

[AS REPORTED FROM THE FINANCE AND EXPENDITURE
COMMITTEE]

House of Representatives, 22 March 1988.

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.

Hon. R. O. Douglas

**GOVERNMENT SUPERANNUATION FUND
AMENDMENT (NO. 2)**

ANALYSIS

Title	
1. Short Title and commencement	11. Sections to apply to contributors and contributions under Part IIA
PART I	
ADJUSTMENTS	
2. Beneficiary's date of qualification for adjustments	12. Contributions and contributory service where contributor under Part IIIA disciplined or service otherwise interrupted
3. Limit on increased retiring allowance payable	13. Benefits where contributor under Part IIIA leaves regular forces and is not entitled to retiring allowance
PART II	
MISCELLANEOUS AMENDMENTS	
4. Interpretation	14. Option where contributor under Part IIIA on leave of absence without salary
5. Application of principal Act to certain employees of State enterprises	15. Sections to apply to contributors and contributions under Part IIIA
6. Benefits where contributor under Part II dies and leaves spouse	16. Sections to apply to contributors and contributions under Part VIA
7. Benefits where contributor under Part IIA dies before becoming entitled to retiring allowance and leaves spouse	17. Sections to apply to contributors and contributions under Part VIB
8. Benefits where contributor under Part IIA dies after becoming entitled to retiring allowance and leaves spouse	18. Payment of charge
9. Right to cease to be contributor under Part IIA	19. Effect on contributor of payment to chargeholder
10. Rights and benefits under Part IIA where contributor ceases Government service	20. Amendment to Government Superannuation Fund Amendment Act 1985 Schedule

*Price
incl. GST \$1.90*

No. 33—2

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 (No. 2) 1988, and shall be read together with and deemed part of the Government Superannuation Fund Act 1956* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of April 1988.

PART I

ADJUSTMENTS

2. Beneficiary's date of qualification for adjustments—

(1) The Government Superannuation Fund Amendment Act 1969 is hereby amended by repealing the Third Schedule (as substituted by section 33(6) of the Government Superannuation Fund Amendment Act 1986 and amended by section 7 of the Government Superannuation Fund Amendment Act 1987), and substituting the Schedule set out in the Schedule to this Act.

(2) The following enactments are hereby consequentially repealed:

(a) Section 5 (1A) and (1B), the proviso to the definition of "date of qualification" in section 7 (1), the third proviso to section 7 (2), and section 7 (5) and (6) of the Government Superannuation Fund Amendment Act 1969:

(b) Section 5 of the Government Superannuation Fund Amendment Act 1972:

(c) Section 13 (3) of the Government Superannuation Fund Amendment Act 1976:

(d) Section 15 (2) and section 33 (3) and (6) of the Government Superannuation Fund Amendment Act 1986:

(e) Section 7 of the Government Superannuation Fund Amendment Act 1987.

(3) No person shall be entitled, by reason of the enactment of this section, to any increased payment in respect of any retiring allowance that was paid or is payable in respect of any period before the *(1st)* 28th day of April 1988.

*R.S. Vol. 21, p. 209
Amendment: 1987, No. 187

3. Limit on increased retiring allowance payable—(1)
Except as provided in **subsection (2)** of this section, this section applies to any person—

- 5 (a) To whom a retiring allowance is payable under Part II or Part III of the principal Act; and
(b) Whose retiring allowance becomes or became payable at any time before the date on which that person attains or attained the age of 60 years.

10 (2) This section does not apply to any person to whom a retiring allowance is payable under section 36 or section 69 of the principal Act.

15 (3) The annual rate of the retiring allowance payable to any person to whom this section applies shall not, by reason of the enactment of **section 2** of this Act, exceed by more than five hundred dollars the annual rate of the retiring allowance that would have been paid if **section 2** of this Act had not been enacted.

20 (4) The Governor-General may, from time to time by Order in Council, increase the amount specified in **subsection (3)** of this section with effect from any date specified in the Order.

New

3A. Special provision in relation to annuities—(1) For the purpose of calculating any annuity payable under section 45 (2) or (3) of the principal Act, the rate of the retiring allowance to which the contributor was entitled at the date of the contributor's death shall be deemed to include any adjustments that would have been payable if **section 2** of this Act had been enacted before the date of the contributor's death and if (except in the case of a contributor entitled to a retiring allowance under section 36 or section 69 of the principal Act) **section 3** of this Act had applied to that contributor.

