

House of Representatives  
**Supplementary Order Paper**

Wednesday, 25 July 2001



Hon Bill English, in Committee, to move the following amendments:

*Clause 2:*

To omit subclause (1), and substitute the following subclauses:

- (1) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.
- (1A) The date appointed in **subclause (1)** must not be a date that is earlier than 9 sitting days after the Minister has presented to Parliament a statement signed by the leaders of the parties represented in Parliament, representing not less than 75% of the members of the House of Representatives indicating their support for this Act.

*Clause 72:*

To omit this clause.

*New clauses 72A to 72U:*

To insert, before clause 73, the following new clauses:

**72A Establishment of New Zealand Superannuation Authority**

This section establishes the New Zealand Superannuation Authority (the Authority).

**72B Objectives and purposes of Authority**

- (1) In order to ensure reasonable certainty and security for New Zealand Superannuation under **Part 1** and to avoid any potential for arbitrary and disruptive changes by any government, the Authority must—
  - (a) act as an impartial and independent authority to oversee New Zealand Superannuation policy; and

- (b) be the arbiter of any change to New Zealand Superannuation set out in **Part 1** by making recommendations to the Government, Parliament, and the public of New Zealand on all matters relating to the provision of New Zealand Superannuation; and
  - (c) from time to time as it deems necessary, or where requested to do so by resolution of the House of Representatives, and at least once every 6 years,—
    - (i) formally review all parameters of New Zealand superannuation entitlements and funding; and
    - (ii) make any recommendations to Parliament it deems necessary and appropriate to establish the continuing medium-term sustainability and affordability of New Zealand superannuation entitlements and funding; and
    - (iii) at the same time as considering sustainability, affordability, and certainty, give due weight to long-term equity and fairness of provision of New Zealand Superannuation between those receiving New Zealand Superannuation and those carrying the cost of New Zealand Superannuation.
- (2) In considering any of the matters set out in **subsection (1)** and before making any report or recommendations, the Authority must consult with—
- (a) the public:
  - (b) organisations having an interest in New Zealand superannuation entitlements and funding:
  - (c) persons with expertise in the provision of superannuation and retirement income generally:
  - (d) political parties represented in Parliament:
  - (e) political parties not represented in Parliament but with sufficient public support to potentially be parliamentary parties.
- (3) In making any recommendations under **subsection (1)**, the Authority must, to the extent that it is reasonably practicable to do so, ensure broad multi-party support across the political spectrum for the parameters of New Zealand Superannuation.
- (4) In order to give those entitled under **Part 1** to New Zealand Superannuation a reasonable opportunity to plan for their retirement income needs, in considering or making any recommendations for any modifications or alterations to New Zealand Superannuation, the Authority must take a medium- or long-term view of sustainability and affordability, as appropriate, and limit any recommendations for alteration to the minimum required to maintain continuing medium-term sustainability and affordability.

- (5) Where it becomes apparent to the Authority that, in order to give effect to its broader objectives in relation to the long-term sustainability, affordability, and certainty of New Zealand Superannuation, it will need to make recommendations for modifications to New Zealand superannuation entitlements and funding, the Authority must make every reasonable effort to maximise lead time for those modifications; and no change may be implemented before the next 6-yearly review provided for in **subsection (1)(c)** unless the Authority is of the view that such a change is essential to meet its objectives and purposes under this section.

**72C Further provisions relating to Authority**

- (1) The members of the Authority may exercise their powers only for the purpose of carrying out the functions set out in **section 72B**.
- (2) The Authority is a Crown entity for the purposes of the Public Finance Act 1989.

**72D Powers of Authority**

The Authority has all the powers necessary for managing, and for directing or supervising the management of, the business of the Authority.

**72E Expenses of Authority**

Any expenses of the Authority must be met out of money appropriated by Parliament for the purpose.

**72F Minister responsible for Authority**

For the purposes of **sections 72A to 72U**, the Prime Minister or any other Minister so designated by the Prime Minister is the Minister Responsible for the New Zealand Superannuation Authority.

**72G Requirement for referendum for bringing Authority into effect**

- (1) The provisions of **sections 72A to 72U** relating to the establishment and operation of the Authority come into force on a date appointed by the Governor-General by Order in Council.
- (2) The date appointed in **subsection (1)** must not be a date earlier than 3 months after the approval by a simple majority of voters of the principles underlying the Authority and the law governing the establishment and operation of the Authority.
- (3) The provisions the Referenda (Postal Voting) Act, with any necessary modifications, apply to a referendum held under this section.
- (4) The result of a referendum held under this section is binding.

