

SUPERANNUATION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Superannuation Act 1956.

Clause 1 relates to the Short Title.

PART I

MISCELLANEOUS PROVISIONS

Clause 2 amends section 91 of the principal Act, which enables a retiring employee to surrender up to one-quarter of his retiring allowance in exchange for a lump sum equivalent to 9 times the amount surrendered. By subsection (2), an election by a contributor to capitalise part of his retiring allowance is not revocable.

Doubts have now arisen as to whether a contributor who has elected to capitalise less than one-fourth of his retiring allowance may subsequently elect to capitalise a further part so long as the total capitalised does not exceed one-fourth. This amendment is intended to make it clear that a contributor who makes his election to capitalise may make it once only, and that not only may he not revoke it but he may not amend or extend it or make a further election.

Clause 3 inserts a new section 92A in the principal Act providing that no person may become a contributor to the Government Superannuation Fund while he is still a contributing employee under any scheme prepared by the National Provident Fund Board under Part III of the National Provident Fund Act 1950.

Clause 4: The Superannuation Amendment Act 1969 introduced a superannuation adjustment scheme providing for cost-of-living adjustments to be made to retiring allowances. Under that scheme, contributors to the Fund are required to pay an additional 1 percent contribution, but persons who became contributors before 1 January 1970 were entitled to opt out of the additional contributions and the benefits of the scheme. An election to opt out of the scheme had to be made before 1 March 1970, but the Board could consent to an election made at a later date.

This clause provides that a contributor who has elected to opt out of the scheme may, with the consent of the Board, revoke that election. That revocation must be made before 1 July 1971.

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Clause 5 applies the superannuation adjustment scheme to Magistrates, Maori Land Court Judges, and the Solicitor-General as from 15 June 1969. The rate of contribution is increased by 1 percent in each case. Existing contributors and persons who become contributors before 1 January 1971 are given the right to opt out of that scheme before that date.

Clause 6 applies the superannuation adjustment scheme to Judges as from 1 April 1970. The rate of contribution by those Judges who are contributors is increased by 1 percent in each case. In the case of Judges who had not elected to become contributors, and are thus not covered for widows' annuities, a rate of contribution of 1 percent is fixed to enable them to participate in the adjustment scheme.

Existing contributors, Judges who have not elected to become contributors, and Judges who become contributors before 1 January 1971 are given the right to opt out of the scheme before that date.

Clause 7 applies the superannuation adjustment scheme to Parliamentary superannuation as from 1 April 1970, and gives effect to a recommendation of the Royal Commission on Parliamentary Salaries and Allowances 1970. The rate of contribution is increased by 1 percent in each case. Existing contributors and persons who become contributors before 1 January 1971 are given the right to opt out of that scheme before that date.

Clause 8 is a consequential amendment of section 9 of the Superannuation Amendment Act 1969, which relates to the application of the superannuation adjustment scheme in cases where an annuity payable to a widow or dependent widower which was suspended on his or her remarriage has again become payable because the beneficiary has again become a widow or widower. The amendment is consequential on the extension of that scheme to Judges' superannuation and Parliamentary superannuation.

Clause 9 provides for consequential amendments.

PART II

SUPERANNUATION OF MEMBERS OF CALIBRATION FLIGHT OF MINISTRY OF TRANSPORT

This Part makes special provision for superannuation benefits for members of the Aviation Calibration Occupational Class of the Ministry of Transport (commonly known as the Calibration Flight and referred to in this note under that name).

The general effect of this Part is as follows:

- (a) Full retiring allowance in accordance with salary and service will be payable on retirement from aircrew at any time after reaching age 50:
- (b) A retiring allowance will be paid if the member loses his licence on medical grounds at any time, but will be reduced by a specified proportion according to the age of the member:
- (c) A special rate of contribution is prescribed:
- (d) A member entitled to a retiring allowance may capitalise up to one-quarter of the allowance under section 91 of the principal Act, and will receive 15 times the amount capitalised:
- (e) Widows' and children's benefits will be payable as in sections 45 and 47 of the principal Act:
- (f) Provision is made in respect of past aircrew and past non-aircrew service and for cases of members who transfer to other branches of the Government service.

