

1987/209

**THE PARLIAMENTARY SUPERANNUATION  
DETERMINATION 1987**

PURSUANT to sections 12 (1) (b) and 17 of the Higher Salaries Commission Act 1977, the Higher Salaries Commission, after consulting the Government Actuary and the Superintendent of the Government Superannuation Fund, hereby makes the following determination.

ANALYSIS

<p>1. Title and commencement</p> <p>2. New sections inserted</p> <p style="padding-left: 20px;">84A. Special right to elect to surrender proportion of retiring allowance and receive cash payment</p> <p style="padding-left: 20px;">84B. Right to defer retiring allowance to age 55 or 60 in return for a lump sum on retirement</p> <p>3. Elections to receive refunds, etc.</p> <p>4. New sections substituted</p> <p style="padding-left: 20px;">86A. Benefits where member dies and leaves spouse</p>	<p>86B. Benefits where retired member dies before becoming entitled to retiring allowance and leaves spouse</p> <p>86C. Benefits where retired member dies after becoming entitled to retiring allowance and leaves spouse</p> <p>86D. Benefits where member or retired member dies without leaving spouse</p> <p>86E. Children's allowance</p> <p>5. Election to surrender proportion of annuity and receive cash payment</p> <p>6. Date of qualification</p> <p>7. Revocation</p>
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DETERMINATION

**1. Title and commencement**—(1) This determination may be cited as the Parliamentary Superannuation Determination 1987.

(2) This determination shall come into force on the 21st day of July 1987.

**2. New sections inserted**—The Government Superannuation Fund Act 1956 is hereby modified by inserting, after section 84, the following sections:

**“84A. Special right to elect to surrender proportion of retiring allowance and receive cash payment**—(1) This section applies to any person—

“(a) Who ceases to be a member on or after the 21st day of July 1987; and

“(b) Who, at the time of so ceasing to be a member, has not attained the age of 50 years; and

“(c) Who will, if he or she attains the age of 50 years, become entitled under section 84 of this Act to an annual retiring allowance.

“(2) Any person to whom this section applies—

“(a) Shall be deemed, for the purposes of section 91 of this Act, to become entitled to a retiring allowance on the day after the date on which that person ceases to be a member (being a

retiring allowance calculated as if that person had become entitled to receive a retiring allowance on that day); and

“(b) May, within 3 months after ceasing to be a member and before attaining the age of 50 years, exercise a right of election under section 91 of this Act.

“(3) Where any person to whom this section applies exercises a right of election under section 91 of this Act and an annual retiring allowance subsequently becomes payable to that person pursuant to section 84 (2) of this Act or an annuity subsequently becomes payable to that person’s spouse pursuant to section 86B or section 86C of this Act,—

“(a) That retiring allowance or the retiring allowance on which the annuity is based shall be calculated in accordance with section 84 (3) of this Act as if subsection (2) of this section had not been passed; and

“(b) That retiring allowance or the retiring allowance on which the annuity is based shall be reduced by the same proportion as that which that person had elected to surrender and all rights in respect of the proportion surrendered shall be deemed to be determined.

“(4) The only right of election that any person to whom this section applies shall have under section 91 of this Act in respect of any annual retiring allowance payable pursuant to section 84 (2) of this Act shall be that conferred by this section.

**“84B. Right to defer retiring allowance to age 55 or 60 in return for a lump sum on retirement—**(1) Any person to whom section 84A of this Act applies may, in addition to or instead of exercising the right to surrender a proportion of that person’s retiring allowance, elect, before attaining the age of 50 years, to defer receiving an annual retiring allowance under section 84 of this Act until that person attains the age of 55 years or 60 years and to receive an amount calculated according to the formula  $C \times D$  where—

C is that person’s annual retiring allowance calculated as if that person had been entitled to receive an annual retiring allowance under section 84 of this Act on the day after the date on which that person ceased to be a member, after allowing for the effect of any election under section 84A of this Act:

D is 3.5 if deferral is to age 55 years or

7 if deferral is to age 60 years.

“(2) Every election under subsection (1) of this section shall be made in writing and delivered to the Superintendent within 3 months after the date on which the person ceases to be a member.

