



New Zealand Superannuation Act 2001

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Commencement see section 2

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the New Zealand Superannuation Act 2001.

2 Commencement

- (1) This Act comes into force on the day after the date on which it receives the Royal assent.
- (2) Sections 42 to 45 (capital and other contributions to the Fund) apply in relation to the financial year commencing on 1 July 2001 and every subsequent financial year.

3 Purpose

The purpose of this Act is—

- (a) to continue current entitlements to New Zealand superannuation:
- (b) to establish a New Zealand Superannuation Fund with sufficient resources to meet the present and future cost of New Zealand superannuation:
- (c) to provide for Government contributions to the Fund:
- (d) to establish a Crown entity to manage and administer the Fund called the Guardians of New Zealand Superannuation:
- (e) to establish a process for signalling political agreement on the parameters for New Zealand superannuation entitlements and funding:
- (f) to bring together in 1 Act all of the provisions for each of those matters.

4 Interpretation of Part 1 and Schedule 1

- (1) In Part 1 and Schedule 1, unless the context otherwise requires,—

chief executive means the chief executive of the department

department means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of Part 1

New Zealand superannuation means the entitlements under Part 1, including both the standard and non-standard entitlements.

- (2) In this Act, unless the context otherwise requires, any expression used in Part 1 or Schedule 1 but not defined in this Act has the same meaning as it has in the Social Security Act 1964.

5 Interpretation of Parts 2 and 3 and Schedule 3

- (1) In Parts 2 and 3 and Schedule 3, unless the context otherwise requires,—

board means the Guardians of New Zealand Superannuation board referred to in section 53

board member means a member of the Guardians of New Zealand Superannuation board

capital contribution means any money referred to in section 43 or section 44 or section 46

custodian means a person appointed under section 63(1) to act as custodian of the Fund, or any part of the Fund

entity means any person, whether corporate or unincorporate

Fund means the New Zealand Superannuation Fund established under section 37

Guardians means the entity called the Guardians of New Zealand Superannuation established under section 48

invest means to carry on any activity, do any act, or enter into any transaction that the Guardians consider to be for the purpose, directly or indirectly, of—

(a) enhancing or protecting the value of the Fund:

(b) managing, or enabling the management of, the Fund

Minister means the Minister of Finance, or other Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of Parts 2 and 3 or particular provisions of this Act

net cost is the cost of New Zealand superannuation entitlements net of any tax deduction made or required to be made under the PAYE rules in the Income Tax Act 1994

New Zealand superannuation—

- (a) means the entitlements to New Zealand superannuation under Part 1, including both the standard and non-standard entitlements; and

- (b) includes, for the avoidance of doubt in Part 2 and Schedule 3, entitlements to New Zealand superannuation under Part 1 as modified under section 19 of the Social Welfare (Transitional Provisions) Act 1990 (adoption of reciprocity agreement with other countries)

required annual capital contribution has the same meaning as in section 43

subsidiary—

- (a) means a subsidiary within the meaning of sections 5 to 8 of the Companies Act 1993; and
- (b) includes an entity that is classified as a subsidiary in any relevant approved financial reporting standard (within the meaning of section 2(1) of the Financial Reporting Act 1993).
- (2) In this Act, unless the context otherwise requires, the terms **contingent liability**, **Crown**, **Crown Bank Account**, **expenses**, **financial year**, **Government**, **public money**, and **Treasury** have the meanings given to them by section 2(1) of the Public Finance Act 1989.

6 Act binds the Crown

This Act binds the Crown.

Part 1

Entitlements to New Zealand superannuation

Standard New Zealand superannuation entitlements

7 Age qualification for New Zealand superannuation

- (1) Every person is entitled to receive New Zealand superannuation who attains the age of 65 years.
- (2) However, a person is not entitled to receive New Zealand superannuation in respect of any period for which he or she has made an election under any of clauses 25, 68, or 72 of Schedule 1 of the Accident Insurance Act 1998 to be entitled to weekly compensation under that Act rather than to New Zealand superannuation.
- (3) Subsection (1) applies subject to the provisions of this Part and of the Social Security Act 1964.

Compare: 1990 No 26 s 3

8 Residential qualification for New Zealand superannuation

No person is entitled to New Zealand superannuation unless the person—

- (a) is ordinarily resident in New Zealand on the date of application for New Zealand superannuation; and
- (b) has been both resident and present in New Zealand for a period or periods aggregating not less than 10 years since attaining the age of 20 years; and
- (c) has also been both resident and present in New Zealand for a period or periods aggregating not less than 5 years since attaining the age of 50 years.

Compare: 1990 No 26 s 4(1)

9 Periods of absence that are not counted

- (1) In determining the period an applicant has been present in New Zealand, no account is taken of,—
 - (a) in the case of any applicant, any period of absence for the purpose of obtaining any special medical or surgical treatment or vocational training if the chief executive is satisfied that there were good and sufficient reasons for the person leaving New Zealand to obtain that special treatment or training;
 - (b) in the case of a mariner, any period of absence while serving on board any ship registered or owned in New Zealand and engaged in trading to and from New Zealand;
 - (c) in the case of any applicant, any period of absence while serving in any capacity as a member of any naval, military, or air force of any Commonwealth country or serving in connection with any war in which New Zealand forces were involved as a member of any organisation attached to any of those forces;
 - (d) in the case of any applicant, any period of absence while serving in any capacity as an accredited volunteer appointed by Volunteer Service Abroad Incorporated.
- (2) Subsection (1) applies only if the chief executive is satisfied that during the absence of the applicant he or she remained ordinarily resident in New Zealand.

Compare: 1990 No 26 s 4(2)(a)–(d)

10 Periods of absence as missionary also not counted

- (1) In determining the period an applicant has been present in New Zealand, no account is taken of any period of absence while engaged in missionary work outside New Zealand as a member of, or on behalf of, any religious body or, as the case may be, during any period that the applicant was absent from New Zealand with his or her spouse while that spouse was engaged in that missionary work.
- (2) Subsection (1) applies only if the chief executive is satisfied that the applicant was either born in New Zealand or was ordinarily resident in New Zealand immediately before leaving New Zealand to engage in the missionary work or, as the case may be, to accompany or join his or her spouse.
- (3) Unless otherwise expressly provided in the agreement, the provisions of subsection (1) are not modified by the provisions of any agreement entered into by the Government of New Zealand with the Government of any other country, whether before or after the commencement of this section, providing for reciprocity in social security benefits between their respective countries or the provisions of any Act or Order in Council giving effect to the agreement.
- (4) In this section, **missionary work** includes the advancement of religion or education and the maintenance, care, or relief, of orphans, or the aged, infirm, sick, or needy.

Compare: 1990 No 26 s 4(2)(e), (3), (4)

11 Commencement of New Zealand superannuation

New Zealand superannuation commences on the date on which the applicant becomes entitled to receive it or the date on which the application for it is received by the department, whichever is the later date.

Compare: 1990 No 26 s 5

12 Standard rates of New Zealand superannuation

- (1) The rate of New Zealand superannuation payable to any person is the appropriate rate stated in clause 1 or clause 2 of Schedule 1.
- (2) A married person whose spouse is not entitled to receive New Zealand superannuation may elect to receive the appropriate rate stated in either clause 1 or clause 2 of that schedule.

- (3) However, an election to receive New Zealand superannuation under clause 2 of Schedule 1 does not take effect until the employment has ceased in a case where—
- (a) that married person's spouse is or was in employment under a contract of service; and
 - (b) the combined income of the married person and his or her spouse, during that employment, is or was enough to prevent receipt of New Zealand superannuation under clause 2 of that schedule.
- (4) A person who has made an election under subsection (2) may at any time change that election.

Compare: 1990 No 26 s 6

Living alone payments

13 Living alone payments

- (1) Any unmarried person who receives New Zealand superannuation and who is living alone in his or her principal place of residence is entitled to receive a living alone payment.
- (2) The living alone payment is included in the appropriate rate stated in clause 1(a) of Schedule 1.
- (3) A person is considered to be living alone only if he or she—
- (a) occupies a principal place of residence that is referred to in subsection (4); and
 - (b) does not share that residence or household expenses (including accommodation expenses) with any person of or over the age of 18 years other than—
 - (i) a dependent child of or over that age; or
 - (ii) a temporary visitor who stays less than 13 weeks in any period of 26 weeks.
- (4) The places referred to in this subsection are—
- (a) a house or flat; or
 - (b) a boat or craft moored within—
 - (i) the territorial sea of New Zealand or any internal waters of New Zealand; or
 - (ii) any waters within New Zealand, being any lake, estuary, lagoon, river, stream, creek, or other waters,—whether or not it is from time to time travelling within that sea or any of those waters; or

- (c) a hotel room, motel unit, a room in a licensed boarding-house, or a unit of accommodation in a caravan park.
- (5) In this section, **territorial sea of New Zealand** and **internal waters** have the same meanings as in the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977.
- Compare: 1990 No 26 s 18A

14 Commencement of living alone payments

- (1) Every living alone payment commences on the later of—
- (a) the date on which the applicant becomes entitled to receive it; or
- (b) the date on which the application is received.
- (2) However, if an application for a living alone payment is made as a result of the death of the spouse of the applicant, the living alone payment commences on—
- (a) the date on which the applicant becomes entitled to receive it if the application is received within 28 days after the date of entitlement; or
- (b) the date on which the application is received if it is received 28 days or more after the date of entitlement.

Compare: 1990 No 26 s 18B

Annual adjustment of New Zealand superannuation

15 Annual adjustment of standard rates of New Zealand superannuation

- (1) In this section,—

CPI means the consumers price index-all groups published by the Department of Statistics

earner premium means the levy and premium payable under subsections (1) and (2) of section 283 of the Accident Insurance Act 1998

standard tax means the amount of tax reckoned on a weekly basis that would be deductible in accordance with the tax code “M” stated in section NC 8 of the Income Tax Act 1994.

