

[AS REPORTED FROM THE SOCIAL SERVICES COMMITTEE]

House of Representatives, 28 November 1991.

Words struck out are shown 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. Jenny Shipley

NATIONAL SUPERANNUATION

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No. 107—2

*Price
incl. GST \$2.30*

A BILL INTITULED

An Act to amend various enactments relating to national superannuation

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

1. Short Title—This Act may be cited as the National Superannuation Act 1991. 5

PART I

AMENDMENTS TO SOCIAL WELFARE (TRANSITIONAL PROVISIONS) ACT 1990

2. This Part to be read with Social Welfare (Transitional Provisions) Act 1990—(1) This Part of this Act and the Schedule to this Act shall be read together with and deemed part of the Social Welfare (Transitional Provisions) Act 1990* (in this Part of this Act referred to as the principal Act). 10

(2) This Part of this Act and the Schedule to this Act shall come into force on the 1st day of April 1992. 15

*1990, No. 26

Amendments: 1990, Nos. 75 and 133; 1991, Nos. 4 and 77

3. Net rates of national superannuation and veterans' pensions to be adjusted annually by percentage movement in consumers price index—(1) The principal Act is hereby amended by inserting, after section 13, the following section: 20

“13A. (1) In this section—

“‘C.P.I.’ means the consumers price index—all groups published by the Department of Statistics:

“‘Standard tax’ means the amount of tax reckoned on a weekly basis that would be deductible in accordance with the tax code ‘G’ specified in section 344 of the Income Tax Act 1976. 25

“(2) The rates of national superannuation and veterans' pensions specified in paragraphs (a), (b), and (c) of clause 1 and paragraphs (b) and (d) of clause 2 of the First Schedule to this Act shall be adjusted, by Order in Council made under section 61H of the Social Security Act 1964, as at the 1st day of April each year so that in each case the new rate (after the deduction of standard tax) is the equivalent of the then existing rate (after the deduction of standard tax) increased by any percentage movement upwards in the C.P.I. between the C.P.I. for the quarter ended with the 31st day of December 1 year before the immediately preceding 31st day of December and the C.P.I. for 35

the quarter ended with the immediately preceding 31st day of December.

5 “(3) Every Order in Council made in accordance with this section shall come into force or be deemed to come into force on the 1st day of April of the calendar year in which it is made, and shall apply in respect of national superannuation and veterans’ pensions payable on and after that date.”

10 (2) The first adjustment made in accordance with section 13A of the principal Act (as inserted by subsection (1) of this section) shall be made so as to come into force on the 1st day of April 1993.

4. Amending Social Welfare (Transitional Provisions) Amendment Act (No. 2) 1991—

15 (1) Section 2 of the Social Welfare (Transitional Provisions) Amendment Act (No. 2) 1991 is hereby amended by adding the following subsection:

“(3) Sections 14 (19) and 16 (11) of the principal Act are hereby repealed.”

(2) Sections 4 and 6 (1) of the Social Welfare (Transitional Provisions) Amendment Act (No. 2) 1991 are hereby repealed.

20 (3) Section 8 of the Social Welfare (Transitional Provisions) Amendment Act (No. 2) 1991 is hereby amended by omitting the proposed new subsection (2) of section 18A, and substituting the following subsection:

25 “(2) The living alone payment shall be included in the appropriate rate specified in clause 1 (a) of the First Schedule to this Act.”

(4) The said section 8 is hereby amended by adding the following subsection:

30 “(2) Section 5 of the Social Welfare (Transitional Provisions) Amendment Act 1990 is hereby consequentially repealed.”

(5) The Social Welfare (Transitional Provisions) Amendment Act (No. 2) 1991 is hereby amended by repealing sections 10 and 11, and substituting the following section:

35 “10. **New First Schedule substituted**—(1) The principal Act is hereby amended by repealing the First Schedule, and substituting the First Schedule set out in the Schedule to this Act.

“(2) Section 9 of this Act is hereby consequentially repealed.”

40 (6) The Social Welfare (Transitional Provisions) Amendment Act (No. 2) 1991 is hereby amended by repealing the Schedules, and substituting the Schedule set out in the Schedule to this Act.

PART II

AMENDMENTS TO SOCIAL SECURITY ACT 1964

5. This Part to be read with Social Security Act 1964—

(1) This Part of this Act shall be read together with and deemed part of the Social Security Act 1964* (in this Part of this Act referred to as the principal Act). 5

(2) This Part of this Act shall come into force on the 1st day of April 1992.

*R.S. Vol. 13, p. 403

Amendments: 1983, No. 138; 1984, No. 8; 1984, No. 19; 1985, No. 111; 1985, No. 159; 1986, No. 39; 1987, No. 106; 1988, No. 197; 1989, No. 13 (Part V); 1989, No. 58; 1990, No. 5; 1990, No. 74; 1991, No. 1; 1991, No. 78

6. Interpretation—Section 3 (1) of the principal Act is hereby amended by repealing the definition of the term “assessable income” (as inserted by section 2 of the Social Security Amendment Act (No. 2) 1991). 10

7. Consequential repeal—Section 23 of the Social Security Amendment Act (No. 2) 1991 is hereby repealed.

PART III 15

AMENDMENTS TO INCOME TAX ACT 1976

8. This Part to be read with Income Tax Act 1976—

(1) This Part of this Act shall be read together with and deemed part of the Income Tax Act 1976* (hereinafter referred to as the principal Act). 20

(2) Except as otherwise provided in this Part, this Part of this Act shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1992 and in every subsequent year.