“(3) No person shall have the right to revoke or amend any election made under subsection (1) of this section or to make any further election after the person has accepted any payment under this section.

“(4) For the purposes of calculating the amount of the annual retiring allowance payable to a person who has made an election under subsection (1) of this section at the date at which that person has elected to receive the retiring allowance and for the purposes of calculating any annuity, the person who made the election shall be deemed to have been receiving an annual retiring allowance under section 84 of this Act from the date when that person attained the age of 50 years, after allowing for the effect of any election under section 84A of this Act.”

**3. Elections to receive refunds, etc.**—Section 85 (2) of the Government Superannuation Fund Act 1956 (as substituted by clause 2 of the Parliamentary Superannuation Determination (No. 2) 1984\*) is hereby modified by omitting the words “the first instalment of a retiring allowance”, and substituting the words “any payment”.

**4. New sections substituted**—The Government Superannuation Fund Act 1956 shall have effect as if, for section 87 (as substituted by section 32 (1) of the Government Superannuation Fund Amendment Act 1976 and amended by section 22 (1) of the Government Superannuation Fund Amendment Act 1985 and modified by clause 3 of the Parliamentary Superannuation Determination 1981†), there were substituted the following sections:

“86A. **Benefits where member dies and leaves spouse**—(1) Where any member dies on or after the 21st day of July 1987 and leaves a spouse, there shall be paid to the spouse, at the election of the spouse,—

“(a) A lump sum being—

“(i) One year’s salary of an ordinary member calculated at the rate payable at the date of death; or

“(ii) The amount that that member would have been entitled to receive if that member had ceased to be a member on the date of that member’s death and made an election under section 85 (1) of this Act—

whichever is the greater; or

“(b) An annuity at one-half of the rate of the annual retiring allowance to which the member would have been entitled under section 84 of this Act if—

“(i) He or she had retired on the date of his or her death; and

“(ii) Nothing in that section required him or her to attain the age of 50 years or to serve as a member for any minimum period; or

“(c) Both—

“(i) A lump sum, being not more than 80 percent of the maximum sum that the spouse could have elected to receive under section 91 of this Act had the spouse been entitled to make an election under that section at the date of the member’s death; and

“(ii) An annuity at the rate fixed by paragraph (b) of this subsection, reduced by the same proportion as that which the spouse has elected to surrender under subparagraph (i) of this paragraph.

“(2) Every election under subsection (1) of this section shall be made in writing delivered to the Superintendent, and shall not be capable of revocation or variation after the first payment from the Parliamentary Superannuation Account in accordance with the election is accepted by the spouse.

“(3) The entitlement of any spouse to any benefit under this section shall not be affected by any change in the marital status of that spouse.

**86B. Benefits where retired member dies before becoming entitled to retiring allowance and leaves spouse**—(1) Where any person, being a person who has ceased to be a member but who would, on

\*S.R. 1984/187

†S.R. 1981/272

attaining the age of 50, 55, or 60 years, have become entitled to an annual retiring allowance, dies on or after the 21st day of July 1987 before becoming entitled to an annual retiring allowance and leaves a spouse, there shall be paid to the spouse, at the election of the spouse,—

“(a) The amount that the person would have been entitled to receive if that person had made an election under section 85 (1) of this Act on the date of that person’s death, less any amounts received by that person from the Parliamentary Superannuation Account; or

“(b) An annuity in accordance with subsection (2) or subsection (3) of this section.

“(2) Where the deceased person would have become entitled to an annual retiring allowance on attaining the age of 50 years and the spouse of that person elects, pursuant to subsection (1) (b) of this section, to receive an annuity under this subsection—

“(a) The spouse shall become entitled to the annuity on the day after the date of death; and

“(b) The annuity shall be paid at one-half of the rate of the annual retiring allowance to which the deceased person would have been entitled to under section 84 of this Act if he or she had not been required to attain the age of 50 years.