- (5) Where a referendum under this section results in approval for the principles underlying the Authority and the law governing the establishment and operation of the Authority, the Minister must, not later than 3 weeks after the publication of the results of the referendum, recommend to the Governor-General the making of the Order in Council provided for in **subsection (1)**.

**72H Transitional provision in relation to New Zealand Superannuation Fund**

- (1) On the establishment of the New Zealand Superannuation Authority and the Fund established under **section 37**, the Minister must at that point refer all matters relating to the New Zealand Superannuation Fund to the Authority for its consideration and report under the provisions of this **Part**.
- (2) Unless the implementation of the Fund established under **section 37** was accompanied by a statement from the Minister presented to Parliament signed by the leaders of the parties represented in Parliament representing not less than 75% of the members of the House of Representatives indicating their support for the Fund, the Authority must when next reporting under **section 72J** consider any other alternative methods of funding New Zealand Superannuation including individual accounts and recommend the funding arrangement that in its view best meets its objectives and purposes under **section 72B**.

**72I Decision-making of Authority to be on basis of near unanimity**

- (1) The decisions of the Authority must be made on the basis of near unanimity rather than by a simple majority.
- (2) Where any dispute arises as to whether a position of near unanimity on any matter has been reached, the determination of the chairperson of the Authority on that matter is final.

**72J Process by which Authority reports and process by which reports are approved**

Once the Authority has in the course of its work determined any formal report, the Minister must,—

- (a) as soon as practicable after its approval by the Authority, present a copy of the report and any supporting documentation to Parliament; and
- (b) as soon as reasonably practicable after its approval by the Authority, cause a copy of that report and any supporting documentation to be published in the *Gazette*; and
- (c) make provision for the report to be widely publicised throughout New Zealand by way of notice of the report and its major provisions and recommendations in a variety of media, including, but not limited to—

- (i) advertisements in newspapers:
- (ii) advertisements on television and radio:
- (iii) depositing copies in public libraries and appropriate government offices:
- (iv) the use of electronic media and other publicity mechanisms reasonably available to the Authority.

**72K Formal reports of Authority to include specific recommendations for any modifications or alterations to New Zealand Superannuation**

- (1) Any formal report from the Authority, in addition to all other matters the Authority considers relevant or wishes to cover, must list any specific recommendations for modification or alteration to New Zealand superannuation entitlements and funding in such detail as is necessary to make the modification or alteration fully implementable without further amendment together with the timing of the introduction of those changes and any other relevant detail.
- (2) Before finalising any formal report, the Authority must consult the Secretary of the Treasury to ensure that the report meets the requirements of **subsection (1)**.

**72L Procedure for implementation of recommendations of Authority**

Any formal recommendations from the Authority must be implemented by 1 of the following mechanisms:

- (a) a commencement resolution passed by the House of Representatives that implements all the non-legislative modifications and alterations recommended by the Authority without amendment or alteration:
- (b) a commencement resolution passed by a majority of not less than 75% of members of the House of Representatives that may amend any or all of the non-legislative modifications and alterations recommended by the Authority.
- (c) subject to **section 73**, legislative change, if required.

**72M No change to be made to New Zealand Superannuation unless in accordance with section 72L**

For the avoidance of doubt, no change may be made to any aspect of New Zealand superannuation entitlements and funding otherwise than in accordance with **section 72L**.

**72N Timing of procedure for implementing recommendations of Authority**

A resolution under **section 72L(1) or (2)** may be made at any time after the date that is 28 sitting days after the date on which a report under **section 72J** is presented to Parliament.

**72O Membership of Authority**

- (1) The Authority consists of not less than 10 members appointed by the Governor-General by Order in Council on the recommendation of the Minister, following a resolution of the House of Representatives.
- (2) In considering persons for membership of the Authority, the Minister must consider for recommendation persons who—
  - (a) represent the broad range of political opinion within New Zealand on superannuation and retirement income matters:
  - (b) have expertise in superannuation and retirement income matters:
  - (c) represent the range of ethnic communities that make up the New Zealand community:
  - (d) have a reputation both for fairness in their dealings and a desire to reach consensus in their decision-making:
  - (e) any other relevant factors.
- (3) One member of the Authority must be appointed as chairperson by the Governor-General by Order in Council on the recommendation of the Minister, following a resolution under **subsection (1)**.
- (4) The term of appointment for the chairperson or members of the Authority is 6 years, and members are eligible for reappointment.

**72P Consultation on membership of Authority**

In considering persons for membership of the Authority under **section 720**, the Minister must consult with—

- (a) the public:
- (b) organisations interested in superannuation entitlements and funding and retirement income issues generally:
- (c) persons with expertise in superannuation entitlements and funding and retirement income issues generally:
- (d) political parties represented in Parliament:
- (e) political parties not represented in Parliament but with sufficient public support, in the view of the Minister, to potentially be parliamentary parties.

