are to be repealed by the Bill.

The proposed new regulation-making power provides that the Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing powers which the Minister may authorise the Superintendent or any investment or administration manager or custodian to exercise:

- (b) For the purposes of the new options proposed in the Bill relating to cessation of contributions:
- (c) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of the Act and for its due administration.

Regulations relating to the new options to cease contributions may prescribe—

- (a) Terms and conditions in relation to elections:
- (b) Requirements relating to the contributors who are eligible to make elections, such as a requirement that the contributor has been accepted for membership of another scheme:
- (c) Restrictions on the period during which elections may be made:
- (d) The way in which any deferred benefit or deferred lump sum or refund is to be determined.

*Clause 19* addresses 2 technical anomalies in the GSF Act as follows:

- (a) The application of the discounting formula where a contributor who has suspended contributions reactivates service is clarified. The discounting formula is intended to apply to the total of the periods of contribution and suspension, and to broken periods of contribution. Amendments are proposed to sections 60A, 61R (6), 71P (2), 88J, and 88W to this effect:
- (b) Section 42 (1) provides that where a contributor retires from the Government service before becoming entitled to a retiring allowance, the contributor is entitled to a refund of contributions. The effect of the proposed amendments to sections 61T (2), 88M (2), and 88Z (2) is to ensure that section 42 (1) of the GSF Act applies to the new general scheme, the Police scheme, and the Prison Officers' scheme.

*Clause 20* repeals section 6 (6) of the Government Superannuation Fund Amendment Act 1972, which relates to the date of qualification for certain spouses' cost of living adjustments. Section 6 (6) relates to annuities of \$390 p.a.

*Part II* contains transitional provisions relating to the restructuring of the Board and the management of the Fund and the schemes, and consequential amendments.

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**GOVERNMENT SUPERANNUATION FUND  
AMENDMENT**

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A BILL INTITULED

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

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

**1. Short Title and commencement**—(1) This Act may be cited as the Government Superannuation Fund Amendment Act 1994, and shall be read together with and deemed part of the Government Superannuation Fund Act 1956\* (hereinafter referred to as the principal Act). 5

(2) Except as otherwise provided in sections 2, 6, 7, 8, 19, and 20 of this Act, this Act shall come into force on the 1st day of October 1995. 10

PART I

AMENDMENTS TO PRINCIPAL ACT

**2. Interpretation**—Section 2(1) of the principal Act is hereby amended by repealing the definition of the term “appointed member” (as inserted by section 2(1) of the Government Superannuation Fund Amendment Act (No. 2) 1992). 15

(2) Section 2(1) of the principal Act is hereby further amended by repealing paragraph (d) of the definition of the term “controlling authority”. 20

(3) Section 2(1) of the principal Act is hereby further amended by adding to the definition of the term “controlling authority”, the following paragraph: 25

“(g) Any other contributor, means, subject to any other Act, the person out of whose money payments are required to be made in accordance with section 95(2) of this Act in respect of that contributor's contributions.”.

\*R.S. Vol. 21, p. 209

Amendments: 1987, No. 187; 1988, No. 19; 1989, No. 23; 1990, No. 30; 1990, No. 77; 1991, No. 7; 1991, No. 59; 1992, No. 40; 1992, No. 61



(4) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “health service”.

5 (5) Section 2 (1) of the principal Act is hereby further amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Administration manager’, in relation to a scheme, means the person appointed under **section 19** of this Act to manage the administration of the scheme:

10 “ ‘Benefit’ means any lump sum, annuity, pension, allowance, refund, or other payment arising under this Act from membership of a scheme:

“ ‘Custodian’ means the person appointed under **section 19A (1)** of this Act to act as custodian of the Fund:

15 “ ‘Investment manager’, in relation to the Fund or any part of the Fund, means the person appointed under **section 19** of this Act to manage the investment of the Fund or part, as the case may be:

“ ‘Minister’ means the Minister of Finance:

20 “ ‘Scheme’ means any arrangement constituted under any Part of this Act, being an arrangement principally for the purpose of providing retirement benefits to natural persons:”.

25 (6) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “Superintendent”, and substituting the following definition:

30 “ ‘Superintendent’ means the chief executive of the Department of State that, with the authority of the Prime Minister, for the time being is responsible for the administration of this Act (being a Department specified in the First Schedule to the State Sector Act 1988):”.

(7) Section 2 of the principal Act is hereby amended by adding the following subsection:

35 “(4) Any reference in this Act to a person again becoming a contributor to the Fund shall be read and construed as a reference to a person resuming contributions to the Fund.”

(8) **Subsections (2), (3), (4), and (7)** of this section shall come into force on the day on which this Act receives the Royal assent.

40 **3. New sections relating to Board substituted**—(1) The principal Act is hereby amended by repealing sections 3 to 12 (as amended by section 3 of the Government Superannuation Fund Amendment Act (No. 2) 1992), and substituting the following sections:

**“3. Government Superannuation Board—**(1) For the purposes of this Act, there shall be a board, to be called the Government Superannuation Board.

“(2) The Board shall consist of not less than 3, and not more than 5, members appointed in accordance with **section 5** of this Act. 5

**“4. Function of Board—**The function of the Board is to hear and determine appeals from decisions made by, or under the authority of, the Superintendent under **section 19E** of this Act or otherwise in respect of any scheme, in accordance with **sections 7 to 12c** of this Act. 10

**“5. Appointment of members of Board—**(1) The members of the Board shall be appointed by the Minister, by notice in the *Gazette*, after consultation with such persons as the Minister thinks fit. 15

“(2) In making appointments, the Minister shall ensure that the members of the Board have between them the range of skills and experience required for the carrying out of the function of the Board.

“(3) One of the members of the Board shall be appointed as chairperson by the Minister by notice in the *Gazette*. 20

**“6. Term of office—**(1) Subject to **subsections (2) and (3)** of this section, each member of the Board—

“(a) Shall be appointed for a term not exceeding 3 years; and

“(b) May from time to time be reappointed. 25

“(2) The Minister may at any time remove a member of the Board from office for disability affecting the performance of the member’s duties as a member, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.

“(3) A member of the Board may at any time resign office by giving written notice to that effect to the Minister. 30

**“7. Appeals to Board—**Any person who—

“(a) Is or may be affected by a decision made by, or under the authority of, the Superintendent under **section 19E** of this Act or otherwise in respect of any scheme; 35  
and

“(b) Disagrees with or is dissatisfied with that decision—  
may appeal to the Board against that decision.

**“8. Way in which appeals to be made—**(1) Every appeal to the Board shall be made by written notice (in any form) 40  
delivered to the Superintendent—

“(a) Within 28 days of the person receiving written notice of the decision concerned (which notice shall give information as to the person’s right to appeal); or

5 “(b) Within such further time as the Board may, on application, allow.

“(2) Every appeal shall be accompanied by such fee (if any) as may be prescribed by regulations.

