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1980, No. 163

**An Act to amend the Government Superannuation Fund Act
1956** [23 December 1980]

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 and commencement—(1) This Act may be cited as the Government Superannuation Fund Amendment Act 1980, and shall be read together with and deemed part of the Government Superannuation Fund Act 1956 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of January 1981.

2. New Part inserted—(1) The principal Act is hereby amended by repealing Part IV, and substituting the following Part:

“PART IV**“SUPERANNUATION OF JUDGES AND SOLICITOR-GENERAL***“Interpretation and Application*

“72. Interpretation—In this Part of this Act, unless the context otherwise requires,—

“‘Judge’ means—

“(a) A Judge of the High Court appointed under section 4 of the Judicature Act 1908:

“(b) A Judge of the Arbitration Court appointed under section 37 of the Industrial Relations Act 1973:

“(c) A Judge of the Compensation Court appointed under section 41 of the Workers’ Compensation Act 1956:

“(d) A Judge of the Maori Land Court appointed under section 16 of the Maori Affairs Act 1953:

“(e) A Chief Judge of the District Court appointed under section 5A of the District Courts Act 1947:

“(f) A Judge of the District Court appointed under section 5 of the District Courts Act 1947:

“ ‘Judicial service’ means any service as a Judge; and where such service is not continuous shall be the aggregate of all such periods of service:

“ ‘Temporary Judge’ means—

“(a) A Judge of the High Court appointed under section 11 of the Judicature Act 1908:

“(b) A Judge of the Arbitration Court appointed under section 40 of the Industrial Relations Act 1973:

“(c) A Judge of the Compensation Court appointed under section 43 of the Workers Compensation Act 1956:

“(d) A Judge of the Maori Land Court appointed under section 16A of the Maori Land Act 1953:

“(e) A Judge of the District Court appointed under section 10 or section 10A of the District Courts Act 1947.

“73. Application of this Part to Solicitor-General—

(1) Subject to subsection (2) of this section, this Part of this Act shall apply to any person appointed to the office of Solicitor-General as if that appointment were an appointment as a Judge.

“(2) Where any person has, before the 31st day of December 1980, elected under section 74 of this Act to remain a contributor under Part II of this Act, this Part of this Act shall not apply to that person while he holds the office of Solicitor-General.

“74. Application of this Part—Subject to section 74B of this Act, this Part of this Act shall apply to all Judges appointed after the commencement of this Part of this Act.

“74A. Application of this Part to Judges to whom Parts IV and V applied—(1) Subject to subsection (2) of this section and to section 7 of the Government Superannuation Fund Amendment Act 1980, this Part of this Act shall apply to all persons to whom Part IV or Part V of this Act applied on the 31st day of December 1980.

“(2) Any Judge who was a contributor under Part V of this Act on the 31st day of December 1980 may elect, by notice in writing delivered to the Superintendent before the 30th day of June 1981, to remain a contributor under Part V of this Act.

“(3) Every such election shall be irrevocable.

“(4) Where any such election is made this Part of this Act shall not apply and is hereby deemed never to have applied to that Judge.

“74B. **Application of this Part to Judge of or over age of 63 years on appointment**—(1) Where any person is first appointed to be a Judge after he has attained the age of 63 years he may elect, by notice in writing delivered to the Superintendent within 3 months after that appointment, that this Act shall not apply to him.

“(2) Every such election shall be irrevocable.

“(3) Where any such election is made this Act shall not apply and is hereby deemed never to have applied to that person.

“Contributions

“74c. **Contributions**—(1) From the salary payable to any Judge in respect of any period after the 31st day of December 1980 a contribution at the rate applicable under subsection (2) of this section shall be deducted as the salary becomes payable from time to time.

“(2) The contribution to be deducted from the salary of a Judge in accordance with subsection (1) of this section shall be—

“(a) Seven percent if his age is under 42 years at the commencement of his judicial service:

“(b) Seven and a half percent if he has then attained the age of 42 years but has not attained the age of 50 years:

“(c) Eight percent if he has then attained the age of 50 years.

“(3) Notwithstanding subsection (1) of this section, where the judicial service completed by any Judge is such that if he were to retire he would be entitled to the maximum retiring allowance payable under section 74E of this Act, no further contributions shall be deducted from his salary in respect of any period after the 31st day of December 1980 or after such service has been completed, whichever is the later.

“(4) Notwithstanding subsection (1) of this section, where the judicial service completed by any Judge who was a contributor under Part V of this Act on the 31st day of December 1980 is such that if Part V of this Act still applied to that Judge he would be entitled to the maximum retiring allowance under that Part, no further contributions shall be

deducted from his salary in respect of any period after the 31st day of December 1980 or after such service has been completed, whichever is the later.