35 (2) No person shall be entitled, by reason of the enactment of this section, to any increased payment in respect of any annuity that was paid or is payable in respect of any period before the **28th day of April 1988.**

PART II

MISCELLANEOUS AMENDMENTS

4. Interpretation—Section 2 of the principal Act is hereby amended by repealing the definition of the term "contributory service", and substituting the following definition:

"Contributory service", in relation to any contributor,—

“(a) Means any period in respect of which he or she has been, or is deemed by virtue of any enactment to have been, a contributor to the Fund, or to any Superannuation Fund abolished by the Superannuation Act 1947; but 5

“(b) Does not include, for the purposes of calculating any allowance, annuity, refund, or other benefit, any period in respect of which any other allowance, annuity, refund, or other benefit has already been paid or is already being paid from the Fund, or any such abolished Fund, unless— 10

“(i) That other allowance, annuity, refund, or other benefit has been repaid to the Fund, or any such abolished Fund; or

“(ii) This Act otherwise provides or the Board otherwise determines: ”. 15

5. Application of principal Act to certain employees of State enterprises—(1) Section 2A (1) of the principal Act (as inserted by section 3 of the Government Superannuation Fund Amendment Act 1986) is hereby amended by repealing paragraph (a), and substituting the following paragraph: 20

“(a) Who—

“(i) Becomes an employee of an original State enterprise at any time before the first day of January 1988; or 25

“(ii) Becomes an employee of a new State enterprise at any time within 9 months of the date of establishment of that enterprise; and”.

(2) Section 2A of the principal Act (as so inserted) is hereby further amended by inserting, after subsection (1), the following subsection: 30

“(1A) For the purposes of subsection (1) (a) of this section,—

“(a) ‘Date of establishment’, in relation to any new State enterprise, means the date declared, by the Minister of Finance by notice in the *Gazette* for the purposes of this section, to be the date on which any new State enterprise is or was established; and 35

“(b) ‘New State enterprise’ means a State enterprise other than an original State enterprise; and

“(c) ‘Original State enterprise’ means a State enterprise that was named in the Second Schedule to the State-Owned Enterprises Act 1986 on the 18th day of December 1986.” 40

(3) Section 2 of the principal Act is hereby consequentially amended by repealing the definition of the term “State enterprise” (as inserted by section 2 (2) of the Government Superannuation Fund Amendment Act 1986).

5 (4) Section 2 (2) of the Government Superannuation Fund Amendment Act 1986 is hereby consequentially repealed.

6. Benefits where contributor under Part II dies and leaves spouse—Section 45 (3)(a) of the principal Act (as substituted by section 11 of the Government Superannuation
10 Fund Amendment Act 1985) is hereby amended by inserting, after the words “contributor’s death”, the words “, disregarding the effect of any election made under section 40 or section 48 of this Act”.

7. Benefits where contributor under Part IIA dies before becoming entitled to retiring allowance and leaves spouse—Section 61M(1) of the principal Act (as inserted by section 13 of the Government Superannuation Fund
15 Amendment Act 1985) is hereby amended by repealing paragraph (b), and substituting the following paragraph:

20 “(b) Both—

“(i) 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 retired on the date of the contributor’s death on the ground of medical
25 unfitness for further duty and had the contributor been entitled to make an election under section 91 at the date of the contributor’s death; and

30 “(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 the proportion of
35 the retiring allowance which the contributor would have had to surrender under section 91 of this Act for the purpose of providing a lump sum equal to that payable under subparagraph (i) of this paragraph.”

40 **8. Benefits where contributor under Part IIA dies after becoming entitled to retiring allowance and leaves spouse**—(1) Section 61N (2) of the principal Act (as inserted by

section 13 of the Government Superannuation Fund Amendment Act 1985) is hereby amended by inserting, after the word “contributor” where it first appears, the words “under this Part of this Act”.

(2) Section 61N(2) of the principal Act is hereby further amended by inserting in paragraph (b), after the words “contributor’s death”, the words “; disregarding the effect of any election made under section 40 or section 48 of this Act (as applied by section 61T(2) of this Act)”. 5

9. Right to cease to be contributor under Part IIA— 10

(1) Section 61R(8)(a)(ii) of the principal Act (as inserted by section 13 of the Government Superannuation Fund Amendment Act 1985) is hereby amended by omitting the words “calculated under section 61L(2)”, and substituting the words “under section 61I(4)”. 15

(2) Section 61R(9) of the principal Act (as so inserted) is hereby amended by inserting, after the words “calculated under section 61L of this Act”, the words “as if the person was entitled to a retiring allowance under section 61I(4) of this Act”. 20

(3) Section 61R(9) of the principal Act is hereby further amended by repealing paragraph (c), and substituting the following paragraph:

“(c) For the purposes of the definition of ‘appropriate percentage’ in section 61L(6) of this Act, the date of the contributor’s death shall be treated as the date of the contributor’s retirement.” 25

10. Rights and benefits under Part IIA where contributor ceases Government service—

(1) Section 61s(1)(d) of the principal Act (as inserted by section 13 of the Government Superannuation Fund Amendment Act 1985) is hereby amended by omitting the words “in which the contributor is not a contributor to the Fund”, and substituting the words “when the contributor is not contributing to the Fund”. 30 35

(2) Section 61s(4)(a)(ii) of the principal Act (as so inserted) is hereby amended by omitting the words “calculated under section 61L(2)”, and substituting the words “under section 61I(4)”. 35

(3) Section 61s(7) of the principal Act (as so inserted) is hereby amended by inserting, after the words “calculated under section 61L of this Act”, the words “as if the person was 40

entitled to a retiring allowance under section 61I(4) of this Act”.

