

Reprint
as at 30 August 2011

**Government Superannuation Fund
Act 1956**

Public Act 1956 No 47
Date of assent 25 October 1956

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

This Act is administered in the Treasury.

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**An Act to consolidate and amend the law relating to
superannuation**

**Be it enacted by the General Assembly of New Zealand in
Parliament assembled, and by the authority of the same, as
follows:**

1 Short Title and commencement

- (1) This Act may be cited as the Government Superannuation Fund Act 1956.
- (2) This Act shall come into force on the 1st day of April 1957.

**Part 1
Preliminary**

2 Interpretation

- (1) In this Act, unless the context otherwise requires,—

actuary means—

- (a) a person who is a Fellow of the New Zealand Society of Actuaries Incorporated; or
- (b) a person whom the Authority considers to have an equivalent professional qualification

Section 2(1) **actuary**: inserted, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

administration manager, in relation to a scheme, means the person appointed under section 19 of this Act to manage the administration of the scheme

Administration manager: this definition was inserted, as from 1 October 1995, by section 2(6) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Appeals Board means the Government Superannuation Appeals Board established under this Act

Appeals Board: this definition was inserted, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47). See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 of that Act, which allows the Minister to enter into transitional agreements.

Appointed member*[Repealed]*

Appointed member: this definition was inserted, as from 1 July 1992, by section 2(1) Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61) and repealed, as from 1 October 1995, by section 2(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

[Repealed]

beneficiary means any person who is eligible to receive a benefit

Beneficiary: this definition was inserted, as from 1 October 1995, by section 2(6) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

benefit means any lump sum, annuity, pension, allowance, refund, or other payment arising under this Act from membership of a scheme

Benefit: this definition was inserted, as from 1 October 1995, by section 2(6) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Board*[Repealed]*

Board: this definition was substituted, as from 1 October 1995, by section 2(2) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Board: this definition was repealed, as from 2 October 2001, by section 4(3) Government Superannuation Fund Amendment Act 2001 (2001 No 47). See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 of that Act, which allows the Minister to enter into transitional agreements.

[Repealed]

child, in relation to any contributor, includes any child in respect of whom an interim order under section 5 of the Adoption Act 1955 has been made in favour of that contributor, and any person whom the Authority regards as being a member of

the family of the contributor immediately before the contributor's death

Child: this definition was inserted, as from 29 March 1985, by section 2(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Child: this definition was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Child: this definition was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Commonwealth means the British Commonwealth of Nations; and includes every territory for whose international relations the Government of any country of the Commonwealth is responsible

contributor means a contributor to the Fund

contributory service, in relation to any contributor,—

- (a) means any period in respect of which he or she has been, or is deemed by virtue of any enactment to have been, a contributor to the Fund, or to any Superannuation Fund abolished by the Superannuation Act 1947; but
- (b) does not include, for the purposes of calculating any allowance, annuity, refund, or other benefit, any period in respect of which any other allowance, annuity, refund, or other benefit has already been paid or is already being paid from the Fund, or any such abolished Fund, unless—
 - (i) that other allowance, annuity, refund, or other benefit has been repaid to the Fund, or any such abolished Fund; or
 - (ii) this Act otherwise provides or the Authority otherwise determines:

Contributory service: this definition was substituted, as from 1 April 1988, by section 5 Government Superannuation Fund Amendment Act 1988 (1988 No 19).

Contributory service: this definition was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Contributory service: this definition was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

controlling authority, in relation to,—

- (a) a contributor employed in the Public Service, means the chief executive of the Department concerned:
- (b) a contributor employed in the Education service, means the employer as defined in section 2 of the State Sector Act 1988
- (c)
- (ca) a contributor employed by the New Zealand Qualifications Authority established under Part 20 of the Education Act 1989, means the chief executive of that Authority:
- (cb) a contributor employed by Careers New Zealand established under Part 22 of the Education Act 1989 means the general manager of that Service:
- (cc) a contributor employed by the Tertiary Education Commission established under Part 13A of the Education Act 1989 means the chief executive of the Commission:
- (d)
- (e) a contributor employed in a State enterprise, means the chief executive of that enterprise:
- (ea) a contributor employed in a subsidiary of a State enterprise, means the chief executive of that subsidiary:
- (eb) a contributor employed in a Crown Research Institute, means the chief executive of that Crown Research Institute:
- (ec) a contributor employed in a Crown entity subsidiary of a Crown Research Institute, means the chief executive of that Crown entity subsidiary:
- (f) a contributor employed in any other part of the State services, means the employing authority concerned:
- (g) any other contributor, means, subject to any other Act, the person out of whose money payments are required to be made in accordance with section 95(2) of this Act in respect of that contributor's contributions:

Controlling authority: this definition was substituted, as from 1 April 1988, by section 87 State Sector Act 1988 (1988 No 20).

Controlling authority: paragraph (b) was substituted, as from 12 December 1989, by section 31(1) State Sector Amendment Act (No 2) 1989 (1989 No 136).

Controlling authority: paragraph (b) was substituted, as from 3 May 1997, by section 6(1) State Sector Amendment Act 1997 (1997 No 8).

Controlling authority: paragraph (b) of this definition was substituted, as from 2 October 2000, by section 240 Employment Relations Act 2000 (2000 No 24).

Controlling authority: paragraphs (ca) and (cb) were inserted, as from 23 July 1990, by section 50(1) Education Amendment Act 1990 (1990 No 60).

Section 2(1) **controlling authority** paragraph (cb): amended, on 30 August 2011, by section 48(2) of the Education Amendment Act 2011 (2011 No 66).

Controlling authority: paragraph (cb) of this definition was amended, as from 1 August 2000, by regulation 4(1) Education (Change of Name of Education Entities) Order 2000 (SR 2000/117) by substituting the words “Skill New Zealand” for the words “the Education and Training Support Agency” and by substituting the words “Career Services” for the words “the Careers Service”.

