

[AS REPORTED FROM THE COMMERCE AND ENERGY  
COMMITTEE]

*House of Representatives, 2 December 1982.*

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 double rule, or with double rule before first line and after last line.

*Hon. Mr Falloon*

**SUPERANNUATION SCHEMES AMENDMENT  
(NO. 2)**

ANALYSIS

Title	3. Classification of schemes
1. Short Title	4. Suspension and withdrawal of approval or classification
2. Interpretation	5. Regulations

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A BILL INTITULED

**An Act to amend the Superannuation Schemes Act 1976**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title**—This Act may be cited as the Superannuation Schemes Amendment Act (No. 2) 1982, and shall be read together with and deemed part of the Superannuation Schemes Act 1976\* (hereinafter referred to as the principal Act).

**2. Interpretation**—(1) Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

\*1976, No. 3  
Amendment: 1982, No. 7

*Struck Out*

“ ‘Class A funds’—

“(a) Means, in relation to any employee lump sum superannuation scheme or personal lump sum superannuation scheme,—

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“(i) All contributions paid to the scheme on or before the 5th day of August 1982, and all income arising from those contributions, whether that income arises before or after that date; and

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“(ii) All contributions paid to the scheme on or after the 6th day of August 1982 by or in respect of members of the scheme who were members before that date, and all income arising from those contributions; but

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“(b) Does not include any contributions which are paid by or in respect of any member in respect of any year subsequent to the 5th day of August 1982, and which exceed—

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“(i) If the member was a member of the scheme for the whole of the year ending with the 5th day of August 1982, and contributions were paid by or in respect of that member as a lump sum or on an irregular basis, the amount of those contributions:

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“(ii) If the member was a member of the scheme for part of the year ending with the 5th day of August 1982, and contributions were paid by or in respect of that member as a lump sum or on an irregular basis, the amount of those contributions or the amount that is required to be paid by or in respect of that member under any contractual obligation entered into before the 6th day of August 1982, whichever is the greater:

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5 “(iii) If the member was a member of the  
scheme for the whole or part of the year  
ending with the 5th day of August 1982,  
and contributions were paid by or in  
10 respect of that member by regular  
periodic payments (irrespective of  
whether those payments were expressed  
as amounts in dollar terms or were  
calculated at a rate determined by  
15 reference to the income of that  
member), the amount in dollar terms of  
the contributions paid by or in respect of  
the contributor in respect of the period  
ending with the 5th day of August 1982,  
multiplied by the appropriate factor  
according to the length of that period so  
as to produce an annual amount:  
20 “ ‘Class B funds’, in relation to any lump sum  
superannuation scheme, means any contributions or  
income that are not Class A funds:

*New*

25 “ ‘Class B fund’ in relation to any superannuation  
scheme and any member of such a scheme means all  
funds that do not form part of any Class A fund:

30 “ ‘Subsidised’, in relation to any employee pension  
superannuation scheme or employee lump sum  
superannuation scheme, means a scheme to which  
any person employing, engaging, or contracting for  
the services of any employee is liable to contribute in  
respect of that employee:”.

*Struck Out*

35 (2) Section 2 of the principal Act is hereby further amended  
by repealing the definition of the term “specified lump sum  
benefit” (as inserted by section 2 (1) of the Superannuation  
Schemes Amendment Act 1982), and substituting the  
following definition:

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“ ‘Specified lump sum benefit’ means a lump sum benefit recognised by the Government Actuary as arising from—

“(a) Contributions paid before the date on which a scheme is classified or deemed to be classified as a pension superannuation scheme; and 5

“(b) Contributions paid to the scheme after that date by or in respect of members who were members of the scheme at that date; and 10

“(c) Income arising from the contributions referred to in paragraphs (a) and (b) of this definition to the extent to which such income may be allocated towards that benefit in accordance with any regulations made under this Act; but 15

“(d) Does not include—

“(i) Any contributions which are paid by or in respect of any member by regular periodic payments (irrespective of whether those payments were expressed 20 as amounts in dollar terms or were calculated at a rate determined by reference to the income of that member), and which exceed the amount of the contributions paid by or in respect 25 of the member in respect of the period ending with the day on which application was made for classification of the scheme under this Act as a pension superannuation scheme, multiplied by 30 the appropriate factor according to the length of that period so as to produce an annual amount; or

“(ii) Any income arising from contributions which exceed the amount calculated 35 under subparagraph (i) of this paragraph.”