“(3) If an appeal is substantially allowed, the fee shall be refunded in full.

10 “(4) A notice of appeal may include any submissions relevant to the decision appealed against that the person wishes to make.

“(5) As soon as practicable after receiving a notice of appeal under this section, the Superintendent shall—

15 “(a) Deliver to the Board the notice of appeal and a written report by the Superintendent on the matter; and

“(b) Advise the appellant in writing of his or her rights under section 10 of this Act.

20 “9. **Determination of appeals**—(1) Every appeal to the Board—

“(a) Shall be determined as soon as practicable; and

“(b) Shall be determined by the Board as if the decision appealed against were one for it to make, rather than the Superintendent.

25 “(2) The Board may at any time dismiss any appeal if it is satisfied that the appeal is frivolous or vexatious.

“10. **Rights of appellant**—(1) The Board shall, if the appellant so requests,—

30 “(a) Hear the appellant, or his or her representative, as soon as practicable after receiving the request; and

“(b) Send the appellant a summary of the written report by the Superintendent on the matter.

“(2) Information which may be withheld in terms of the Official Information Act 1982 need not be included in any such summary.

35 “11. **Matters to be taken into account on appeal**—

(1) The Board shall take into account—

“(a) The report by the Superintendent on the decision appealed against; and

40 “(b) The interests of the Crown as notified to the Board in writing by the Minister; and

“(c) The interests of the appellant.

“(2) The Board may take into account such other evidence (including written and oral evidence) as in equity and good conscience it thinks fit.

“**12. Board to give reasons for decision, etc.**—(1) The Board shall, as soon as practicable after determining an appeal, give notice in writing of its decision to the appellant and the Superintendent. 5

“(2) Upon the written request of the appellant, the Board shall state in writing its findings of fact and any reasons for the decision. 10

“(3) No such request may be made more than 28 days after the notice in writing of the decision is given to the appellant.

“**12A. Decision on appeal to be final**—Every determination of the Board shall, subject to **section 12b** of this Act, be final and conclusive and shall take effect in place of, and as if it were, the decision of the Superintendent appealed against. 15

“**12B. Stating case for High Court**—(1) The Board may at any time, before delivering its decision, on the application of either the appellant or the Superintendent or of its own motion, state a case for the opinion of the High Court on any question of law arising in any proceedings before the Board. 20

“(2) For that purpose, the Board may either conclude the proceedings subject to that opinion, or adjourn them until after that decision has been given. 25

“(3) The Board shall give notice to the Superintendent and the appellant of the Board’s intention to state a case under this section, specifying the registry of the High Court in which the case is to be filed.

“(4) Every case stated for the opinion of the High Court under this section shall be heard and determined in accordance with rules of Court. 30

Cf. 1974, No. 133, s. 41

“**12C. Board to comply with directions of Minister**— (1) Subject to **subsection (2)** of this section, the Minister may, after consultation with the Board, give to the Board such directions relating to the exercise of the Board’s function or powers as he or she considers necessary or expedient; and the Board shall comply with every such direction. 35

“(2) No direction may be given under this section in relation to a particular individual. 40

“(3) Every direction under this section shall be given by delivering it in writing, signed by the Minister, to the chairperson of the Board.

5 “(4) Every direction under this section shall be published in the *Gazette*, and laid before the House of Representatives, as soon as practicable after it is given.

“12D. **Further provisions relating to Board**—The provisions set out in the **Third Schedule** to this Act shall apply in respect of the Board.”

10 (2) The principal Act is hereby amended by adding, as the **Third Schedule**, the Schedule set out in the **First Schedule** to this Act.

**4. New sections relating to Fund and schemes substituted**—The principal Act is hereby amended by  
15 repealing sections 14 to 17, and substituting the following sections:

“14. **Money payable into Fund**—There shall from time to time be paid into the Fund—

20 “(a) The contributions from contributors as provided in this Act:

“(b) The amounts payable into the Fund under **section 95** of this Act:

“(c) Money accruing from the investment of the Fund:

25 “(d) Any other money that may be lawfully payable into the Fund.

Cf. 1956, No. 47, s. 14 (1)

“15. **Money payable out of Fund**—There shall from time to time be paid out of the Fund—

“(a) The benefits arising under this Act:

30 “(b) Any other money that may be lawfully payable out of the Fund.

“16. **Investment of Fund**—(1) The Minister shall from time to time determine, and lay before the House of Representatives, guidelines for the investment of the Fund.

35 “(2) Notwithstanding any enactment or rule of law to the contrary, the Fund shall be invested in accordance with—

“(a) The latest investment guidelines laid before the House of Representatives under **subsection (1)** of this section; and

40 “(b) Any written instructions of the Minister, being instructions that are consistent with the investment

guidelines referred to in **paragraph (a)** of this subsection.

Cf. 1956, No. 47, s. 17

“**17. Assets to be held for paying benefits**—All money, assets, and other property comprising the Fund shall be held for the purpose of paying the benefits that are payable under this Act. 5

Cf. 1956, No. 47, s. 34

“**18. Interest on money held in error**—The Superintendent may, in his or her discretion, pay interest on any money held in error in the Fund— 10

“(a) For the period from the date on which payment should have been made to the person on whose behalf the money is held to the date of actual payment; and

“(b) At such rate as the Minister may from time to time determine. 15

Cf. 1956, No. 47, s. 16A

*“Provisions Relating to Schemes and Fund*

“**19. Administration and investment management**—  
(1) The Minister shall from time to time appoint, on such terms and conditions as the Minister thinks fit, one or more persons (including any department) to undertake each of the following functions: 20

“(a) The management of the administration of the schemes:

“(b) The management of the investment of the Fund. 25

“(2) Different persons may be appointed under this section in respect of different schemes or different parts of the Fund.

“**19A. Custodianship of Fund**—(1) The Minister shall from time to time appoint a person (which may be a department) to act as custodian of the Fund. 30

“(2) Subject to **subsection (4)** of this section, all of the money, assets, and other property comprising the Fund shall be held in the name of the custodian.

“(3) The Minister may, after consultation with the custodian, appoint a person to act as a custodian of any of the money, assets, and other property comprising the Fund that is held outside New Zealand. 35

“(4) The Minister may, in appointing any person as a custodian under **subsection (3)** of this section, authorise that person to hold the money, assets, or other property concerned in that person’s name. 40

“(5) Any appointment under this section may be on such terms and conditions as the Minister thinks fit.

5 “19B. **Appointment of managers, etc., to be laid before House of Representatives**—As soon as practicable after making an appointment under **section 19** or **section 19A** of this Act, the Minister shall lay before the House of Representatives notice of that appointment stating the name of the appointee.

“19C. **Payment of administration expenses, etc.**—All expenses incurred—

10 “(a) In the management and custodianship of the Fund; and

“ (b) In the management of the schemes; and

“ (c) Otherwise in the administration of this Act,— shall be met out of an appropriation by Parliament.