Controlling authority: paragraph (cb) of this definition was substituted, as from 1 January 2003, by section 59 Education (Tertiary Reform) Amendment Act 2002 (2002 No 50).

Controlling authority: paragraph (cc) of this definition was inserted, as from 1 January 2003, by section 59 Education (Tertiary Reform) Amendment Act 2002 (2002 No 50).

Controlling authority: paragraph (d) was repealed, as from 9 June 1995, by section 2(3) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Controlling authority: paragraph (ea) was inserted, as from 1 August 1990, by section 2 Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77).

Controlling authority: paragraphs (eb) and (ec) inserted, as from 1 July 1992, by section 46(1) Crown Research Institutes Act 1992 (1992 No 47).

Controlling authority: paragraph (ec) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by inserting the words “Crown entity” before the word “subsidiary”.

Controlling authority: paragraph (g) was inserted, as from 9 June 1995, by section 2(4) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Crown entity subsidiary has the same meaning as in section 7 of the Crown Entities Act 2004

Crown entity subsidiary: this definition was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

custodian means a person appointed under section 19A(1) to act as custodian of the Fund, or any part of the Fund

Custodian: this definition was inserted, as from 1 October 1995, by section 2(6) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Custodian: this definition was substituted, as from 2 October 2001, by section 4(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 of that

Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

department means any branch of the Government service that is administered separately

education service has the meaning given to it by section 2 of the State Sector Act 1988

Education service: paragraph (d) was substituted, as from 22 October 1959, by section 2(1) Superannuation Amendment Act 1959 (1959 No 85).

Education service: paragraph (d) was substituted, as from 14 December 1962, by section 2(1) Superannuation Amendment Act 1962 (1962 No 130).

Education service: paragraph (f) was amended, as from 22 October 1959, by section 2(2) Superannuation Amendment Act 1959 (1959 No 85) by inserting the word “or”.

Education service: paragraph (g) was inserted, as from 22 October 1959, by section 2(3) Superannuation Amendment Act 1959 (1959 No 85).

Education service: paragraph (h) was inserted, as from 4 December 1964, by section 2(1) Superannuation Amendment Act 1964 (1964 No 125).

Education service: this definition was substituted, as from 1 April 1975, by section 2(2) Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Education service: this definition was amended, as from 29 March 1985, by section 2(3) Government Superannuation Fund Amendment Act 1985 (1985 No 62) by omitting the words “for not less than 20 hours a week”.

Education service: this definition was substituted, as from 19 December 1989, by section 31(1) State Sector Amendment Act (No 2) 1989 (1989 No 136).

Education service: this definition was substituted, as from 3 May 1997, by section 6(2) State Sector Amendment Act 1997 (1997 No 8).

Education service: this definition was substituted, as from 2 October 2000, by section 240 Employment Relations Act 2000 (2000 No 24).

endowed college or school means any educational institution which is not established under the Education Act 1989, but is maintained wholly or partly by grants from public money or by the proceeds of public endowments granted by the Crown, and is for the time being approved by the Minister of Education for the purposes of this Act

Endowed college or school: the Education Act 1989 (1989 No 80) has been substituted for the repealed Education Act 1964, which had previously been substituted for the repealed Education Act 1914.

financial year means the period of 12 months ending with the 30th day of June

Financial year: this definition was inserted, as from 1 April 1975 by section 2(1) Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Financial year: this definition was substituted, as from 1 July 1992, by section 2(2) Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

Fund means the Government Superannuation Fund established under this Act

Government service means the service of Her Majesty in respect of the Government of New Zealand, not being honorary service, or service as a member of the House of Representatives within the meaning of Part 6 of this Act; and includes the Education service, the Health Service, and the Cook Islands Public Service and the Niue Public Service; and, subject to section 2C(3), also includes the Tokelau Public Service (in respect of service before or after the commencement of section 3 of the Tokelau Amendment Act 1999); and also includes the Western Samoan Public Service in respect of service before the termination on the 1st day of January 1962, of the Trusteeship Agreement for the Territory of Western Samoa; and also includes the service in any capacity of the Government of Western Samoa or of the Western Samoa Trust Estates Corporation in those cases where under section 4 of the Government Superannuation Fund Amendment Act 1961 it is deemed to be Government service; and also includes service under the Housing Corporation of New Zealand before as well as after the 15th day of June 1936 (being the date of the commencement of the State Advances Corporation Act 1936); but, subject to subsection (2) of this section, does not include service in any of Her Majesty's forces except as a permanent member of the regular forces or a regular serviceman within the meaning of Part 3 of this Act

Government Service: this definition was amended, as from 29 March 1985, by section 2(2) Government Superannuation Fund Amendment Act 1985 (1985 No 62) by inserting the words "or service as a member of the House of Representatives within the meaning of Part 6 of this Act".

Government Service: this definition was amended, as from 1 April 1984, by section 65(1) Health Service Personnel Act 1983 (1983 No 135 (since repealed)) by inserting the words "the Health Service".

Government Service: this definition was amended, as from 1 January 1970, by section 733(4)(a) Niue Act 1966 (1966 No 38) by inserting the words "and the Niue Public Service".

Government Service: this definition was amended, as from 1 January 1969, by section 16(1)(a) Tokelau Amendment Act 1967 (1967 No 38), by inserting the words "and the Tokelau Public Service". Further amended, as from 9 De-

ember 1976, by section 3(8) Tokelau Amendment Act 1976 (1976 No 122) by substituting a reference to Tokelau for a reference to the Tokelau Islands.