(4) Section 61s(7) of the principal Act is hereby further amended by repealing paragraph (c), and substituting the following paragraph:

5 “(c) For the purposes of the definition of ‘appropriate percentage’ in section 61L(6) of this Act, the date upon which the retiring allowance is first to be paid shall be treated as the date of the contributor’s retirement.”

10

11. Sections to apply to contributors and contributions

under Part II A—(1) Section 61T(2) of the principal Act (as inserted by section 13 of the Government Superannuation Fund Amendment Act 1985) is hereby amended by omitting the expression “44,”.

15 (2) Section 61L of the principal Act (as so inserted) is hereby consequentially amended by repealing subsection (5).

12. Contributions and contributory service where contributor under Part III A disciplined or service

20 **otherwise interrupted**—(1) Section 71I(1) of the principal Act (as inserted by section 15(1) of the Government Superannuation Fund Amendment Act 1986) is hereby amended by omitting the words “pursuant to the Armed Forces Discipline Regulations 1983 or any regulations made in substitution for those regulations the contributor”, and substituting the words “, pursuant to the Armed Forces Discipline Act 1971 or any regulations made under that Act, a contributor”.

25 (2) Section 71I(2) of the principal Act (as so inserted) is hereby amended by omitting the words “those regulations”, and substituting the expression “that Act or any regulations made under that Act”.

13. Benefits where contributor under Part III A leaves regular forces and is not entitled to retiring allowance—

35 Section 71K of the principal Act (as inserted by section 15(1) of the Government Superannuation Fund Amendment Act 1986) is hereby amended by adding the following subsections:

40 “(6) Any contributor who is entitled to receive a payment under subsection (1) of this section and who has not attained the age of 50 years may, at any time before the payment is made, elect to defer the contributor’s right to payment under

subsection (1) of this section and to leave the contributor's contributions in the Fund.

“(7) Any election under **subsection (6)** of this section may be revoked at any time.

“(8) In any case where a person has elected to leave contributions in the Fund under **subsection (6)** of this section, the provisions of subsections (6) and (7) of section 61R of this Act shall apply in all respects to that person, with such modifications as may be necessary, as if—

“(a) Every reference to Government service were a reference to service in the regular forces; and

“(b) Every reference to section 61S were a reference to section 71K of this Act.

“(9) Where a contributor who has elected to leave contributions in the Fund under **subsection (6)** of this section dies while any contributions are held in the Fund on his or her behalf and while not contributing and leaves a spouse, sections 61M and 61Q of this Act shall not apply and there shall be paid out of the Fund to the spouse, at the election of the spouse,—

“(a) A refund of the contributor's contributions to the Fund increased in respect of contributions paid in respect of any period of contributory service under Part III or this Part of this Act by 0.25 percent for every month between the date of commencement of the contributor's contributory service under Part III or this Part of this Act and the date of the contributor's death; or

“(b) An annuity of 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 71G of this Act on the date of the contributor's death as if—

(i) The date on which the contributor was discharged or released from the regular forces was the date of the contributor's retirement; and

(ii) The final average earnings of the contributor were 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 of the contributor's death exceeds the index number for the quarter immediately following the date on which the contributor was discharged or released from the regular forces—

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.

“(10) Where a contributor who has elected to leave
5 contributions in the Fund under **subsection (6)** of this section dies while any contributions are held in the Fund on his or her behalf and while not contributing and does not leave a spouse, sections 61O and 61Q of this Act shall not apply and there shall be paid out of the Fund to the contributor’s personal
10 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 of contributory
15 service under Part III or this Part of this Act by 0.25 percent for every month between the date of commencement of the contributor’s contributory service under Part III or this Part of this Act and the date of the contributor’s death.”

**14. Option where contributor under Part IIIA on leave
20 of absence without salary**—(1) Section 71P (2) (e) (i) of the principal Act (as inserted by section 15 (1) of the Government Superannuation Fund Amendment Act 1986) is hereby amended by inserting, after the words “Part III”, the words “or this Part”.

25 (2) Section 71P (4) of the principal Act (as so inserted) is hereby amended by omitting the expression “92”, and substituting the expression “29”.