Cf. 1956, No. 47, s. 16 (1)

15 “19D. **Powers in relation to Fund and schemes**— Without limiting **sections 19** and **19A** of this Act, the Minister may authorise in writing the Superintendent or any person appointed under either of those sections (in this section called a “manager”) to exercise, subject to such conditions as the  
20 Minister imposes, any one or more of the following powers:

“ (a) Open, and operate on, one or more bank accounts for the purposes of the management of the Fund or all or any of the schemes:

25 “ (b) As part of an investment transaction entered into in accordance with **section 16 (2)** of this Act,—

“ (i) Borrow, and mortgage assets of the Fund:

30 “ (ii) Enter into any arrangement with any person (either directly or through an intermediary), either within or outside New Zealand, whereby the Superintendent or manager undertakes to make payments to, or to the account of, the person in any currency and the person undertakes to make payments to, or to the account of, the Superintendent or manager in the same or any other  
35 currency:

40 “ (c) Take such steps (including the payment of money from the Fund) as the Superintendent or manager considers necessary or desirable for the purpose of protecting any money, assets, or other property comprising the Fund or for preventing or minimising any loss on a realisation of any such property:

“(d) Any other power prescribed for the purposes of this section by regulations made under this Act.

Cf. 1989, No. 44, s. 65

“19E. **Discretionary powers of Superintendent**—(1) If any question arises under this Act as to— 5

“(a) Whether any person is employed in the Government service; or

“(b) Whether any person is a contributor, or is entitled to resume contributions, to the Fund; or

“(c) The period of contributory service, amount of salary, amount of contributions, or amount of retiring allowance of any contributor; or 10

“(d) Whether any retirement is compulsory or is due to misconduct; or

“(e) Whether or not any period of employment is on a full-time basis for the purposes of this Act, or as to the proportion of any part-time employment to full-time employment; or 15

“(f) Any other matter whatsoever in respect of a scheme,— the question shall be determined by the Superintendent. 20

“(2) The Superintendent, in his or her discretion, may refuse any application for consent under this Act, or may grant any such application either wholly or partly and either unconditionally or upon or subject to such conditions as the Superintendent thinks fit, including conditions— 25

“(a) Fixing or limiting the period or periods in respect of which a contributor is to be permitted to contribute to the Fund:

“(b) Fixing the contributions payable in respect of any period for which no salary is payable: 30

“(c) Fixing the payments (if any) to be made to the Fund by a contributor in addition to his or her contributions.

“(3) Notwithstanding anything to the contrary in this Act, but subject to the consent of the Superintendent in each case, any contributor may contribute to the Fund in respect of the whole or any part of any period which could not otherwise be computed as part of his or her contributory service. 35

“(4) Notwithstanding anything to the contrary in this Act, the Superintendent may in any special case deem that the Government service of any person has not been interrupted by reason only of an interval in his or her employment in the Government service, subject to any condition that only a 40



specified part of the interval be regarded as contributory service.

Cf. 1956, No. 47, s. 11

5       “19F. **Delegation of Superintendent’s functions or powers**—(1) The Superintendent may from time to time, either generally or particularly, delegate to any administration manager (or any officer or employee of an administration manager) any of the functions or powers of the Superintendent under this Act that are specified for this purpose by the  
10 Minister in that administration manager’s terms of appointment.

      “(2) Every delegation under this section shall be in writing.

      “(3) Every delegation under this section—

      “(a) Shall be revocable in writing; and

15       “(b) Shall not affect or prevent the exercise of any function or power by the Superintendent; and

      “(c) May be made to a specified person, or to persons who are for the time being members of a specified class; and

20       “(d) May be made subject to such restrictions and conditions as the Superintendent thinks fit.

      “(4) An administration manager may exercise any functions or powers delegated to the administration manager in the same manner and with the same effect as if they had been conferred  
25 on the administration manager directly by this Act and not by delegation.

      “(5) Any administration manager purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance  
30 with the terms of the delegation.

      “(6) Until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Superintendent ceasing to hold office, it shall continue to have effect as if made by the Superintendent’s successor in office.

35       “(7) Nothing in this section limits the powers of delegation contained in the State Sector Act 1988.

      “(8) For the purposes of **subsections (4) and (5)** of this section, ‘administration manager’ includes any officer or employee of an administration manager.

40       “19G. **Application of Superannuation Schemes Act 1989**—(1) Each of the schemes shall continue to be registered as a superannuation scheme under the Superannuation Schemes Act 1989 and, subject to **subsection (2)** of this section, that Act shall apply accordingly.

“(2) Nothing in sections 7 to 22 of the Superannuation Schemes Act 1989 shall apply in respect of any of the schemes.

“19H. **Contributors’ rights to information**—(1) Each contributor shall have the right, upon request in writing to the Superintendent,—

“(a) To receive an estimate of the contributor’s benefits; and

“(b) To receive a copy of the latest annual report laid before the House of Representatives or published under **section 93B** of this Act; and

“(c) To look at, at any reasonable time, a copy of the latest report of an actuarial examination under **section 94** of this Act.

“(2) No contributor shall be charged a fee for exercising any such right, except that if a contributor makes a request for an estimate of benefits, or for a copy of an annual report, more frequently than once every 12 months, then the Superintendent may, in his or her discretion, charge a reasonable fee.”

Cf. 1989, No. 10, s. 17

**5. Right to cease to be contributor under Part II—**

(1) Section 28 (1) of the principal Act (as substituted by section 5 of the Government Superannuation Fund Amendment Act (No. 2) 1990) is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) Elects, subject to regulations made under **section 97** of this Act, to leave the contributor’s contributions in the Fund, and to receive—

“(i) A deferred pension; or

“(ii) A deferred lump sum,—

in accordance with those regulations.”

(2) Section 28 of the principal Act (as so substituted) is hereby amended by repealing subsection (2).

**6. Permanent officers of Cook Islands Public Service, Niue Public Service, and Tokelau Public Service—**

(1) Section 50 of the principal Act is hereby amended by adding the following subsections:

“(12) This section shall not apply to any member of the Cook Islands Public Service after the **27th day of May 1995**.

“(13) This section shall not apply to any member of the Niue Public Service after the **9th day of June 1995**.

“(14) This section shall not apply to any member of the Tokelau Public Service after the **21st day of October 1995**.”

(2) Section 50 of the principal Act shall expire with the close of the **21st day of October 1995**.

(3) This section shall come into force on the day on which this Act receives the Royal assent.

5       **7. Members of Cook Islands Public Service may elect to become contributors under Part IIA**—

(1) Section 50A of the principal Act is hereby amended by repealing subsection (4) (as added by section 6 of the Government Superannuation Fund Amendment Act (No. 2) 1990), and substituting the following subsections:

10       “(4) Part IIA of this Act shall apply in all respects to any person who becomes a contributor to the Fund under this section.