Government Service: this definition was amended, as from 1 January 1962, by substituting the words “and also includes the Western Samoan Public Service in respect of service before the termination on the first day of January 1962, of the Trusteeship Agreement for the Territory of Western Samoa; and also includes the service in any capacity of the Government of Western Samoa or of the Western Samoa Trust Estates Corporation in those cases where under section 4 of the Superannuation Amendment Act 1961 it is deemed to be Government service” for the words “and the Western Samoan Public Service” by section 3 Government Superannuation Fund Amendment Act 1961 (1961 No 111). This amendment was amended, as from 1 November 1976, by section 3 Government Superannuation Fund Amendment Act 1976 (1976 No 30) by substituting the words “the Government Superannuation Fund Amendment Act 1961” for the words “the Superannuation Amendment Act 1961”.

Government Service: this definition was amended, as from 1 November 1976, by section 2(3) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the words “or a regular serviceman”.

Government Service: this definition was amended, as from 14 October 1974, by section 50(3)(a) Housing Corporation Act 1974 by substituting the words “the Housing Corporation of New Zealand” for the words “the State Advances Corporation of New Zealand”.

Government service: this definition was amended, as from 1 July 2001, by section 5(1) Tokelau Amendment Act 1999 (1999 No 49) by substituting the words “Service; and, subject to section 2C(3), also includes the Tokelau Public Service (in respect of service before or after the commencement of section 3 of the Tokelau Amendment Act 1999);” for the words “Service and the Tokelau Public Service”. *See* the Tokelau (Employer for Tokelau Public Service) Order 2001 (SR 2001/98), which had the effect of bringing sections 3 to 5 Tokelau Amendment Act 1999 into force.

Government Superannuation Fund Authority or Authority means the entity established under section 15A

Government Superannuation Fund Authority or Authority: this definition was inserted, as from 2 October 2001, by section 4(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Government Superannuation Fund Authority Board or Board means the Board of that entity as referred to in section 15A(4)

Government Superannuation Fund Authority board or board: this definition was inserted, as from 2 October 2001, by section 4(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented)

and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Government Superannuation Fund Authority board or board: this definition was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the word “as referred to in section 15A(4)” for the words “as referred to in section 15G”.

Health service*[Repealed]*

Health Service: this definition was inserted, as from 1 April 1984, by section 65(1) Health Service Personnel Act 1983 (1983 No 135).

Health Service: this definition was substituted, as from 1 April 1988, by section 87 State Sector Act 1988 (1988 No 20).

Health Service: this definition was repealed, as from 9 June 1995, by section 2(5) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

[Repealed]

invest means to carry on any activity, do any act, or enter into any transaction that the Authority considers 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:

Invest: this definition was inserted, as from 2 October 2001, by section 4(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

investment manager, in relation to the Fund or any part of the Fund, means the person appointed under section 19 of this Act to manage the investment of the Fund or part, as the case may be

Investment manager: this definition was inserted, as from 1 October 1995, by section 2(6) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

liabilities means liabilities, debts, charges, duties, and obligations of every description (whether present or future, actual or contingent, and whether payable or to be observed or performed in New Zealand or elsewhere)

Liabilities: this definition was inserted, as from 2 October 2001, by section 4(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that

Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine.

medical practitioner: this definition was inserted, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). *See* sections 178 to 227 of that Act as to the transitional provisions.

member of the Prisons Service means an employee of a department of State who occupies a position that carries custodial or supervisory responsibility over prisoners

Member of the Prisons Service: this definition was inserted, as from 25 December 1986, by section 2(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Member of the Prisons Service: this definition was substituted, as from 1 July 1992, by section 2(3) Government Superannuation Fund Amendment Act 1992 (1992 No 61).

Member of the Prisons Service: this definition was substituted, as from 1 October 1995, by section 10(3) Department of Justice (Restructuring) Act 1995 (1995 No 39).

Member of the Prisons Service: this definition was amended, as from 1 June 2005, by section 206 Corrections Act 2004 (2004 No 50) by substituting the word “prisoners” for the words “prison inmates”. *See* clause 2 Corrections Act Commencement Order 2005 (SR 2005/52).

Minister means the Minister of Finance

Minister: this definition was inserted, as from 1 October 1995, by section 2(6) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

partner, in the phrase “spouse or partner” and in related contexts, means a civil union partner or a de facto partner; and includes any person whom the Authority, in its discretion, regards as being the civil union partner or de facto partner of a deceased person immediately before that person’s death

partner: this definition was inserted, as from 26 April 2005, by section 3 Government Superannuation Fund Amendment Act 2005 (2005 No 10).

property means property of every kind, whether tangible or intangible, real or personal, corporeal or incorporeal; and includes, without limitation,—

- (a) choses in action and money:
- (b) goodwill:

- (c) rights, interests, and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by, or the subject of, an instrument or otherwise, and whether liquidated or unliquidated, actual, contingent, or prospective:

Property: this definition was inserted, as from 2 October 2001, by section 4(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 of that Act, which allows the Minister to enter into transitional agreements. See Part 2 of that Act as to various miscellaneous provisions.

rights means all rights, powers, privileges, and immunities, whether actual, contingent, or prospective

Rights: this definition was inserted, as from 2 October 2001, by section 4(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 of that Act, which allows the Minister to enter into transitional agreements. See Part 2 of that Act as to various miscellaneous provisions.

salary—

- (a) means the salary and wages paid regularly in return for services:
- (b) does not include bonus payments, payments for overtime, allowances paid for special work performed, the reimbursement of expenses, lump sum payments in lieu of notice, retiring gratuities, redundancy payments, and contributions paid for or in respect of employer contributions:
- (c) may include a period of paid leave, but only if it is paid before the contributor ceases Government service.

Salary: this definition was amended, as from 15 October 1965, by section 2(2)(d) Education Act 1964 (1964 No 135) by substituting the words “teachers college” for the words “teachers training college”.