*R.S. Vol. 12, p. 1

Amendments: 1983, No. 4; 1983, No. 139; 1984, No. 10; 1985, No. 59; 1985, No. 125; 1986, No. 3; 1986, No. 7; 1986, No. 41; 1986, No. 117; 1987, No. 66; 1987, No. 104; 1987, No. 190; 1988, No. 6; 1988, No. 14; 1988, No. 133; 1988, No. 225; 1989, No. 7; 1989, No. 13, Part II; 1989, No. 49; 1989, No. 150; 1990, No. 24; 1990, No. 63; 1990, No. 91; 1991, No. 10; 1991, No. 14; 1991, No. 47; 1991, No. 75; 1991, No. 85

9. Interpretation—(1) Section 2 of the principal Act is hereby amended by repealing paragraph (d) of the definition of the term “employer”, and substituting the following paragraph: 25

“(d) In relation to payments of national superannuation, veterans’ pensions, and income-tested benefits, the Director-General of Social Welfare:” 30

(2) Section 2 of the principal Act is hereby amended by omitting from the definition of the term “income-tested benefit” the words “and includes national superannuation;” (as inserted by section 2 (4) of the Income Tax Amendment Act (No. 5) 1991). 35

(3) Section 2 of the principal Act is hereby amended by inserting in the definition of the term “national superannuation” (as inserted by section 2 (5) of the Income Tax Amendment Act (No. 5) 1991), after the expression “Act 1990”, the words “and includes any living alone payment paid or payable to a national superannuitant under section 18A of that Act”.

(4) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “national superannuitant”, the following definition:
“National superannuitant surcharge”, or ‘surcharge’, means the national superannuitant surcharge imposed by section 336c of this Act.”.

(5) Section 2 of the principal Act is hereby amended by repealing paragraph (c) of the definition of the term “salary or wages” (as amended by section 2 (1) (c) of the Income Tax Amendment Act (No. 2) 1986, section 2 (2) of the Income Tax Amendment Act (No. 2) 1991, and section 2 (7) of the Income Tax Amendment Act (No. 5) 1991), and substituting the following paragraph:

“(c) All payments of income-tested benefits, veterans’ pensions, national superannuation, and living alone payments; and”.

(6) The following enactments are hereby consequentially repealed:

(a) Section 2 (1) (a) and (c) of the Income Tax Amendment Act (No. 2) 1986:

(b) Section 2 (2) of the Income Tax Amendment Act (No. 2) 1991:

(c) Section 2 (4) of the Income Tax Amendment Act (No. 5) 1991.

10. Rebate from tax payable by persons receiving war pension—Section 47 (1) of the principal Act is hereby amended by repealing paragraph (b) (as amended by section 16 (11) (a) of the Social Welfare (Transitional Provisions) Act 1990), and substituting the following paragraph:

“(b) National superannuation.”

11. Low income rebate—Section 50D of the principal Act (as inserted by section 3 (1) of the Income Tax Amendment Act (No. 3) 1988 and amended by section 16 (11) (b) of the Social Welfare (Transitional Provisions) Act 1990) is hereby amended by omitting from subsection (1) (a), and also from paragraph (i) of item x of the formula set out in subsection (1) ~~(b)~~ (c), the

words “guaranteed retirement income earner”, and substituting in each case the words “national superannuitant”.

12. Rebates to be deducted from income tax—Section 57 (1) of the principal Act (as amended by section 3 of the Income Tax Amendment Act (No. 5) 1991) is hereby amended— 5

- (a) By inserting, after the words “total amount of income tax”, the words “and national superannuitant surcharge”:
- (b) By adding, after the words “the amount of that tax”, the words “and that surcharge”. 10

13. Incomes wholly exempt from tax—Section 61 of the principal Act is hereby amended by omitting from both paragraph (35) (as substituted by section 7 (3) of the Income Tax Amendment Act (No. 2) 1986 and amended by section 16 (11) (a) of the Social Welfare (Transitional Provisions) Act 1990) and paragraph (36) (as so amended) the words “guaranteed retirement income”, and substituting the words “national superannuation”. 15

14. Items included in assessable income—(1) Section 65 (2) of the principal Act is hereby amended by repealing paragraph (d) (as substituted by section 6 (1) of the Income Tax Amendment Act (No. 5) 1991), and substituting the following paragraph: 20

- “(d) All payments of national superannuation, income-tested benefits, and veterans’ pensions:” 25

Struck Out

(2) Section 6 of the Income Tax Amendment Act (No. 5) 1991 is hereby consequentially repealed with effect from its commencement, and shall be deemed never to have come into force. 30

New

(2) Section 6 (3) of the Income Tax Amendment Act (No. 5) 1991 is hereby amended by omitting the expression “1991”, and substituting the expression “1992”. 35

New

(3) Section 6 of the Income Tax Amendment Act (No. 5) 1991 is hereby consequentially repealed.

5 (4) **Subsection (2)** of this section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1991.