Clause 10 provides that this Part will be deemed to have come into force on 11 September 1969. The scheme has been operating since that date in anticipation of legislation.

Clause 11 provides that members of the Calibration Flight who are contributors to the Fund will be subject to this Part so long as they remain contributors as members of the Calibration Flight. Any member who was a contributor on 10 September 1969 may elect before 1 January 1971 that this Part will not apply to him, and in that event he will remain subject to the general provisions of the principal Act.

Clause 12 provides that a contributor who is a member of the Calibration Flight will qualify for a retiring allowance on reaching the age of 50 years or if his licence is sooner cancelled on medical grounds under regulations made pursuant to the Civil Aviation Act 1964.

If a member qualifies for a retiring allowance by reason of his licence being cancelled on medical grounds, his allowance will be reduced by the proportion set out in the table in *subclause (2)*, having regard to his age at the time of cancellation.

Clause 13 specifies the amount of contributions payable by members of the Calibration Flight. Except where the member has made an election not to contribute the additional 1 percent to qualify for the cost-of-living adjustments provided by the Superannuation Amendment Act 1969, the rate of contributions will be 9 percent of his salary if his age does not exceed 45 years at the commencement of his contributory service and $9\frac{1}{4}$ percent if his age then exceeds 45 years. Where he has made the election referred to above, the respective rates will be 8 percent and $8\frac{1}{4}$ percent.

Clause 14 provides that a member of the Calibration Flight who under section 91 of the principal Act capitalises part of his retiring allowance will receive 15 times the amount of his allowance that is capitalised.

Clause 15 provides that for the purpose of computing the length of contributory service of a member of the Calibration Flight, every year of service before the commencement of this Part or before he became a member of the Flight is to be counted as $\frac{5}{8}$ of a year. However, provision is made for past aircrew service to be counted on a year for year basis, subject to an appropriate payment being made into the Fund.

Clause 16 makes provision for cases where a member of the Calibration Flight transfers to another branch of the Government service before becoming entitled to a retiring allowance. In such a case appropriate adjustments are made in computing the length of contributory service, and a refund will be made of contributions made in excess of the ordinary rate of contributions.

Clause 17 makes provision for cases where a member of the Calibration Flight transfers to another branch of the Government service after becoming entitled to a retiring allowance under this Part. In such a case, he may elect to receive that allowance or continue as a contributor to the Fund and reserve his right to that retiring allowance. In the latter case, provision is made in the clause enabling the member to continue to contribute on his final rate of salary as a member of the Calibration Flight if that is higher than his new salary, and as to the rights of the contributor on his retirement from the Government service, according to whether or not he is then entitled to a retiring allowance in respect of that service.

Clause 18 provides that the principal Act will apply to members of the Calibration Flight subject to the modifications made by this Part.

Hon. Mr Muldoon

SUPERANNUATION AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Superannuation Act 1956

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

No. 126—1

1. Short Title—This Act may be cited as the Superannuation Amendment Act 1970, and shall be read together with and deemed part of the Superannuation Act 1956* (hereinafter referred to as the principal Act).

*Reprinted, 1965, Vol. 3, p. 2141

Amendments: 1966, No. 88; 1967, No. 141; 1968, No. 109; 1969, No. 38

PART I

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MISCELLANEOUS PROVISIONS

2. Election to surrender proportion of retiring allowance and receive cash payment—Section 91 of the principal Act is hereby amended by adding to subsection (2) (as amended by section 7 (2) of the Superannuation Amendment Act 1963) the words “and, except as provided in subsection (1A) of this section, the contributor shall not be entitled to amend or extend any such election or make any further election”.

3. Person not to become a contributor while a contributing employee under National Provident Fund Act 1950—The principal Act is hereby further amended by inserting, after section 92, the following section:

“92A. Notwithstanding anything to the contrary in Part II or Part III of this Act or in section 18 of the Superannuation Amendment Act 1962, no person shall become a contributor to the Fund while he is still a contributing employee under any scheme prepared by the National Provident Fund Board under Part III of the National Provident Fund Act 1950.”