- (2) Subject to subsection (3), the rates of New Zealand superannuation stated in paragraphs (a), (b), and (c) of clause 1 and paragraph (b) of clause 2 of Schedule 1 must be adjusted, by Order in Council, as at 1 April each year so that in each case the new rate (after the deduction of standard tax) is the rate at that date (after the deduction of standard tax and before the

adjustment under this section is made) adjusted by any percentage movement upwards in the CPI between the CPI for the quarter ended with 31 December 1 year before the immediately preceding 31 December and the CPI for the quarter ended with the immediately preceding 31 December.

- (3) Every Order in Council made under subsection (2) must adjust the rates of New Zealand superannuation, subject to subsection (4),—
 - (a) so that the weekly amounts referred to in section 16 are set in accordance with that section; and
 - (b) so that the rate of New Zealand superannuation stated in paragraph (b) of clause 2 of Schedule 1 preserves its proportional relationship (after the deduction of standard tax) to the rates stated in paragraphs (a), (b), and (c) of clause 1 of that schedule.
- (4) An adjustment under this section must not reduce the weekly amounts payable under this section.
- (5) Subsections (3) to (6) of section 61H of the Social Security Act 1964 apply to every Order in Council made under subsection (2) as if that Order in Council were made under that section.
- (6) Every Order in Council made under subsection (2) comes into force or is considered to come into force on 1 April of the calendar year in which it is made, and applies to New Zealand superannuation payable on and after that date.

Compare: 1990 No 26 s 13A(1), (2), (3)(d), (3A), (4), (5)

16 Annual adjustment of New Zealand superannuation: relationship to net average wage

The annual adjustment of New Zealand superannuation under section 15 must ensure that—

- (a) the standard weekly amount of New Zealand superannuation (after the deduction of standard tax) payable to a married couple, both of whom are qualified to receive New Zealand superannuation, is not less than 65% or more than 72.5% of the average ordinary time weekly earnings (males and females combined) as determined by the last Quarterly Employment Survey of wages published by the Department of Statistics before 1 March in each year (after the deduction of standard tax and the earner premium payable on those earnings):

- (b) the standard weekly amount of New Zealand superannuation (after the deduction of standard tax) payable to a single person who has been granted a living alone payment is 65% of the weekly amount of New Zealand superannuation (after the deduction of standard tax) payable to a married couple, both of whom are qualified to receive New Zealand superannuation:
- (c) the standard weekly amount of New Zealand superannuation (after the deduction of standard tax) payable to a single person who has not been granted a living alone payment is 60% of the weekly amount of New Zealand superannuation (after the deduction of standard tax) payable to a married couple, both of whom are qualified to receive New Zealand superannuation.

Compare: 1990 No 26 s 13A(3)(a)–(c)

Non-standard New Zealand superannuation entitlements

17 Entitlement to benefits for spouses of persons receiving means-tested residential disability services

- (1) This section applies to any person who is not receiving residential care disability services, where—
 - (a) the person's spouse is receiving residential care disability services funded wholly or partly under the New Zealand Public Health and Disability Act 2000; and
 - (b) the spouse's financial means to pay or contribute to the cost of the services has been assessed under section 69F of the Social Security Act 1964; and
 - (c) the spouse commenced receiving those services (as purchased or funded wholly or in part under the Health and Disability Services Act 1993), on or after 1 July 1993.
- (2) Every person to whom this section applies is entitled to receive—
 - (a) New Zealand superannuation at the appropriate rate payable to a person who is unmarried, in any case where that person is entitled to receive New Zealand superannuation in his or her own right; or
 - (b) New Zealand superannuation at the appropriate rate payable to a person who is unmarried, in any case where—
 - (i) that person is not entitled to New Zealand superannuation in his or her own right; but

- (ii) his or her spouse is entitled to New Zealand superannuation and was entitled to make and had made an election under section 6(2) or section 11(2) of the Social Welfare (Transitional Provisions) Act 1990 before 1 October 1991; or
 - (c) an emergency benefit under section 61 of the Social Security Act 1964 at the appropriate rate of an invalid's benefit payable to a person who is unmarried or is unmarried with 1 or more dependent children, as the case may be, in any other case.
- (3) Any benefit payable to a person to whom this section applies is not subject to abatement in respect of any income of that person that has been included in the annual income of that person and his or her spouse for the purpose of assessing financial means under section 69F(3) of the Social Security Act 1964.

Compare: SR 1993/250 cl 3

18 Living alone rate of payment for spouses of persons receiving means-tested residential disability services

However, every person to whom section 17(2)(a) or (b) applies is entitled to receive New Zealand superannuation at the appropriate rate stated in clause 1(a) of Schedule 1 if the person has been granted a living alone payment under section 13.

Compare: SR 1993/250 cl 4

19 Hospital rates of New Zealand superannuation

- (1) For the purposes of this section, **hospital** means a hospital provided by a District Health Board within the meaning of the New Zealand Public Health and Disability Act 2000; and includes a psychiatric security institution within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992.
- (2) This section applies to a married person with no dependent children and an unmarried person who receives New Zealand superannuation, or who becomes entitled to receive New Zealand superannuation.
- (3) The rate of New Zealand superannuation payable to a person who is a patient in a hospital for a period of 13 weeks or less is not affected.

- (4) The rate of New Zealand superannuation payable to a person who is a patient in a hospital for more than 13 weeks is, on and after the commencement of the 14th week of hospitalisation, the rate stated in clause 3 of Schedule 1.
- (5) Subsection (3) does not apply to a person who is a patient in a hospital and who is receiving residential care disability services that have been funded wholly or partly under the New Zealand Public Health and Disability Act 2000, and whose financial means to pay for those services have been assessed under section 69F of the Social Security Act 1964.
- (6) However, the chief executive may, at the chief executive's discretion,—
 - (a) pay to any patient to whom subsection (3) applies a higher rate than the rate stated in clause 3 of Schedule 1 after having regard to the patient's personal financial circumstances; or
 - (b) pay to any of those patients a lower rate than the rate so stated after having regard to the patient's capacity to appreciate the payments.
- (7) If, after 13 weeks' hospitalisation, a married person's New Zealand superannuation is reduced under subsection (4) or subsection (5), and that person's spouse is either not in hospital or has been in hospital for less than 13 weeks, any New Zealand superannuation payable to or for the spouse must be increased, on the same date as the effective date of that reduction, by an amount equal to the difference between the maximum rate of New Zealand superannuation payable to an unmarried person and the maximum rate of New Zealand superannuation payable to a married person whose spouse is receiving New Zealand superannuation.
- (8) In any case where the rate of New Zealand superannuation has been reduced in accordance with this section and the superannuitant in hospital is absent from the hospital for not more than 28 days, the rate of New Zealand superannuation payable on return to hospital must be determined as if that absence has not occurred.
- (9) This section does not entitle an unmarried person or a married couple to receive a greater amount of New Zealand superannuation, as a result of hospitalisation, than would otherwise have been payable.

- (10) This section applies despite anything to the contrary in the Social Security Act 1964 or in the Social Welfare (Transitional Provisions) Act 1990.

Compare: 1964 No 136 s 75

20 Special disability allowance

- (1) This section applies if—
- (a) a person receives New Zealand superannuation; and
 - (b) the person's spouse is either—
 - (i) a patient in a hospital as defined in section 19; or
 - (ii) a person receiving residential care disability services funded wholly or partly under the New Zealand Public Health and Disability Act 2000, and has had his or her financial means assessed under section 69F of the Social Security Act 1964; and
 - (c) that spouse receives a reduced benefit under section 19(4) or (5).
- (2) The chief executive must grant a special disability allowance at the rate stated in clause 4 of Schedule 1, for the purpose of defraying expenses arising from the spouse's hospitalisation.
- (3) This section applies despite anything in section 69C of the Social Security Act 1964 but subject to section 68A of that Act.

Compare: 1964 No 136 s 69C(5)

Payment overseas of New Zealand superannuation

21 Effect of absence from New Zealand on New Zealand superannuation

A person is not entitled to New Zealand superannuation while that person is absent from New Zealand except as provided in sections 22 to 29 or in any agreement or convention adopted under section 19 of the Social Welfare (Transitional Provisions) Act 1990.

Compare: 1990 No 26 s 17A(1)

22 First 26 weeks of certain temporary absences

New Zealand superannuation that would otherwise be payable to a person is payable in respect of the first 26 weeks of any absence from New Zealand if—

- (a) the person's absence does not exceed 30 weeks; or
- (b) the person's absence exceeds 30 weeks and the chief executive is satisfied that the absence beyond 30 weeks is due to circumstances beyond that person's control that he or she could not reasonably have foreseen before departure.

Compare: 1990 No 26 s 17A(2)

23 Absences up to 2 years for medical treatment

The chief executive may pay New Zealand superannuation to any person who would otherwise be entitled to receive it, but who is absent from New Zealand for any period or periods not exceeding 2 years in total because that person or his or her spouse, dependent child, or sibling is receiving medical treatment overseas for which the Ministry of Health is granting assistance.

Compare: 1990 No 26 s 17A(3)

24 Absences up to 52 weeks with aid agencies

- (1) The chief executive may pay New Zealand superannuation to any person who—
- (a) is otherwise entitled to receive it; and
 - (b) is absent from New Zealand for a period not exceeding 52 weeks; and
 - (c) is engaged, while absent from New Zealand, in full-time voluntary and unpaid humanitarian work for a recognised aid agency that—
 - (i) has, as its principal function, the giving of aid and assistance to less advantaged communities in 1 or more other countries; and
 - (ii) has not deprived another person of paid employment to engage the person to do that work on an unpaid basis.
- (2) The chief executive of the Ministry of Foreign Affairs and Trade must determine any question that arises as to whether an aid agency fulfils the qualifications set out in subsection (1).

Compare: 1990 No 26 s 17A(3A), (3B)

25 Date absence commences

If a person who is absent from New Zealand would have become entitled to New Zealand superannuation during his or her absence but for section 21, the person's absence is to be regarded as having commenced on the day he or she would have become entitled to New Zealand superannuation.

