



Government Superannuation Fund (Ceasing Contributions) Amendment Regulations 2005

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 7th day of June 2005

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 97 of the Government Superannuation Fund Act 1956, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

- (1) These regulations are the Government Superannuation Fund (Ceasing Contributions) Amendment Regulations 2005.
- (2) In these regulations, the Government Superannuation Fund (Ceasing Contributions) Regulations 1995¹ are called “the principal regulations”.

¹ SR 1995/172

2 Commencement

These regulations come into force on the later of—

- (a) 1 August 2005; or
- (b) the day that is 28 days after the date of their notification in the *Gazette*.

3 Interpretation

Regulation 2(1) of the principal regulations is amended by adding to the definition of **cessation election** the words “, but does not include an election to transfer to the Police Superannuation Scheme under section 88HA(aa) of the Act”.

4 Heading substituted

The principal regulations are amended by revoking the heading above regulation 3, and substituting the following heading:

“Part 1

“Right to cease to be contributor and elect deferred pension or deferred lump sum”.

5 General provisions relating to elections

Regulation 5(1) of the principal regulations is amended by inserting, after paragraph (a), the following paragraph:

“(b) must be signed by the person making the election; and”.

6 New Part 2 added

The principal regulations are amended by adding the following Part:

“Part 2

“Right to cease to be contributor and transfer to Police Superannuation Scheme

“Interpretation

“28 Interpretation

In this Part, unless the context otherwise requires,—

“**commencement day** means the day on which this Part comes into force

“**earlier cessation election** means a cessation election that was made under section 88HA(a) or (b) of the Act before a transfer election was made

“**Police Superannuation Scheme** means the Police Superannuation Scheme registered under Part 1 of the Superannuation Schemes Act 1989 on 20 November 1992

“**transfer date** means the date on which the transfer value is paid to the Police Superannuation Scheme under regulation 34

“**transfer election** means an election under section 88HA(aa) of the Act to cease to be a contributor to the Fund and to transfer to the Police Superannuation Scheme

“**transfer value** means the amount that must be paid from the Fund to the Police Superannuation Scheme when a person makes a transfer election.

“Making transfer election

“29 **Persons eligible to make transfer election**

“(1) Any member of the police who has been accepted for membership of the Police Superannuation Scheme may make a transfer election.

“(2) This regulation is subject to regulation 30.

“30 **Time limits for transfer to Police Superannuation Scheme**

A person may only make a transfer election,—

“(a) if the person is less than 49½ years old on the commencement date, before the person turns 50 or before the close of the 3rd anniversary of the commencement date, whichever occurs first; or

“(b) if the person is 49½ years old or older on the commencement date, before the close of 6 months after the commencement date.

“31 **How to make transfer election**

“(1) A person must make a transfer election by delivering to the Government Superannuation Fund Authority a written notice of election signed by the person making the election.

“(2) The transfer election must also comply with the following requirements:

“(a) the signature of the person making the election must be witnessed by an investment adviser; and

“(b) the investment adviser must certify on the notice of election that—

“(i) he or she is an investment adviser; and

“(ii) before the person making the election signed the election notice, the investment adviser explained to that person the effect and implications of the transfer election.

“(3) In subclause (2), **investment adviser** has the same meaning as in section 2(1) of the Investment Advisers (Disclosure) Act 1996.

“32 **Effect of transfer election**

“(1) A person who makes a transfer election ceases to be a contributor to the Fund on the transfer date, and is not entitled to contribute again to the Fund.

“(2) A person who makes a transfer election ceases, from the transfer date, to have any entitlements under the Act or these regulations by virtue of his or her contributions to the Fund under Part 6A of the Act.

“(3) A transfer election may be converted into an election for a refund at any time before any payment has been made from the Fund under the transfer election.

“33 **Additional provisions relating to transfer elections made by people who have already made cessation elections**

“(1) This regulation applies to any person who—

“(a) has made an earlier cessation election; and

“(b) has not received any payment from the Fund pursuant to the earlier cessation election; and

“(c) wishes to transfer to the Police Superannuation Scheme.

“(2) The person must revoke the earlier cessation election at the same time as making a transfer election.

“(3) The effect of the revocation of the earlier cessation election is that,—

“(a) as of the transfer date, the person’s entitlements under the earlier cessation election cease; and

“(b) the person is a contributor to the Fund solely for the purpose of the making of the transfer election.

“(4) This Part does not alter the contributor’s status between the effective date of the earlier cessation election and the transfer date.

“Payment of transfer values

“34 Payment of transfer value

- “(1) The Government Superannuation Fund Authority or its nominee must pay the transfer value to the Police Superannuation Scheme as soon as practicable after the transfer election is received.
- “(2) One third of the transfer value must be paid to the member’s account (as defined in the Police Superannuation Scheme) for the person who has made the transfer election.
- “(3) Two thirds of the transfer value must be paid to the employer’s No 1 account (as defined in the Police Superannuation Scheme) for that person.