4. Revocation of election not to pay additional contributions for cost-of-living adjustment—Section 2 of the Superannuation Amendment Act 1969 is hereby amended by adding the following subsection:

“(6) Where any person has made an election under subsection (4) of this section, that election may, with the consent of the Board, be revoked by writing delivered to the Superintendent before the 1st day of July 1971.”

5. Superannuation of Magistrates, Maori Land Court Judges, and the Solicitor-General—(1) Section 3 of the Superannuation Amendment Act 1969 is hereby amended by adding the following paragraph:

“(h) Retiring allowances payable under subsection (2) of section 73 of the principal Act.”

(2) Section 73 of the principal Act is hereby amended by omitting from subsection (5) (as substituted by section 9 (2) of the Superannuation Amendment Act 1964) the words “eight percent”, and substituting the words “9 percent”.

5 (3) Notwithstanding anything in subsection (2) of this section, where any person has made an election under subsection (4) of section 9 of the Superannuation Amendment Act 1964 that he shall not be affected by the provisions of subsections (1) to (3) of that section, the rate of contribution
10 to be deducted from his salary is hereby increased by 1 percent.

(4) Any person to whom section 73 of the principal Act applied immediately before the commencement of this section or to whom the said section 73 first applies at any time before the 1st day of January 1971 may, at any time before that date
15 or before the expiration of 3 months after the date on which the said section 73 first applied to him, whichever is the later, by notice in writing to the Superintendent elect that he shall not be affected by the provisions of subsections (1) to (3) of this section, and, where any person so elects, any
20 contributions payable by that person and any retiring allowance payable to that person and any annuity payable to the widow or dependent widower of that person shall be computed and paid as if this section and the Superannuation Amendment Act 1969 had not been enacted.

25 (5) Section 73 of the principal Act is hereby further amended by inserting in the proviso to subsection (8) (as added by section 9 (3) of the Superannuation Amendment Act 1964), after the words “retirement or death, and”, the words “subject to any adjustment thereto made under the
30 Superannuation Amendment Act 1969”.

(6) Section 7 of the Superannuation Amendment Act 1969 is hereby amended by inserting in the proviso to the definition of the expression “date of qualification” in subsection (1), after the words “principal Act”, the words “or payable under
35 subsection (2) of section 73 of the principal Act to any person who has become incapable of performing the duties of his office by reason of any permanent infirmity”.

(7) This section shall be deemed to have come into force on the 15th day of June 1969.

40 **6. Superannuation of Judges**—(1) Section 3 of the Superannuation Amendment Act 1969 (as amended by section 5 of this Act) is hereby further amended by adding the following paragraphs:

45 “(i) Retiring allowances payable under section 76 of the principal Act:

“(j) Annuities payable under section 79 of the principal Act:

“(k) Annuities payable under section 4 of the Finance Act (No. 2) 1955.”

(2) Notwithstanding anything in subsection (1) of this section,— 5

(a) No increased payment of any retiring allowance or annuity referred to in that subsection shall be made in respect of any period before the commencement of this section: 10

(b) For the purposes of proportionately adjusting the percentage to be applied to any retiring allowance or annuity referred to in that subsection, the Second Schedule to the Superannuation Amendment Act 1969 shall be read as if— 15

(i) The words “1st day of April 1970” were substituted for the words “15th day of June 1969” wherever they occur; and

(ii) The words “31st day of March 1970” were substituted for the words “14th day of June 1969”; 20
and

(iii) The words “the period of office as a Judge” were substituted for the words “the contributory service” wherever they occur; and

(iv) The words “period of office as a Judge” were 25
substituted for the words “period of contributory service” wherever they occur.

(3) Section 78 of the principal Act is hereby amended by omitting from subsection (1) (as substituted by section 13 of the Superannuation Amendment Act 1964) the words 30
“seven percent”, and substituting the words “8 percent”.