Compare: 1990 No 26 s 17A(4)

26 Payment overseas of New Zealand superannuation

- (1) A person who is entitled to receive New Zealand superannuation and who leaves New Zealand to reside in a country with which New Zealand has no agreement relating to reciprocity of social security monetary benefits is entitled, while residing in that country, to be paid 50% of the gross rate of New Zealand superannuation (excluding any living alone payment), as the case may be, that he or she would be entitled to receive if he or she resided in New Zealand.
- (2) However, if a married person whose spouse is not entitled to receive New Zealand superannuation has made or is entitled to make an election under section 12, that married person is only entitled to be paid under this section 50% of the gross rate payable under clause 1(c) of Schedule 1.
- (3) A person is not entitled to receive payment overseas under this section unless,—
 - (a) on the date of application for the payment, he or she is ordinarily resident and present in New Zealand and is on that date entitled to receive New Zealand superannuation or will be so entitled before leaving New Zealand; and
 - (b) the applicant intends to reside for more than 26 weeks in the overseas country to which the application relates, being a country with which New Zealand has no agreement relating to reciprocity of social security monetary benefits.

Compare: 1990 No 26 s 17(1), (2)

27 Applications after leaving New Zealand

- (1) This section applies if a person did not make an application for payment under section 26 while ordinarily resident and present in New Zealand because he or she left New Zealand intending to be absent for 26 weeks or less.

- (2) The chief executive may accept an application for payment in accordance with section 26 if satisfied that the absence for more than 26 weeks is or was due to circumstances beyond the applicant's control that could not reasonably have been foreseen before leaving New Zealand.
- (3) If the chief executive has accepted an application under subsection (2) and, after the applicant left New Zealand, the applicant has been paid any instalment of New Zealand superannuation in accordance with sections 21 to 25, no liability to repay any of those instalments arises merely because the applicant fails to return to New Zealand within the period allowed for by those sections.

Compare: 1990 No 26 s 17(3), (4)

28 Date of commencement of payment overseas

- (1) The date of commencement of payment overseas of New Zealand superannuation under section 26 is the first pay day after the date of the applicant's departure from New Zealand.
- (2) However, in the case of an application under section 27, the date of commencement is the first pay day after the date on which the application was received by the department.

Compare: 1990 No 26 s 17(4)

29 Relationship with other benefit provisions

- (1) If New Zealand superannuation payable overseas in accordance with section 26 is directly reduced under section 70 of the Social Security Act 1964, the amount payable is 50% of the reduced gross rate that would be payable in New Zealand.
- (2) A person who is receiving New Zealand superannuation overseas under section 26 is not entitled to receive any supplementary or special benefit, lump sum payment, or any other assistance under the Social Security Act 1964 or under any welfare programme approved under section 124(1)(d) of that Act.
- (3) Despite the provisions of section 80 of the Social Security Act 1964, on the death of a person who receives New Zealand superannuation overseas under section 26, the benefit terminates on a date to be determined by the chief executive, being a date not more than 4 weeks after the date of death.
- (4) Except as otherwise provided in this section, the provisions of the Social Security Act 1964 (other than sections 75, 75A,

and 76) apply to New Zealand superannuation being paid overseas under section 26.

- (5) This section and sections 26 to 28 apply despite sections 74(a) and 77 of the Social Security Act 1964, but subject to the provisions of this section and of sections 26 to 28 and 30 to 35.

Compare: 1990 No 26 s 17(1), (6)–(9)

30 Specified Pacific country

- (1) In sections 31 to 35, **specified Pacific country** means a country or territory—
- (a) that is listed in Schedule 2; and
 - (b) that is not a country with which New Zealand has a reciprocal agreement in force under section 19 of the Social Welfare (Transitional Provisions) Act 1990, which relates to the portability of New Zealand superannuation.
- (2) The Governor-General may from time to time, by Order in Council, amend Schedule 2 by—
- (a) adding the name of any Pacific country or territory; or
 - (b) omitting the former name of a country or territory and substituting its new name.
- (3) The Order in Council must state the date on which it takes effect, which may be a date before the date on which it is made.
- (4) The Order in Council applies to payments of New Zealand superannuation under section 31 payable on or after the date on which the order takes effect.
- (5) Section 61H(3) to (6) of the Social Security Act 1964 applies to every Order in Council made under subsection (2)(a) as if it had been made under that section.

Compare: 1990 No 26 s 17B

31 Entitlement to be paid New Zealand superannuation in specified Pacific country

- (1) A person entitled to receive New Zealand superannuation is entitled to be paid the benefit in a specified Pacific country at a rate calculated under section 32 if subsection (2) or subsection (3) applies to the person.
- (2) This subsection applies to a person—

- (a) who intends to leave New Zealand to reside for more than 52 weeks in a specified Pacific country; and
 - (b) who is resident and present in New Zealand on the date of his or her application to be paid New Zealand superannuation in a specified Pacific country; and
 - (c) who—
 - (i) is entitled to receive New Zealand superannuation on the date of the application; or
 - (ii) will be entitled to receive New Zealand superannuation before leaving New Zealand; and
 - (d) who is resident in a specified Pacific country when each payment of New Zealand superannuation is due to be made to him or her.
- (3) This subsection applies to a person—
- (a) who—
 - (i) was being paid New Zealand superannuation while resident in a specified Pacific country immediately before 1 October 1999 under section 17 of the Social Welfare (Transitional Provisions) Act 1990; or
 - (ii) was being paid New Zealand superannuation while resident in the Cook Islands, Niue, or Tokelau immediately before 1 October 1999 under section 17B of the Social Welfare (Transitional Provisions) Act 1990 as it was immediately before that date; and
 - (b) who is resident in a specified Pacific country when each payment of New Zealand superannuation is due to be made to him or her.

Compare: 1990 No 26 s 17BA

32 Rates of payment of New Zealand superannuation payable to people resident in specified Pacific countries

- (1) The rate of New Zealand superannuation payable under section 31 is,—
- (a) in the case of a person who has resided in New Zealand for 20 or more years since turning 20 years, the base rate:
 - (b) in the case of a person who has resided in New Zealand for 10 or more years but fewer than 20 years since

turning 20 years, an amount calculated using the following formula:

$$\frac{a \times b}{20}$$

where—

- a is the base rate
 - b is the whole number of years the person has resided in New Zealand since turning 20 years:
- (c) in the case of a person who is resident in a specified Pacific country and was being paid New Zealand superannuation immediately before 1 October 1999 under section 17 or section 17B of the Social Welfare (Transitional Provisions) Act 1990 as it was immediately before that date, the higher of—
- (i) the amount he or she was being paid immediately before that date; and
 - (ii) the appropriate amount payable under paragraph (a) or paragraph (b).
- (2) For the purposes of this section, the base rate is,—
- (a) in the case of a single person, the amount stated in clause (1)(b) of Schedule 1; and
 - (b) in the case of a married person, the amount stated in clause (1)(c) of that schedule.
- (3) However, if section 70 of the Social Security Act 1964 applies, that amount must be reduced by the amount deducted in accordance with that section.

Compare: 1990 No 26 s 17C

33 Commencement and termination of payments

- (1) The commencement date of payment of a benefit under section 31 is the first pay day after the date of the person's departure from New Zealand.
- (2) When a person being paid a benefit under section 31 dies, the benefit terminates on a date to be determined by the chief executive, being a date not more than 4 weeks after the date of death.

Compare: 1990 No 26 s 17D

34 Effect on other benefits

A person being paid a benefit under section 31 is not entitled to receive—

- (a) any supplementary or special benefit, lump sum payment, payment under a welfare programme approved under section 124(1)(d) of the Social Security Act 1964, or any other assistance under that Act; or
- (b) a living alone payment under section 13.

Compare: 1990 No 26 s 17E

35 Application of this Act and Social Security Act 1964

- (1) Sections 21 to 29 do not apply in respect of New Zealand superannuation being paid in a specified Pacific country under section 31.
- (2) The Social Security Act 1964 (except sections 74(a), 75, 75A, 76, 77, and 80) applies to New Zealand superannuation being paid in a specified Pacific country under section 31.

Compare: 1990 No 26 s 17F

Part 2

New Zealand Superannuation Fund

36 Outline of Part

This Part—

- (a) establishes the New Zealand Superannuation Fund:
- (b) provides for payments into and out of the Fund:
- (c) establishes the Guardians of New Zealand Superannuation to manage and administer the Fund:
- (d) requires the Guardians to invest the Fund on a prudent, commercial basis:
- (e) empowers the Minister to give directions to the Guardians regarding the Government's expectations as to the Fund's performance, and requires the Guardians to have regard to those directions:
- (g) provides for other matters relating to the Fund and the Guardians.

New Zealand Superannuation Fund

37 Establishment of New Zealand Superannuation Fund

This section establishes the New Zealand Superannuation Fund (the **Fund**).

38 Property of Fund

The Fund consists of—

- (a) the capital contributions payable under this Act;
- (b) money payable under section 45 to cover the expected net cost of New Zealand superannuation entitlements that are payable in the current year;
- (c) Fund investments;
- (d) money accruing from the investment of the Fund;
- (e) any other money that may be lawfully payable into the Fund;
- (f) money in the Crown Bank Account opened under section 39.

39 Crown Bank Account

- (1) The Treasury must open a Crown Bank Account for the Fund at any bank or banks that the Minister may direct.
- (2) The Guardians must maintain and operate the accounts in accordance with any directions given by the Minister or the Treasury.
- (3) The Guardians must ensure that the accounts are not overdrawn at any time.
- (4) The Public Finance Act 1989 (except sections 23, 24, 25, 79, and 80) applies to the accounts with necessary modifications.
- (5) Money in the accounts is public money for the purpose of the Public Finance Act 1989. Other Fund money is not public money for that purpose.

40 Ownership of Fund

The Fund is the property of the Crown.