“(3) Where the deceased person would have become entitled to an annual retiring allowance on attaining the age of 55 years or 60 years and the spouse of that person elects, pursuant to subsection (1) (b) of this section, to receive an annuity under this subsection—

“(a) The spouse shall become entitled to the annuity on the day on which the deceased person would have become entitled to the annual retiring allowance had he or she survived; and

“(b) The annuity shall be paid at one-half of the rate of the annual retiring allowance that would have been payable to the deceased person if he or she had survived until the day on which he or she would have become entitled to the annual retiring allowance.

“(4) Every election under subsection (1) of this section shall be made in writing delivered to the Superintendent, and shall not be capable of revocation or variation after the first payment from the Parliamentary Superannuation Account in accordance with the election is accepted by the spouse.

“(5) The entitlement of any spouse to any benefit under this section shall not be affected by any change in the marital status of that spouse.

**“86c. Benefits where retired member dies after becoming entitled to retiring allowance and leaves spouse—**(1) Where any person who has ceased to be a member dies on or after the 21st day of July 1987 after becoming entitled to an annual retiring allowance under section 84 of this Act and leaves a spouse who last became the spouse of that person before that person became entitled to an annual retiring allowance under that section, there shall be paid to the spouse, at the election of the spouse,—

“(a) The amount that that person would have been entitled to receive if that person had made an election under section 85 (1) of this Act on the date from which the first payment of the annual retiring allowance was payable, less any amounts received by that person from the Parliamentary Superannuation Account; or

“(b) An annuity at one-half of the rate of the annual retiring allowance to which that person was entitled at the date of that person’s death disregarding the effect of any election made under section 40 of this Act.

“(2) Where any person who has ceased to be a member dies on or after the 21st day of July 1987 after becoming entitled to an annual retiring allowance under section 84 of this Act and leaves a spouse who last became the spouse of that person after that person became entitled to an annual retiring allowance under that section, there shall be paid to the spouse, at the election of the spouse,—

“(a) The amount that that person would have been entitled to receive if that person had made an election under section 85 (1) of this Act on the date from which the first payment of the annual retiring allowance was payable, less any amounts received by that person from the Parliamentary Superannuation Account; or

“(b) An annuity being the appropriate proportion of the annual retiring allowance to which that person was entitled at the date of that person’s death, which shall be—

“(i) Ten percent of that allowance where that person dies less than 2 years after the spouse last became the spouse of that person:

“(ii) Twenty percent of that allowance where that person dies 2 or more years but less than 3 years after the spouse last became the spouse of that person:

“(iii) Thirty percent of that allowance where that person dies 3 or more years but less than 4 years after the spouse last became the spouse of that person:

“(iv) Forty percent of that allowance where that person dies 4 or more years but less than 5 years after the spouse last became the spouse of that person:

“(v) Fifty percent of that allowance where that person dies 5 or more years after the spouse last became the spouse of that person.

“(3) Every election under subsection (1) or subsection (2) of this section shall be made in writing delivered to the Superintendent, and shall not be capable of revocation or variation after the first payment from the Parliamentary Superannuation Account in accordance with the election is accepted by the spouse.

“(4) The entitlement of any spouse to any benefit under this section shall not be affected by any change in the marital status of that spouse.

**“86D. Benefit where member or retired member dies without leaving spouse—**(1) This section applies to any person who is—

“(a) A member; or

“(b) A person who has ceased to be a member but who—

“(i) Is entitled to an annual retiring allowance under section 84 of this Act; or

“(ii) Will, on attaining the age of 50, 55, or 60 years, become entitled to an annual retiring allowance under section 84 of this Act.

“(2) Where any person to whom this section applies dies on or after the 21st day of July 1987 and does not leave a spouse, there shall be paid to that person’s personal representatives in trust for the persons entitled to receive it under that person’s will or under the Acts relating to the distribution of intestate estates, as the case may be,—

“(a) Where that person dies before becoming entitled to an annual retiring allowance under section 84 of this Act, the amount that that person would have been entitled to receive if that person had ceased to be a member on the date of that person’s death and made an election under section 85 (1) of this Act, less any amounts received by that person from the Parliamentary Superannuation Account:

“(b) Where that person dies after becoming entitled to an annual retiring allowance under section 84 of this Act, the amount that that person would have been entitled to receive if that person had made an election under section 85 (1) of this Act on the date from which the first payment of the retiring allowance was payable, less any amounts received by that person from the Parliamentary Superannuation Account.