15       “(5) Notwithstanding any other provision of this section, no person shall be entitled to make an election under **subsection (1)** of this section after the **27th day of May 1995**.”

(2) This section shall come into force on the **27th day of May 1995**.

20       **8. Members of Niue Public Service and Tokelau Public Service may elect to become contributors under Part IIA**—

(1) Section 50B of the principal Act (as inserted by section 7 of the Government Superannuation Fund Amendment Act (No. 2) 1990) shall be read,—

25       (a) In respect of any permanent officer of the Niue Public Service, as if, on the **9th day of June 1995**, subsection (4) was repealed and the following subsection substituted:

30       “(4) Part IIA of this Act shall apply in all respects to any permanent officer of the Niue Public Service who becomes a contributor to the Fund under this section.”:

(b) In respect of any permanent officer of the Tokelau Public Service, as if, on the **21st day of October 1995**, subsection (4) was repealed and the following subsection substituted:

35       “(4) Part IIA of this Act shall apply in all respects to any permanent officer of the Tokelau Public Service who becomes a contributor to the Fund under this section.”

40       (2) Section 50B of the principal Act (as so inserted) is hereby amended by adding the following subsections:

“(5) Notwithstanding any other provision of this section, no permanent officer of the Niue Public Service shall be entitled to

make an election under subsection (1) of this section after the 9th day of June 1995.

“(6) Notwithstanding any other provision of this section, no permanent officer of the Tokelau Public Service shall be entitled to make an election under subsection (1) of this section after the 21st day of October 1995.”

(3) This section shall come into force on the day on which this Act receives the Royal assent.

**9. Value of benefits for house, board, or lodging may be added to salary**—(1) Section 58 of the principal Act is hereby amended by repealing subsection (1).

(2) Section 58 (2) of the principal Act is hereby amended by omitting the words “with the approval of the committee and upon or subject to such conditions as the committee may impose”, and substituting the words “with the approval of the Superintendent and upon or subject to such conditions as the Superintendent may impose”.

(3) Section 58 (2) of the principal Act is hereby further amended by omitting the words “as determined by the committee”, and substituting the words “as determined by the Superintendent”.

(4) Section 58 (3) of the principal Act is hereby amended by omitting the word “committee”, and substituting the word “Superintendent”.

**10. Computation of salaries of overseas representatives and their officers**—The principal Act is hereby amended by repealing section 59, and substituting the following section:

“59. Where any head of mission or head of post within the meaning of the Foreign Affairs Act 1988, or any person assigned or reassigned under section 6 of that Act to service overseas, is a contributor to the Fund, his or her salary for the purposes of this Part of this Act in respect of any period shall be deemed to be such part of his or her total remuneration (including any allowances and the value of any benefits) as is determined from time to time by the Superintendent.”

**11. Right to cease to be contributor under Part IIA**—

(1) Section 61R (1) of the principal Act (as substituted by section 9 of the Government Superannuation Fund Amendment Act (No. 2) 1990) is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) Elects, subject to regulations made under **section 97** of this Act, to leave the contributor’s contributions in the Fund, and to receive—

- 5                   “(i) A deferred pension ; or  
                      “(ii) A deferred lump sum,—  
                      in accordance with those regulations.”

(2) Section 61R of the principal Act is hereby amended by repealing subsection (2) (as so substituted).

**12. Right to cease to be contributor under Part IIIA—**

10 The principal Act is hereby amended by inserting, after section 71J, the following section:

“71JA. Any contributor under this Part of this Act may, subject to regulations made under **section 97** of this Act, elect to cease to be a contributor to the Fund and—

- 15           “(a) To leave the contributor’s contributions in the Fund and to receive—  
                      “(i) A deferred pension; or  
                      “(ii) A deferred lump sum,—  
                      in accordance with those regulations; or  
20           “(b) To receive a refund of the contributor’s contributions in accordance with those regulations.”

**13. Right to cease to be contributor under Part VA—**

The principal Act is hereby amended by inserting, after section 81O, the following section:

25           “81OA. Any contributor under this Part of this Act may, subject to regulations made under **section 97** of this Act, elect to cease to be a contributor to the Judges Superannuation Account and—

- 30           “(a) To leave the contributor’s contributions in the Account and to receive—  
                      “(i) A deferred pension; or  
                      “(ii) A deferred lump sum,—  
                      in accordance with those regulations; or  
35           “(b) To receive a refund of the contributor’s contributions in accordance with those regulations.”

**14. Right to cease to be contributor under Part VI—**

The principal Act is hereby amended by inserting, after section 86F, the following section:

40           “86FA. Any contributor under this Part of this Act may, subject to regulations made under **section 97** of this Act, elect to

cease to be a contributor to the Parliamentary Superannuation Account and—

- “(a) To leave the contributor’s contributions in the Account and to receive—
  - “(i) A deferred pension; or 5
  - “(ii) A deferred lump sum,—
 in accordance with those regulations; or
- “(b) To receive a refund of the contributor’s contributions in accordance with those regulations.”

**15. Right to cease to be contributor under Part VIA— 10**

The principal Act is hereby amended by inserting, after section 88H, the following section:

“88HA. Any contributor under this Part of this Act may, subject to regulations made under **section 97** of this Act, elect to cease to be a contributor to the Fund and— 15

- “(a) To leave the contributor’s contributions in the Fund and to receive—
  - “(i) A deferred pension; or
  - “(ii) A deferred lump sum,—
 in accordance with those regulations; or 20
- “(b) To receive a refund of the contributor’s contributions in accordance with those regulations.”

**16. New sections substituted—**The principal Act is hereby amended by repealing section 93 (as substituted by section 23 of the Government Superannuation Fund Amendment Act (No 2) 1992) and section 94, and substituting the following sections: 25

“**93. Financial statements—**(1) The Superintendent shall ensure that financial statements for the Fund are prepared in respect of each financial year. 30

“(2) The annual financial statements shall be prepared in accordance with generally accepted accounting practice (as defined in section 3 of the Financial Reporting Act 1993) and shall include—

- “(a) A statement of the financial position of the Fund at its balance date: 35
- “(b) An operating statement reflecting the revenues and expenses of the Fund for the financial year:
- “(c) A statement of cash flows reflecting cash flows of the Fund for the financial year. 40

Cf. 1956, No. 47, s. 93; 1989, No. 44, s. 41 (1), (2); 1992, No. 61, s. 23; 1992, No. 142, s. 31

“93A. **Audit**—(1) The Superintendent shall, not later than 90 days after the end of the financial year, forward the annual financial statements to the Audit Office.

5 “(2) The Audit Office shall issue an audit report within 30 days of receipt of the financial statements and return the annual financial statements with audit report attached to the Superintendent.

10 “(3) For the purpose of issuing an audit report, the Audit Office shall have and may exercise all such powers as it has under Part II of the Public Finance Act 1977.

