

# Government Superannuation Fund Amendment Bill

Government Bill

## Explanatory note

### General policy statement

This Bill arises from concern about the lack of consistent treatment of annual cost of living adjustments to Government Superannuation Fund (**GSF**) and National Provident Fund (**NPF**) annuitants' benefits. Cabinet agreed as part of Budget 2008 that all GSF and NPF annuitants' benefits should be treated consistently with regard to annual cost of living adjustments and that all benefits should be annually adjusted based on 100% of the changes in the Consumers Price Index (**CPI**).

This Bill seeks to ensure that all GSF annuitants' benefits are adjusted based on 100% of the changes in the CPI, with effect from 1 April 2009.

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* provides that the cost of living adjustments provisions come into force on **1 April 2009**. It also provides that the change to section 91A(2)(b) in *clause 5* is backdated to 1 April 1990, which was the effective date of the error that *clause 5* seeks to correct.

*Clauses 3 and 4* increase certain GSF annuitants' annual cost of living increases to 100% in respect of periods after **1 April 2009**. There are 2 main effects—

- for annuitants whose first CPI increase is on or after **1 April 2009**, all payments under the superannuation scheme will be adjusted to keep pace with inflation by 100% of the movement in the CPI:
- for annuitants whose first CPI increase is before **1 April 2009**, all payments under the superannuation scheme in respect of periods after **1 April 2009** will be adjusted to keep pace with inflation by 100% of the movement in the CPI since the previous increase.

Certain groups of annuitants already receive 100% annual cost of living adjustments, including contributors under the new GSF schemes (Parts 2A, 3A, 4, 5A, 6A, and 6B of the Government Superannuation Fund Act 1956) and those whose contributory service commenced after 15 June 1969. Those groups are unaffected by this Bill.

Certain groups of existing annuitants receive lesser percentage adjustments in respect of the period between qualifying for the annuity and the date of the payments. That lesser percentage adjustment will continue to apply in respect of periods before **1 April 2009**.

There is no backdating. Increased payments are to be made only from **1 April 2009** onwards.

*Clause 5* corrects an error that was made in the Government Superannuation Fund Amendment Act 1990. Section 30(2) of that Act attempted to alter the rules relating to elections to surrender a proportion of annuities and to instead receive cash payments. Under the original law, 9 times the amount by which the annuity is reduced by the surrender was the limit for surrenders. In 1990, Parliament intended to increase this from 9 times to 10.8 times, and the law has been treated in the intervening period as if that change had been made. Many publishers have shown the law as if the error had not been made. However, the error needs to be corrected by Parliament properly. The amendment in *clause 5* clarifies that 10.8 times is the correct number.

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*Hon Dr Michael Cullen*

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Government Superannuation Fund Amendment Act **2008**.

**2 Commencement**

- (1) **Section 5** is deemed to have come into force on **1 April 1990**. 5
- (2) The rest of this Act comes into force on **1 April 2009**.

### 3 Amendments to Government Superannuation Fund Amendment Act 1969

- (1) This section amends the Government Superannuation Fund Amendment Act 1969.
- (2) Section 5 is amended by repealing subsection (1) and substituting the following subsections: 5
- “(1) **Subsection (1A)** (which provides for 100% CPI adjustment) applies to the following 2 classes of persons:
- “(a) any person in respect of whom the initial adjustment under section 7 is required to be made on or after **1 April 2009**: 10
- “(b) any person to whom clause 3 of Schedule 2 applies.
- “(1A) If this subsection applies, the aggregate percentage of increase to be applied to a basic allowance in accordance with section 6 for the purpose of determining the annual adjustment for any year must be the percentage (if any) calculated to 2 decimal places, as certified by the Government Statistician, by which the all groups index number of the New Zealand Consumers Price Index for the December quarter of the calendar year immediately preceding that which includes the date for the annual adjustment exceeds the basic index number. 15 20
- “(1B) **Subsection (1C)** applies to any person—
- “(a) in respect of whom the initial adjustment under section 7 is required to be made before **1 April 2009**; and
- “(b) to whom clause 1 or 2 of Schedule 2 or section 2(8) applies. 25
- “(1C) If this subsection applies, the aggregate percentage of increase to be applied to a basic allowance in accordance with section 6 for the purpose of determining the annual adjustment each year must be calculated in accordance with the following formula: 30