Salary: this definition was amended, as from 25 October 1963, by section 2(1) Government Superannuation Fund Amendment Act 1963 (1963 No 126) by inserting the words “or any additional salary payable in respect of any period after the 31st day of January 1964, to the Principal or any member of the teaching staff of a teachers training college or post-primary school for his services as manager of or resident teacher at any hostel conducted in connection with the college or school”. Further amended, as from 15 October 1965, by section 2(2)(d) Education Act 1964 (1964 No 135) by substituting the words “teachers college” for the words “teachers training college”. See section 2(2) of that Act as to saving clause for teacher contributors in respect of service at a hostel.

Salary: this definition was amended, as from 13 December 1968, by section 2(1) Government Superannuation Fund Amendment Act 1968 (1968 No 109) by inserting the words “or any additional salary payable in respect of any period after the 31st day of January 1969 to any associate teacher or other teacher by reason of the fact that he has students attending his classes for purposes of observation and training as teachers”. See section 2(2) of that Act as to an election to contribute on additional salary.

Salary: this definition was substituted, as from 2 October 2001, by section 4(2) Government Superannuation Fund Amendment Act 2001 (2001 No 47). See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 of that Act, which allows the Minister to enter into transitional agreements. See Part 2 of that Act as to various miscellaneous provisions.

scheme means any arrangement constituted under any Part of this Act, being an arrangement principally for the purpose of providing retirement benefits to natural persons

Scheme: this definition was inserted, as from 1 October 1995, by section 2(6) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

service organisation means any organisation that is for the time being approved by the Minister of Finance for the purposes of this Act, and consists wholly or substantially of persons who are employed by the Government or are contributors to the Fund

spouse, in relation to any person, includes any man or woman whom the Authority, in its discretion, regards as being the wife or husband of the person immediately before the person’s death

Spouse: this definition was inserted, as from 1 April 1975, by section 2(1) Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Spouse: the proviso was repealed, as from 29 March 1985, by section 22(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Spouse: this definition was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Spouse: this definition was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

State enterprise*[Repealed]*

State enterprise: this definition was inserted, as from 25 December 1986, by section 2(2) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

State enterprise: this definition was repealed, as from 1 April 1988, by section 6(3) Government Superannuation Fund Amendment Act 1988 (1988 No 19).

[Repealed]

subsidiary has the same meaning as in sections 5 to 8 of the Companies Act 1993

Subsidiary: this definition was inserted, as from 2 October 2001, by section 4(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 of that Act, which allows the Minister to enter into transitional agreements. See Part 2 of that Act as to various miscellaneous provisions.

Superintendent means the Superintendent as referred to in section 2C before the date on which the Government Superannuation Fund Amendment Act 2001 receives the Royal assent

Superintendent: this definition was inserted, as from 1 October 1995, by section 2(6) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Superintendent: this definition was substituted, as from 7 May 1999, by section 2 Government Superannuation Fund Amendment Act 1999 (1999 No 34).

Superintendent: this definition was substituted, as from 2 October 2001, by section 4(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 of that Act, which allows the Minister to enter into transitional agreements. See Part 2 of that Act as to various miscellaneous provisions.

- (2) Subject to the consent of the Authority in each case or class of cases, the term **Government service** shall be deemed to include—
- (a) any training as the holder of a scholarship or bursary approved for the purposes of this paragraph by a controlling authority:
 - (b) any training as a student at a library school:
 - (c) any service or training performed or undergone by a contributor before or after he became a contributor:

- (d) any service in any of Her Majesty's forces:
Provided that this subsection shall not apply with respect to any contributor who retired before the 5th day of December 1951.
- (2A) For the purposes of this Act, a student who is admitted to a teachers college in any division, except the Special Division, shall be deemed to become permanently employed in and appointed to the Government service on the date on which he is so admitted.
- (3) For the purposes of sections 52A and 52B of this Act (which were inserted by section 17 of the Government Superannuation Fund Amendment Act 1959) the University Grants Committee shall be deemed to be a University.
- (4) Any reference in this Act to a person again becoming a contributor to the Fund shall be read and construed as a reference to a person resuming contributions to the Fund.
- Compare: 1974 No 57 s 2; 1948 No 79 ss 2, 3(1); 1950 No 94 s 2; 1951 No 65 ss 2, 6; 1953 No 61 s 2; 1955 No 107 s 3
- Subsection (2) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".
- Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".
- Subsection (2A) was inserted, as from 29 March 1985, by section 2(4) Government Superannuation Fund Amendment Act 1985 (1985 No 62).
- Subsection (3) was inserted, as from 14 December 1962, by section 2(2) Government Superannuation Fund Amendment Act 1962 (1962 No 130).
- Subsection (4) was inserted, as from 9 June 1995, by section 2(8) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

2A Application to certain employees of State enterprises

- (1) This section applies to every person—
- (a) who—
- (i) became at any time before the 1st day of January 1988, an employee of a State enterprise that was named in Schedule 2 to the State-Owned Enterprises Act 1986 on the 18th day of December 1986 or of any subsidiary of any such State enterprise; or

- (ii) becomes an employee of any other State enterprise, or of any subsidiary of any such State enterprise, at any time within 9 months of the date of establishment of that State enterprise; and
 - (b) who was, immediately before becoming so employed, a contributor under this Act.
- (2) For the purposes of this section,—
 - (a) **date of establishment** in relation to any State enterprise, means the date declared, by the Minister of Finance by notice in the *Gazette* for the purposes of this section, to be the date on which any State enterprise is or was established; and
 - (b) **State enterprise** means an organisation that is, or was at any time, named in Schedule 2 to the State-Owned Enterprises Act 1986; and
 - (c) **subsidiary** has the same meaning as in sections 158 and 158A of the Companies Act 1955 or sections 5 and 6 of the Companies Act 1993, as the case may be.
- (3) For the purposes of this Act,—
 - (a) every person to whom this section applies shall be deemed to be employed in the Government service so long as that person continues to be employed by any State enterprise or any subsidiary of a State enterprise; and
 - (b) this Act shall apply to that person in all respects as if service with any State enterprise or subsidiary of a State enterprise were Government service.
- (4) Except as provided in sections 61R and 61S of this Act, once any person to whom this section applies has ceased to be a contributor under this Act that person shall not be entitled to again become a contributor under this Act by virtue of any employment in any State enterprise or subsidiary of a State enterprise.