Cf. 1989, No. 44, ss. 38, 41 (3); 1992, No. 142, s. 31

15 “93B. **Annual report**—(1) The Superintendent shall, as soon as practicable after the end of each financial year, supply to the Minister a report on matters affecting the Fund during that year, which report shall include—

“ (a) The financial statements, together with the audit report and management statement relating to those financial statements; and

20 “ (b) The names of, and any changes since the last annual report in, the administration manager or administration managers of the schemes; and

“ (c) The name and address of the person to whom all correspondence from the members should be sent.

25 “(2) A copy of each annual report shall be laid before the House of Representatives by the Minister not later than 6 sitting days after the financial statements are returned by the Audit Office to the Superintendent.

30 “(3) Where the annual report has not been laid before the House of Representatives within 3 weeks after the return of the financial statements by the Audit Office to the Superintendent, the Minister shall—

“ (a) Cause the report to be published not later than 3 weeks after the financial statements are returned by the Audit Office to the Superintendent; and

35 “ (b) Arrange for the publication in the *Gazette* of a notice indicating that the report has been so published.

Cf. 1956, No. 47, s. 93; 1989, No. 10, s. 14; 1989, No. 44, s. 44A; 1994, No. 18, s. 40

40 “94. **Actuarial examinations of Fund**—(1) The Government Actuary shall examine the financial position of the Fund as at dates determined by the Minister, being dates that are no more than 3 years apart.

“(2) The report in respect of each such examination shall—

- “(a) Show the state of the Fund at the date as at which the financial position of the Fund was examined, having regard to the prospective liabilities and assets of, and the probable annual sums required by, the Fund to provide benefits falling due within the ensuing 3 years without affecting or having recourse to the actuarial reserve appertaining to the contributor’s contributions; and 5
- “(b) Be sent to the Superintendent not later than 9 months after the date as at which the financial position of the Fund was examined. 10
- “(3) The Superintendent shall—
- “(a) Send a copy of the report to the Minister; and
- “(b) Make a copy of the report available for inspection by any contributor on request. 15
- “(4) A copy of each report shall be laid before the House of Representatives by the Minister not later than 6 sitting days after receiving it.
- “(5) Where the report has not been laid before the House of Representatives within 3 weeks after the Minister receives it, the Minister shall— 20
- “(a) Cause the report to be published not later than 3 weeks after receiving it; and
- “(b) Arrange for the publication in the *Gazette* of a notice indicating that the report has been so published.” 25
- Cf. 1956, No. 47, s. 94; 1989, No. 10, s. 15; 1989, No. 44, s. 44A; 1994, No. 18, s. 40

**17. New sections inserted**—The principal Act is hereby amended by inserting, after section 95, the following sections:

“**95A. Timing of transfer of employee contributions to Fund**—Every person who deducts contributions to the Fund from remuneration or other money payable to another person, or who otherwise receives contributions payable to the Fund by any person, shall pay those contributions into the Fund at such time or times as are reasonably specified by the Superintendent in a written notice to the person or in a notice in the *Gazette*. 30 35

“**95B. Interest payable on overdue amounts**—Where a person who is required to pay an amount into the Fund under any provision of this Act fails to do so at the time required by this Act, the person shall pay into the Fund on demand by the Superintendent, in addition to that amount, interest on that amount— 40



“(a) For the period from that time (or the date of commencement of this section, whichever is the later) until the time at which the amount is paid into the Fund; and

5 “(b) At a rate determined by the Minister for the purposes of this section by notice in the *Gazette*.

“95c. **Recovery of debts**—Every amount payable by a person into the Fund under any provision of this Act shall constitute a debt due by the person to the Superintendent, and—

10 “(a) May be recovered accordingly by the Superintendent; and

“(b) Following such recovery, shall be paid into the Fund.

“95d. **Information to be provided by controlling authorities**—(1) Every controlling authority in relation to a contributor shall ensure that there is provided to the administration manager of the scheme concerned, at such time or times as are reasonably specified by the administration manager, such information as that manager may reasonably require of that authority for the purpose of administering this Act in relation to that contributor.

20 “(2) An administration manager shall not require a controlling authority to provide information under this section unless the manager has first consulted the authority about the requirement.

25 “(3) Every requirement under this section shall be set out in a written notice to the controlling authority concerned or in a notice in the *Gazette*.”

**18. Regulations**—The principal Act is hereby amended by 30 repealing section 97 (as amended by section 11 of the Regulations (Disallowance) Act 1989 and section 13 of the Government Superannuation Fund Amendment Act (No. 2) 1990), and substituting the following section:

35 “97. (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

40 “(a) Prescribing powers which the Minister may under section 19d of this Act authorise the Superintendent or a person appointed under section 19 or section 19A of this Act to exercise for the purpose of managing the administration of any or all of the schemes or the administration or investment of any or all of the Fund:

“(b) For the purposes of all or any of **sections 28 (1) (b), 61R (1) (b), 71JA, 81OA, 86FA, and 88HA** of this Act:

“(c) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration. 5

“(2) Without limiting the generality of **paragraph (b) of subsection (1)** of this section, any such regulations may prescribe—

“(a) Terms and conditions in relation to any election under any of the sections referred to in that paragraph: 10

“(b) Requirements relating to the contributors who are eligible to make any such election, such as a requirement that the contributor has been accepted for membership of another scheme:

“(c) Restrictions on the period during which any such election may be made: 15

“(d) The way in which any deferred benefit or deferred lump sum or refund is to be determined.”

**19. Technical amendments to principal Act**—(1) The principal Act is hereby amended in the manner indicated in the **Second Schedule** to this Act. 20

(2) This section shall come into force on the day on which this Act receives the Royal assent.

**20. Amendment to Government Superannuation Fund Amendment Act 1972**—(1) Section 6 of the Government Superannuation Fund Amendment Act 1972 is hereby amended by repealing subsection (6). 25

(2) This section shall be deemed to have come into force on the 1st day of April 1988.

## PART II 30

### GENERAL PROVISIONS

#### *Transitional Provisions Relating to Restructuring of Board and Management of Fund and Schemes*

**21. Interim management of schemes**—The Superintendent shall be deemed to have been appointed by the Minister under **section 19** of the principal Act to manage the administration of the schemes until the Minister terminates that appointment by 3 months’ notice in writing or until the 30th day of June 1996, whichever is the earlier. 35

**22. Interim management of investment of Fund**—The Superintendent shall be deemed to have been appointed by the 40

Minister under **section 19** of the principal Act to manage the investment of the Fund until the Minister terminates that appointment by 3 months' notice in writing or until the 30th day of June 1996, whichever is the earlier.

5       **23. Interim custodian of assets of Fund**—The Superintendent shall be deemed to have been appointed by the Minister under **section 19A** of the principal Act to act as custodian of the Fund until the Minister terminates that appointment by 3 months' notice in writing or until the 30th  
10 day of June 1996, whichever is the earlier.

