

Government Superannuation Fund Amendment Bill (No 2)

Government Bill

As reported from the Government Administration
Committee

Commentary

Recommendation

The Government Administration Committee has examined the Government Superannuation Fund Amendment Bill (No 2) (the bill) and recommends that it be passed with the amendment shown.

Background

The purpose of the bill is to remove inequities in the treatment between members of the old schemes of the Government Superannuation Fund (GSF) and the new schemes. The bill seeks to remove an inequity in the treatment of widows and widowers with effect from 1 July 2002. The bill also seeks to align the allowances paid to children of deceased members by replacing the fixed annual allowance prescribed in the old schemes with an inflation adjusted allowance as provided for in the new schemes.

The inequity for widows and widowers arose when the 'new' GSF Schemes were introduced in 1985. The new schemes provided for spousal annuities to be paid to the survivors of former contributors irrespective of any subsequent change in their marital status. The old schemes required suspension of the spousal annuity if the former spouse remarries.

The provisions of the old schemes of the GSF reflect, in large part, the views of society at the time the old schemes were enacted. At

that time society had different views on the rights of widowers and, in particular, widows.

A relatively small number of persons are affected by the existing discrimination on the basis of marital status. There are approximately 47,000 persons currently in receipt of GSF pensions. Of those 12,000 are surviving spouses, and of these about 800 (all widows) may be affected by the bill. A very small number of children, no more than 19, are affected by the change to child allowances.

This bill will be seen as bringing fairness and equity to beneficiaries in the same category of all schemes in the GSF and removing discrimination on the basis of marital status.

Spouses' annuities and children's allowances

Clause 4 seeks to repeal the provisions of the principal Act that suspend the payments of benefits to spouses in the event they remarry. It also provides for the restoration of suspended benefits to spouses who have remarried. The New Zealand Law Society submits that there is possible ambiguity in and between the wording between clause 4(b) and (c).

We recommend that clause 4(b) be deleted to remove this ambiguity. The purpose of the clause is to state, for the avoidance of doubt, that a person is entitled to adjustments to the annuity, as if the annuity had not been suspended.

The National Council of Women of New Zealand Incorporated (the council) submitted that it supported the amendments proposed by clause 4(5) and (6) of the bill.

Clause 5: Adjustment for children's allowances and eligibility of children over 16 years old

The council sought clarification as to whether an allowance made under the old scheme would be adjusted for inflation, and if so, from what date would it be calculated. The council submitted that clause 5 related only to children under 16 years old, and noted that there may be children over 16 years old who were financially dependent on parents as caregivers.

We note that the children's allowance under section 61Q of the principal Act is a uniform payment, irrespective of the date of commencement. It is adjusted by the Consumer Price Index from a

single base date—the December quarter of 1982—provided by section 61Q(7).

There is discretion to pay the children's allowance up to age 18, which is frequently exercised, and where the child has a disability, to pay it indefinitely.

The Government Superannuitants Association of New Zealand Incorporated submitted that it fully supported the bill.

Retrospective aspect

The Government is committed to removing the current discrimination with effect from 1 July 2002. This raises the need for payments under the bill, when enacted, to be made retrospective to 1 July 2002. Given the provisions in the bill relate to entitlements and will not penalise or infringe on any existing entitlement, the retrospective application of the bill should not be contentious.

Appendix

Committee process

The Government Superannuation Fund Amendment Bill (No 2) was referred to the Government Administration Committee on 18 September 2002. We received and considered three submissions from interested groups. Consideration took approximately 18 minutes.

We received advice from The Treasury and the Government Superannuation Fund Authority.

Committee membership

Dianne Yates (Chairperson)

Pansy Wong (Deputy Chairperson)

Steve Chadwick

Russell Fairbrother

Sandra Goudie

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

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

Hon Dr Michael Cullen

Government Superannuation Fund Amendment Bill (No 2)

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Government Superannuation Fund Amendment Act **(No 2) 2002**.
- (2) In this Act, the Government Superannuation Fund Act 1956¹ is called "the principal Act".

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¹ 1956 No 47

Part 1 Preliminary provisions

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Purpose

The purposes of this Act are to—

- (a) entitle the spouse of a contributor under Part 2 or Part 5 or Part 6 of the principal Act to be paid an annuity after remarriage:
- (b) restore annuities currently suspended after remarriage:
- (c) align cost of living adjustments to children's allowances paid under Part 2 or Part 5 or Part 6 of the principal Act with those paid under Part 2A.

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Part 2**Spouses' annuities and children's allowances****4 Benefits where contributor under this Part dies and leaves spouse**

Section 45 of the principal Act is amended by repealing subsections (5) and (6), and substituting the following subsections: 5

- “(5) The entitlement of any spouse to any lump sum or annuity under this section is not affected by any change in the marital status of that spouse. 10
- “(6) On or after **1 July 2002**, any person living at that date to whom the remarriage rule applies—
- “(a) is entitled to an annuity under Part 2 or Part 5 or Part 6 of the principal Act, as the case may be, as if the remarriage rule had not applied; but 15

Struck out (unanimous)

“(b) is entitled to adjustments to the annuity as if it had been payable throughout the period during which it was not payable; but

“(c) is not entitled to an annuity for any period before **1 July 2002** during which the remarriage rule applied to that person. 20

“(6A) In **subsection (6)**, the **remarriage rule** means the rules contained in—

“(a) section 45(5) and (6) of the principal Act (before they were repealed by **section 4** of the Government Superannuation Fund Amendment Act (**No 2**) **2002**): 25

“(b) the first proviso to section 79(1)(a) of the principal Act (before it was repealed by section 3 of the Government Superannuation Fund Amendment Act 1989) providing that, if the spouse marries or remarries after becoming entitled to an annuity, the annuity is not payable while the spouse is married: 30

“(c) the proviso appearing at the end of section 87(1)(a) of the principal Act (before it was repealed by section 2 of the Government Superannuation Fund Amendment Act 1987) providing that, if the spouse marries or remarries 35

after becoming entitled to an annuity, the annuity is not payable while the spouse is married.”

5 Children’s allowance

Section 47 of the principal Act is amended by repealing subsection (1), and substituting the following subsections: 5

“(1) On or after **1 July 2002**, where any contributor under this Part dies, whether before or after becoming entitled to a retiring allowance, and leaves a child or children under the age of 16 years, there must be paid out of the Fund to, or on behalf of, each child an allowance calculated under section 61Q(7). 10

“(1A) Without limiting its application, **subsection (1)**—

“(a) applies to any child to whom section 47(1) (before it was amended by **section 5** of the Government Superannuation Fund Amendment Act (**No 2**) **2002**) or section 47(2) applied immediately before **1 July 2002**: 15

“(b) applies to any child to whom section 79(3) (before it was repealed by section 3 of the Government Superannuation Fund Amendment Act 1989) or section 87(1)(d) (before it was repealed by section 2 of the Government Superannuation Amendment Act 1987) applied immediately before **1 July 2002**: 20

“(c) does not affect the entitlement of any child to be paid a children’s allowance before **1 July 2002**.”

Legislative history

29 May 2002

Introduction

18 September 2002

First reading and referral to Government Administration Committee