Section 2A was inserted, as from 25 December 1986, by section 3 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Section 2A was substituted, as from 1 August 1990, by section 3 Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77).

Subsection (2)(c) was substituted, as from 1 July 1994, by section 2 Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

2B Application to certain employees of Crown Research Institutes

- (1) This section applies to every person—
 - (a) who becomes an employee of a Crown Research Institute, or of any Crown entity subsidiary of a Crown Research Institute, at any time within 9 months of the date of establishment of that Crown Research Institute; and
 - (b) who was, immediately before becoming so employed, a contributor under this Act.
- (2) For the purposes of this section,—
 - (a) **date of establishment** in relation to any Crown Research Institute, means the date declared, by the Minister of Finance by notice in the *Gazette* for the purposes of this section, to be the date on which any Crown Research Institute is or was established; and
 - (b) **Crown Research Institute** means a Crown Research Institute within the meaning of the Crown Research Institutes Act 1992; and
 - (c)
- (3) For the purposes of this Act,—
 - (a) every person to whom this section applies shall be deemed to be employed in the Government service so long as that person continues to be employed by any Crown Research Institute or any Crown entity subsidiary of a Crown Research Institute; and
 - (b) this Act shall apply to that person in all respects as if service with any Crown Research Institute or Crown entity subsidiary of a Crown Research Institute were Government service.
- (4) Except as provided in sections 61R and 61S of this Act, once any person to whom this section applies has ceased to be a contributor under this Act that person shall not be entitled to again become a contributor under this Act by virtue of any employment in any Crown Research Institute or Crown entity subsidiary of a Crown Research Institute.

Section 2B was inserted, as from 1 July 1992, by section 46(1) Crown Research Institutes Act 1992 (1992 No 47).

Subsection (1)(a) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by inserting the words “Crown entity” before the word “subsidiary”.

Subsection (2)(c) was substituted, as from 1 July 1994, by section 2 Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

Subsection (2)(c) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (3)(a) and (b) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by inserting the words “Crown entity” before the word “subsidiary”.

Subsection (4) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by inserting the words “Crown entity” before the word “subsidiary”.

2C Superintendent of Government Superannuation Fund *[Repealed]*

Section 2C was inserted, as from 7 May 1999, by section 3 Government Superannuation Fund Amendment Act 1999 (1999 No 34).

Section 2C (relating to the Superintendent of the Government Superannuation Fund) was repealed, as from 2 October 2001, by section 5 Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

2C Superannuation rights of certain former employees of Tokelau Public Service

- (1) The Governor-General may from time to time, by Order in Council.—
 - (a) recognise as a public sector employer for the purposes of this Act any body, institution, or office, in Tokelau:
 - (b) recognise as public sector employers for the purposes of this Act bodies, institutions, or offices, in Tokelau of any kind or description:
 - (c) revoke any order under paragraph (a) or paragraph (b).
- (2) Recognition takes effect on a day (before or after the commencement of that order) specified in the order concerned, and ceases on the revocation of that order.
- (3) This Act has effect as if employment of either of the following descriptions is Government service while employed by the Tokelau Public Service Employing Authority:

- (a) employment by a body or institution, or the holder of an office, for the time being recognised under subsection (1):
 - (b) employment by a body or institution of a kind or description, or the holder of an office of a kind or description, for the time being recognised under subsection (1).
- (4) In subsection (3), **the Tokelau Public Service Employing Authority**—
 - (a) means the body or institution, or the holder of the office, recognised under section 2(1) of the Tokelau Amendment Act 1999; and
 - (b) includes the successor for the time being of that body or institution, or the holder of that office, as employer for the Tokelau Public Service.

A second section 2C was inserted, as from 1 July 2001, by section 4 Tokelau Amendment Act 1999 (1999 No 49). *See* the Tokelau (Employer for Tokelau Public Service) Order 2001 (SR 2001/98), which had the effect of bringing sections 3 to 5 Tokelau Amendment Act 1999 into force.

Government Superannuation Appeals Board

The heading “Government Superannuation Appeals Board” was substituted, as from 1 October 1995, for the previous heading “Government Superannuation Board”, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

3 Government Superannuation Appeals Board

- (1) For the purposes of this Act, there shall be an Appeals Board, to be called the Government Superannuation Appeals Board.
- (2) The Appeals Board shall consist of 5 members appointed in accordance with section 5 of this Act.

Sections 3 to 5 were substituted, as from 1 July 1992, by section 3(1) Government Superannuation Fund Amendment Act 1992 (1992 No 61).

Subsection (3) was inserted, as from 21 December 1992, by section 42 Public Finance Amendment Act 1992 (1992 No 142).

Sections 3 to 12 were substituted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsection (2) was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

3A Membership*[Repealed]*

Section 3A was inserted, as from 25 December 1986, by section 4 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Section 3A was substituted, as from 1 July 1992, by section 3(1) Government Superannuation Fund Amendment Act 1992 (1992 No 61).

Sections 3A to 3C were repealed, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

3B Nomination of appointed members*[Repealed]*

Sections 3B and 3C were inserted, as from 1 July 1992, by section 3(1) Government Superannuation Fund Amendment Act 1992 (1992 No 61).

Sections 3A to 3C were repealed, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

3C Term of office of appointed members*[Repealed]*

Sections 3B and 3C were inserted, as from 1 July 1992, by section 3(1) Government Superannuation Fund Amendment Act 1992 (1992 No 61).

Sections 3A to 3C were repealed, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

4 Function of Appeals Board

The function of the Appeals Board is to hear and determine appeals from decisions made by, or under the authority of, the Authority under section 19E of this Act or otherwise in respect of any scheme, in accordance with sections 7 to 12C of this Act.