(4) From the salary payable to any Judge in respect of any period after the commencement of this section (being a Judge to whom the first proviso to subsection (1) of section 78 of the principal Act (as so substituted) applies), a contribution 35
at the rate of 1 percent shall be deducted as the salary becomes payable from time to time.

(5) From the salary payable to any Judge after the commencement of this section (being a Judge who made an election under the second proviso to subsection (1) of section 40
78 of the principal Act (as so substituted)) a contribution at the rate of 6 percent shall be deducted as the salary becomes payable from time to time.

(6) Any Judge to whom Part V of the principal Act applied immediately before the commencement of this section or to whom that Part first applies at any time before the 1st day of January 1971 may, at any time before that date or before 5 the expiration of 3 months after the date on which the said Part V first applied to him, whichever is the later, by notice in writing to the Minister of Justice, elect that he shall not be affected by the provisions of subsections (1) to (5) of this section, and, where any Judge so elects, any contributions 10 payable by him and any retiring allowance payable to him and any annuity payable to his widow shall be computed and paid as if this section had not been enacted.

(7) Section 79 of the principal Act is hereby amended by inserting in the second proviso to paragraph (a) of sub- 15 section (1) (as added by section 14 (2) of the Superannuation Amendment Act 1964), after the words "retirement or death or", the words "subject to any adjustment thereto made under the Superannuation Amendment Act 1969".

(8) Section 7 of the Superannuation Amendment Act 1969 20 is hereby amended by inserting in the proviso to the definition of the expression "date of qualification" in subsection (1), after the words "section 69", the words "or paragraph (c) of subsection (1) or paragraph (b) of subsection (2) of section 76".

(9) This section shall be deemed to have come into force 25 on the 1st day of April 1970.

7. Parliamentary superannuation—(1) Section 3 of the Superannuation Amendment Act 1969 (as amended by 30 sections 5 and 6 of this Act) is hereby further amended by adding the following paragraphs:

“(1) Retiring allowances payable under section 84 of the principal Act:

“(m) Annuities payable under section 87 of the principal Act.

(2) Notwithstanding anything in subsection (1) of this 35 section,—

(a) No increased payment of any retiring allowance or annuity referred to in that subsection shall be made in respect of any period before the commencement 40 of this section:

(b) For the purposes of proportionately adjusting the percentage to be applied to any retiring allowance or annuity referred to in that subsection, the Second

Schedule to the Superannuation Amendment Act 1969 shall be read as if—

(i) The words “1st day of April 1970” were substituted for the words “15th day of June 1969” wherever they occur; and

(ii) The words “31st day of March 1970” were substituted for the words “14th day of June 1969”; and

(iii) The words “service as a member” were substituted for the words “contributory service” wherever they occur.

(3) Section 83 of the principal Act is hereby amended by omitting from subsection (1) (as substituted by section 28 (1) of the Superannuation Amendment Act 1959) the words “ten percent”, and substituting the words “11 percent”.

(4) Section 83A of the principal Act (as substituted by section 8 (1) of the Superannuation Amendment Act 1961) is hereby amended by omitting the words “ten percent”, and substituting the words “11 percent”.

(5) Any member to whom Part VI of the principal Act applied immediately before the commencement of this section or to whom that Part first applies before the 1st day of January 1971 may, at any time before that date, by notice in writing delivered to the Superintendent elect that he shall not be affected by the provisions of subsections (1) to (3) of this section, and, where any member so elects, any contributions payable by that member and any retiring allowance payable to that member and any annuity payable to the widow or dependent widower of that member shall be computed and paid as if this section had not been enacted.

(6) This section shall be deemed to have come into force on the 1st day of April 1970.

8. Annuity of widow or widower who remarries—(1) Section 9 of the Superannuation Amendment Act 1969 is hereby amended by inserting, after the words “that Act”, the words “or to a widow under section 79 of that Act or to a widow or dependent widower under section 87 of that Act”.

(2) This section shall be deemed to have come into force on the 1st day of April 1970.