15. New Part inserted—(1) The principal Act is hereby amended by inserting, after section 336, the following Part:

“PART X_A

10 “NATIONAL SUPERANNUITANT SURCHARGE

“336A. **Interpretation**—For the purposes of this Part of this Act,—

15 “ ‘National superannuitant’, or ‘superannuitant’, in relation to any income year, means a person who receives national superannuation in the income year; but does not include a person who receives national superannuation at a rate specified in **clause 2** of the **First Schedule** to the Social Welfare (Transitional Provisions) Act 1990:

20 “ ‘Net national superannuation’, in relation to a national superannuitant and to any income year, means an amount calculated in accordance with the following formula:

$$a - (b - c)$$

25 where—

“a is the gross national superannuation that the national superannuitant received in the income year; and

30 “b is the amount of the income tax that would have been payable in respect of the income year if an assessment had been made under Part IV of this Act on the taxable income of the national superannuitant for the income year; and

35 “c is the amount of income tax that would have been payable in respect of the income year if an assessment had been made under Part IV of this Act on an amount equal to the sum of—

- “(i) The amount of other income in relation to the national superannuitant in relation to the income year (as determined by **section 336D (1)** of this Act), but excluding the amount of one-half of any amount received in the form of a pension from a superannuation fund or an annuity to which section 61 (59) of this Act applies, where that one-half amount is not otherwise included in the taxable income of the national superannuitant; and
- “(ii) The amount of any specified foreign social security pension or, as the case may be, the sum of the amount of every specified foreign social security pension received by the national superannuitant in the income year:
- “‘Other income’, in relation to a national superannuitant and to any income year, has the meaning specified in **section 336D** of this Act:
- “‘Source deduction payment’ does not include a withholding payment:
- “‘Special surcharge code’, in relation to a national superannuitant, means a special surcharge code supplied by the Commissioner in the same manner, with any necessary modifications, as a special tax code certificate supplied by the Commissioner pursuant to section 351 of this Act:
- “‘Specified exemption’, in relation to a national superannuitant and to any income year, has the meaning specified in **section 336E** of this Act:
- “‘Specified foreign social security pension’ means any benefit, pension, or periodical allowance granted elsewhere than in New Zealand to any person to the extent to which, pursuant to section 70 of the Social Security Act 1964 or to Article 15 of the Convention set out in the Schedule to the Social Security (Reciprocity with the United Kingdom) Order 1990, the amount of that benefit, pension, or periodical allowance reduces the rate of national superannuation payable to that person under Part I of the Social Security Act 1964:
- “‘Specified income’, in relation to a national superannuitant and to any income year, means all the assessable income, other than income that consists of source deduction payments, of the national superannuitant derived in the income year:

“ ‘Surcharge code’, in relation to a national superannuitant, means the superannuitant’s surcharge code under **section 336l** of this Act:

5 “ ‘Surcharge deduction’ means a deduction in respect of the surcharge made or required to be made under **section 336h** or **section 336j** or **section 336k** of this Act.

10 “**336B. Application of this Part**—(1) Notwithstanding anything in the other Parts of this Act, the national superannuitant surcharge shall be payable by every national superannuitant in accordance with this Part of this Act.

15 “(2) This Part of this Act shall apply to the national superannuitant surcharge in respect of the other income of every national superannuitant for the income year commencing on the 1st day of April 1992 and for every subsequent income year.

“**336C. National superannuitant surcharge imposed**—
(1) Every person who, in any income year, is a national superannuitant shall be liable to pay a special tax by way of an income tax to be known as the national superannuitant surcharge at the rate of 25 percent of the amount by which the other income of that person in that income year exceeds the national superannuitant’s specified exemption.

20 “(2) Notwithstanding anything in **subsection (1)** of this section, in no case shall the amount of the national superannuitant surcharge for which a national superannuitant is liable in respect of any income year exceed an amount equal to the net national superannuation of that person in respect of that income year.

30 “**336D. Determination of ‘other income’**—(1) For the purposes of this Part of this Act the expression ‘other income’, in relation to any national superannuitant and to any income year, means an amount calculated in accordance with the following formula:

$$a - b - c$$

35 where—

40 “a is the amount of the taxable income of the national superannuitant in respect of the income year, together with one-half of any amount received in the form of a pension from a superannuation fund or an annuity to which section 61 (59) of this Act applies, which amount is not otherwise included in the taxable income of the national superannuitant; and

“b is the gross national superannuation that the national superannuitant received in the income year; and

“c is the amount of any specified foreign social security pension or, as the case may be, the sum of the amounts of every specified foreign social security pension received by the national superannuitant in the income year. 5

“(2) Notwithstanding subsection (1) of this section, in any case where a national superannuitant receives national superannuation in respect of part only of any income year by reason of— 10

“(a) The superannuitant’s national superannuation commencing, for the first time, after the beginning of the income year; or

“(b) The superannuitant’s permanent departure from New Zealand during the income year,— 15

the superannuitant’s other income in respect of the income year shall be an amount calculated in accordance with the following formula:

$$\frac{(d - e - g) \times f}{h} + e \quad 20$$

where—

“d is the amount of the superannuitant’s other income determined in accordance with subsection (1) of this section; and 25

“e is an amount equal to such part of the superannuitant’s taxable income, not including any amount of—

“(i) National superannuation; or

“(ii) Specified foreign social security pension,—

in the income year as, in the opinion of the Commissioner, relates to sources of income from which the superannuitant derived income (if any) during only the period in which national superannuation was payable to the superannuitant; and 30

“f is the number of days in respect of which that national superannuation was payable to the superannuitant in respect of the income year; and 35

“g is an amount equal to such part of the superannuitant’s taxable income, not including any amount of—

“(i) National superannuation; or 40

“(ii) Specified foreign social security pension,—

5 in the income year as, in the opinion of the Commissioner, relates to sources of income from which the superannuitant derived income (if any) during only the period in which national superannuation was not payable to the superannuitant; and

“h is the number of days in the income year.