“(3) Any money payable out of the Parliamentary Superannuation Account under subsection (2) of this section to the personal representatives of a deceased person may, if no grant of probate or of letters of administration is obtained within 3 months after the death of that person, be paid to the Public Trustee in trust for the persons beneficially entitled to that money.

“86E. **Children’s allowance**—(1) This section applies to any person who is—

“(a) A member; or

“(b) A person who has ceased to be a member but who—

“(i) Is entitled to an annual retiring allowance under section 84 of this Act; or

“(ii) Will, on attaining the age of 50, 55, or 60 years, become entitled to an annual retiring allowance under section 84 of this Act.

“(2) Where any person to whom this section applies dies on or after the 21st day of July 1987, whether before or after becoming entitled to an annual retiring allowance under section 84 of this Act, and leaves a child or children under the age of 16 years, there shall be paid to or on behalf of every such child an allowance at the rate calculated under subsection (8) of this section until the child attains the age of 16 years.

“(3) Where a child of a deceased person has attained the age of 16 years and would be entitled to an allowance under subsection (1) of this section if that child had not attained that age, the Board may grant or continue an allowance to that child at such rate as the Board may determine, not exceeding the rate calculated under subsection (8) of this section,—

“(a) For assisting in the education of that child, up to the end of the calendar year in which the child attains the age of 18 years:

“(b) Where the child has a physical or mental disability that prevents the child from earning a living, for such period as the Board thinks fit.

“(4) No allowance shall be paid to any child of a deceased person under this section if an allowance is already payable to that child under this section as the child of another person.

“(5) Where an allowance is payable to any child under section 47 of this Act and the child becomes entitled to an allowance under this section, the allowance payable under this section shall be paid, and the allowance payable under section 47 of this Act shall cease.

“(6) Any money payable out of the Parliamentary Superannuation Account under this section to or on behalf of a child of a deceased person may, at the discretion of the Board, be—

“(a) Paid to the child directly; or

“(b) Expended by the Board for the benefit of the child; or

“(c) Paid to the Public Trustee or any other person to be expended on behalf of the child in such manner as the Public Trustee or that other person thinks fit.

“(7) Any receipt given by an infant or any other person for any money paid under the authority of this section shall be a good discharge to the Board.

“(8) The rate of the allowance payable each financial year to or on behalf of any child under this section shall be—

$$\$1,000 \times A$$

—

B

where—

A is the all groups index number of the New Zealand Consumer Price Index for the December quarter preceding the financial year in respect of which the allowance is payable:

B is the all groups index number of the Consumer Price Index for the December quarter in the year 1982.”

**5. Election to surrender proportion of annuity and receive cash payment**—Section 91A of the Government Superannuation Fund Act 1956 (as inserted by section 19 (1) of the Government Superannuation Fund Amendment Act 1979) is hereby modified by inserting, after subsection (2) (as substituted by section 27 (1) of the Government Superannuation Fund Amendment Act 1986), the following subsection:

“(2A) Where any surviving spouse to whom this section applies becomes entitled to an annuity under Part VI of this Act, nothing in subsection (2) of this section shall apply in respect of that surviving spouse but that surviving spouse may, under this subsection, elect to surrender the right to a proportion of the annuity and to receive instead payment out of the Parliamentary Superannuation Account of a sum equal to 10 times the amount by which the annuity is reduced by the surrender.”

**6. Date of qualification**—(1) The Third Schedule to the Government Superannuation Fund Amendment Act 1969 (as substituted by section 33 (6) of the Government Superannuation Fund Amendment Act 1986) is hereby modified by omitting from item 1 the expression “Part III or Part VI”, and substituting the expression “or Part III”.

(2) The said Third Schedule is hereby further modified by inserting, after item 1, the following item:

“1A. A retiring allowance payable under Part VI of the principal Act      The day immediately preceding the date on which the first instalment of the retiring allowance is payable; but no increased payment shall be made in respect of any period before the 9th day of July 1984.”