**72Q Consultation on appointment of chairperson of Authority**

In considering a person for appointment as chairperson of the Authority, the Minister must—

- (a) seek out a person whose reputation for fairness and impartiality is widely recognised throughout New Zealand; and
- (b) consult with—
  - (i) the public;
  - (ii) organisations having an interest in superannuation entitlements and funding and retirement income issues generally;
  - (iii) persons having expertise in superannuation entitlements and funding and retirement income issues generally;
  - (iv) political parties represented in Parliament;
  - (v) political parties not represented in Parliament but with sufficient public support to potentially be parliamentary parties.

**72R Removal from office of member or chairperson of Authority**

- (1) No member of the Authority may be removed from office except by resolution of the House of Representatives.
- (2) The Minister may, at any time and for any reason that, in the Minister's opinion, justifies making a recommendation to the House for the removal from office of the chairperson or a member of the Authority, initiate the procedures set out in **subsections (3) to (8)** to remove that person from office.
- (3) A recommendation for removal from office of the chairperson or a member of the Authority by the Minister is initiated by the Minister presenting to Parliament a report recommending the passage of a resolution to that effect to the House of Representatives.
- (4) A report under **subsection (3)** must state the reason for the removal and include a draft resolution for removal together with a recommendation as to the date the removal of the member takes effect.
- (5) Reasons for removal from office of the chairperson or a member of the Authority may include (without limitation) any reason relating to the member's performance of, or ability to perform, his or her duties or responsibilities as a member, the Authority's performance of its collective duties, or misconduct by the member.
- (6) Before making any recommendation under **subsection (2)**, the Minister must be satisfied, after consultation, that there is an appropriate level of support in the community and amongst parties represented in Parliament for the removal.
- (7) A resolution for removal of the chairperson or a member from the Authority by the House of Representatives may be made:

- (a) at any time after the date that is at least 6 and not more than 21 sitting days after the date on which report under **subsection (3)** is presented to Parliament, where the resolution is passed by a simple majority of the House of Representatives; or
  - (b) at any time the House determines, where passed by a majority of not less than 75% of members of the House of Representatives.
- (8) The Minister must make a copy of a report under **subsection (3)** available to the member concerned and to the Authority at the time at which the report is presented to Parliament.
  - (9) The removal of the chairperson or member from office has effect on the day specified in the resolution under **subsection (1)**.
  - (10) A chairperson or member is not entitled to any compensation or other payment relating to his or her removal from office.

**72S Appointment and reappointment of members or chairperson of Authority where current member or chairperson completes term of office, dies, resigns, or is removed from office**

- (1) Where at any time the chairperson or any member of the Authority completes his or her term of office, dies, resigns from office, or is removed from office under **section 72R**, the vacancy created is filled in accordance with the procedures in **section 72P or section 72Q**, as the case requires.
- (2) Subject to **section 72P or section 72Q**, as the case requires, the chairperson or a member of the Authority may serve any number of terms on the Authority.
- (3) The chairperson or a member resigns from office by sending a written notice to the Minister and a copy to the Authority.
- (4) The notice under **subsection (3)** takes effect on the later of—
  - (a) the day the Minister receives it; or
  - (b) the day the member states in it for the purpose.>
- (5) If any vacancy occurs less than 2 months before the end of a session of Parliament and no recommendation under **section 72P or section 72Q** has been made, the provisions of **subsection (6)** apply.
- (6) If a vacancy occurs at any time while Parliament has been prorogued or dissolved, the following provisions apply:
  - (a) the Governor-General in Council may, on the recommendation of the Minister, appoint a person to fill the vacancy, and the person so appointed, unless his or her office sooner becomes vacant, holds office until the appointment is confirmed by resolution of the House of Representatives:



- (b) if the appointment is not confirmed within 9 sitting days after the commencement of the next session of Parliament, the appointment lapses and there is deemed to be a further vacancy in the membership of the Authority.
- (7) Where any recommendation for appointment to the Authority is made to the Governor-General under this section, the Minister must make all reasonable efforts to carry out the consultation process for membership of the Authority required under **section 72P** or **section 72Q**, as the case requires.

**72T Effect of vacancy in membership**

The functions and powers of the Authority are not affected by any vacancy in its membership.

**72U Remuneration**

The Minister must approve payments to, or for, the members of the Authority, being remuneration for services as members or reimbursement of expenses incurred by members in carrying out the duties of the Authority.