10 “(3) Where the Commissioner is satisfied that the other income of a national superannuitant included income that was received by the superannuitant within a reasonable period after the date on which the superannuitant commenced or, as the case may be, ceased to be entitled to receive national superannuation, the Commissioner may determine that, for the purposes of this Part of this Act, that income was received on a date other than the date on which it was received:

15 “Provided that this subsection shall not apply unless the Commissioner is satisfied that—

20 “(a) The income would, in the ordinary course, have been received on or about the day on which the Commissioner determines, pursuant to this section, that the income was received; and

25 “(b) No arrangements have been made by the national superannuitant with a view to the superannuitant’s affairs being deliberately so arranged or conducted that this subsection would, but for this paragraph, have effect more favourably in relation to that superannuitant than would otherwise have been the case; and

“(c) It is in the interests of the national superannuitant that it should apply.

30 “336E. **Determination of specified exemption—**

(1) Subject to subsection (2) of this section, for the purposes of this Part of this Act the expression ‘specified exemption’, in relation to a national superannuitant and to any income year, means such one of the following amounts of exemption as is, or, as the case may be, an amount equal to the sum of such 2 or more of the following amounts of exemption as are, applicable in the case of the national superannuitant:

35 “(a) Where in respect of any period in the income year (whether that period is a part or the whole of the income year) the national superannuation received by the national superannuitant was at a rate payable to an unmarried person under paragraph (a) or paragraph (b) of clause 1 of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990 by reason

of the national superannuitant not being married, an amount of exemption calculated in accordance with the following formula:

$$4,160 \times \frac{a}{b} \quad 5$$

where—

“a is the number of days in respect of which the national superannuation was payable to the national superannuitant in respect of the income year; and 10

“b is the number of days in the income year:

“(b) Where in respect of any period in the income year (whether that period is a part or the whole of the income year) the national superannuation received by the national superannuitant was at a rate payable to a married person under **paragraph (c) of clause 1 of the First Schedule** to the Social Welfare (Transitional Provisions) Act 1990 by reason of the national superannuitant’s spouse being entitled to receive national superannuation, an amount of exemption calculated in accordance with the following formula: 15 20

$$\frac{c \times d}{e}$$

where—

“c is the amount remaining after deducting from \$6,240 an amount equal to the other income, in relation to the income year, of the spouse of the national superannuitant; and 25

“d is the number of days in respect of which the national superannuation was payable to the national superannuitant in respect of the income year; and 30

“e is the number of days in the income year:

“Provided that in no case shall **item c** be an amount less than \$3,120: 35

“(c) Where in respect of any period in the income year (whether that period is a part or the whole of the income year) the national superannuation received by the national superannuitant was at a rate payable to a married person under **paragraph (c) of clause 1 of the First Schedule** to the Social Welfare (Transitional Provisions) Act 1990 by reason of the national superannuitant’s spouse not being entitled to receive 40

national superannuation, an amount of exemption calculated in accordance with the following formula:

$$\frac{f \times g}{h}$$

5 where—

“f is the amount remaining after deducting from \$6,240 an amount equal to the taxable income (not including any amount of national superannuation), for the income year, of the spouse of the national superannuitant, reduced by the amount of every pension of the same type as a specified foreign social security pension received by the said spouse in respect of the income year; and

10 “g is the number of days in respect of which the national superannuation was payable to the national superannuitant in respect of the income year; and

15 “h is the number of days in the income year:

20 “Provided that in no case shall item f be an amount less than \$3,120:

25 “(d) Where in respect of any period in the income year (whether that period is a part or the whole of the income year) the national superannuation received by the national superannuitant was at a rate payable to an unmarried person under **paragraph (a)** or **paragraph (b)** of **clause 1** of the **First Schedule** to the Social Welfare (Transitional Provisions) Act 1990 pursuant to section 75 (5) of the Social Security Act 1964, by reason of the national superannuitant’s spouse having been a patient in a hospital (being a hospital maintained by an area health board under the Area Health Boards Act 1983 or a psychiatric hospital within the meaning of the Mental Health Act 1969) for a period exceeding 13 weeks, an amount of exemption calculated in accordance with the following formula:

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$$\frac{i \times j}{k}$$

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where—

“i is the amount remaining after deducting from \$6,240 an amount equal to the taxable income (not including any amount of national superannuation) for the income year, of the spouse of the national superannuitant, reduced by the amount of every pension of the same type as a specified foreign social security pension received by the said spouse in respect of the income year; and 5 10

“j is the number of days in respect of which the national superannuation was payable to the national superannuitant in respect of the income year; and 15

“k is the number of days in the income year:

“Provided that in no case shall item i be an amount less than \$4,160:

“(e) Where in respect of any period in the income year (whether that period is a part or the whole of the income year) the national superannuation received by the national superannuitant was at a rate other than the rate payable to a married person under paragraph (c) of clause 1 of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990, or, as the case may be, the rate payable to an unmarried person under paragraph (a) or paragraph (b) of clause 1 of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990, or was at a rate payable to an unmarried person for any reason other than any of the reasons referred to in paragraph (a) and paragraph (d) of this subsection,— 20 25 30

“(i) Where the national superannuitant is not married, an amount of exemption calculated in accordance with the formula in paragraph (a) of this subsection: 35

“(ii) Where the national superannuitant is married, and where the spouse of the national superannuitant is entitled to receive national superannuation and the said spouse has not been a patient in a hospital (being a hospital of the type referred to in paragraph (d) of this subsection) for a period exceeding 13 weeks, an amount of exemption calculated in accordance with the formula in paragraph (b) of this subsection: 40 45

5 “(iii) Where the national superannuitant is married, and where the spouse of the national superannuitant is not entitled to receive national superannuation and the said spouse has not been a patient in a hospital (being a hospital of the type referred to in **paragraph (d)** of this subsection) for a period exceeding 13 weeks, an amount of exemption calculated in accordance with the formula in **paragraph (c)** of this subsection:

10 “(iv) Where the national superannuitant is a superannuitant to whom none of **subparagraphs (i)** to **(iii)** of this paragraph apply, an amount of exemption calculated in accordance with the formula in **paragraph (d)** of this subsection:

15 “(f) Where in respect of any period in the income year national superannuation is not received by the national superannuitant for any reason other than—

20 “(i) The superannuitant’s *(retirement income)* national superannuation commencing, for the first time, after the beginning of the income year; or

“(ii) The superannuitant’s death during the income year; or

25 “(iii) The superannuitant’s permanent departure from New Zealand during the income year,—
an amount of exemption calculated as follows:

30 “(iv) In the case of a national superannuitant who, in respect of the income year, received national superannuation before the commencement of that period, the amount of exemption that would have been determined under **paragraph (a)** or **paragraph (b)** or **paragraph (c)** or **paragraph (d)** or **paragraph (e)**, as the case may be, of this subsection in respect of that period if the superannuitant had received national superannuation in respect of that period on the basis of the same circumstances as those on the basis of which the superannuitant received it on the last pay day (as defined in section 3 (1) of the Social Security Act 1964) on which, before the commencement of that period, the superannuitant received a payment of national superannuation; and

35 “(v) In all other cases, the amount of exemption that would have been determined under **paragraph (a)** or **paragraph (b)** or **paragraph (c)** or **paragraph (d)** or **paragraph (e)**, as the case may be, of this subsection in respect of that period if the superannuitant had

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received national superannuation in respect of that period on the basis of the same circumstances as those on the basis of which the superannuitant received it on the first pay day (as so defined) on which, after the end of the period, the superannuitant received a payment of national superannuation. 5

“(2) For the purposes of **subsection (1)** of this section, in any case where, in relation to a national superannuitant and to any income year, an amount calculated in accordance with, as the case may be, **item c in paragraph (b), item f in paragraph (c), item i in paragraph (d), paragraph (e), or paragraph (f)** of that subsection cannot be determined, for the purpose of an assessment, pursuant to section 12 (2) of this Act, of income tax payable by the national superannuitant by reason of the income of the spouse of the national superannuitant for the income year not being ascertainable at the time of the making of that assessment, an amount in substitution of the said amount shall be determined by the Commissioner in such manner as the Commissioner considers fair and equitable having regard to the circumstances of the case and to the tenor of the said **subsection (1)**. 10 15 20

“**336F. Assessment of surcharge**—(1) The Commissioner shall, in respect of any national superannuitant who is chargeable with the surcharge in respect of any income year, make an assessment of the amount of the surcharge and that national superannuitant shall be liable to pay the surcharge so assessed, except so far as the superannuitant establishes on objection that the assessment is excessive or that he or she is not chargeable with the surcharge. 25

“(2) Sections 23, 27, and 29 of this Act shall apply, so far as may be, with respect to every assessment made under this section as if— 30

“(a) The expression ‘tax already assessed’ in the said section 23 included the surcharge already assessed under this section; and 35

“(b) The expression ‘taxpayer’ in the said sections 23, 27, and 29 included a national superannuitant who is chargeable with the surcharge.

“(3) An assessment made under this section shall be subject to objection in the same manner as an assessment of income tax levied under section 38 of this Act, and Part III of this Act shall apply, so far as may be, to an objection to an assessment made under this section as if the expressions ‘income tax’ and ‘tax’ used in that Part included the surcharge. 40

“336G. **Election by national superannuitant in respect of payment of surcharge**—(1) A national superannuitant who at any time expects, in respect of any income year, to be liable for the surcharge in respect of that income year, shall make an election in accordance with this section as to the manner in which the surcharge is to be paid.

“(2) Every election made by any national superannuitant under subsection (1) of this section shall,—

“(a) Where the superannuitant estimates that his or her other income in that income year will consist of specified income only, be an election that the surcharge is to be paid—

“(i) By way of deductions in accordance with section 336H of this Act from payments of the superannuitant’s gross national superannuation made in that income year; or

“(ii) As provisional tax by the superannuitant in accordance with Part XII of this Act:

“(b) Where the superannuitant estimates that his or her other income in that income year will consist of source deduction payments (other than national superannuation) only, be an election that the surcharge is to be paid—

“(i) By way of deductions in accordance with section 336H of this Act from payments of the superannuitant’s gross national superannuation made in that income year; or

“(ii) By way of deductions in accordance with section 336J of this Act from source deduction payments (other than national superannuation) made to the superannuitant in that income year:

“(c) In any other case, be an election that the surcharge is to be paid—

“(i) By way of deductions in accordance with section 336H of this Act from payments of the superannuitant’s gross national superannuation made in that income year; or

“(ii) In accordance with section 336K of this Act both by way of deductions from source deduction payments (other than national superannuation) made to the superannuitant in that income year and as provisional tax paid by the superannuitant.

“(3) Where at any time a national superannuitant has made an election in respect of any income year under subsection (1) of this section in accordance with, as the case may be, paragraph (a)

or **paragraph (b)** or **paragraph (c)** of **subsection (2)** of this section and where, subsequent to the making of that election, the composition of the national superannuitant's other income changes so that an election under **subsection (1)** of this section should have been made in accordance with another paragraph of that subsection, the national superannuitant shall forthwith make a new election in respect of that income year in accordance with that other paragraph. 5

“336H. Surcharge deductions from national superannuation—(1) This section shall apply only where a national superannuitant has elected in accordance with **paragraph (a) (i)** or **paragraph (b) (i)** or **paragraph (c) (i)** of **section 336G (2)** of this Act to have the surcharge paid by way of deductions from payments of the superannuitant's gross national superannuation made in that income year. 10 15

“(2) The Director-General of Social Welfare shall—

“(a) At the time of making any payment of national superannuation to a national superannuitant, make a surcharge deduction from any such payment of an amount determined by the Commissioner under **section 336I** of this Act; and 20

“(b) Pay every surcharge deduction so made to the Commissioner in the same manner as if it were a tax deduction to which Part XI of this Act applies.