“(5) Notwithstanding section 74M (3) of this Act, all contributions payable under this Part of this Act are hereby deemed, for the purposes of section 59 of the Income Tax Act 1976, to be contributions to the Government Superannuation Fund.

“74D. **Service as a temporary Judge**—(1) Where any person is appointed as a temporary Judge and that person was, immediately before his appointment, holding office as a Judge, that person shall pay contributions in respect of his service as a temporary Judge as if that service were service as a Judge.

“(2) Where subsection (1) of this section applies to any person the provisions of this Part of this Act shall apply to that person as if he had received a further appointment as a Judge on the date on which he was appointed as a temporary Judge.

“(3) Where any person to whom subsection (1) of this section does not apply is appointed as a Judge, and that person was, immediately before his appointment, holding office as a temporary Judge, that person may elect to pay contributions in respect of his service as a temporary Judge as if that service were service as a Judge.

“(4) Every such election shall be irrevocable, and shall be delivered to the Superintendent within 3 months after the person is appointed as a Judge.

“(5) Where any such election is made the provisions of this Part of this Act shall apply to that person as if he had been appointed as a Judge on the date on which he was appointed as a temporary Judge.

“Retiring Allowances

“74E. **Entitlement of Judge to retiring allowance**—
(1) Every Judge who—

“(a) Retires after having attained the age of 68 years; or

“(b) Resigns his office after having completed 10 years’
judicial service and having attained the age of
60 years; or

“(c) Resigns his office after having completed not less than 20 years’ judicial service; or

“(d) Satisfies the Governor-General in Council that he has become incapable of performing the duties of his office by reason of any permanent infirmity or other cause, and thereupon resigns his office,—

shall be entitled to a retiring allowance in proportion to the amount of his annual salary at the time of retiring or resigning, computed in accordance with the succeeding provisions of this section.

“(2) In no case shall the retiring allowance computed under this section exceed two-thirds of the annual salary of the Judge at the date of his retirement or resignation.

“(3) Subject to subsection (2) of this section and to sections 74F and 74G of this Act, the retiring allowance of a Judge shall be computed so that for each year of judicial service the Judge shall be entitled to receive the following proportions of his salary at the date of his retirement or resignation:

“(a) Where the Judge was under 42 years of age at the date of his first appointment, one thirty-third part of that salary for each year of judicial service and a proportionate part of that fraction of that salary for each part of a year of judicial service:

“(b) Where the Judge was 42 years of age or over but under 50 years of age at the date of his first appointment, one thirtieth part of that salary for each year of judicial service and a proportionate part of that fraction of that salary for each part of a year of judicial service:

“(c) Where the Judge was 50 years of age or over but under 54 years of age at the date of his first appointment, one twenty-seventh part of that salary for each year of judicial service and a proportionate part of that fraction of that salary for each part of a year of judicial service:

“(d) Where the Judge was 54 years of age or over at the date of his first appointment, one twenty-fourth part of that salary for each year of judicial service and a proportionate part of that fraction of that salary for each part of a year of judicial service.

“74F. Minimum retiring allowance for certain Judges who retire at 68 years of age or over—(1) Notwithstanding section 74E (3) of this Act, where any Judge to whom section

74E (1) (a) of this Act applies has completed not less than 18 years of judicial service immediately before his retirement under that section the retiring allowance of that Judge shall be two-thirds of his annual salary at the date of his retirement.

“(2) Notwithstanding section 74E (3) of this Act, but subject to subsection (1) of this section, where any Judge to whom section 74E (1) (a) of this Act applies was 52 years of age or over but under 54 years of age at the date of his first appointment the minimum retiring allowance of that Judge shall be sixteen twenty-sevenths of his annual salary at the date of his retirement.

“74G. **Minimum retiring allowance for Judge who resigns on grounds of incapacity**—Notwithstanding section 74E (3) of this Act, the retiring allowance of every Judge to whom section 74E (1) (d) of this Act applies shall be not less than 15 percent of his salary at the date of his resignation.

“Refund of Contributions

“74H. **Power to elect to receive refund of contributions instead of retiring allowance**—(1) Where any Judge retires or resigns his office and is entitled to receive a retiring allowance he may, at any time before accepting the first instalment of his retiring allowance, elect to accept a refund of the total contributions paid by him under this Act instead of a retiring allowance.

“(2) Every such election shall be irrevocable.

“(3) Where any such election is made, the Judge shall be entitled to receive the refund of contributions without interest, and no sum shall be payable under this Part of this Act in the event of his death.

“74I. **Entitlement to refund where no entitlement to retiring allowance**—(1) Where any Judge retires or resigns his office and is not entitled to receive a retiring allowance, he shall be entitled to receive a refund of the total contributions paid by him under this Act.