Sections 3 to 5 were substituted, as from 1 July 1992, by section 3(1) Government Superannuation Fund Amendment Act 1992 (1992 No 61).

Sections 3 to 12 were substituted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Section 4 was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Section 4 heading was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

Section 4 was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

5 Appointment of members of Appeals Board

- (1) The members of the Appeals Board shall be appointed by the Minister, by notice in the *Gazette*, after consultation with such representatives of contributors and beneficiaries, and such other persons, as the Minister thinks fit.
- (2) One member (or, if the Minister in his or her discretion so determines, 2 members) of the Appeals Board shall be appointed to represent contributors.
- (3) One member of the Appeals Board shall be appointed to represent beneficiaries.
- (4) In making appointments, the Minister shall ensure that the members of the Appeals Board have between them the range of skills and experience required for the carrying out of the function of the Appeals Board.
- (5) One of the members of the Appeals Board shall be appointed as chairperson by the Minister by notice in the *Gazette*.

Sections 3 to 5 were substituted, as from 1 July 1992, by section 3(1) Government Superannuation Fund Amendment Act 1992 (1992 No 61).

Sections 3 to 12 were substituted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Section 5 was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

6 Term of office

- (1) Subject to subsections (2) and (3) of this section, each member of the Appeals Board—
 - (a) shall be appointed for a term not exceeding 3 years; and
 - (b) may from time to time be reappointed.
- (2) The Minister may at any time remove a member of the Appeals Board from office for disability affecting the performance of the member’s duties as a member, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.
- (3) A member of the Appeals Board may at any time resign office by giving written notice to that effect to the Minister.

Compare: 1947 No 57 s 6; 1955 No 107 s 2

Sections 3 to 12 were substituted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Section 6 was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

7 Appeals to Appeals Board

Any person who—

- (a) is or may be affected by a decision made by, or under the authority of, the Authority under section 19E of this Act or otherwise in respect of any scheme; and
 - (b) disagrees with or is dissatisfied with that decision—
- may appeal to the Appeals Board against that decision.

Compare: 1947 No 57 s 6A; 1955 No 107 s 2

Sections 3 to 12 were substituted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Paragraph (a) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Section 7 heading was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

Paragraph (b) was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

8 Way in which appeals to be made

- (1) Every appeal to the Appeals Board shall be made by written notice (in any form) delivered to the Authority—
 - (a) within 28 days of the person receiving written notice of the decision concerned (which notice shall give information as to the person’s right to appeal); or
 - (b) within such further time as the Appeals Board may, on application, allow.
- (2) Every appeal shall be accompanied by such fee (if any) as may be prescribed by regulations.
- (3) If an appeal is substantially allowed, the fee shall be refunded in full.
- (4) A notice of appeal may include any submissions relevant to the decision appealed against that the person wishes to make.
- (5) As soon as practicable after receiving a notice of appeal under this section, the Authority shall—

- (a) deliver to the Appeals Board the notice of appeal and a written report by the Authority on the matter; and
- (b) advise the appellant in writing of his or her rights under sections 9 and 10 of this Act.

Compare: 1947 No 57 s 6B; 1955 No 107 s 2

Sections 3 to 12 were substituted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsections (1) and (5) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsections (1) and (5) were amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

9 Right of appellant to receive evidence

- (1) The Appeals Board shall—
 - (a) send to the appellant, not less than 14 days before determining the appeal,—
 - (i) a copy of the report by the Authority on the decision appealed against; and
 - (ii) a copy of any other written evidence that has been received by the Appeals Board to date; and
 - (b) send to the appellant, as soon as practicable after it is received, a copy of any other written evidence that is received by the Appeals Board before the determination of the matter.
- (2) Section 17 of the Official Information Act 1982 (which relates to deletion of information from documents) shall apply to copies of written evidence sent to the appellant under this section.

Compare: 1947 No 57 s 6C; 1955 No 107 s 2

Sections 3 to 12 were substituted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsection (1)(a)(i) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (1) was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

10 Right of appellant to be heard

The Appeals Board shall, if the appellant so requests before the determination of the matter, hear the appellant, or his or her representative, as soon as practicable after receiving the request.

Compare: 1947 No 57 s 7

Sections 3 to 12 were substituted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Section 10 was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

11 Determination of appeals**(1) Every appeal to the Appeals Board—**

- (a) shall be determined as soon as practicable; and
- (b) shall be determined by the Appeals Board as if the decision appealed against were one for it to make, rather than the Authority.

(2) The Appeals Board may at any time dismiss any appeal if it is satisfied that the appeal is frivolous or vexatious.

Compare: 1947 No 57 s 8; 1951 No 65 s 3; 1955 No 107 s 4

Subsection (1) was amended, as from 22 October 1959, by section 3 Superannuation Amendment Act 1959 (1959 No 85) by inserting after the word “misconduct”, the words “or as to whether or not any period of employment is on a full-time basis for the purposes of this Act, or as to the proportion of any part-time employment to full-time employment”.

Subsection (4) was inserted, as from 14 December 1962, by section 3 Superannuation Amendment Act 1962 (1962 No 130).

Sections 3 to 12 were substituted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsection (1)(b) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsections (1) and (2) were amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

12 Matters to be taken into account on appeal**(1) The Appeals Board must—**

- (a) act in accordance with the statement of policies, unless the Appeals Board considers that it is inappropriate to do so in the particular circumstances of a case; and

- (b) take into account the interests of any person who has an interest in the matter that is the subject of the appeal (including, without limitation, the interests of the Crown and of any contributor, beneficiary, or controlling authority affected by the matter), to the extent that those interests are known to the Appeals Board.
- (2) In this section, **statement of policies** means the statement published by the Superintendent under section 19F in December 1999 (as that statement may have been, or may be, changed under section 19F(2), whether before or after the substitution of that section by the Government Superannuation Fund Amendment Act 2001).