**24. Vesting of property and liabilities of Board**—  
15 (1) Without limiting **section 19** or **section 19A** of the principal Act, on the commencement of this Act, the property and liabilities of the Board shall, by virtue of this Act, vest in the Superintendent.

(2) This section shall have effect notwithstanding any other enactment or rule of law or agreement.

**25. Assets held in Superintendent's name**—All assets of the Fund held by the Superintendent shall be held in the name  
20 "The Superintendent of the Government Superannuation Fund".

**26. Certain matters not affected by restructuring**—  
Nothing effected or authorised by this Act—

25 (a) Shall be regarded as placing the Crown or the Board (or any member of the Board) or any other person in breach of, or default under, any contract, or in breach of trust, or in breach of confidence, or as otherwise making any of them guilty of a civil wrong;  
or

30 (b) Shall be regarded as giving rise to any cause of action against the Crown or the Board or any member of the Board; or

(c) Shall be regarded as giving rise to a right for any person to—

35 (i) Terminate or cancel or modify a contract or agreement; or

(ii) Enforce or accelerate the performance of an obligation; or

40 (iii) Require the performance of an obligation not otherwise arising for performance; or

- (d) Shall be regarded as placing the Crown or the Board (or any member of the Board) or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer or issue of any property or the disclosure of any information; or 5
- (e) Shall release any surety wholly or in part from all or any obligation; or
- (f) Shall invalidate or discharge any contract or surety.

Cf. 1990, No. 126, s. 23

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**27. Taxes and duties**—For the purposes of the Acts specified in the First Schedule to the Inland Revenue Department Act 1974 and any other enactment that imposes or provides for the collection of a tax, duty, levy, or other charge, every person appointed as the custodian shall be treated as if the person were— 15

- (a) A trustee substituted for the Board (as constituted immediately before the commencement of this section) or the previous custodian, as the case may be, as trustee of the Fund: 20
- (b) The same person as the Board (as so constituted).

*Consequential Amendments*

**28. Consequential amendments to principal Act**—The principal Act is hereby consequentially amended in the manner indicated in the Third Schedule to this Act. 25

**29. Consequential amendments to other Acts**—The enactments specified in the Fourth Schedule to this Act are hereby consequentially amended in the manner indicated in that Schedule.

**30. Amendments to Higher Salaries Commission Act 1977**—(1) Section 12 (1) of the Higher Salaries Commission Act 1977 is hereby amended by repealing paragraph (ba), and substituting the following paragraph: 30

“(ba) To consider and make determinations with respect to the superannuation rights and obligations of those members of the House of Representatives who are not contributors under Part VI of the Government Superannuation Fund Act 1956:” 35

(2) Section 12B (2) of the Higher Salaries Commission Act 1977 is hereby amended by repealing paragraph (b), and substituting the following paragraph: 40

5           “(b) The superannuation rights and obligations of those  
              judicial officers specified in subsection (1) of this  
              section who are not contributors under Part IV or  
              Part V or Part V<sub>A</sub> of the Government  
              Superannuation Fund Act 1956:”.

10           **31. References to Board in enactments and  
instruments**—(1) Unless the context otherwise requires, every  
reference in any enactment (other than this Act) or in any  
regulation, order, or notice made or given under any such  
enactment, or in any instrument to the Board shall be read and  
construed as a reference to the Superintendent.

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## SCHEDULES

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Clause 3 (2)

### FIRST SCHEDULE

NEW THIRD SCHEDULE ADDED TO PRINCIPAL ACT

Section 12b

### “THIRD SCHEDULE

“FURTHER PROVISIONS RELATING TO BOARD

**1. Absent members**—(1) The Minister may at any time appoint any person to act for any member of the Board at any meeting or meetings in the event of that member's absence.

(2) While any person is attending any meeting of the Board pursuant to this section, that person shall be deemed for all purposes to be a member of the Board, and the fact that any person so attends shall be sufficient evidence of that person's authority to do so.

**2. Acts not invalidated because of vacancy, etc.**—No act or proceeding of the Board, or of any person acting as a member of the Board, shall be invalidated because—

- (a) There was a vacancy in the membership of the Board; or
- (b) It is subsequently discovered, in relation to a person acting as a member of the Board, that—
  - (i) There was a defect in the appointment of that person; or
  - (ii) That person was incapable of being a member of the Board;
 or
  - (iii) That person had ceased to be a member of the Board.

**3. Fees and travelling allowances**—(1) The Board is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) The members of the Board may be paid fees and allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

**4. Meetings of Board**—(1) The Board shall meet for the conduct of its business at such times and places as it considers necessary.

(2) The quorum for a meeting of the Board shall be 3 members of the Board.

(3) The Board shall decide every question before it at a meeting by a majority of members.

(4) The Chairperson shall preside at every meeting of the Board at which he or she is present. If the Chairperson is not present at a meeting the members present shall appoint one of them to preside at that meeting.

(5) A resolution signed, or assented to by letter, facsimile transmission, telex, or other method of communication, by not less than 3 members shall have the same effect as a resolution duly passed at a meeting of the Board.

(6) Subject to the provisions of this Act, the Board shall determine its own procedure.

**5. Provision of assistance to the Board**—The Minister shall ensure that the Board is provided with such secretarial, legal, and other services as may be necessary to enable the Board to carry out its function and exercise its powers.

FIRST SCHEDULE—*continued*

NEW THIRD SCHEDULE ADDED TO PRINCIPAL ACT—*continued*

“THIRD SCHEDULE—*continued*

“FURTHER PROVISIONS RELATING TO BOARD—*continued*

**6. Protection of members**—No member of the Board who does any act in pursuance or intended pursuance of the function of the Board shall be under any civil or criminal liability in respect of the act, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he or she has acted in bad faith.”

SECOND SCHEDULE

Section 19

TECHNICAL AMENDMENTS TO PRINCIPAL ACT

| Section             | Amendment  |
|---------------------|--|
| Section 60A (3) (b) | .. By omitting from subparagraphs (i) and (ii) the word “additional” from each place where it occurs.                              |
| Section 61R (6) (b) | .. By omitting from subparagraphs (i) and (ii) the word “additional” from each place where it occurs.                              |
| Section 61T (2)     | .. By omitting the expression “42 (except subsections (1) and (2))”, and substituting the expression “42 (except subsection (2))”. |
| Section 71P (2) (d) | .. By omitting from subparagraphs (i) and (ii) the word “additional” from each place where it occurs.                              |
| Section 88J (2) (d) | .. By omitting from subparagraphs (i) and (ii) the word “additional” from each place where it occurs.                              |
| Section 88M (2)     | .. By omitting the expression “42 (except subsections (1) and (2))”, and substituting the expression “42 (except subsection (2))”. |
| Section 88W (2) (d) | .. By omitting from subparagraphs (i) and (ii) the word “additional” from each place where it occurs.                              |
| Section 88Z (2)     | .. By omitting the expression “42 (except subsections (1) and (2))”, and substituting the expression “42 (except subsection (2))”. |