*New*

(2) Section 2 of the principal Act is hereby amended by omitting from the definition of the term “employee” the words “but does not include any shareholder-employee as defined in section 150 (1) (d) of the Income Tax Act 1976”, and substituting the words “but does not include any person who would be a shareholder-employee within the meaning of section 150 (1) (d) of the Income Tax Act 1976 if the expression ‘20 percent’ was omitted from subparagraphs (i) and (ii) of that provision, and the expression ‘50 percent’ was substituted in each case”.

(3) Section 2 of the principal Act is hereby amended by adding to the definition of the term “pension superannuation scheme” (as inserted by section 2 (1) of the Superannuation Schemes Amendment Act 1982) the words “; and includes any superannuation scheme that has been recognised by the Commissioner of Inland Revenue as a pension fund under section 150 (1) (c) of the Income Tax Act 1976 before the commencement of this Act.”

(4) Section 2 of the principal Act is hereby amended by repealing the definition of the term “specified lump sum benefit”.

(5) Section 2 (2) of the Superannuation Amendment Act 1982 is hereby consequentially repealed.

**2A. New sections inserted**—The principal Act is hereby amended by inserting, after section 2, the following sections:

**“2A. Class A fund in relation to employee lump sum superannuation scheme defined**—(1) The Class A fund of every employee lump sum superannuation scheme shall comprise all the funds arising directly or indirectly from contributions to the scheme in respect of members to the extent specified in this section whether those funds arise from those contributions in the year in which they are or have been paid or any subsequent year.

“(2) The Class A fund of every employee lump sum superannuation scheme shall comprise—

“(a) All the funds arising directly or indirectly from contributions paid to the scheme on or before the 31st day of March 1983 by or in respect of members of the scheme who were members on the 5th day of August 1982; and

*New*

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- “(b) To the extent permitted by subsections (3) to (6) of this section, all the funds arising directly or indirectly from contributions paid to the scheme on or after the 31st day of March 1983 by or in respect of members of the scheme who were members on the 5th day of August 1982. 5
- “(3) In respect of any member—
- “(a) Who was a member of the scheme for the whole or part of the year ending with the 31st day of March 1983; and 10
- “(b) By or in respect of whom contributions were paid by regular periodic payments (irrespective of whether those payments were expressed as amounts in dollar terms or were calculated at a rate determined by reference to the income of that member),— 15
- the Class A fund shall comprise in respect of any year commencing after the 31st day of March 1983—
- “(c) The amount in dollar terms of the contributions paid by or in respect of the member in respect of the period ending with the 31st day of March 1983, multiplied by the appropriate factor according to the length of that period so as to produce an annual amount; or 25
- “(d) The actual amount of the contributions paid by or in respect of the member for the year ending on the 31st day of March 1983,—
- whichever is the greater.
- “(4) In respect of any member— 30
- “(a) Who was a member of the scheme for the whole or part of the year ending with the 31st day of March 1983; and
- “(b) By or in respect of whom contributions were paid on an irregular basis— 35
- the Class A fund in respect of any year commencing after the 31st day of March 1983 shall comprise—
- “(c) The amount of those contributions; or
- “(d) The amount that would have been required to be paid by or in respect of the member under any obligation entered into before the 6th day of August 1982 that is expressed in the instrument governing the scheme if the member had been a member of the scheme for the whole of the year ending with the 31st day of March 1983,— 45
- whichever is the greater.
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*New*

“(5) In respect of any member to whom subsection (3) or subsection (4) of this section applies, the Class A fund may be increased to the extent that the rate or amount of  
5 contributions by or in respect of the member is increased by reference to his age or length of service under any obligation entered into before the 6th day of August 1982 that is expressed in the instrument governing the scheme; but any such increase shall be made on the basis that the member’s  
10 salary, staff category, and factors (other than age and length of service) affecting the contributions by or in respect of the member remained unaltered after the 31st day of March 1983 and shall not include any contributions paid by the employer of any member that exceed—

15 “(a) If the member has not attained the age of 30 years, 5 percent of the salary of that member as if that salary had remained unaltered after the 31st day of March 1983:

20 “(b) If the member has attained the age of 30 years but has not attained the age of 40 years, 7.5 percent of the salary of that member as if that salary had remained unaltered after the 31st day of March 1983.