9. Consequential amendments—The Third Schedule to the Superannuation Amendment Act 1969 is hereby amended—

- (a) By omitting from clause 1 the words “and 69”, and substituting the words “69, 73, 76, and 84”:
- (b) By omitting from clause 2 the words “sections 45 and 46 of the principal Act”, and substituting the words “sections 45, 46, 79, and 87 of the principal Act or section 4 of the Finance Act (No. 2) 1955”.

PART II

SUPERANNUATION OF MEMBERS OF CALIBRATION FLIGHT OF
MINISTRY OF TRANSPORT

10 **10. Commencement**—This Part of this Act shall be deemed to have come into force on the 11th day of September 1969.

11. Contributors who are members of Calibration Flight—
Every person who is a member of the Aviation Calibration Occupational Class of the Ministry of Transport (in this
15 Part referred to as the said Occupational Class) at any time after the commencement of this Part of this Act and is a contributor to the Fund shall be a contributor to the Fund subject to this Part of this Act, and shall remain a contributor subject to this Part during such time as he remains a contributor to the Fund as a member of the said Occupational
20 Class:

Provided that any member of the said Occupational Class who immediately before the commencement of this Part of this Act was a contributor to the Fund may, at any time
25 before the 1st day of January 1971, by notice in writing to the Superintendent, elect that he shall not be subject to the provisions of this Part of this Act. Where any person so elects, then, as from the commencement of this Part of this Act any contributions payable by him and any retiring allowance payable to him and any amount payable to him pursuant
30 to an election under section 91 of the principal Act shall be computed as if this Part of this Act had not been enacted.

12. Retiring allowances of members of Calibration Flight—
(1) The provisions of section 35 of the principal Act shall
35 apply to any contributor who is subject to this Part of this Act, being—

- (a) A contributor whose age is not less than 50 years; or

(b) A contributor who ceases to be a member of the said Occupational Class by the cancellation on medical grounds of his licence under regulations made pursuant to the Civil Aviation Act 1964.

(2) In any case to which paragraph (b) of subsection (1) of this section applies, any retiring allowance as computed under subsection (1) of section 35 of the principal Act shall be reduced by the proportion shown in the following table as appropriate to the contributor's age at his nearest birthday at the time of his retirement:

| Age at Nearest Birthday | Proportion Reduced |
|-------------------------|--------------------|
| 25 years or less | 44 percent |
| 30 years | 40 percent |
| 35 years | 35 percent |
| 40 years | 28 percent |
| 45 years | 20 percent |
| 50 years or over | No reduction |

Provided that percentages for ages intermediate between any of the ages specified in the foregoing table shall be graduated progressively in accordance with the percentages set out in that table.

13. Contributions by members of Calibration Flight— Notwithstanding anything to the contrary in section 29 of the principal Act, the contribution to be made by a contributor who is subject to this Part of this Act shall as from the commencement of this Part be the following percentage of his salary as the salary becomes payable from time to time, that is to say:

- (a) Nine percent if his age does not exceed 45 years at the commencement of his contributory service:
- (b) Nine and one-quarter percent if his age then exceeds 45 years:

Provided that where the contributor has made an election under subsection (4) of section 2 of the Superannuation Amendment Act 1969, the contribution to be made shall as from the commencement of this Part of this Act be the following percentage of his salary as the salary becomes payable from time to time, that is to say:

- (c) Eight percent if his age does not exceed 45 years at the commencement of his contributory service:
- (d) Eight and one-quarter percent if his age then exceeds 45 years.

14. Election to surrender portion of retiring allowance and receive cash payment—Where any contributor who is subject to this Part of this Act elects under section 91 of the principal Act to surrender his right to a proportion of his retiring allowance, he shall receive instead thereof payment out of the Fund of a sum equal to 15 times the amount by which his annual retiring allowance is reduced pursuant to the surrender.

15. Computing length of contributory service—For the purposes of computing the length of contributory service of any contributor who is subject to this Part of this Act, every complete year of contributory service before the commencement of this Part of this Act or before he became a member of the said Occupational Class, whichever is the later, shall be deemed to be five-eighths of a year, and every fraction of a year of such service shall be deemed to be reduced proportionately in accordance with this section:

Provided that this section shall not apply in respect of any period during which in the opinion of the Board the contributor was engaged on aircrew duties and there has been paid into the Fund within such time and in such manner as the Board may allow in that behalf such sum as the Board may fix in respect of that period.