## Section 28

## THIRD SCHEDULE

## CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT

## PART I

*References to "Superintendent" substituted for references to "Board"*

Sections 2 (1) (definitions of terms "child", "contributory service", and "spouse"), 2 (2), 22 (1), 23 (1), 23 (3), 23A (5), 23A (6), 24 (1), 25, 26 (5), 26 (6), 27, 29 (3), 30 (2), 30 (3), 30 (4), 30 (6) (b), 32, 33 (1), 33 (1A), 33 (3), 35 (1c), 35 (3) (d), 35 (7), 35 (8), 36 (1), 36 (2), 36 (2A), 36 (4), 36 (5), 37 (1), 37 (2), 37 (3), 38 (3), 40 (3), 40 (4), 40 (7) (b), 40 (8), 40 (9), 40 (11), 41 (2), 42 (6), 43 (3) (a), 43 (4), 43 (5), 43 (6), 44, 45 (2) (b) (ii), 45 (6) (b), 47 (2), 47 (3), 47 (4), 47 (5), 48 (1), 48 (3), 48 (5), 48 (6), 48 (12), 50 (6), 50A (1), 50B (1), 51 (2), 51 (2B), 52A (3), 52A (5), 52A (6), 53, 54 (1), 55, 58 (4), 60A (3) (a), 61 (6), 61A (4), 61C (2), 61C (4), 61D, 61E (4), 61H, 61K (2), 61K (4), 61K (5), 61L (3), 61L (4), 61L (7) (b), 61L (8) (b), 61Q (2), 61Q (5), 61Q (6), 61s (1) (c), 61s (1) (d), 62 (2), 63A (3), 63A (4), 63B (4), 63B (6) (b), 64 (2), 65 (2), 65 (3) (a), 65 (4), 66 (1), 66 (2), 66A, 67 (4), 67 (5), 68 (1), 68 (4), 68 (5), 68 (6), 68 (7), 69 (1), 69 (1A), 69 (1B), 69 (2), 70 (3), 70 (4), 70 (5), 71c (2) (d), 71c (2) (e), 71c (3), 71c (4), 71E (1), 71E (3), 71G (3), 71H (1), 71H (2), 71H (3), 71H (4), 71H (5), 71H (6), 71I (3), 71J (1), 71J (2), 71J (3), 71K (1) (b), 71K (3), 71M (6), 71M (7), 71O (1), 71O (2), 71O (3), 71O (4) (a), 71Q (2), 71Q (3), 71Q (4), 71Q (5), 71R (1), 71R (4), 71R (5), 81O (2), 81O (4), 81O (5), 81P (1) (b), 81P (1) (c), 83B (5), 84A (4), 84C (1), 84C (3), 84C (4), 84C (5), 86E (3), 86E (6), 86E (7), 88B (4), 88F (3), 88F (5), 88F (6), 88K (2), 88K (3), 88K (5), 88L, 88T (3), 88T (5), 88X (2), 88X (3), 88X (5), 88Y, 89 (1), 89 (2), 89E, 90A, 91 (6), 91 (7), 91B (3).

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THIRD SCHEDULE—*continued*

CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT—*continued*

PART II

*Other Consequential Amendments*

| Section              | Consequential Amendment  |
|----------------------|--|
| Section 28 .. ..     | <p>By omitting from subsection (4) (as substituted by section 5 of the Government Superannuation Fund Amendment Act (No. 2) 1990) the words “payment shall be made”, and substituting the words “, if the contributor elected to take a refund, that refund shall be paid”.</p> <p>By adding, as subsection (5), the following subsection:</p> <p>“(5) Notwithstanding anything to the contrary in this Act, nothing in this Part of this Act shall apply in respect of any period of Government service after the effective date of an election under subsection (1) (b) of this section.”</p>            |
| Section 34 .. ..     | By repealing this section.   |
| Section 61A .. ..    | By repealing subsection (1B) (as substituted by section 2 (1) of the Government Superannuation Fund Amendment Act (No. 2) 1991).   |
| Section 61R .. ..    | <p>By omitting from subsection (4) (as substituted by section 9 of the Government Superannuation Fund Amendment Act (No. 2) 1990) the words “any payment shall be made”, and substituting the words “, if the contributor elected to take a refund, that refund shall be paid”.</p> <p>By inserting, after subsection (4), the following subsection:</p> <p>“(4A) Notwithstanding anything to the contrary in this Act, nothing in this Part of this Act shall apply in respect of any period of Government service after the effective date of an election under subsection (1) (b) of this section.”</p> |
| Section 71 (3) .. .. | By omitting the words “Government Superannuation Board, in its discretion,”, and substituting the words “Superintendent, in his or her discretion,”.   |
| Section 71B .. ..    | <p>By adding the following subsection:</p> <p>“(4) Notwithstanding anything to the contrary in this Act, nothing in this Part of this Act shall apply in respect of any</p>  |

THIRD SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT—*continued*PART II—*continued**Other Consequential Amendments—continued*

| Section                       | Consequential Amendment   |
|-------------------------------|---|
| Section 71B— <i>continued</i> | period of service as a member of the regular forces after the effective date of an election under <b>section 71JA</b> of this Act.”   |
| Section 81B .. ..             | By adding the following subsection:<br>“(6) Notwithstanding anything to the contrary in this Act, nothing in this Part of this Act shall apply in respect of any period of judicial service after the effective date of an election under <b>section 81OA</b> of this Act.”                                   |
| Section 81XA .. ..            | By adding, as subsection (2), the following subsection:<br>“(2) Notwithstanding anything to the contrary in this Act, nothing in this Part or Part VA of this Act shall apply in respect of any period of service as a Master after the effective date of an election under <b>section 81OA</b> of this Act.” |
| Section 82A .. ..             | By adding the following subsection:<br>“(3) Notwithstanding anything to the contrary in this Act, nothing in this Part of this Act shall apply in respect of any period of service as a member after the effective date of an election under <b>section 86FA</b> of this Act.”                                |
| Section 88A .. ..             | By adding the following subsection:<br>“(3) Notwithstanding anything to the contrary in this Act, nothing in this Part of this Act shall apply in respect of any period of service as a member of the Police after the effective date of an election under <b>section 88HA</b> of this Act.”                  |