Compare: 1947 No 57 s 9

Sections 3 to 12 were substituted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28)

Section 12 was substituted, as from 2 October 2001, by section 6 Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

12A Appeals Board to give notice of decision, etc

- (1) The Appeals Board shall, as soon as practicable after determining an appeal, give notice in writing of its decision to the appellant and the Authority.
- (2) Upon the written request of the appellant, the Appeals Board shall state in writing its findings of fact and any reasons for the decision.
- (3) No such request may be made more than 28 days after the notice in writing of the decision is given to the appellant.

Sections 12A to 12D were inserted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28)

Section 12A heading was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

Subsection (1) was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (2) was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

12B Decision on appeal to be final

Every determination of the Appeals Board shall, subject to section 12C of this Act, be final and conclusive and shall take effect in place of, and as if it were, the decision of the Authority appealed against.

Sections 12A to 12D were inserted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28)

Section 12B was amended, as from 2 October 2001, The words “Appeals Board” were substituted for the word “Board”, as from 2 October 2001, pursuant to section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47).

Section 12B was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

12C Stating case for High Court

- (1) The Appeals Board may at any time, before delivering its decision, on the application of either the appellant or the Authority or of its own motion, state a case for the opinion of the High Court on any question of law arising in any proceedings before the Appeals Board.
- (2) For that purpose, the Appeals Board may either conclude the proceedings subject to that opinion, or adjourn them until after that decision has been given.
- (3) The Appeals Board shall give notice to the Authority and the appellant of the Appeals Board’s intention to state a case under this section, specifying the registry of the High Court in which the case is to be filed.
- (4) Every case stated for the opinion of the High Court under this section shall be heard and determined in accordance with rules of Court.

Compare: 1974 No 133 s 41

Sections 12A to 12D were inserted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28)

Subsections (1), (2) and (3) were amended, as from 2 October 2001, pursuant to section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”, and the words “Appeal Board’s” for the words “Board’s”.

Subsections (1) and (3) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

12D Further provisions relating to Appeals Board

The provisions set out in Schedule 3 to this Act shall apply in respect of the Appeals Board.

Sections 12A to 12D were inserted, as from 1 October 1995, by section 3(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28)

Section 12D was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

Government superannuation fund

13 Government Superannuation Fund

- (1) There is hereby established a Fund to be called the Government Superannuation Fund.
- (2) The Fund is hereby declared to be the same Fund as the Government Superannuation Fund established under the Superannuation Act 1947.

Compare: 1947 No 57 s 10

13A Property of Fund

The Fund consists of—

- (a) the property and liabilities vested in the Authority by section 21A of the Government Superannuation Fund Amendment Act 2001; and
- (b) money payable into the Fund under section 14.

Section 13A was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

14 Money payable into Fund

The following must from time to time be paid into the Fund:

- (a) the contributions from contributors as provided in this Act;
- (b) the amounts payable into the Fund under section 95:

- (c) money accruing from the investment of the Fund:
- (d) any other money that may be lawfully payable into the Fund.

Compare: 1956 No 47 s 14

Subsection (2) was inserted, as from 22 October 1959, by section 4 Superannuation Amendment Act 1959 (1959 No 85).

Sections 14 to 16 were substituted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Sections 14 and 15 were substituted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

15 Money payable out of Fund

The following must from time to time be paid out of the Fund:

- (a) the benefits arising under this Act:
- (b) any other money that may be lawfully payable out of the Fund.

Compare: 1956 No 47 s 15

Subsection (2) was substituted, as from 1 December 1961, by section 2 Superannuation Amendment Act 1961 (1961 No 111).

Sections 14 to 16 were substituted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Sections 14 and 15 were substituted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Government superannuation fund authority

The heading “Government superannuation fund authority” was inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

15A Establishment of Government Superannuation Fund Authority

- (1) This section establishes the Government Superannuation Fund Authority (the **Authority**).
- (2) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly provides otherwise.
- (4) The Government Superannuation Fund Authority Board must have no less than 4, but no more than 7, members.

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Subsection (2) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “section 7 of the Crown Entities Act 2004” for the words “the Public Finance Act 1989”.

Subsections (3) and (4) were inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

15B Investment

- (1)
- (2)
- (3)
- (4) There are no restrictions on the Authority’s investment powers, other than as provided by sections 15J, 15K, and 15O.
- (5) The Authority may not subscribe for, acquire, or hold any shares or other securities issued by a company unless—
 - (a) the company is a Crown entity subsidiary of the Authority; or
 - (b) the shares or other securities are an investment of the Fund; or
 - (c) subsection (6) applies to the company.
- (6) The Authority may subscribe for, acquire, or hold any shares or other securities issued by a company if—
 - (a) the company provides (or is to provide or has provided) to the Authority any services of a kind referred to in

- section 19(1)(a) to (c) (whether or not the company also provides services to other persons); and
 - (b) every shareholder of the company is a company or other body corporate; and
 - (c) the Crown controls the composition of a majority of the governing body of every shareholder.
- (7) This section is subject to section 15C (borrowing).
- (8) Subsection (5) applies despite sections 100 and 161 of the Crown Entities Act 2004.

Compare: 1993 No 105 s 16(1)

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

The heading to section 15B was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsections (1) to (3) were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (5)(a) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by inserting the words “Crown entity” before the word “subsidiary”.

Subsection (8) was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

15C Borrowing

- (1) The Authority may not, except with the approval of the Minister of Finance,—
- (a) borrow money (neither on behalf of the Authority 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) enter into a derivative transaction, or amend the terms of that transaction, (where derivative transaction includes swaps, options, futures, and any combination of those things).
- (2) The Minister’s approval may be given for any class of transactions in subsection (1)(a) to (c).