“Calculation of transfer values for contributors who have not made earlier cessation election

“35 Calculation of transfer value for contributors under 49½ years old who have not made earlier cessation election

- “(1) This regulation sets out how the transfer value must be calculated in respect of a person who is less than 49½ years old on the commencement date and who has not made an earlier cessation election.
- “(2) The person’s transfer value is the disengagement amount.
- “(3) The **disengagement amount** is the amount that would be paid to the person under section 88G of the Act—
- “(a) if the person had ceased to be a member of the police by voluntary disengagement under section 28D of the Police Act 1958 on the earlier of the transfer date or the person’s 50th birthday; and
- “(b) if the person had elected to receive a refund payable under section 88G(1) of the Act.

“36 Calculation of transfer value for contributors over 49½ years old who have not made an earlier cessation election

- “(1) This regulation sets out how the transfer value must be calculated in respect of a person who is 49½ years old or older on the commencement date and who has not made an earlier cessation election.

- “(2) The person’s transfer value is the total of the disengagement amount plus accrued benefits (if any), as that total is increased by CPI.
- “(3) The **disengagement amount** is the amount that would be paid to the person under section 88G of the Act—
- “(a) if the person had ceased to be a member of the police by voluntary disengagement under section 28D of the Police Act 1958 on the earlier of the transfer date or the person’s 50th birthday; and
- “(b) if the person had elected to receive a refund payable under section 88G(1) of the Act.
- “(4) The **accrued benefits** are the following benefits for the period beginning on the date of the person’s 50th birthday and ending on the transfer date:
- “(a) accrued employer contributions at the appropriate rate of the person’s gross salary that the Government Actuary determines under section 95 of the Act; and
- “(b) accrued employee contributions of 7.5% of the person’s gross salary.
- “(5) **Increased by CPI** means increased by the percentage increase (if any) as certified by the Government Statistician by which the all groups index number of the New Zealand Consumer Price Index for the quarter that was published most recently before the transfer date exceeds the index number for the quarter ending immediately following the person’s 50th birthday.

“Calculation of transfer values for contributors who have made earlier cessation election

“37 **Calculation of transfer value for contributors under 49½ years old who have made earlier cessation election**

- “(1) This regulation sets out how the transfer value must be calculated in respect of a person who is less than 49½ years old on the commencement date and who has made an earlier cessation election.
- “(2) The person’s transfer value is the disengagement amount, increased by CPI.
- “(3) The **disengagement amount** is the amount that would be paid to the person under section 88G of the Act—

- “(a) if the person had ceased to be a member of the police by voluntary disengagement under section 28D of the Police Act 1958 on the effective date of the earlier cessation election; and
- “(b) if the person had elected to receive a refund payable under section 88G(1) of the Act.
- “(4) **Increased by CPI** means increased by the percentage increase (if any) as certified by the Government Statistician by which the all groups index number of the New Zealand Consumer Price Index for the quarter that was published most recently before the transfer date exceeds the index number for the quarter ending immediately following the effective date of the earlier cessation election.
- “38 **Calculation of transfer value for contributors over 49½ years old who have made earlier cessation election**
- “(1) This regulation sets out how the transfer value must be calculated in respect of a person who is 49½ years old or older on the commencement date and who has made an earlier cessation election.
- “(2) The person’s transfer value is the total of the disengagement amount and accrued benefits (if any), as that total is increased by CPI.
- “(3) The **disengagement amount** is the amount that would be paid to the person under section 88G of the Act—
- “(a) if the person had ceased to be a member of the police by voluntary disengagement under section 28D of the Police Act 1958 on the earlier of the effective date of the earlier cessation election or the person’s 50th birthday; and
- “(b) if the person had elected to receive a refund payable under section 88G(1) of the Act.
- “(4) The **accrued benefits** are the following benefits for the period beginning on the date of the person’s 50th birthday and ending on the effective date of the earlier cessation election:
- “(a) accrued employer contributions at the appropriate rate of the person’s gross salary that the Government Actuary determines under section 95 of the Act; and

“(b) accrued employee contributions of 7.5% of the person’s gross salary.

“(5) **Increased by CPI** means increased by the percentage increase (if any) as certified by the Government Statistician by which the all groups index number of the New Zealand Consumer Price Index for the quarter that was published most recently before the transfer date exceeds the index number for the quarter ending immediately following the earlier of the date of the person’s 50th birthday or the effective date of the earlier cessation election.