*Clause 73(1):*

To omit subclause (1), and substitute the following subclause:

- (1) The Minister must, on the introduction of any bill that proposes any amendment to this Act, other than by the process set out in **section 72J** or **section 72K**, present to Parliament a statement advising members that the bill has not been introduced with a statement representing agreement to the introduction of the bill signed by the leaders of the parties represented in Parliament, representing not less than 75% of the members of the House of Representatives.

*Clause 73(2):*

To omit paragraph (a)

*New clause 73A:*

To insert, after clause 73, the following clause:

**73A Conversion of Fund into individual accounts**

- (1) Within 6 months of the coming into force of this Act, the Minister must refer to the Guardians for consideration the conversion of the balance in the Fund into individual retirement accounts in the names of all persons eligible for payments in future from the New Zealand Superannuation Fund.
- (2) Within 24 months of the date of receiving the reference from the Minister under **subsection (1)**, the Guardians must report to the Minister with specific recommendations for implementation of the conversion of the balance in the Fund into individual retirement accounts in the names of all persons eligible for payments in future from the New Zealand Superannuation Fund.

- (3) As soon as practicable after receipt of the report required by **subsection (2)**, the Minister must present a copy of the report with its recommendations to Parliament.
- (4) Before finalising any formal report, the Guardians must consult the Secretary of the Treasury to ensure that the report meets the requirements of **subsection (2)**.

*Schedule 4:*

To omit this schedule.

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### Explanatory note

*Clause 1:* The purpose of these amendments is to address the deep public concern at the lack of consensus on retirement income in New Zealand by the introduction of a mechanism that stops implementation of the New Zealand Superannuation Fund until it is established that the scheme enjoys the support of a multi-party consensus.

*New clauses 72A to 72U:*

The purpose of these amendments is to address the deep public concern at the lack of consensus amongst political parties on New Zealand superannuation policy and funding in New Zealand by establishing an independent authority to oversee and maintain a multi-party consensus policy on levels of publicly-funded New Zealand Superannuation.

In order to ensure true a consensus as to New Zealand superannuation entitlements and funding emerges from the Authority, these amendments provide for decision-making to be made according to the principles of near unanimity rather than simple majority. Given the weight that near unanimous decision making places on the chairperson of this body special provisions relating to the appointment of a chairperson are included. The clauses collectively provide that the Authority must after due consideration make any recommendations for the alteration or modification of New Zealand superannuation entitlements and funding. The mechanism for the implementation of those specific recommendations is that they must either be approved in whole (i.e without amendment) by a simple majority of the House of Representatives or with amendment by three quarters majority of the House of Representatives or by legislative change requiring the agreement of 75% of member of Parliament. The limitation on amendment without a three quarters majority should render it impossible for governments to make unilateral changes to the levels of New Zealand Superannuation for short-term political or economic reasons. In short, the recommendations of the Authority would in normal circumstances be New Zealand Superannuation policy in New Zealand.

The bill also includes provisions that would require the Minister to notify the House of any proposed law change that would affect New Zealand superannuation entitlements and funding unless it enjoys the support of 75% of the members of Parliament.

Given the general importance this Authority to the development of a consensus approach to New Zealand superannuation entitlements and funding (and any

subsequent changes over time to policy), the clauses provide for the a high standard of personal requirements for the chairperson and membership of the Authority. It also covers the process for the appointment, reappointment, resignation and removal of the members of the Authority.

As a further assurance of ongoing public support for the proposals in these amendments, these amendments provide that the implementation of the whole system must rely on the public demonstrating its support via a public referendum. Unless that referendum approves the principles underlying the New Zealand Superannuation Authority and the law governing the establishment and operation of the New Zealand Superannuation Authority, the system would not proceed.

The clauses include a transitional provision to bring the New Zealand Superannuation Fund into a consensus multi-party approach to New Zealand Superannuation policy.

Provisions in these clauses provide for a Responsible Minister and the powers of that Minister in relation to the Authority, and the process required to be followed in order to give sustainability, affordability and certainty to New Zealand Superannuation by creating a robust multi-party approval process for New Zealand, provides a process for reporting the views and recommendations of the New Zealand Superannuation Authority, together with a process for the approval and implementation of the recommendations of the Authority and provides for other matters relating to the New Zealand Superannuation Authority.

*Clause 73:* The purpose of these amendments is to provide further certainty and protection for the New Zealand Superannuation policy by requiring the Minister to follow developments and notify the House of any proposal that comes before the House that impacts on the proposals in this Act.

*New clause 73A:* The purpose of these amendments is to establish firm time benchmarks for the production of a report that puts recommendations before the House for individualised retirement income accounts in the New Zealand Superannuation Fund so that the House can determine whether or not to support that approach.

*Schedule 4:* The omission of this schedule is consequential to the proposed omission of clause 72.