25 “(c) If the member has attained the age of 40 years, 10 percent of the salary of that member as if that salary had remained unaltered after the 31st day of March 1983.

30 “(6) The Class A fund of any scheme that operates on the principle of unallocated funding and is recognised by the Government Actuary as conferring defined benefits on its members who were members on the 5th day of August 1982, and such defined benefits are conferred in accordance with an  
35 obligation entered into on or before that date that is expressed in the instrument governing the scheme, shall also include such contributions as the Government Actuary considers appropriate to provide those benefits.

40 “(7) The Class A fund of every employee lump sum superannuation scheme shall include any funds transferred to that scheme from the Class A fund of any other employee lump sum superannuation scheme.

*New***“2B. Class A fund in relation to personal lump sum superannuation scheme defined—**

(1) The Class A fund of every personal lump sum superannuation scheme shall comprise all the funds arising directly or indirectly from contributions to the scheme in respect of members to the extent specified in this section whether those funds arise from those contributions in the year in which they are or have been paid or any subsequent year. 5

“(2) The Class A fund of every personal lump sum superannuation scheme shall comprise— 10

“(a) All contributions paid to the scheme on or before the 5th day of August 1982 by or in respect of members who were members of the scheme on that date; and

“(b) To the extent permitted by subsection (3) of this section, all contributions paid to the scheme after the 5th day of August 1982 by or in respect of members who were members of the scheme on that date. 15

“(3) In respect of contributions paid by or in respect of members after the 5th day of August 1982, the Class A fund shall comprise in respect of the year commencing with the 6th day of August 1982 and every subsequent year commencing with the 6th day of August,— 20

“(a) The amount of contributions paid by or in respect of the member in the year that ended with the 5th day of August 1981; or 25

“(b) The amount of contributions paid by or in respect of the member in the year that ended with the 5th day of August 1982— 30

whichever is the greater.

“(4) The Class A fund of every personal lump sum superannuation scheme shall include any funds transferred to that scheme from the Class A fund of any employee lump sum superannuation scheme or any other personal lump sum superannuation scheme. 35

**“2c. Specified lump sum benefit in relation to employee pension superannuation schemes defined—**

(1) The specified lump sum benefit in relation to any member of an employee pension superannuation scheme means the lump sum retirement benefit that the member would have been entitled to receive under the scheme as a lump sum 40



*New*

superannuation scheme immediately before its classification as a pension scheme to the extent that the benefit arises from funds arising directly or indirectly from contributions paid by  
5 or in respect of the member—

“(a) Before the date on which the scheme is classified as an employee pension superannuation scheme; and

10 “(b) After the date of classification of the scheme as an employee pension superannuation scheme as if the member’s salary, staff category, and factors (other than age and length of service) affecting the contributions by or in respect of the member remained unaltered after that date.

“(2) The specified lump sum benefit in relation to any  
15 member shall include, in the case of a member who has been a member of an employee lump sum superannuation scheme and who becomes a member of the scheme as a result of the merger of his employer with any other employer, the takeover of his employer by another employer, or a change in the  
20 nature of the superannuation scheme or schemes made available to him by his employer—

“(a) Any specified lump sum benefit that he is entitled to retain at the time he becomes a member of the employee pension superannuation scheme; or

25 “(b) The specified lump sum benefit to which he would have been entitled if the employee lump sum superannuation scheme of which he is ceasing to be a member had applied for classification as an employee pension scheme with effect on the date  
30 on which he becomes a member of the employee pension superannuation scheme.”

*Struck Out*

**3. Classification of schemes**—(1) Section 13A of the principal Act (as inserted by section 4 of the Superannuation  
35 Schemes Amendment Act 1982) is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) Where any scheme is classified by the Government Actuary as an employee pension superannuation scheme or an employee lump sum superannuation scheme, the  
40 Government Actuary shall determine whether or not the scheme is a subsidised scheme and shall further classify the scheme accordingly.