“39 **Calculation of refund under regulations 37 and 38**

For the purpose of calculating the refund payable under section 88G(1) of the Act under regulation 37 or regulation 38,—

“(a) references in section 88G(2) of the Act to ‘total contributions paid by the contributor as a member of the police’ do not include contributions paid other than to the Fund:

“(b) interest of 0.25% per month is not payable under section 88G of the Act in respect of any period after the effective date of the earlier cessation election.”

Diane Morcom,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on the later of 1 August 2005 or the 28th day after the date of their notification in the *Gazette*, amend the Government Superannuation Fund (Ceasing Contributions) Regulations 1995 to allow for members of the police to transfer from the Government Superannuation Fund (the **GSF**) to the Police Superannuation Scheme (the **PSS**). The GSF is the superannuation scheme in respect of people who first became members of the police before 1 July 1992. The PSS is the superannuation scheme

that was set up for people who first became members of the police after that date. The regulations allow GSF members to transfer a lump sum to the PSS that equates to the lump sum that is currently payable to police officers who leave the police on medical grounds.

The key features of the changes in these regulations are—

- the necessity for a transfer election:
- the timing of the transfer election:
- the form of a transfer election:
- payment of the transfer value that must be paid on transfer from the GSF to the PSS:
- calculation of the transfer value.

Each of these is discussed below.

A person who wishes to transfer from the GSF to the PSS must elect to cease to be a member of the GSF and to transfer to the PSS.

Timing of transfer election: The timing of the transfer election depends upon the age of the person transferring.

The first category is those persons who are less than 49½ years old on the commencement date (the date the changes come into force). A person in that category must make a transfer election before he or she turns 50 or before the 3rd anniversary of the commencement date, whichever occurs first (*new regulation 30(a)*). The effect of this rule is that every person in this category has at least 6 months in which to make the election. Some (those who are younger than 47 on the commencement date) have 3 years.

The second category is those persons who are 49½ years old or older on the commencement date. They have 6 months in which to make the election (*new regulation 30(b)*).

Form of transfer election: The general rules relating to the making of a transfer election are found in *new regulation 31*. For example, the election must be in writing. *New regulation 31(2)* contains a significant procedural requirement that must be satisfied when a transfer election is made. This is that the signature of the person transferring must be witnessed by an investment adviser, who must certify on the notice that he or she is an investment adviser and that he or she explained to the person transferring, before the election notice was signed, the effect and implications of the transfer election.

Payment of transfer value: The transfer value is the amount that is transferred from the GSF to the PSS when a person makes a transfer election.

Calculation of transfer value: Calculation of the transfer value depends on the age of the person transferring and whether or not the person has already stopped contributing to the GSF.

The following applies to police officers who are still contributing to the GSF:

- *Person transferring who is less than 49½ years old on the commencement date:* For a transferring person who is less than 49½ years old on the commencement date, the transfer value is the disengagement amount (ie, the amount that would have been paid to the transferring person if he or she had voluntarily left the police on medical grounds under section 28D of the Police Act 1958 on the transfer date and had elected to receive a refund payable under section 88G(1) of the Government Superannuation Fund Act 1956, as increased under that section).
- *Person transferring who is 49½ years old or older on the commencement date:* For a person transferring who is 49½ years old or older on the commencement date, the transfer value is calculated under *new regulation 36*. It is the total of—
 - the disengagement amount as just described, calculated on the earlier of the date the person turns 50 or the transfer date; plus
 - any accrued benefits (if any)—as that total is increased in accordance with movements in the consumer price index between age 50 and the transfer date. Broadly, **accrued benefits** means the contributions that the transferring person has paid to the GSF since the date of the person's 50th birthday, plus notional employer contributions for that period. The transfer value must include accrued benefits (if any) in those cases when the transferring person has made a transfer election after his or her 50th birthday. Because the disengagement amount is calculated as of the date of the 50th birthday, the transferring person may have continued to accrue benefits (ie, employer and employee contributions) after that date.

The following applies to police officers who are no longer still contributing to the GSF:

- *Person transferring who is less than 49½ on the commencement date:* For a transferring person who is less than 49½ years on the commencement date, the transfer value is the disengagement amount as at the date on which he or she stopped contributing to the GSF, as increased in accordance with movements in the consumer price index since that date.
- *Person transferring who is 49½ or older on the commencement date:* For a person transferring who is 49½ years or older on the commencement date, the transfer value is calculated under *regulation 38*. It is the total of—
 - the disengagement amount as at the earlier of age 50 or the date when the person stopped contributing to the GSF; plus
 - any accrued benefits (if any)—as that total is increased in accordance with movements in the consumer price index between the earlier of age 50 or the date when the person stopped contributing to the GSF and the transfer date.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 9 June 2005.

These regulations are administered in the Treasury.