“336I. National superannuitant to estimate other income—(1) Where, in respect of any income year, a national superannuitant elects in accordance with **paragraph (a) (i)** or **paragraph (b) (i)** or **paragraph (c) (i)** of **section 336G (2)** of this Act to have the surcharge paid by way of deductions from payments of the superannuitant's gross national superannuation made in that income year, the superannuitant shall provide to the Commissioner, as soon as practicable after the making of that election, an estimate of the other income the superannuitant expects to derive during that income year, together with a statement as to the amount of national superannuation the superannuitant expects to receive in that income year. 25 30 35

“(2) For the purposes of providing the Commissioner with an estimate of the national superannuitant's other income and a statement of the expected amount of national superannuation in accordance with **subsection (1)** of this section, a national superannuitant shall enter that estimate and indicate that amount on a prescribed form and deliver that form to the Commissioner. 40

“**(3)** On receipt of the prescribed form of a national superannuitant under **subsection (2)** of this section, the Commissioner shall determine in accordance with the tenor of this Part of this Act the amount of the surcharge deduction to be made from future payments of national superannuation to the national superannuitant, and shall advise the Director-General of Social Welfare accordingly.

“**336j. Surcharge deductions from source deduction payments**—(1) This section shall apply only where a national superannuitant has elected in accordance with **section 336g (2) (b) (ii)** of this Act to have the surcharge paid by way of deductions from source deduction payments (other than national superannuation) made to the national superannuitant in any income year.

“**(2)** The person by whom any such source deduction payment is payable shall—

“**(a)** At the time of making the source deduction payment, make a surcharge deduction therefrom of an amount equal to—

“**(i)** Where the surcharge code is ‘SAJ’, 25 cents in each complete dollar of such part of the source deduction payment as exceeds an amount calculated in accordance with **section 336l (2)** of this Act:

“**(ii)** Where the surcharge code is ‘MAJ’, 25 cents in each complete dollar of such part of the source deduction payment as exceeds an amount calculated in accordance with **section 336l (3)** of this Act:

“**(iii)** Where the surcharge code is ‘MIN’, 25 cents in each complete dollar of the amount of the source deduction payment:

“**(iv)** Where a special surcharge code has been supplied, an amount equal to the rate specified therein in each complete dollar of the amount of the source deduction payment; and

“**(b)** Pay every surcharge deduction so made to the Commissioner in the same manner as if it were a tax deduction to which Part XI of this Act applies.

“**336k. Surcharge deductions from source deduction payments and surcharge paid as provisional tax**—(1) This section shall apply only where a national superannuitant has elected in accordance with **section 336g (2) (c) (ii)** of this Act to have the surcharge paid both by way of deductions from source

deduction payments (other than national superannuation) made to the national superannuitant in any income year and as provisional tax paid by the national superannuitant.

“(2) Where the total amount of a national superannuitant’s expected specified income exceeds the total amount of the superannuitant’s expected source deduction payments (other than national superannuation), the surcharge payable in respect of the source deduction payments (other than national superannuation) shall be paid in the following manner:

“(a) The surcharge code ‘MIN’ shall be used in respect of every such source deduction payment paid to the national superannuitant; and

“(b) The person by whom any such source deduction payment is made shall make the surcharge deduction therefrom, and pay the deduction to the Commissioner as if it were a deduction to which **section 336J (2)** of this Act applies.

“(3) Where the total amount of a national superannuitant’s expected specified income does not exceed the total amount of the superannuitant’s expected source deduction payments (other than national superannuation), the surcharge payable in respect of the source deduction payments (other than national superannuation) shall be paid in the following manner:

“(a) Where national superannuation is to be paid to the national superannuitant at a rate payable to an unmarried person under **paragraph (a)** or **paragraph (b)**, or to a married person under **paragraph (d)**, of **clause 1** of the **First Schedule** to the Social Welfare (Transitional Provisions) Act 1990, the surcharge code ‘SAJ’ shall be used in respect of the largest such source deduction payment and the surcharge code ‘MIN’ shall be used in respect of all other such source deduction payments; and

“(b) Where national superannuation is to be paid to the national superannuitant at a rate payable to a married person under **paragraph (c)** of **clause 1** of the **First Schedule** to the Social Welfare (Transitional Provisions) Act 1990, the surcharge code ‘MAJ’ shall be used in respect of the largest such source deduction payment and the surcharge code ‘MIN’ shall be used in respect of all other source deduction payments; and

“(c) Notwithstanding anything in **paragraphs (a) and (b)** of this subsection, a special surcharge code may be used in respect of any such source deduction payment; and

5 “(d) The person by whom any such source deduction payment is made shall make the surcharge deduction therefrom, and pay the deduction to the Commissioner as if it were a deduction to which **section 336j (2)** of this Act applies.