“(2) The refund of the contributions shall be paid without interest, and no sum shall be payable under this Part of this Act in the event of the death of the Judge.

“Payments to Spouses and Dependants

“74J. Death of Judge—(1) Where any Judge dies, whether before or after becoming entitled to a retiring allowance, sections 45 to 47 of this Act shall apply with the necessary modifications and subject to subsections (2) and (3) of this section.

“(2) Except as provided in subsection (3) of this section, the annuity payable under section 45 or section 46 of this Act shall be not less than 15 percent of the salary payable to the Judge at the date of his retirement or death, whichever first occurs.

“(3) Where any Judge has made an election under the second proviso to section 78 (1) of this Act, the annuity payable under section 45 of this Act shall be 20 percent of the salary payable to the Judge at the date of his retirement or death, whichever first occurs.

“Capitalisation of Retiring Allowance or Annuity

“74K. Election to surrender proportion of retiring allowance or annuity and receive cash payment—Sections 91 and 91A of this Act shall apply with the necessary modifications to any person who is entitled to receive a retiring allowance or annuity under this Part of this Act.

“Minimum Payments in Respect of Certain Judges

“74L. Certain Judges or surviving spouses to be entitled to minimum payments—Notwithstanding this Part of this Act, no retiring allowance or annuity payable under this Part of this Act to or in respect of a Judge who was contributing under Part V of this Act on the 31st day of December 1980 shall be any less than the allowance or annuity that would have been payable to that person had this Part of this Act not been passed, and, in the case of a Judge to whom section 74E (1) (a) applies, that Judge is hereby deemed to have completed as much judicial service as he would have completed had he retired at 72 years of age.

“Accounting

“74M. Judges Superannuation Account—(1) All contributions payable under this Part and Part V of this Act shall be paid into a special account within the Government Superannuation Fund to be called the Judges Superannuation Account.

“(2) All retiring allowances, annuities, refunds of contributions, and other payments payable under this Part of this Act or Part V of this Act shall be paid out of the Judges Superannuation Account; and where in any year the money in the Judges Superannuation Account is insufficient to meet all such payments, the deficiency shall be met by a payment from the Consolidated Account without further appropriation than this section.

“(3) The Judges shall not, by reason of this section, become contributors to the Government Superannuation Fund for the purposes of any Part of this Act other than this Part and Part V of this Act.”

3. Application of Part V of principal Act—The principal Act is hereby amended by inserting, after section 75, the following section:

“75A. **Application of this Part**—Nothing in this Part shall apply to any Judge appointed after the 31st day of December 1980.”

4. Increase of annuity for certain surviving spouses—Section 79 (1) (a) of the principal Act (as substituted by section 30 (1) of the Government Superannuation Fund Amendment Act 1976) is hereby amended by omitting from the third proviso to that paragraph the words “15 percent”, and substituting the words “20 percent”.

5. Election to surrender proportion of retiring allowance and receive cash payment—The principal Act is hereby amended by repealing section 91, and substituting the following section:

“91. (1) Any contributor who becomes entitled to a retiring allowance under this Act, may elect to surrender his right to a proportion of the retiring allowance and to receive instead payment out of the Fund of a sum equal to 9 times the amount by which his annual retiring allowance is reduced pursuant to the surrender.

“(2) For the purposes of subsection (1) of this section a contributor shall be deemed to be entitled to a retiring allowance under this Act in any case where he would have been so entitled if he had retired on the date of his election.

“(3) An election may be made under subsection (1) of this section by a contributor at any time within 3 months immediately preceding the date on which the contributor becomes entitled to a retiring allowance under this Act.

“(4) Where an election is made under subsection (3) of this section it shall be deemed to have been made on the earliest day on which the contributor would be entitled to a retiring allowance under this Act if he survived and had retired.

“(5) Subject to subsection (6) of this section, any contributor who has made an election under subsection (1) of this section may make a further election within 3 months before he ceases duty in the Government service (whether or not he will remain in the Government service on leave after ceasing duty), to thereupon receive not more than half the amount that he would be entitled to receive if he had been entitled to a retiring allowance when he made the election under subsection (1) of this section.

“(6) Where the Board has determined under section 36 (2) of this Act or the second or third proviso to section 68 (4) of this Act or the first proviso to section 69 (1) of this Act to defer the commencement of the payment of a retiring allowance to a contributor, that contributor shall not be entitled to make any election under subsection (5) of this section.

“(7) Where any amount is paid to any contributor under subsection (5) of this section, interest shall be payable on that amount by the contributor at such rate as the Board may determine for the period between the date on which the contributor receives that amount and the date on which he becomes entitled to his retiring allowance or the date of his death, whichever is the earlier.