41 Payments out of Fund

- (1) The Fund must be held for the purpose of paying New Zealand superannuation.
- (2) In addition, money may be paid out of the Fund—
 - (a) to pay any fee that is payable to an investment manager or custodian in respect of the Fund;
 - (b) to meet any other obligation that is directly related to the operation of the Fund;
 - (c) to pay the taxation liabilities arising in respect of the Fund;

- (d) to meet any capital withdrawal under section 47.
- (3) No payment may be made out of the Fund except in accordance with subsection (1) or subsection (2) and unless it has been authorised by the Guardians.

Required capital contributions to Fund

42 Process for calculating capital contributions to Fund

- (1) The Treasury must, each financial year, calculate the amount of the annual capital contribution to the Fund required under section 43.
- (2) The Treasury must include, in the economic and fiscal update prepared under section 8(1) of the Fiscal Responsibility Act 1994,—
- (a) the amount of the required annual capital contribution so calculated for the financial year; and
 - (b) a statement of the assumptions and judgments on which the calculations are based.
- (3) The Fiscal Responsibility Act 1994 (including, without limitation, section 12) applies to the matters that are included in the economic and fiscal update under this section as if they were required to be included under that Act.

43 Amount of required annual capital contribution

The required annual capital contribution for each financial year is—

$$\frac{a}{100} \times \text{that year's GDP} - b$$

where—

- a is the percentage of that year's GDP that, if the same percentage of the GDP that is projected for each of the next 40 years were contributed (by way of either or both of annual required capital contributions and annual expense payments under section 45) each year for the next 40 years, would be just sufficient, taking into account the Fund balance at the start of that year and projected Fund investment income over the next 40 years, to enable the Fund to meet the expected net cost of the New Zealand superannuation entitlements payable out of the Fund over the next 40 years

- GDP is the projected annual gross domestic product of New Zealand
- b is the expected net cost of the New Zealand superannuation entitlements payable out of the Fund in the year
- net cost is the cost of New Zealand superannuation entitlements net of any tax deduction made or required to be made under the PAYE rules in the Income Tax Act 1994
- next 40 years means the financial year for which the required annual capital contribution is being calculated plus each of the following 39 financial years.

44 Lesser amounts of annual capital contribution

- (1) If the Government intends to pay less into the Fund in any financial year than the required annual capital contribution, the Minister must include, in the fiscal strategy report prepared under section 7 of the Fiscal Responsibility Act 1994,—
- (a) the amount of the required annual capital contribution stated in the economic and fiscal update under section 42 in respect of the financial year; and
 - (b) a statement of the amount of annual capital contribution actually to be paid into the Fund in that year; and
 - (c) a statement of the reasons for the Government's departure from the required annual capital contribution; and
 - (d) a statement of the Government's intentions regarding future contributions to the Fund; and
 - (e) a statement of the approach the Government intends to take to ensure that the Fund will be sufficient to meet the payments of New Zealand superannuation entitlements expected to be made over the next 40-year period.
- (2) The requirements of this section do not apply if the required annual capital contribution is less than zero.

Other contributions to Fund

45 Annual expense payments

- (1) The Minister must ensure that sufficient money is transferred into the Fund in each financial year to meet the net cost of the

New Zealand superannuation entitlements that are payable out of the Fund during that year.

- (2) The requirement in subsection (1) is additional to, and separate from, the obligation to make required annual capital contributions.

46 Additional contributions to Fund

The Minister may pay any money into the Fund that is additional to that required under this Act.

Withdrawals from Fund

47 Withdrawals from Fund after 2020

- (1) If the required annual capital contribution is less than zero, the Minister may require a capital withdrawal to be made from the Fund up to that amount and paid into the Crown Bank Account.
- (2) However, no capital withdrawal is allowed from the Fund in any financial year commencing before 1 July 2020.

Guardians of New Zealand Superannuation

48 Establishment of Guardians of New Zealand Superannuation

- (1) This section establishes the Guardians of New Zealand Superannuation (the **Guardians**).
- (2) The Guardians are a Crown entity for the purposes of the Public Finance Act 1989.

49 Body corporate status and powers

- (1) The Guardians are a body corporate with perpetual succession.
- (2) The Guardians have—
 - (a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and
 - (b) for the purposes of paragraph (a), full rights, powers, and privileges.
- (3) The Guardians may exercise their powers only for the purpose of carrying out their functions.
- (4) There are no restrictions on the Guardians' investment powers, other than as provided by sections 58, 59, and 64.

- (5) This section is subject to section 50 (borrowing).

Compare: 1993 No 105 s 16(1)

50 Borrowing

- (1) The Guardians may not, except with the approval of the Minister of Finance,—
- (a) borrow money (neither on behalf of the Guardians nor in respect of the Fund); nor
 - (b) mortgage or charge any of the real or personal property of the Fund, whether present or future, as security; nor
 - (c) hold any financial instrument that places or may place a liability or a contingent liability on the Guardians, the Fund, or the Crown.
- (2) The Minister's approval may be given for any class of transactions in subsection (1)(a) to (c).

51 Functions

- (1) The functions of the Guardians are to manage and administer the Fund in accordance with this Act.
- (2) The Guardians are not a trustee, or a constructive trustee, in relation to the exercise of their functions or any other matter.

52 Expenses of Guardians

The expenses of the Guardians must be met out of money appropriated by Parliament for the purpose.

Board of Guardians

53 Role of board

- (1) All decisions relating to the business of the Guardians are to be made by or under the authority of a board called the Guardians of New Zealand Superannuation board (the **board**).
- (2) The board has all the powers necessary for managing, and for directing or supervising the management of, the business of the Guardians.

54 Membership of board

The board must consist of at least 5, but not more than 7, board members appointed by the Governor-General on the recommendation of the Minister.

*Members' appointments***55 Criteria for appointments**

The Minister must only recommend a person for appointment as a board member who,—

- (a) in the Minister's opinion, has substantial experience, training, and expertise in the management of financial investments; and
- (b) has been nominated by the nominating committee.

56 Nominating committee

- (1) The Minister must establish a committee to nominate candidates to the Minister for appointment as members of the board.
- (2) The nominating committee must comprise not less than 4 persons with proven skills or relevant work experience that will enable them to identify candidates for appointment to the board who are suitably qualified.
- (3) The expenses of the nominating committee must be met out of money appropriated by Parliament for the purpose.
- (4) The Minister must notify the nominating committee of persons who the Minister considers to have an interest in appointments to the board, and the nominating committee must consult with those persons or representatives of those persons.
- (5) Subsection (4) does not limit consultation or the calling for expressions of interest in appointments.
- (6) After receiving nominations for appointment from the nominating committee, the Minister must consult with representatives of other political parties in Parliament before recommending that the Governor-General appoints a person to the board.

57 Further provisions applying to board

Schedule 3 applies to the board and its members.

*Investment of Fund***58 Investment of Fund**

- (1) The Guardians are responsible for investing the Fund.

- (2) The Guardians must invest the Fund on a prudent, commercial basis and, in doing so, must manage and administer the Fund in a manner consistent with—
 - (a) best-practice portfolio management; and
 - (b) maximising return without undue risk to the Fund as a whole; and
 - (c) avoiding prejudice to New Zealand’s reputation as a responsible member of the world community.

59 No controlling interests

- (1) The Guardians must use their best endeavours to ensure that the Fund does not control any other entity or hold a percentage of the voting rights in any other entity that would require it to seek control of that entity.
- (2) If a contravention of subsection (1) arises (through inadvertence or otherwise), the Guardians must take all reasonable steps to remedy the default as soon as practicable.
- (3) For the purposes of this Act, an entity is controlled by the Fund if—
 - (a) the entity is a subsidiary of the Fund; or
 - (b) the Fund controls the entity within the meaning of any relevant approved financial reporting standard (within the meaning of section 2(1) of the Financial Reporting Act 1993); or
 - (c) the Fund can control directly or indirectly the composition of the board of the entity within the meaning of sections 7 and 8 of the Companies Act 1993 (which, for the purposes of this paragraph, are to be read with all necessary modifications).
- (4) This section does not prevent the board establishing a subsidiary of the Guardians.

60 Establishment of investment policies, standards, and procedures

- (1) The Guardians must establish, and adhere to, investment policies, standards, and procedures for the Fund that are consistent with their duty to invest the Fund on a prudent, commercial basis, in accordance with section 58.
- (2) The Guardians must review those investment policies, standards, and procedures for the Fund at least annually.

61 Contents of statements of investment policies, standards, and procedures

A statement of investment policies, standards, and procedures must cover (but is not limited to)—

- (a) the classes of investments in which the Fund is to be invested and the selection criteria for investments within those classes; and
- (b) the determination of benchmarks or standards against which the performance of the Fund as a whole, and classes of investments and individual investments, will be assessed; and
- (c) standards for reporting the investment performance of the Fund; and
- (d) ethical investment, including policies, standards, or procedures for avoiding prejudice to New Zealand's reputation as a responsible member of the world community; and
- (e) the balance between risk and return in the overall Fund portfolio; and
- (f) the fund management structure; and
- (g) the use of options, futures, and other derivative financial instruments; and
- (h) the management of credit, liquidity, operational, currency, market, and other financial risks; and
- (i) the retention, exercise, or delegation of voting rights acquired through investments; and
- (j) the method of, and basis for, valuation of investments that are not regularly traded at a public exchange; and
- (k) prohibited or restricted investments or any investment constraints or limits.

62 Investment management

- (1) The Guardians may appoint, on any terms and conditions that the Guardians think fit, 1 or more persons (including any department) to undertake the investment of any part of the Fund.
- (2) Different persons may be appointed for different parts of the Fund.
- (3) The Guardians must state, in each instrument of appointment, the powers and rights of the person appointed (including,

without limitation, the extent of that person's power to delegate any of those powers and rights).

- (4) This section does not limit section 49.