16. Contributor transferring from Calibration Flight to another branch of Government service—Where any contributor who is subject to this Part of this Act transfers from the said Occupational Class to another branch of the Government service before becoming entitled to a retiring allowance under section 35 of the principal Act (as modified by this Part of this Act), the rate of his contribution to the Fund shall be the appropriate rate payable under the principal Act, having regard to his age at the date of the commencement of his contributory service. In every such case, any reduction of the length of his contributory service under section 15 of this Act shall be disregarded, and he shall be entitled to a refund, without interest, of an amount equal to the difference between his actual contributions and the contributions he would have paid if he had been employed in that branch during his service in the said Occupational Class.

17. Contributor entitled to retiring allowance continuing in Government employment—(1) Where any contributor who is subject to this Part of this Act becomes entitled to a retiring

allowance under section 35 of the principal Act (as modified by this Part of this Act) and within 6 months thereafter becomes employed in the Government service other than as a member of the said Occupational Class, he may elect to either—

- (a) Receive that retiring allowance; or
- (b) Continue as a contributor to the Fund and reserve his right to that retiring allowance.

(2) Where any contributor elects under paragraph (b) of subsection (1) of this section to continue as a contributor to the Fund, the following provisions shall apply:

- (a) His rate of contribution to the Fund in respect of his service after ceasing to be a member of the said Occupational Class shall be determined as provided by section 29 of the principal Act:

- (b) He may elect to contribute to the Fund during such period as his salary for the time being is less than the rate of his final salary as a member of the said Occupational Class as if he were still in receipt of salary at the rate of that final salary:

- (c) If he retires from the Government service and is not entitled to receive a retiring allowance under the provisions of the principal Act, he shall be entitled to receive a refund, without interest, of the amount of his contributions to the Fund in respect of his service after ceasing to be a member of the said Occupational Class, and the retiring allowance to which he has reserved his right pursuant to an election under paragraph (b) of subsection (1) of this section shall thereupon become payable:

- (d) If he retires from the Government service and is entitled to receive a retiring allowance under the principal Act, he may elect to have his retiring allowance either—

- (i) Computed separately in respect of his period of contributory service preceding the date on which he ceased to be a member of the said Occupational Class and in respect of his period of contributory service subsequent thereto; or

- (ii) Computed in respect of his total period of contributory service, whether preceding the date when he ceased to be a member of the said Occupational Class or subsequent thereto, in which case his contributory service before he ceased to be a

member of the said Occupational Class shall be deemed to be continuous with his employment in the Government service thereafter:

5 Provided that for the purposes of any election under the provisions of section 91 of the principal Act, the provisions of section 14 of this Act shall apply only with respect to that portion of the retiring allowance that he is entitled to receive in respect of the period of his contributory service prior to his
10 ceasing to be a member of the said Occupational Class:

(e) If on his ceasing to be a member of the said Occupational Class his retiring allowance would have been proportionately reduced in accordance with the provisions of subsection (2) of section 12 of this Act, that proportionate reduction shall be adjusted in accordance with his age at the time of his retirement from the Government service instead of his age when he ceased to be a member of the said Occupational
20 Class.

(3) Every election under subsection (1) or subsection (2) of this section shall be made in writing delivered to the Superintendent, and shall be made within 6 months after the contributor has ceased to be a member of the said Occupational
25 Class.

(4) Subject to such conditions as the Board may impose, whether as to money to be repaid to the Fund or otherwise, an election may be made under this section, notwithstanding that the contributor may have previously received a refund
30 of his contributions or may have previously commenced to receive a retiring allowance.

18. Application of principal Act—Except as otherwise provided in this Part of this Act, all the provisions of the principal Act, as far as they are applicable and with any necessary
35 modifications, shall apply to contributors who are subject to this Part of this Act as they apply to other persons in the Government service.