*Struck Out*

“(1B) Where any scheme is classified by the Government Actuary as an employee lump sum superannuation scheme or a personal lump sum superannuation scheme, the Government Actuary shall identify those funds of the scheme that are or will be Class A funds, and those funds of the scheme that are or will be Class B funds, and that identification shall form part of the classification of the scheme.” 5

(2) Section 13A of the principal Act (as so inserted) is hereby amended by repealing subsection (3), and substituting the following subsection: 10

“(3) Any superannuation scheme that has not been classified under this section shall be deemed to be classified as a personal lump sum superannuation scheme and all the funds of any such scheme shall be deemed to be classified as Class B funds.” 15

(3) Section 13A of the principal Act (as so inserted) is hereby amended by omitting from subsection (4) the words “subsection (1) of”.

*New*

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**3. Classification of schemes**—(1) The principal Act is hereby amended by repealing section 13A (as inserted by section 4 of the Superannuation Schemes Amendment Act 1982), and substituting the following section:

“13A. (1) Where any scheme has been approved under section 13 of this Act whether before or after the commencement of this Act, the Government Actuary shall, on the application of the trustees or managers of the scheme, or on application for approval and classification being made to him under section 12 (1) of this Act, classify that scheme as— 25 30

“(a) An employee pension superannuation scheme; or

“(b) A personal pension superannuation scheme; or

“(c) An employee lump sum superannuation scheme; or

“(d) A personal lump sum superannuation scheme.

“(2) Where any scheme is classified by the Government Actuary as an employee pension superannuation scheme or an employee lump sum superannuation scheme, the Government Actuary shall determine whether or not the scheme is a subsidised scheme and shall further classify the scheme accordingly. 35 40

*New*

“ (3) Where any scheme is classified by the Government Actuary as an employee lump sum superannuation scheme or a personal lump sum superannuation scheme, the Govern-  
5 ment Actuary shall identify those contributions to and funds of the scheme that are or will form the Class A fund, and those contributions to and funds of the scheme that are or will form the Class B fund, and that identification shall form part of the classification of the scheme.

10 “ (4) Where any change is made to a superannuation scheme, the Government Actuary may change the classification of that scheme accordingly.

“ (5) Any superannuation scheme that has not been classified under this section shall be deemed to be classified as  
15 a personal lump sum superannuation scheme and all the contributions to and funds of any such scheme shall be deemed to be classified as a Class B fund.

“ (6) Where an application is made to have a superannuation scheme classified under this section, and the scheme is so  
20 classified, the classification shall be deemed to take effect on the date of application for such classification or such later date as may be determined by agreement between the applicant and the Government Actuary, whether or not changes to the scheme were necessary to enable that  
25 classification to be given.”

(2) Section 4 of the Superannuation Schemes Amendment Act 1982 is hereby consequentially repealed.

**4. Suspension and withdrawal of approval or classification**—Section 15A (5) of the principal Act (as enacted by  
30 section 5 of the Superannuation Schemes Amendment Act 1982) is hereby amended by adding, after the words “personal lump sum superannuation scheme”, the words “, and all the funds of any such scheme shall be deemed to be classified as (*Class B funds*) a Class B fund in respect of that  
35 year and every subsequent year until the scheme is otherwise classified under this Act”.

**5. Regulations**—Section 18 (d) of the principal Act (as substituted by section 6 (2) of the Superannuation Schemes Amendment Act 1982) is hereby amended—

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- (a) By inserting, after the words “that scheme”, the words “, and conditions requiring that the trustees and managers shall include an organisation specified in the regulations either particularly or as a member of a class of organisations so specified”:
- (b) By inserting, after the words “specified levels”, the words “, allocation of contributions or income towards specified benefits,”.

*New*

by omitting the word “investments”, and substituting the words “allocation of contributions or funds towards specified benefits, investments and retention of unauthorised investments until specified dates, borrowing (including conditions prohibiting borrowing by schemes),”

**6. Personal lump sum superannuation schemes may be terminated before 31 March 1984**—(1) Notwithstanding anything in the trust deed of any personal lump sum superannuation scheme that permits or prohibits the termination of any such scheme, the trustees may, by resolution made before the 31st day of March 1984, terminate the scheme.

(2) Where any resolution is made under subsection (1) of this section, the trustees shall distribute the assets of the scheme to the members or on their behalf before the 31st day of March 1984.

(3) The trustees shall give notice to the Government Actuary of any resolution made by them under subsection (1) of this section and shall inform him when the distribution of the assets has been completed.