63 Custodianship of Fund

- (1) The Guardians may appoint a person or persons (including any department) to act as custodian of the Fund, or any part of the Fund.
- (2) A custodian so appointed must hold the property of the Fund, or that part of the property of the Fund for which they have been appointed, in their name or, if the Guardians authorise it, in the name of 1 or more nominees.
- (3) An appointment may be on any terms and conditions that the Guardians think fit.
- (4) The Guardians must specify, in each instrument of appointment, the powers and rights of the person or persons appointed (including, without limitation, the extent of that person's powers to delegate any of those powers and rights).
- (5) This section does not limit section 49.

Ministerial directions

64 Ministerial directions

- (1) The Minister may, after consultation with the Guardians, give directions to the Guardians regarding the Government's expectations as to the Fund's performance, including the Government's expectations as to risk and return.
- (2) The Minister must not give a direction that is inconsistent with the Guardians' duty to invest the Fund on a prudent, commercial basis, in accordance with section 58.
- (3) Any direction must be given in writing, dated, and be signed by the Minister.
- (4) As soon as practicable after giving the direction, the Minister must—
- (a) present a copy of it to the House of Representatives; and
 - (b) publish a copy of it in the *Gazette*.
- (5) The Guardians must have regard to any direction given by the Minister under subsection (1).
- (6) The Guardians must notify the Minister of how the entity proposes to have regard to any direction.

- (7) The Guardians' annual report must include a statement of how the entity is having regard, or has had regard, during the year to any Ministerial directions given under this section.

Accountability

65 Statement of intent

The statement of intent of the Guardians prepared each financial year under Part V of the Public Finance Act 1989 must include (in addition to any other requirements)—

- (a) a statement of the board's expectations about the performance of the Fund over the next financial year, in sufficient detail to enable meaningful assessment against those expectations after the end of that financial year; and
- (b) a statement of the key risks to the performance of the Fund over the coming year and the actions being taken by the board to manage those risks; and
- (c) forecast financial statements of the Fund for the next financial year, including a statement of accounting policies.

66 Financial statements of Fund

- (1) The Guardians must ensure that financial statements for the Fund are prepared for each financial year.
- (2) The annual financial statements must be prepared in accordance with generally accepted accounting practice (as defined in section 3 of the Financial Reporting Act 1993) as if the Fund were a reporting entity.

67 Auditor-General is auditor of Fund

- (1) The Fund is to be treated as if it were a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.
- (2) The Guardians must, not later than 90 days after the end of the financial year, forward the annual financial statements of the Fund to the Auditor-General.
- (3) The Auditor-General must issue an audit opinion within 30 days of receipt of the annual financial statements and must return the annual financial statements, with the audit report attached, to the Guardians.

68 Annual report

The annual report of the Guardians prepared each financial year under Part V of the Public Finance Act 1989 must include (in addition to any other requirements, such as the entity's own financial statements)—

- (a) the financial statements of the Fund for that financial year prepared under section 66; and
- (b) a statement of responsibility for the financial statements of the Fund, signed by the chairperson of the board and the chief executive of the Guardians (if any), and comprising the same statements that are required by section 42(2) of the Public Finance Act 1989 as if the Fund were a Crown entity; and
- (c) the audit report on the financial statements; and
- (d) an analysis and explanation of the performance of the Fund over that financial year, including a comparison with the Guardians' expectations about the performance of the Fund that were set out in the statement of intent relating to that financial year; and
- (e) a statement of the investment policies, standards, and procedures for the Fund established by the Guardians under section 60; and
- (f) a statement signed by the chairperson of the board and the chief executive of the Guardians (if any) certifying whether or not the investment policies, standards, and procedures for the Fund have been complied with throughout that financial year; and
- (g) a schedule of the investment managers and custodians used by the Guardians during that financial year and the classes of investments for which each was responsible.

69 Reporting by Guardians on Fund

- (1) The Guardians must report to the Minister on the Fund at those intervals that the Minister may require.
- (2) The Guardians' report must include any information that the Minister may require.

70 Auditor-General to be auditor of Guardians

The Guardians are a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the

Auditor-General is the auditor of the Guardians and any subsidiary of the Guardians.

Performance reviews

71 Performance reviews

- (1) From time to time, there must be conducted a review of how effectively and efficiently the Guardians are performing their functions.
- (2) The first performance review must be conducted as soon as practicable after 1 July 2003.
- (3) Subsequent performance reviews must be conducted at intervals that are no more than 5 years apart (to be set by the Minister) after that.
- (4) The Minister must set the terms of reference for the review, which must include (without limitation) requirements that the reviewer form an opinion about—
 - (a) whether or not the investment policies, standards, and procedures, established by the Guardians are appropriate to the Fund; and
 - (b) whether or not the investment policies, standards, and procedures, established by the Guardians have been complied with in all material respects; and
 - (c) the investment performance of the Fund.
- (5) Every performance review must be conducted by an independent person appointed by the Minister.
- (6) Every person who conducts a performance review must, as soon as practicable after conducting it,—
 - (a) prepare a written report on the conclusions reached and recommendations formulated as a result of conducting it; and
 - (b) give copies of the report to the Minister and the Guardians.
- (7) The Minister must present a copy of the report to the House of Representatives as soon as practicable after receiving it.
- (8) The costs of conducting a performance review must be met out of money appropriated by Parliament for the purpose.

Part 3

Miscellaneous provisions

Political commitment to New Zealand superannuation

72 Political commitment

- (1) A leader of a political party represented in Parliament may notify the Minister, in writing,—
 - (a) of the party's agreement to either Part 1 or Part 2 (or both); or
 - (b) of the withdrawal of that party's agreement to either Part 1 or Part 2 (or both).
- (2) The Minister must, as soon as practicable after receiving a notification, make a recommendation to the Governor-General for an Order in Council to add or omit the name of the party to or from the relevant part or parts of Schedule 4, as the case may be.
- (3) The Minister must also make a recommendation to the Governor-General for an Order in Council to omit the name of a political party from Schedule 4 if the party is no longer represented in Parliament.
- (4) The Governor-General may, by Order in Council made on the recommendation of the Minister under subsection (2) or subsection (3), add names to, and omit names from, Schedule 4 in accordance with this section.

73 Amendments to Act

- (1) The Minister must, on the introduction into the House of Representatives of a Government Bill that proposes an amendment to this Act, bring to the attention of the House the consultation process that was followed in the formulation of the proposed amendment.
- (2) That statement must include (without limitation)—
 - (a) whether consultation has taken place with the parties that are in agreement with the Part proposed to be amended (as listed in Schedule 4):
 - (b) whether consultation has taken place with the Guardians (to the extent that the amendment relates to Part 2):
 - (c) the results of the consultation.
- (3) If the House of Representatives resolves that the balance in the Fund should be allocated to individual retirement accounts for all eligible contributors, the Guardians must report to the

Minister and the Minister of Social Services and Employment, within 12 months of the date of the resolution, on the best means of allocating that balance to residents aged 18 or more having regard to the income tax paid by those individuals since 1 July 2001.

Amendments to other Acts

74 Amendment to Ombudsmen Act 1975

The Ombudsmen Act 1975 is amended by inserting in Part II of the First Schedule, in its appropriate alphabetical order, the item “The Guardians of New Zealand Superannuation and any subsidiary of the Guardians of New Zealand Superannuation.”

75 Amendments to Public Finance Act 1989

The Public Finance Act 1989 is amended by inserting in the Fourth, Fifth, and Sixth Schedules, in its appropriate alphabetical order, the item “The Guardians of New Zealand Superannuation.”

Taxation

76 Taxation of Fund and Guardians

- (1) The Fund is subject to income tax on any income derived from the Fund’s investments, and that income is to be treated as gross income of the Fund under the Income Tax Act 1994.
- (2) The Fund may claim allowable deductions under section BD 2 of the Income Tax Act 1994.
- (3) The Fund is treated as if it were a body corporate for tax purposes.
- (4) The Fund is not required to establish and maintain an imputation credit account under section ME 1 of the Income Tax Act 1994.
- (5) The Guardians are a public authority for the purposes of the Inland Revenue Acts.
- (6) In subsection (5), **Inland Revenue Acts** has the same meaning as in section 3(1) of the Tax Administration Act 1994.

*Consequential amendments and revocation***77 Consequential amendments to other Acts**

The Acts specified in Schedule 5 are consequentially amended in the manner set out in that schedule.

78 Consequential revocation

The Social Security (Disability Services) Regulations 1993 (SR 1993/250) are consequentially revoked.

*Transitional and savings provision***79 Transitional provision for existing New Zealand superannuation entitlements**

Every person who, immediately before the commencement of this section, was entitled to receive New Zealand superannuation entitlements under the Social Security Act 1964 or the Social Welfare (Transitional Provisions) Act 1990 or the Social Security (Disability Services) Regulations 1993 is entitled to receive the corresponding New Zealand superannuation entitlements under Part 1.

Compare: 1990 No 26 s 7

Schedule 1

New Zealand superannuation entitlements

ss 12, 19, 20, 26, 32

The following rates are before deduction of tax:

		\$
1	(a) to an unmarried person who has been granted a living alone payment under section 13	282.78 a week
	(b) to an unmarried person who has not been granted a living alone payment under section 13	260.12 a week
	(c) to a married person	214.38 a week
2	Alternative rate for a married person whose spouse is not entitled to receive New Zealand superannuation or a veteran's pension—	
	(a) to a married person who was receiving, or had applied for and was entitled to receive, New Zealand superannuation or a veteran's pension at the alternative rate before 1 October 1991	428.76 a week subject to Income Test 3, or the rate for the time being stated in paragraph (b) of this clause, whichever is the greater
	(b) to any other married person	407.34 a week, subject to Income Test 3
3	Hospital rate payable under section 19 to a married person with no dependent children, or an unmarried person, who receives New Zealand superannuation	An amount that, after income tax is deducted under tax code M (as stated in section NC 8 of the Income Tax Act 1994) is equal to \$28.30 a week
4	Rate of special disability allowance under section 20	28.30 a week

s 30

Schedule 2

Specified Pacific countries

American Samoa
Cook Islands
Federated States of Micronesia
Fiji
French Polynesia
Guam
Kiribati
Marshall Islands
Nauru
New Caledonia
Niue
Northern Mariana Islands
Palau
Papua New Guinea
Pitcairn Island
Samoa
Solomon Islands
Tokelau
Tonga
Tuvalu
Vanuatu
Wallis and Futuna

Schedule 3

s 57

**Further provisions relating to board of Guardians of
New Zealand Superannuation****1 Application**

This schedule applies to the board and its members.