$$\left\{ \left( 1 + \frac{P1}{100} \right) \times \left( 1 + \frac{P2}{100} \right) - 1 \right\} \times 100$$

where—

- P1 is the percentage (if any) calculated to 2 decimal places, as certified by the Government Statistician and proportionately adjusted (where appropriate) in accordance with clauses 1 and 2 of Schedule 2 or section 2(8) by which the all groups index number of the New Zealand 35

Consumers Price Index for the December 2007 quarter exceeds the basic index number; and

P2 is the percentage (if any) calculated to 2 decimal places, as certified by the Government Statistician, by which the all groups index number of the New Zealand Consumers Price Index for the December quarter of the calendar year immediately preceding that which includes the date for the annual adjustment exceeds the all groups index number of the New Zealand Consumers Price Index for the December 2007 quarter. 5 10

“(1D) In this section, unless the context otherwise requires,—

“**basic index number** means—

“(a) in any case where the second proviso to section 7(2) applies, the basic index number for the December quarter of the calendar year immediately preceding the calendar year in which the first day of the beneficiary’s qualifying year (as determined under section 7(1)) falls: 15

“(b) in any other case where the date of qualification determined under Schedule 3 falls between 1 October and 31 March (both days inclusive), the basic index number for the June quarter of the calendar year in which the first day of the beneficiary’s qualifying year (as determined under section 7(1)) falls: 20

“(c) in any case where neither **paragraph (a)** nor **(b)** applies, the basic index number for the December quarter of the calendar year immediately preceding the calendar year in which the date of qualification (as determined under Schedule 3) falls: 25

“(d) in any case where the date of qualification is 31 March 1956, the annual all groups index number of the New Zealand Consumers Price Index for the calendar year 1955, despite anything to the contrary in **paragraphs (a) to (c)**. 30

“(1E) **Subsections (1) to (1D)** are subject to subsections (2) to (5).”

(3) Section 5 is amended by adding the following subsection: 35

“(5) No person is entitled, because of the amendments made to this Act by **section 3** of the Government Superannuation Fund Amendment Act **2008**, to any increased payment for any re-

tiring allowance, annual allowance, or annuity that was paid or is payable for any period before **1 April 2009.**”

**4 Amendment to Government Superannuation Fund Amendment Act 1979**

(1) This section amends the Government Superannuation Fund Amendment Act 1979. 5

(2) Section 7 is repealed and the following section substituted:

**“7 Percentage of annual adjustment**

“(1) The aggregate percentage of increase to be applied to a basic allowance in accordance with section 5 for the purpose of determining the annual adjustment for any year must be the percentage that is calculated under **section 5(1A)** or **5(1C)** of the Government Superannuation Fund Amendment Act 1969, as the case may be, calculated as if— 10

“(a) **basic index number** were— 15

“(i) in any case where the date of qualification falls between 1 October and 31 March (both days inclusive), the basic index number for the preceding June quarter; and

“(ii) in any case where the date of qualification falls between 1 April and 30 September (both days inclusive), the basic index number for the preceding December quarter; and 20

“(b) **initial adjustment under section 7** were an initial adjustment under section 6 of this Act. 25

“(2) No person is entitled, because of the amendments made to this Act by **section 4** of the Government Superannuation Fund Amendment Act **2008**, to any increased payment for any retiring allowance, annual allowance, or annuity that was paid or is payable for any period before **1 April 2009.**” 30

**5 Amendment to Government Superannuation Fund Act 1956**

(1) This section amends the Government Superannuation Fund Act 1956.

- (2) Section 91A(2)(b) is amended by omitting “9” and substituting “10.8”.
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