10 “**336L. Application of surcharge codes specified in tax code declarations**—(1) Subject to **section 336k** of this Act, the surcharge code of any national superannuitant in respect of any source deduction payment (other than national superannuation) shall be such one of the following codes as applies to the superannuitant in respect of that source deduction payment in accordance with this section, namely,—

15 “(a) ‘SAJ’, signifying a national superannuitant who is to be paid national superannuation at a rate payable to an unmarried person under **paragraph (a)** or **paragraph (b)**, or to a married person under **paragraph (d)**, of **clause 1** of the **First Schedule to the Social Welfare (Transitional Provisions) Act 1990**, and who has no other source deduction payment exceeding in amount that source deduction payment:

20 “(b) ‘MAJ’, signifying a national superannuitant who is to be paid national superannuation at a rate payable to a married person under **paragraph (c)** of **clause 1** of the **First Schedule to the Social Welfare (Transitional Provisions) Act 1990** and who has no other source deduction payment exceeding in amount that source deduction payment:

25 “(c) ‘MIN’, signifying a national superannuitant who has another source deduction payment to which the surcharge code ‘MAJ’ or ‘SAJ’ applies:

30 “(d) Notwithstanding anything in **paragraphs (a), (b), and (c)** of this subsection, a special surcharge code may be used in respect of any such source deduction payment.

35 “(2) In calculating the surcharge deduction to be made from any source deduction payment (other than national superannuation) made to a national superannuitant where that superannuitant has specified that his or her surcharge code is ‘SAJ’ in respect of that source deduction payment, the amount of that source deduction payment shall, for the purpose of calculating the surcharge deduction, be reduced by an amount equal to, where the pay period for that source deduction payment is a period of—

40 “(a) One day, the amount of \$16.00:

- “(b) One week, the amount of \$80.00:
- “(c) Two weeks, the amount of \$160.00:
- “(d) Three weeks, the amount of \$240.00:
- “(e) Four weeks, the amount of \$320.00:
- “(f) One month, the amount of \$346.67. 5

“(3) In calculating the surcharge deduction to be made from any source deduction payment (other than national superannuation) made to a national superannuitant, where that superannuitant has specified that his or her surcharge code is ‘MAJ’ in respect of that source deduction payment, the amount of that source deduction payment shall, for the purpose of calculating the surcharge deduction, be reduced by an amount equal to, where the pay period for that source deduction payment is a period of— 10

- “(a) One day, the amount of \$12.00: 15
- “(b) One week, the amount of \$60.00:
- “(c) Two weeks, the amount of \$120.00:
- “(d) Three weeks, the amount of \$180.00:
- “(e) Four weeks, the amount of \$240.00:
- “(f) One month, the amount of \$260.00. 20

“336M. **Application of other Parts**—Subject to this Part of this Act, the other Parts of this Act, as far as they are applicable and with any necessary modifications, shall apply with respect to the surcharge as if it were income tax levied under section 38 of this Act; but nothing in this Part of this Act shall be so construed as to include the surcharge in the expressions ‘income tax’ or ‘tax’ for the purposes of Part IV of this Act (other than section 106 (1) (f)).” 25

(2) Where a person has, before the 1st day of April 1992, made an election under section 336F of the principal Act (as in force before its repeal by section 11 of the Income Tax Amendment Act (No. 5) 1991) as to the manner of payment of the guaranteed retirement income earner surcharge,— 30

- (a) Payment of the national superannuitant surcharge shall be made in the same manner as that most recently elected by the person under the said section 336F, unless and until the person makes a new election under section 336G of the principal Act (as enacted by subsection (1) of this section); and 35
- (b) The person shall be deemed for the purposes of Part XA of the principal Act (as so enacted) to have made an election under subsection (1) of the said section 336G in accordance with whichever particular provision of subsection (2) of that section corresponds with the 40

provision of the said section 336F (2) under which the election was actually made.

New

5 (3) For the avoidance of doubt it is hereby declared that, notwithstanding anything in section 336M of the principal Act (as in force at any time before its repeal by section 11 of the Income Tax Amendment Act (No. 5) 1991), any surcharge imposed by Part XA of the principal Act (as so in force) shall be deemed always to have been income tax for the purposes of
10 section 106 (1) (f) of the principal Act.

(4) Nothing in subsection (3) of this section shall apply to the surcharge paid or payable by any person to the extent that the person has, before the 28th day of November 1991, lodged an objection in respect of the deductibility of that surcharge.

15 **16. Interpretation—pay period taxpayers—**(1) Section 356 of the principal Act (as substituted by section 15 (1) of the Income Tax Amendment Act (No. 2) 1989) is hereby amended by repealing subsection (1) (as substituted by section 12 (1) of
20 the Income Tax Amendment Act (No. 5) 1991), and substituting the following subsection:

“(1) For the purposes of this section the term ‘interest’ means interest as defined in section 327A of this Act.”

(2) Section 356 (2) of the principal Act (as so substituted) is hereby amended by repealing paragraph (g) (as substituted by
25 section 12 (2) of the Income Tax Amendment Act (No. 5) 1991), and substituting the following paragraph:

“(g) In respect of a taxpayer who was during the income year
30 a national superannuitant, the aggregate of the total income derived from employment and from income in the nature of interest and dividends did not exceed \$3,120.”

(3) Section 12 of the Income Tax Amendment Act (No. 5) 1991 is hereby consequentially repealed.

35 **17. Interpretation—provisional tax—**(1) Section 375 of the principal Act (as substituted by section 17 of the Income Tax Amendment Act (No. 3) 1988) is hereby amended by inserting in the definition of the term “residual income tax” (as amended by section 13 of the Income Tax Amendment Act (No. 5) 1991), after the words “the total amount of income

tax”, the words “and national superannuitant surcharge (if any)”.