2 Interpretation

In this schedule, unless the context otherwise requires,—

board means the board of the Guardians

entity means the Crown entity known as the Guardians of New Zealand Superannuation

member means a member of the board

quorum means a majority of board members as provided for in clause 33

transaction means a matter stated in clause 19(2).

3 Method of appointment

- (1) The Governor-General appoints a member by sending written notice to the member and a copy to the entity.
- (2) Promptly after sending the notice, the Minister must publish a copy in the *Gazette*.

4 When appointment takes effect

Every member takes office from the date stated in the notice of appointment.

5 Position where concurrent office

A person appointed as a member may hold that office concurrently with any other office.

*Term of office***6 Term of office**

Except as otherwise provided in this Act, a member—

- (a) holds office for a term not exceeding 5 years; and
- (b) may be reappointed; and
- (c) continues in office after the expiry of his or her term of office (unless the member resigns or is removed from office) until—
 - (i) the member is reappointed; or

- (ii) the member's successor is appointed; or
- (iii) the member is informed in writing by the Minister that the member is not to be reappointed.

Duties of board members

7 Duties of members

- (1) A member, when exercising powers or performing duties as a member, must act—
 - (a) in good faith; and
 - (b) with reasonable care, diligence, and skill; and
 - (c) with honesty and integrity.
- (2) The board—
 - (a) must ensure that the entity, and any subsidiary of the entity, acts in a manner consistent with the functions and powers of the entity, and with the entity's statement of intent and purchase agreement, and any directions given under section 64; and
 - (b) must ensure that the activities of the entity, and those of its subsidiaries, are conducted efficiently and effectively; and
 - (c) must have regard to the interests of creditors of the entity, and endeavour to ensure that the entity operates in a financially responsible manner.

Liability of members

8 Liability of members and committee members

- (1) A member is not personally liable, in any action taken against him or her by the entity, for any liability of the entity, or for any act done or omitted to be done by the entity or the board or by any person acting under a delegation of the entity's functions and powers, provided the member acted in good faith in pursuance or intended pursuance of the functions or powers of the entity.
- (2) Every member is indemnified by the entity—
 - (a) for costs and damages for any civil liability arising from any action brought by a third party, provided the member was acting in good faith and in pursuance or intended pursuance of the functions or powers of the entity; and

- (b) for costs arising from any successfully defended criminal action relating to actions or omissions in his or her capacity as a member.
- (3) The Crown must meet any costs and damages arising from this indemnity out of money appropriated by Parliament.
- (4) References in this clause to members include references to members of any committee of the board and employees.

Resignation and removal of members

9 Resignation

- (1) A member may resign from office by sending a written notice to the Minister and a copy to the entity.
- (2) Unless the Minister earlier removes the member from office, the notice 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.

10 Removal from office

- (1) The Governor-General may, on the advice of the Minister, remove a member from office for a reason that in the Minister's opinion justifies the removal.
- (2) Those reasons 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 board's performance of its collective duties, or misconduct by the member.
- (3) The Governor-General removes a member by sending written notice to the member and a copy to the entity.
- (4) The written notice must state the reason for the removal.
- (5) The removal takes effect on the later of—
 - (a) the day the member receives the notice; or
 - (b) the day the Governor-General states in it for the purpose.
- (6) A member is not entitled to any compensation or other payment relating to his or her removal from office.

Vacancies in the entity's membership

11 Effect of vacancy in membership

The functions and powers of the entity are not affected by any vacancy in the board's membership.

Remuneration

12 Remuneration

The Minister must approve payments to, or for, the members of the board, being remuneration for services as members of the board or reimbursement of expenses incurred by board members in carrying on the affairs of the board.

Chairperson and deputy chairperson

13 Appointment

- (1) The Governor-General, on the recommendation of the Minister, may appoint 1 of the members as the chairperson and another member as the deputy chairperson.
- (2) However, no person may, at the same time, hold the office of both chairperson and deputy chairperson.
- (3) The Governor-General appoints a chairperson or deputy chairperson by sending written notice to the member and a copy to the entity.
- (4) The person takes office as chairperson or deputy chairperson from the date stated in the notice of appointment.

14 Term of office

Every person appointed as chairperson or deputy chairperson holds that office until the person—

- (a) resigns from that office; or
- (b) is removed from it by the Minister; or
- (c) ceases to be a member.

15 Resignation

- (1) A chairperson or deputy chairperson may resign from that office by sending written notice to the Minister and a copy to the entity stating the date on which the resignation takes effect.

- (2) A chairperson or deputy chairperson who resigns from that office continues to be a member of the board unless he or she also resigns from that office under clause 9.

16 Exercise of chairperson's functions, duties, and powers during vacancy, etc

During a vacancy in the office of chairperson, or while the chairperson is for any reason unable to perform the functions, duties, and powers of the chairperson, the deputy chairperson has and may exercise all of the functions, duties, and powers of the chairperson.

Acts not to be called into question

17 Acts not to be called into question

No one may question the following in any proceedings on the grounds that the occasion for the appointment had not arisen or had ceased:

- (a) an appointment of a member to act as chairperson or deputy chairperson:
- (b) an act done by that member while acting as chairperson or deputy chairperson:
- (c) an act done by the board while any member is acting as chairperson or deputy chairperson:
- (d) an act done by the board or any member while the member continues to hold office under clause 6(c).

18 Validity of members' acts

The acts of a person as a member are valid even though—

- (a) the person's appointment was defective; or
- (b) the person was not qualified for appointment.

Disclosure of interest

19 Obligation to disclose interest

- (1) A member who (except as a member) is interested, directly or indirectly, in any of the matters listed in subclause (2) must, as soon as practicable after the member knows about the relevant facts, disclose the nature of the interest in accordance with clause 21.

- (2) The matters are—
- (a) the entity's performance of its functions or exercise of a power:
 - (b) an arrangement, agreement, or contract, made or entered into, or proposed to be made or entered into, by the entity.

20 Meaning of interested

A member is **interested** in a transaction to which the board is a party if, and only if, the member—

- (a) is a party to, or will or may derive a material financial benefit from, the transaction; or
- (b) has a material financial interest in another party to the transaction; or
- (c) is a director, officer, member, or trustee of another party to, or person who will or may derive a material financial benefit from, the transaction; or
- (d) is the parent, child, or spouse of another party to, or person who will or may derive a material financial benefit from, the transaction; or
- (e) is otherwise directly or indirectly materially interested in the transaction.

21 Disclosure of interest

- (1) A member must, immediately after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the entity, cause to be entered in the interests register, and disclose to the board,—
- (a) the nature and monetary value of the member's interest, if the monetary value is able to be quantified; or
 - (b) the nature and extent of the member's interest, if the monetary value cannot be quantified.
- (2) A general notice entered in the interests register or disclosed to the board to the effect that a member is a shareholder, director, officer, member, or trustee, of another named company or other person and is to be regarded as interested in any transaction that may, after the date of the entry or disclosure, be entered into with that company or person is a sufficient disclosure of interest for that transaction.

22 Consequences of disclosure

A member who discloses his or her interest under clause 21—

- (a) must not take part in any deliberation or decision of the board concerning the matter; and
- (b) is to be disregarded for the purpose of forming a quorum for a meeting of the board during which a deliberation or decision relating to the matter occurs or is made.

23 Matters to be delegated to committee

The board must delegate a deliberation or decision to a committee if the effect of clause 22 is that there is not a quorum of members able to take part in the deliberation or decision, or to form a quorum.

24 Members of committee to which matters delegated

A committee to which a deliberation or decision is delegated under clause 23 must consist of a majority of persons—

- (a) who are not interested in the transaction; and
- (b) in the case of members of the committee who are not members of the board, who are appointed by the board with the agreement of the Minister.

25 Effect of non-compliance

The validity of a transaction entered into by the entity is not affected by the fact that a member fails to comply with the disclosure requirements in clauses 19 to 24.

*Use of information***26 Restrictions on disclosure or use of entity's information**

- (1) A member must not disclose to any person, or make use of, or act on, any information that is only available to the member in that capacity.
- (2) Subclause (1) does not prevent a member—
 - (a) being required or authorised by this Act or any other Act to disclose, use, or act on, the information; or
 - (b) disclosing, using, or acting on the information for the purposes of the entity or the requirements of the law; or
 - (c) disclosing the information to the Minister.

27 When member may rely on certain information and advice

- (1) A member, when exercising powers or performing duties as a member, may rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the persons listed in subclause (2).
- (2) The persons are—
 - (a) any person who the member believes on reasonable grounds is reliable and competent in relation to the matters concerned; or
 - (b) any other member or committee on which the member did not serve concerning matters within the member's or committee's designated authority; or
 - (c) the Minister.

28 When clause 27 applies

Clause 27 applies to a member only if the member—

- (a) acts in good faith; and
- (b) makes proper inquiry if the need for inquiry is indicated by the circumstances; and
- (c) has no knowledge that the reliance is unwarranted.

*Procedure of board: general***29 Procedure generally**

Except as otherwise provided in this Act, the board may regulate its own procedure.

*Procedure of board: meetings***30 Ordinary meetings**

The board must appoint the times and places for all its ordinary meetings.

31 Special meetings

- (1) The chairperson, or any 2 members, may at any time call a special meeting of the board by giving each member for the time being in New Zealand a written notice stating—
 - (a) the time and place of the meeting; and
 - (b) the business to be transacted at it.