THIRD SCHEDULE—*continued*

CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT—*continued*

PART II—*continued*

*Other Consequential Amendments—continued*

| Section  | Consequential Amendment  |
|--|--|
| Section 95 (as substituted by section 11 (1) of the Government Superannuation Fund Amendment Act (No. 2) 1990 and amended by section 3 of the Government Superannuation Fund Amendment Act (No. 2) 1991 and section 42 of the Public Finance Amendment Act 1992) | By omitting from subsection (2) the words “as may be approved by the Board”, and substituting the words “as may be reasonably specified by the Superintendent”.<br>By repealing subsection (3).  |
| Section 95 (as enacted by section 12 of the Government Superannuation Fund Amendment Act (No. 2) 1990 and amended by section 4 of the Government Superannuation Fund Amendment Act (No. 2) 1991 and section 42 of the Public Finance Amendment Act 1992)         | By omitting from subsection (1) the words “as may be specified by the Board”, and substituting the words “as may be reasonably specified by the Superintendent”.<br>By repealing subsection (4). |

PART III

CONSEQUENTIAL AMENDMENTS TO GOVERNMENT SUPERANNUATION FUND AMENDMENT ACT 1969

*References to “Superintendent” substituted for references to “Board”*

Sections 2 (3), 2 (4), 2 (6), 2 (7), 10 (b), 11

PART IV

CONSEQUENTIAL AMENDMENTS TO GOVERNMENT SUPERANNUATION FUND AMENDMENT ACT 1970

*References to “Superintendent” substituted for references to “Board”*

Sections 15, 17 (4)

FOURTH SCHEDULE  
ENACTMENTS AMENDED

## Section 29

| Title of Act  | Amendment  |
|---|--|
| 1947, No. 16—The District Courts Act 1947 (R.S. Vol. 28, p. 57) | By repealing paragraph (b) of the definition of the term “employing department” in section 84L, and substituting the following paragraph:<br>“(b) In relation to a person to whom any retiring allowance or pension or other payment of a similar nature is payable—<br>“(i) Out of the Government Superannuation Fund, the Superintendent:<br>“(ii) Out of the National Provident Fund, the Board of Trustees of the National Provident Fund:”.   |
| 1957, No. 87—The Summary Proceedings Act (R.S. Vol. 9, p. 583)  | By repealing paragraph (b) of the definition of the term “employing department” in section 106B (as substituted by section 14 of the Summary Proceedings Amendment Act 1987), and substituting the following paragraph:<br>“(b) In relation to a person to whom any retiring allowance or pension or other payment of a similar nature is payable—<br>“(i) Out of the Government Superannuation Fund, the Superintendent:<br>“(ii) Out of the National Provident Fund, the Board of Trustees of the National Provident Fund:”.                                 |
| 1958, No. 109—The Police Act 1958 (R.S. Vol. 26, p. 669)        | By omitting from section 28 (5A) (a) (as inserted by section 5 (2) of the Police Amendment Act 1992) the words “Government Superannuation Board”, and substituting the words “Superintendent of the Government Superannuation Fund”.<br>By omitting from section 28A (1) the words “Government Superannuation Board”, and substituting the words “Superintendent of the Government Superannuation Fund”.<br>By omitting from section 28c (1A) (a) (as inserted by section 8 (2) of the Police Amendment Act 1992) the words “Government Superannuation Board”, |

FOURTH SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

| Title of Act   | Amendment  |
|--|--|
| 1958, No. 109—The Police Act 1958 (R.S. Vol. 26, p. 669)— <i>continued</i> | <p>and substituting the words “Superintendent of the Government Superannuation Fund”.</p> <p>By omitting from section 28D(1A)(a) (as inserted by section 9(2) of the Police Amendment Act 1992) the words “Government Superannuation Board”, and substituting the words “Superintendent of the Government Superannuation Fund”.</p>                                    |
| 1959, No. 85—The Government Superannuation Fund Amendment Act 1959         | By repealing sections 3 and 4.   |
| 1961, No. 120—The Finance Act 1961 (R.S. Vol. 2, p. 520)                   | By omitting from section 9(5) the words “the Government Superannuation Board may allow in that behalf, such sum as the Board may fix”, and substituting the words “the Superintendent of the Government Superannuation Fund may allow in that behalf, such sum as the Superintendent may fix”.   |
| 1962, No. 130—The Government Superannuation Fund Amendment Act 1962        | By repealing section 3.  |
| 1966, No. 38—The Niue Act 1966   | By omitting from section 670(5) the words “the Government Superannuation Board determines, such sum as the Board fixes”, and substituting the words “the Superintendent of the Government Superannuation Fund determines, such sum as the Superintendent fixes”.   |
| 1969, No. 52—The Administration Act 1969 (R.S. Vol. 19, p. 1)              | By omitting from the definition of the term “trustees of a superannuation fund” in section 65(1) the words “and includes the Government Superannuation Fund Board and the National Provident Fund Board”, and substituting the words “and includes the Superintendent of the Government Superannuation Fund and the Board of Trustees of the National Provident Fund”. |

FOURTH SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

| Title of Act   | Amendment  |
|--|--|
| 1976, No. 30—The Government Superannuation Fund Amendment Act 1976         | By repealing section 4.  |
| 1976, No. 65—The Income Tax Act 1976 (R.S. Vol. 29-1 and 29-2)             | By repealing section 232E (as inserted by section 17 of the Income Tax Amendment Act 1989), and substituting the following section:<br><b>“232E. Government Superannuation Fund</b> —Income tax shall be payable in respect of the Government Superannuation Fund in the same manner in all respects as if the Fund were a superannuation scheme that is a trust, and the custodian from time to time appointed under section 19A (1) of the Government Superannuation Fund Act 1956 were the trustee of that scheme.” |
| 1986, No. 132—The Government Superannuation Fund Amendment Act 1986        | By repealing section 5.  |
| 1988, No. 119—The Trustee Amendment Act 1988                               | By repealing so much of the Third Schedule as relates to the Superannuation Regulations 1957 and the Superannuation Regulations 1957, Amendment No. 3.   |
| 1989, No. 44—The Public Finance Act 1989                                   | By repealing so much of the First Schedule as relates to section 16 of the Government Superannuation Fund Act 1956.<br>By omitting from the Fourth Schedule the item relating to the Government Superannuation Board.  |
| 1989, No. 143—The Regulations (Disallowance) Act 1989                      | By repealing so much of the Schedule as relates to the Government Superannuation Fund Act 1956.  |
| 1990, No. 77—The Government Superannuation Fund Amendment Act (No. 2) 1990 | By repealing sections 6 and 13.  |
| 1991, No. 142—The Child Support Act 1991                                   | By repealing section 186 (1) (b), and substituting the following paragraph:<br>“(b) In relation to a person to whom any retiring allowance or  |

FOURTH SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

| Title of Act   | Amendment  |
|--|--|
| 1991, No. 142—The Child Support Act 1991— <i>continued</i>                 | pension or other payment of a similar nature is payable—<br>“(i) Out of the Government Superannuation Fund, the Superintendent:<br>“(ii) Out of the National Provident Fund, the Board of Trustees of the National Provident Fund:”. |
| 1992, No. 61—The Government Superannuation Fund Amendment Act (No. 2) 1992 | By repealing sections 2 (1), 3, and 23.  |