“(8) All such interest shall be recoverable as a debt due to the Crown and may be deducted from any retiring allowance payable to the contributor or any annuity payable to the surviving spouse of the contributor.

“(9) Every election under this section shall be made in writing and delivered to the Superintendent before the contributor has accepted any instalment of his retiring allowance.

“(10) No contributor shall have the right to revoke or amend any election under this section or to make any further election, except as provided in subsection (11) of this section.

“(11) Where a contributor to whom subsection (2) or subsection (5) of this section applies has made an election under subsection (1) of this section, that contributor shall be entitled to make one further election to increase the proportion of the retiring allowance surrendered by him under subsection (1) of this section before he has accepted any instalment of his retiring allowance.

“(12) No election or combination of elections under this section shall entitle any contributor to surrender more than one quarter of his retiring allowance.

“(13) Where a contributor has completed an election under this section in respect of a previous period of contributory service, the amount so surrendered shall be deducted from the retiring allowance that he may elect to surrender.

“(14) Upon an election under this section becoming effective the annual retiring allowance payable to a contributor shall be reduced by the same proportion as that which he has elected to surrender and all rights in respect of the proportion so surrendered shall be deemed to be determined.

“(15) Except as provided in subsection (5) of this section, any amount which a contributor is entitled to receive under this section shall become payable—

“(a) On the date on which the contributor becomes entitled to payment of the retiring allowance; or

“(b) In the case of a contributor to whom subsection (2) of this section applies, on the date of his death,—
whichever is the earlier.”

6. Consequential amendments and repeals—(1) Section 20 of the principal Act is hereby amended by repealing paragraphs (b) and (c), and substituting the following paragraph:

“(b) Judges and the Solicitor-General except as provided in Part IV and Part V of this Act.”

(2) Section 7 (1) of the Government Superannuation Fund Amendment 1969 is hereby amended by omitting from the proviso to the definition of the term “date of qualification” (as amended by sections 5 (6) and 6 (8) of the Government Superannuation Fund Amendment Act 1970) the words “or paragraph (c) of subsection (1) or paragraph (b) of subsection (2) of section 76 of the principal Act or payable under subsection (2) of section 73 of the principal Act to any

person who has become incapable of performing the duties of his office by reason of any permanent infirmity”, and substituting the words “or section 74E (1) (d) or section 76 (1) (c) or section 76 (2) (b) of the principal Act”.

(3) Section 3 of the Government Superannuation Fund Amendment Act 1969 is hereby amended by inserting, after paragraph (h) (as added by section 5 (1) of the Government Superannuation Fund Amendment Act 1970), the following paragraphs:

“(ha) Retiring allowances payable under section 74E of the principal Act:

“(hb) Annuities payable under section 74J of the principal Act:”.

(4) The enactments specified in the Schedule to this Act are hereby repealed.

7. Savings—Notwithstanding the repeal of Part IV of the principal Act by section 2 of this Act, the provisions of that Part shall continue to apply in respect of retiring allowances and annuities payable under that Part immediately before the commencement of this Act as if this Act had not been passed.

SCHEDULE

Section 6 (4)

ENACTMENTS REPEALED

- 1956, No. 47—The Government Superannuation Fund Act 1956: Section 81. (Reprinted 1975, Vol. 4, p. 3263.)
- 1959, No. 85—The Government Superannuation Fund Amendment Act 1959: Section 26 (1). (Reprinted 1975, Vol. 4, p. 3381.)
- 1962, No. 130—The Government Superannuation Fund Amendment Act 1962: Section 14. (Reprinted 1975, Vol. 4, p. 3386.)
- 1963, No. 126—The Government Superannuation Fund Amendment Act 1963: Sections 6 (3) and 7. (Reprinted 1975, Vol. 4, p. 3393.)
- 1964, No. 125—The Government Superannuation Fund Amendment Act 1964: Section 9. (Reprinted 1975, Vol. 4, p. 3395.)
- 1966, No. 88—The Government Superannuation Fund Amendment Act 1966. (Reprinted 1975, Vol. 4, p. 3398.)
- 1967, No. 141—The Government Superannuation Fund Amendment Act 1967: Section 8. (Reprinted 1975, Vol. 4, p. 3398.)
- 1970, No. 116—The Government Superannuation Fund Amendment Act 1970: Sections 2, 5 (6), and 6 (8). (Reprinted 1975, Vol. 4, p. 3410.)
- 1977, No. 108—The Industrial Relations Amendment Act 1977: So much of the Second Schedule as relates to section 20 (b) of the principal Act.
- 1979, No. 46—The Government Superannuation Fund Amendment Act 1979: Section 15.

This Act is administered in the Treasury.