- (2) The members must be given—
 - (a) at least 7 days' notice of the meeting; or
 - (b) if they are satisfied that the business to be transacted is urgent, any shorter period of notice that all members entitled to be notified agree.
- (3) The notice must be either given to a member or sent to the member's last known address in New Zealand.
- (4) Only the business stated in the notice may be transacted at that meeting.

32 Methods of holding meetings

A meeting of the board may be held either—

- (a) by a number of the members who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or
- (b) by means of audio, or audio and visual, or electronic communication, by which all members participating and constituting a quorum can simultaneously communicate with each other throughout the meeting.

33 Quorum

- (1) A quorum for a meeting of the board is a majority of the members at the time the meeting is held.
- (2) No business may be transacted at a meeting of the board if a quorum is not present.

34 Who presides at meetings

- (1) The chairperson must preside at all meetings of the board at which he or she is present.
- (2) If the chairperson is not present, or if there is no chairperson, the deputy chairperson, if present, must preside.
- (3) The members present must appoint 1 of their number to be the chairperson for the meeting if—
 - (a) the chairperson and the deputy chairperson are not present; or
 - (b) there is no chairperson and no deputy chairperson.
- (4) The elected person has and may exercise all the powers, duties, and functions of the chairperson for the purposes of the meeting.

35 Voting at meetings

All resolutions of the board must be decided by a majority of the votes cast.

36 Resolutions

- (1) A resolution in writing, signed or assented to by letter, facsimile message, or electronic message by all members, is as valid and effectual as if it had been passed at a meeting of the board duly called and constituted.
- (2) The resolution may consist of several documents in the same form, each signed or appearing to have been sent by 1 or more members.

37 Method of contracting

- (1) A contract or other enforceable obligation may be entered into by the entity as stated in subclauses (2) to (5).
- (2) An obligation that, if entered into by an individual, would be required to be by deed, may be entered into on behalf of the entity in writing, signed under the name of the entity by—
 - (a) 2 or more of its members; or
 - (b) 1 or more attorneys appointed by the entity in accordance with clause 38.
- (3) An obligation that, if entered into by an individual, is required to be in writing, may be entered into on behalf of the entity in writing by a person acting under the entity's express or implied authority.
- (4) An obligation that, if entered into by an individual, is not required to be in writing, may be entered into on behalf of the entity in writing or orally by a person acting under the entity's express or implied authority.
- (5) The entity may, in addition to complying with subclauses (2) to (4), affix its common seal, if it has one, to the contract or document containing the enforceable obligation.
- (6) This clause applies to a contract or other obligation—
 - (a) whether or not that contract or obligation was entered into in New Zealand; and
 - (b) whether or not the law governing the contract or obligation is the law of New Zealand.

38 Attorneys

- (1) The entity may, by an instrument in writing executed in accordance with clause 37(2), appoint a person as its attorney either generally or for a specified matter.
- (2) An act of the attorney in accordance with the instrument binds the entity.

*Delegations***39 Ability for board to delegate functions and powers**

The board may by writing, either generally or specifically, delegate any of the functions or powers of the entity to a committee of the board or to any person.

40 Certain powers must not be delegated

- (1) The board must not delegate any of the following powers:
 - (a) the power of delegation in clause 39;
 - (b) the power to grant a power of attorney;
 - (c) the power to appoint an investment manager in section 62;
 - (d) the power to appoint a custodian in terms of section 63.
- (2) This clause does not limit sections 62 and 63 of this Act or clause 23 or clause 24 of this schedule.

41 Effect of delegation

- (1) A person to whom any functions or powers are delegated under clause 39 may carry out those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on the person directly by this Act and not by delegation.
- (2) Subclause (1) is subject to any direction given or condition imposed by the board.

42 Presumption of acting in accordance with delegation

A person who appears to act under a delegation under clause 39 is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

43 Other matters relating to delegation

A delegation under clause 39—

- (a) is revocable at will, but the revocation does not take effect until it is communicated to the delegate; and
- (b) continues in force according to its terms until it is revoked; and
- (c) does not prevent the board from performing the functions or exercising the power.

*Subsidiaries***44 Subsidiaries**

- (1) The board must ensure that—
 - (a) the functions and powers of any subsidiary of the entity are no broader than those of the entity; and
 - (b) the entity controls the majority of the board of the subsidiary at all times; and
 - (c) the entity holds more than 50% of the voting shares of the subsidiary at all times.
- (2) Clauses 46 to 53 apply to any subsidiary as if every reference to the board were a reference to a subsidiary.

*Committees***45 Committees**

- (1) The board may, by writing, appoint a committee to—
 - (a) advise the board on any matters concerning the entity's functions or powers that are referred to a committee by the board; or
 - (b) exercise any of the entity's functions or powers that are delegated to the committee under clause 23 or clause 39.
- (2) The board may, by resolution, alter, discharge, continue, or reconstitute a committee appointed under subclause (1).
- (3) Committee members may be members of the board or other persons.
- (4) A committee may regulate its own procedure, subject to any direction from the board.
- (5) Clauses 13 to 37 apply to the committee.

*Employees***46 Appointment of chief executive officer**

- (1) The board may from time to time appoint a chief executive officer.
- (2) The conditions of employment of a chief executive officer must be determined by the board.
- (3) The board must not agree to any conditions of employment for a chief executive officer without—
 - (a) consulting the State Services Commissioner; and
 - (b) having regard to all recommendations the Commissioner makes to the board within a reasonable time of being consulted; and
 - (c) if the board does not adopt the recommendations of the Commissioner, consulting (in the case of the Guardians) with the Minister or (in the case of a subsidiary of the Guardians) with the Guardians.

47 Appointment of other employees

- (1) The chief executive officer may appoint those employees, including employees on secondment from other organisations, that he or she thinks necessary for the efficient performance of the entity's functions, and may negotiate the terms and conditions of employment of those employees.
- (2) Subject to the terms and conditions of employment, the chief executive officer may at any time terminate or suspend the employment of any of the entity's employees.

48 Personnel policy

- (1) The board must, if it appoints employees, operate a personnel policy that complies with the principle of being a good employer.
- (2) For the purposes of this clause, a **good employer** is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—
 - (a) good and safe working conditions; and
 - (b) an equal employment opportunities programme; and
 - (c) the impartial selection of suitably qualified persons for appointment; and

- (d) recognition of—
 - (i) the aims and aspirations of Maori; and
 - (ii) the employment requirements of Maori; and
 - (iii) the need for involvement of Maori as employees; and
- (e) opportunities for the enhancement of the abilities of individual employees; and
- (f) recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
- (g) recognition of the employment requirements of women; and
- (h) recognition of the employment requirements of persons with disabilities.

49 Equal employment opportunities

- (1) The board must, if it appoints employees,—
 - (a) develop and publish in each year an equal employment opportunities programme; and
 - (b) ensure in each year that the programme for that year is complied with and reported on within the board's annual report.
- (2) An equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality concerning the employment of any persons or group of persons.

50 Choice of procedure

If the circumstances giving rise to a personal grievance by a person employed by the board are also those that the person would be entitled to make a complaint under the Human Rights Act 1993, that person may take 1, but not both, of the following steps:

- (a) the person may invoke, for those circumstances, the procedures applicable to personal grievances under the Employment Relations Act 2000 or the relevant award or agreement; or
- (b) the person may make, in relation to those circumstances, a complaint under the Human Rights Act 1993.

51 Superannuation or retiring allowances

For the purpose of providing a superannuation fund or retiring allowances for its employees, the board may from time to time pay sums by way of subsidy or contribution into any superannuation scheme that is registered under the Superannuation Schemes Act 1989.

52 Application of certain Acts to members and employees

No person is deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason only of that person's appointment under clause 46 or clause 47.

53 Existing Government Superannuation Fund members

- (1) Despite clause 52, a person who, immediately before becoming an employee of the board, was a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 is, for the purposes of that Act, considered to be employed in the Government service so long as that person continues to be an employee of the board; and that Act applies to that person in all respects as if that person's service as an employee of the board were Government service.
 - (2) Nothing in subclause (1) entitles a person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.
 - (3) For the purposes of applying the Government Superannuation Fund Act 1956 in accordance with subclause (1), **controlling authority**, for that employee, means the board.
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Schedule 4

Political parties in agreement with Act

Part 1

Political parties that are in agreement with Part 1 of Act

Part 2

Political parties that are in agreement with Part 2 of Act

Schedule 5

s 77

Consequential amendments to other Acts**Accident Insurance Act 1998** (1998 No 114)

Repeal the definition of **New Zealand superannuation qualification age** in section 13 and substitute:

“**New Zealand superannuation qualification age**,—

“(a) for a person born before 1 April 1936, means the appropriate age set out in section 3 of the Social Welfare (Transitional Provisions) Act 1990 (before its repeal):

“(b) for any other person, means the age specified in section 7 of the New Zealand Superannuation Act 2001,—
irrespective of whether or not the particular person qualifies for New Zealand superannuation at that or any other age”.

Repeal so much of Schedule 7 as relates to section 3(1A) of the Social Welfare (Transitional Provisions) Act 1990.

Child Support Act 1991 (1991 No 142)

Insert in section 131, after the words “or under the Social Welfare (Transitional Provisions) Act 1990”, the words “or the New Zealand Superannuation Act 2001”.

Insert in section 240(2)(d), after the words “or the Social Welfare (Transitional Provisions) Act 1990”, the words “or the New Zealand Superannuation Act 2001”.

Insert in section 263(2)(b)(iii), after the words “or the Social Welfare (Transitional Provisions) Act 1990”, the words “or the New Zealand Superannuation Act 2001”.

Employment Services and Income Support (Integrated Administration) Act 1998 (1998 No 96)

Repeal so much of the Schedule as relates to section 4 of the Social Welfare (Transitional Provisions) Act 1990.

Family Proceedings Act 1980 (1980 No 94)

Insert in section 101A (as saved by section 259 of the Child Support Act 1991), after the words “or the Social Welfare (Transitional Provisions) Act 1990”, the words “or the New Zealand Superannuation Act 2001”.