**15. Sections to apply to contributors and contributions
30 under Part IIIA**—Section 71s of the principal Act (as inserted by section 15 (1) of the Government Superannuation Fund Amendment Act 1986) is hereby amended by repealing subsection (3), and substituting the following subsections:

35 “(2A) Section 25 of this Act shall apply to contributors and contributions under this Part of this Act as if it were also included in this Part of this Act and as if every reference to service in the Government service were a reference to service in the regular forces.

40 “(3) Sections 61L, 61M, 61N, 61O, 61Q, and 61R of this Act shall apply in respect of contributors and contributions under this Part of this Act in the manner indicated in sections 71G, 71H (4), 71K, 71L, 71N, and 71P (2) of this Act.”

16. Sections to apply to contributors and contributions

under Part VIA—(1) Section 88M (2) of the principal Act (as inserted by section 2 of the Government Superannuation Fund Amendment Act (No. 2) 1985) is hereby amended by omitting the expression “44,”.

5

(2) Section 88F of the principal Act (as so inserted) is hereby consequentially amended by repealing subsection (7).

17. Sections to apply to contributors and contributions under Part VIB

—(1) Section 88z (2) of the principal Act (as inserted by section 23 of the Government Superannuation Fund Amendment Act 1986) is hereby amended by omitting the expression “44,”.

10

(2) Section 88r of the principal Act (as so inserted) is hereby consequentially amended by repealing subsection (6).

18. Payment of charge—(1) Section 92D of the principal Act (as inserted by section 18 (1) of the Government Superannuation Fund Amendment Act 1985) is hereby amended by omitting the words “this Part of”.

15

(2) Section 92D is hereby further amended by inserting, after the expression “section 61s (1) (c)”, the expression “or section 71k (3)”.

20

19. Effect on contributor of payment to chargeholder

—Section 92G of the principal Act (as inserted by section 18 (1) of the Government Superannuation Fund Amendment Act 1985) is hereby amended by repealing subsection (2), and substituting the following subsection:

25

“(2) The payments to the contributor shall be without interest, but shall be increased,—

“(a) In accordance with paragraph (a) of section 61s (1) of this Act, if the contributor is entitled to make and has made an election under that paragraph; or

30

“(b) In accordance with paragraph (a) of section 71k (1) of this Act, if that paragraph applies to the contributor.”

20. Amendment to Government Superannuation Fund Amendment Act 1985

35

—Section 14 (2) of the Government Superannuation Fund Amendment Act 1985 is hereby amended by inserting, after the words “any person to whom subsection (1) of this section”, the word “applies”.

SCHEDULE

Section 2

NEW THIRD SCHEDULE TO GOVERNMENT SUPERANNUATION FUND
AMENDMENT ACT 1969

“THIRD SCHEDULE

Section 7

DATE OF QUALIFICATION

Retiring allowance, annuity, or annual allowance	Date
1. A retiring allowance payable under Part II or Part III of the principal Act.	The latest of— (a) The day immediately preceding the date on which the first instalment of the retiring allowance is payable; or (b) The 31st day of March 1956.
1A. An annual retiring allowance payable under Part VI of the principal Act as a result of a person ceasing to be a member before the 1st day of April 1987.	The day immediately preceding the date on which the first instalment of the annual retiring allowance is payable; but no increased payment shall be made in respect of any period before the 9th day of July 1984.
2. An annuity payable under Part II or Part III of the principal Act.	The latest of— (a) The day immediately preceding the date on which the first instalment of the annuity is payable; or (b) The 31st day of March 1956.
2A. An annuity payable under Part VI of the principal Act as a result of a person ceasing to be a member before the 1st day of April 1987.	Where paragraph (a) applies, the adjustments shall be made as if this provision 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 2nd day of April 1987.
2A. An annuity payable under Part VI of the principal Act as a result of a person ceasing to be a member before the 1st day of April 1987.	The day immediately preceding the date on which the first instalment of the annuity is payable; but no increased payment shall be made in respect of any period before the 9th day of July 1984.
3. An annual allowance payable under section 48 of the principal Act.	The contributor's date of qualification as determined under this Schedule; but no increased payment shall be made in respect of any period before the 2nd day of April 1987.

12 *Government Superannuation Fund Amendment (No. 2)*

SCHEDULE—*continued*

“THIRD SCHEDULE—*continued*

DATE OF QUALIFICATION—*continued*

Retiring allowance, annuity, or annual allowance	Date
4. A retiring allowance or annuity payable under Part IIA, Part IIIA, Part IV, Part IVA, Part V, Part VIA, or Part VIB of the principal Act.	The day immediately preceding the date on which the first instalment of the retiring allowance or annuity is payable.
5. A retiring allowance or annuity payable to or in respect of any person in respect of whom an election has been made under section 16 or section 17 of the Government Superannuation Fund Amendment Act 1986.	The day immediately preceding the date on which the first instalment of the retiring allowance or annuity is payable.”