**7. Revocation**—The Parliamentary Superannuation Determination 1981\* is hereby consequentially amended by revoking clause 3.

Dated at Wellington this 20th day of July 1987.

J. DUNMORE, Chairman.

J. T. F. FRANCIS, Member.

G. L. JACKSON, Member.

\*S.R. 1981/272

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## EXPLANATORY NOTE

*This note is not part of the determination, but is intended to indicate its general effect.*

This determination, which comes into force on 21 July 1987, modifies certain provisions of the Government Superannuation Fund Act 1956 that relate to Parliamentary superannuation.

*Clause 2* modifies the Government Superannuation Fund Act 1956 by inserting 2 new sections.

The new *section 84A* applies to any person—

- (a) Who ceases to be a member on or after 21 July 1987; and
- (b) Who, at the time of so ceasing to be a member, has not attained the age of 50 years; and
- (c) Who will, if he or she attains the age of 50 years, become entitled under section 84 of the Act to an annual retiring allowance.

Any such person may, within 3 months after ceasing to be a member and before attaining the age of 50 years, elect to surrender a proportion of the annual retiring allowance and to receive a cash payment.

Under the new *section 84B* any person to whom section 84A applies may, in addition to or instead of exercising the right to surrender a proportion of that person's annual retiring allowance, elect, before attaining the age of 50 years, to defer receiving an annual retiring allowance until that person attains the age of 55 years or 60 years and to receive a lump sum on retirement. The election must be made within 3 months after the date on which the person ceases to be a member.

*Clause 3* effects a consequential modification to section 85(2) of the Government Superannuation Fund Act 1956.

*Clause 4* provides that 4 new sections are to have effect instead of section 87 of the Government Superannuation Fund Act 1956.

The new *section 86A* (which is based on section 61M of the Government Superannuation Fund Act 1956) sets out the benefits that are payable where a member dies on or after 21 July 1987 and leaves a spouse.

The new *section 86B* (which is based on section 61M of the Government Superannuation Fund Act 1956) sets out the benefits that are payable where a retired member dies on or after 21 July 1987 before becoming entitled to a retiring allowance and leaves a spouse.

The new *section 86C* (which is based on section 61N of the Government Superannuation Fund Act 1956) sets out the benefits that are payable where a retired member dies on or after 21 July 1987 after becoming entitled to a retiring allowance and leaves a spouse.

The entitlement of any spouse to any benefit under *section 86A* or *section 86B* or *section 86C* is not to be affected by any change in the marital status of that spouse.

The new *section 86D* (which is based on section 61O of the Government Superannuation Fund Act 1956) sets out the benefits that are payable where a member or retired member dies on or after 21 July 1987 without leaving a spouse.

The new *section 86E* (which is based on section 61Q of the Government Superannuation Fund Act 1956) provides for payment of a children's allowance to the children of a member or retired member who dies on or after 21 July 1987.

*Clause 5* modifies the application of section 91A of the Government Superannuation Fund Act 1956. That section applies to any surviving spouse who becomes entitled to an annuity and who is less than 61 years of age at the time the entitlement arises. Under subsection (2) (a) of that section, such a surviving spouse of a person who was a contributor under Part IIA, Part IIIA, Part IV, Part V, Part VIA, or Part VIB may elect to surrender the right to a proportion of the annuity and to receive instead payment out of the Fund of a sum equal to 10 times the amount by which the annuity is reduced by the surrender. That section, as modified by this determination, confers on any such surviving spouse who becomes entitled to an annuity under Part VI of the Government Superannuation Fund Act 1956, the same right of election as is conferred in other cases by subsection (2) (a) of that section.

*Clause 6* modifies the Third Schedule to the Government Superannuation Fund Amendment Act 1969. The modification, which deals with annual adjustments, is to the same effect as the provision that formerly applied by virtue of clause 3 (1) of the Parliamentary Superannuation Determination (No. 2) 1984.

*Clause 7* effects a consequential repeal.

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Issued under the authority of the Regulations Act 1936 and sections 16 and 17 (3) of the Higher Salaries Commissions 1977.

Date of notification in *Gazette*: 21 July 1987.