Housing Restructuring Act 1992 (1992 No 76)

Insert in section 46(6), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “and the New Zealand Superannuation Act 2001”.

Housing Restructuring Act 1992 (1992 No 76)—continued

Omit from clause 2(a) of Schedule 2 the expression “clause 1(a) of the First Schedule of the Social Welfare (Transitional Provisions) Act 1990” and substitute the expression “clause 1(a) of Schedule 1 of the New Zealand Superannuation Act 2001”.

Omit from clause 2(b) of Schedule 2 the expression “clause 1(c) of the First Schedule of the Social Welfare (Transitional Provisions) Act 1990” and substitute the expression “clause 1(c) of Schedule 1 of the New Zealand Superannuation Act 2001”.

Repeal clause 9(a)(ii) of Schedule 2 and substitute:

- “(ii) New Zealand superannuation under the New Zealand Superannuation Act 2001 or a veteran’s pension under the Social Welfare (Transitional Provisions) Act 1990; or”.

Human Rights Act 1993 (1993 No 82)

Omit from section 21(1)(i)(i) the words “under section 3 of the Social Welfare (Transitional Provisions) Act 1990” and substitute the words “under section 7 of the New Zealand Superannuation Act 2001”.

Omit from section 70(5)(d) the words “under section 3 of the Social Welfare (Transitional Provisions) Act 1990” and substitute the words “under section 7 of the New Zealand Superannuation Act 2001”.

Income Tax Act 1994 (1994 No 164)

Repeal the definition of **living alone payment** in section OB 1 and substitute:

“**living alone payment** means a living alone payment paid or payable under section 18A of the Social Welfare (Transitional Provisions) Act 1990 or section 13 of the New Zealand Superannuation Act 2001”.

Repeal the definition of **New Zealand superannuation** in section OB 1 and substitute:

“**New Zealand superannuation**—

“(a) means New Zealand superannuation paid or payable under Part I of the Social Welfare (Transitional Provisions) Act 1990 or under Part 1 of the New Zealand Superannuation Act 2001:

“(b) includes—

- “(i) any living alone payment paid or payable to a New Zealand superannuitant under section 18A

Income Tax Act 1994 (1994 No 164)—continued

of the Social Welfare (Transitional Provisions) Act 1990 or under section 13 of the New Zealand Superannuation Act 2001; and

- “(ia) any amount paid under section 70(3)(b) of the Social Security Act 1964; and
- “(ii) any national superannuation paid or payable, before 1 April 1994, under Part I of the Social Welfare (Transitional Provisions) Act 1990; but
- “(c) does not include—
 - “(i) portable New Zealand superannuation; or
 - “(ii) any transitional retirement benefit paid or payable under Part I of the Social Welfare (Transitional Provisions) Act 1990; or
 - “(iii) any supplement or benefit paid or payable under any of sections 61DB, 61DC, 61DD, 61DE, 61E, 61EA, 61FC, 61G, and 69C of the Social Security Act 1964”.

Repeal the definition of **New Zealand superannuitant** in section OB 1 and substitute:

“**New Zealand superannuitant**, in relation to any income year,—

- “(a) means a person who receives New Zealand superannuation in the income year; but
- “(b) does not include a person who receives New Zealand superannuation at a rate specified in clause 2 of the First Schedule of the Social Welfare (Transitional Provisions) Act 1990 or under clause 2 of Schedule 1 of the New Zealand Superannuation Act 2001”.

Repeal the definition of **portable New Zealand superannuation** in section OB 1 and substitute:

“**portable New Zealand superannuation** means New Zealand superannuation paid or payable overseas under any provision of sections 17, 17BA, and 19 of the Social Welfare (Transitional Provisions) Act 1990 or under any provision of sections 26 to 29 and 31 of the New Zealand Superannuation Act 2001”.

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)

Repeal the definition of **New Zealand superannuation qualification age** in section 6 and substitute:

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)—continued

“**New Zealand superannuation qualification age**,—

“(a) for a person born before 1 April 1936, means the appropriate age set out in section 3 of the Social Welfare (Transitional Provisions) Act 1990 (before its repeal):

“(b) for any other person, means the age specified in section 7 of the New Zealand Superannuation Act 2001,—
irrespective of whether or not the particular person qualifies for New Zealand superannuation at that or any other age”.

Repeal so much of Schedule 6 as relates to section 3(1A) of the Social Welfare (Transitional Provisions) Act 1990.

Social Security Act 1964 (1964 No 136)

Add to paragraph (b)(i) of the definition of **benefit** in section 3(1) the words “and New Zealand superannuation payable under the New Zealand Superannuation Act 2001”.

Add to paragraph (b)(ii) of the definition of **benefit** in section 3(1) the words “and a living alone payment payable under the New Zealand Superannuation Act 2001”.

Insert in paragraph (f)(i) of the definition of **income** in section 3(1), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or the New Zealand Superannuation Act 2001”.

Add to paragraph (f) of the definition of **income-tested benefit** in section 3(1) the words “or at the rate in clause 2 of Schedule 1 of the New Zealand Superannuation Act 2001”.

Repeal the definition of **New Zealand superannuation** in section 3(1) and substitute:

“**New Zealand superannuation** means New Zealand superannuation payable under the New Zealand Superannuation Act 2001”.

Insert in section 3(3), after the expression “Social Welfare (Transitional Provisions) Act 1990” the first time that it appears, the words “or the New Zealand Superannuation Act 2001”.

Repeal section 3(3)(a) and substitute:

“(a) meets the residential qualification for New Zealand superannuation set out in the New Zealand Superannuation Act 2001; and”.

Insert in section 5(1), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or the New Zealand Superannuation Act 2001”.

Social Security Act 1964 (1964 No 136)—continued

Insert in section 11(2)(a), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or under the New Zealand Superannuation Act 2001”.

Insert in section 11(2)(f), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or under the New Zealand Superannuation Act 2001”.

Insert in section 12J(1), after paragraph (c):

“(ca) Part 1 of the New Zealand Superannuation Act 2001; or”.

Insert in section 61G(1), after the expression “Social Welfare (Transitional Provisions) Act 1990” in both places where it appears, the words “or the New Zealand Superannuation Act 2001”.

Insert in section 61H(1), after paragraph (c):

“(ca) amend Schedule 1 of the New Zealand Superannuation Act 2001; and”.

Insert in section 64(1), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or in the New Zealand Superannuation Act 2001”.

Insert in section 64(2A), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or in the New Zealand Superannuation Act 2001”.

Omit from section 66(1) the words “under section 16 of this Act”.

Insert in paragraph (a)(i) of the definition of **income** in section 69FA, after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or the New Zealand Superannuation Act 2001”.

Insert in section 69G(1), (2)(a) to (d), and (3)(a) and (b), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or under the New Zealand Superannuation Act 2001”.

Insert in section 69H(1) and (3), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or under the New Zealand Superannuation Act 2001”.

Insert in section 70(1), (1)(a) and (b), (3)(a) and (b), and (4)(a), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or under the New Zealand Superannuation Act 2001”.

Insert in section 70, after subsection (3B), the following subsection:

“(3C) If the benefit referred to in an arrangement made under subsection (3)(a) is New Zealand superannuation, the chief executive must pay any amount received from the overseas

Social Security Act 1964 (1964 No 136)—continued

pensioner under the arrangement into the New Zealand Superannuation Fund established under the New Zealand Superannuation Act 2001, in accordance with arrangements made from time to time by the chief executive with the Guardians of New Zealand Superannuation.”

Insert in section 71(1), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or the New Zealand Superannuation Act 2001”.

Insert in section 74, after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or the New Zealand Superannuation Act 2001”.

Insert in section 74A(2), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or the New Zealand Superannuation Act 2001”.

Add to section 75:

“(8) Nothing in this section applies to New Zealand superannuation under the New Zealand Superannuation Act 2001.”

Insert in section 77(1), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or in sections 21 to 29 of the New Zealand Superannuation Act 2001”.

Insert in section 80(1), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or the New Zealand Superannuation Act 2001”.

Insert in section 86(2), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or under the New Zealand Superannuation Act 2001”.

Insert in section 127(a), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or the New Zealand Superannuation Act 2001”.

Insert in section 132B(2)(c), after the expression “Social Welfare (Transitional Provisions) Act 1990”, the words “or of the New Zealand Superannuation Act 2001”.

Social Security Amendment Act 1998 (1998 No 19)

Repeal so much of Part A of Schedule 1 as relates to the Social Welfare (Transitional Provisions) Act 1990.

Social Welfare (Transitional Provisions) Act 1990

(1990 No 26)

Repeal sections 3 to 7.

Social Welfare (Transitional Provisions) Act 1990

(1990 No 26)—continued

Omit from sections 13A, 17 to 17C, and 18A the words “New Zealand superannuation or” in every place that they appear.

Omit from sections 13A, 17 to 17C, and 17F the words “New Zealand superannuation and” in every place that they appear.

Amend section 19(1)(b) by inserting, after the expression “Social Security Act 1964”, the words “and of Part 1 of the New Zealand Superannuation Act 2001”.

Social Welfare (Transitional Provisions) Amendment Act

(No 2) 1990 (1990 No 133)

Repeal section 2.

Social Welfare (Transitional Provisions) Amendment Act

(No 2) 1991 (1991 No 77)

Repeal section 3.

Social Welfare (Transitional Provisions) Amendment Act 1993

(1993 No 58)

Repeal section 2.

Taxation (Remedial Provisions) Act 1996 (1996 No 159)

Repeal section 30(1)(j) and (k).

Legislative history

28 November 2000	Introduction (Bill 89-1)
13 December 2000	First reading and referral to Finance and Expenditure Committee
12 June 2001	Reported from Finance and Expenditure Committee (Bill 89-2)
24 July 2001	Second reading
1, 28 August, 4, 5, 11 September, 3 October 2001	Committee of the whole House (Bill 89-3)
10 October 2001	Third reading
11 October 2001	Royal assent

This Act is administered in the Department of Work and Income and the Treasury.