(2) Section 375 of the principal Act (as so substituted and amended) is hereby amended by inserting, after paragraph (a) of the definition of the term “residual income tax”, the following paragraph: 5

“(b) The amount of national superannuitant surcharge paid by way of surcharge deductions from—

“(i) Payments of national superannuation made to the person in the income year, in accordance with section 336H of this Act: 10

“(ii) Source deduction payments (other than national superannuation), in accordance with section 336J or section 336K of this Act:”.

New

15

(2A) For the purposes of Part XII of the principal Act, references in the definition of the term “residual income tax” in section 375 of that Act to the terms “national superannuitant surcharge” and “national superannuation” shall be deemed to include, respectively, references to— 20

(a) Any surcharge paid or payable under Part XA of that Act as in force before its repeal by section 11 of the Income Tax Amendment Act (No. 5) 1991:

(b) Any guaranteed retirement income (as defined in section 2 of the principal Act before its repeal by section 2 (3) of the Income Tax Amendment Act (No. 5) 1991) and any living alone payment paid or payable under section 18A of the Social Welfare (Transitional Provisions) Act 1990 to the guaranteed retirement income earner (as defined in section 336A of the principal Act before its repeal by section 11 of the Income Tax Amendment Act (No. 5) 1991). 25 30

(3) This section shall apply with respect to provisional tax payable in relation to income derived in the income year commencing on the 1st day of April 1992 and in every subsequent year. 35

18. Interest on tax overpaid—(1) Section 413A (1) of the principal Act (as inserted by section 20 of the Income Tax Amendment Act (No. 3) 1988) is hereby amended by omitting from the definition of the term “residual income tax” the words “guaranteed retirement income earner surcharge”, and 40

substituting the words “national superannuitant surcharge (if any)”.

5 (2) Section 413A (1) of the principal Act (as so inserted) is hereby amended by repealing paragraph (b) of the definition of the term “residual income tax”, and substituting the following paragraph:

“(b) The amount of national superannuitant surcharge paid by way of surcharge deductions from—

10 “(i) Payments of gross national superannuation made to the person in the income year, in accordance with **section 336H** of this Act:

“(ii) Source deduction payments (other than national superannuation), in accordance with **section 336J** or **section 336K** of this Act:”.

Section 4 (6)**SCHEDULE****NEW SCHEDULE TO SOCIAL WELFARE (TRANSITIONAL PROVISIONS)
AMENDMENT ACT (No. 2) 1991****“SCHEDULE****NEW FIRST SCHEDULE TO PRINCIPAL ACT****Section 10 (1)****‘FIRST SCHEDULE****RATES OF NATIONAL SUPERANNUATION AND VETERANS’
PENSIONS**

(The following rates are before deduction of tax)

1. (a) To an unmarried person who is living alone \$11,807.64 a year (\$227.07 a week).
 - (b) To an unmarried person who is not living alone \$10,767.64 a year (\$207.07 a week).
 - (c) To a married person \$8,811.40 a year (\$169.45 a week).
 - (d) Rate of national superannuation payable to a married person who was entitled to receive national superannuation on the 10th day of October 1988 and whose spouse, on that date, was not entitled to receive national superannuation and is not entitled to either national superannuation or a benefit in his or her own right under Part I of the Social Security Act 1964 or Part I of this Act \$9,562.28 a year (\$183.89 a week) or the rate for the time being specified in paragraph (c) of this clause, whichever is the greater.
2. Alternative rate for a married person whose spouse is not entitled to receive national superannuation or a veteran’s pension—
 - (a) To a married person with 1 or more dependent children who was in receipt of, or had applied for and was entitled to receive, guaranteed retirement income or a veteran’s pension at the alternative rate before the 1st day of October 1991 \$17,622.80 a year (\$338.90 a week) diminished by 30c for every complete \$1 of the total income of that person and his or her spouse in excess of \$3,120 a year but not in excess of \$4,160 a year, and by 70c for every \$1 of such income in excess of \$4,160 a year, or the rate for the time being specified in paragraph (b) of this clause, whichever is the greater.

SCHEDULE—*continued*

NEW SCHEDULE TO SOCIAL WELFARE (TRANSITIONAL PROVISIONS)
AMENDMENT ACT (NO. 2) 1991—*continued*

“SCHEDULE—*continued*

NEW FIRST SCHEDULE TO PRINCIPAL ACT—*continued*

‘FIRST SCHEDULE—*continued*

RATES OF NATIONAL SUPERANNUATION AND VETERANS’
PENSIONS—*continued*

- (b) To any other married person with 1 or more dependent children \$16,752.32 a year (\$322.16 a week) diminished by 30c for every complete \$1 of the total income of that person and his or her spouse in excess of \$3,120 a year but not in excess of \$4,160 a year, and by 70c for every \$1 of such income in excess of \$4,160 a year.
- (c) To a married person without dependent children who was in receipt of, or had applied for and was entitled to receive, guaranteed retirement income or a veteran’s pension at the alternative rate before the 1st day of October 1991 \$17,622.80 a year (\$338.90 a week) diminished by 30c for every complete \$1 of the total income of that person and his or her spouse in excess of \$2,600 a year but not in excess of \$4,160 a year, and by 70c for every \$1 of such income in excess of \$4,160 a year, or the rate for the time being specified in paragraph (d) of this clause, whichever is the greater.
- (d) To any other married person without dependent children \$16,752.32 a year (\$322.16 a week) diminished by 30c for every complete \$1 of the total income of that person and his or her spouse in excess of \$2,600 a year but not in excess of \$4,160 a year, and by 70c for every \$1 of such income in excess of \$4,160 a year.’”