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See*

section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Subsection (1)(c) was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

15D Functions

- (1) The functions of the Authority are to manage and administer the Fund and the schemes in accordance with this Act.
- (2) The Authority is not a trustee, or a constructive trustee, in relation to the exercise of its functions or to any other matter (except as otherwise provided in section HR 4 of the Income Tax Act 2007 for tax purposes).
- (3) The functions of the Authority include, if the Minister so directs in accordance with section 112 of the Crown Entities Act 2004, the provision of services in respect of any fund or superannuation scheme that is—
 - (a) managed by the Crown or a Crown entity or an entity whose board is appointed by the Crown; and
 - (b) approved by the Minister for that purpose.
- (4) Those services may be provided on any terms and conditions that the Authority's board thinks fit, but must not place or have the potential to place a liability or a contingent liability on the Fund.

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Section 15D(2): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (2) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words "Income Tax Act 2004" for the words "Income Tax Act 1994".

Subsection (3) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by inserting the words "in accordance with section 112 of the Crown Entities Act 2004" after the words "if the Minister so directs".

15E Funding of administrative expenses of Authority

- (1) The expenses of the Authority relating to the management and administration of the Fund and the schemes—
 - (a) are to be paid out of the Fund; and
 - (b) are to be recovered under section 95 in accordance with this section.
- (2) The portion of the expenses attributable to all persons who are currently contributing to the Fund is to be recovered, each financial year, out of the money from which the salaries of those contributors are paid.
- (3) The portion of the expenses attributable to all persons who are currently contributing to the Fund includes estimates of all future expenses attributable to those contributors once they cease to be contributors.
- (4) The portion of the expenses attributable to any other person is to be recovered, each financial year, from the Crown.
- (5) Section 95 applies as if references in that section to benefits included expenses, with any other necessary modifications.
- (6) The Authority may determine the basis on which expenses are apportioned under that section, but the determination has no effect unless the Authority, after receiving advice from an actuary, certifies that the apportionment is fair and equitable.
- (7) In this section, **expenses** includes—
 - (a) any fees payable under section 19 or section 19A; and
 - (b) all remuneration and expenses of board members and employees of the Authority; and
 - (c) any other expenses incurred by or on behalf of the Authority.

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Section 15E(6): amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

15F Auditor-General to be auditor of Authority

[Repealed]

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Sections 15F to 15H were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Board of authority

The heading “Board of authority” was inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

15G Role of Board of Authority

[Repealed]

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Sections 15F to 15H were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

15H Membership of Board

[Repealed]

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Sections 15F to 15H were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

15I Further provisions applying to Board

- (1) Schedule 4 applies to the Board and its members.
- (2)

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Subsection (2) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Investment of fund

The heading “Investment of Fund” was inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

15J Investment of Fund

- (1) The Authority is responsible for investing the Fund.
- (2) The Authority 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.

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

15K No controlling interests

- (1) The Authority must use its 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 Authority 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 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 limits section 15B(5)(b), but does not limit section 15B(5)(a) or (c).
- (5) In this section, **Fund** means the Authority acting in respect of the Fund.

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Section 15K(3)(b): amended, on 1 July 2011, by section 12 of the Financial Reporting Amendment Act 2011 (2011 No 22).

15L Establishment of investment policies, standards, and procedures

- (1) The Authority must establish, and adhere to, investment policies, standards, and procedures for the Fund that are consistent with its duty to invest the Fund on a prudent, commercial basis, in accordance with section 15J.
- (2) The Authority must review those investment policies, standards, and procedures for the Fund at least annually.

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

15M 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, classes of investment, 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.

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the

period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

15N Statement of intent

The statement of intent of the Authority prepared each financial year under Part 4 of the Crown Entities Act 2004 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.

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Section 15N was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words "Part 4 of the Crown Entities Act 2004" for the words "Part 5 of the Public Finance Act 1989".

15O Ministerial directions relating to investment of Fund

- (1) The Minister may, after consultation with the Authority, direct the Authority, in investing the Fund,—
 - (a) to meet the Government's expectations as to the Fund's performance, including the Government's expectations as to risk and return:
 - (b) not to invest in a specified investment or class of investments to which the Crown already has a direct or indirect exposure, for the purpose of limiting that exposure.

- (1A) Despite section 104 of the Crown Entities Act 2004, the Minister may not give a direction to the Authority in respect to the Fund except in accordance with this section.
- (2) The Minister must not give a direction that is inconsistent with the Authority's duty to invest the Fund on a prudent, commercial basis, consistent with best-practice portfolio management.
- (3) The Authority must notify the Minister how it proposes to give effect to any direction.
- (4)
- (5) Nothing in this section limits section 147 of the Crown Entities Act 2004.

Sections 15A to 15O were inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Subsection (1A) was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (4) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (5) was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Further provisions relating to Fund

The heading "Further provisions relating to Fund" was inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 Government Superannuation Fund Amendment Act 2001, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

16 Reporting by Authority on Fund

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

Sections 14 to 16 were substituted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Section 16 was substituted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

16A Interest on money held in error

[Repealed]

Section 16A was inserted, as from 1 November 1976, by section 4 Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Section 16A was repealed, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

17 Property to be held for paying benefits

- (1) All property comprising the Fund must be held for the purpose of paying the benefits that are payable under this Act.
- (2) This section does not prevent the Authority from making a payment out of the Fund for the purpose of carrying out its functions.

Section 17 was substituted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Section 17 was substituted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

18 Interest on money held in error

- (1) This section applies if the Authority pays interest, out of the Fund, on any money held in error in the Fund.
- (2) The interest must be at a rate calculated using a method that has been determined by the Authority, approved by the Minister, and published in the *Gazette*.

The original section 18 was repealed, as from 22 March 1989, by section 29(1) Income Tax Amendment Act 1989 (1989 No 7).

Sections 18 to 19I were inserted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Section 18 was substituted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3)

and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

*Administration managers, investment managers,
other service providers, and custodians*

The heading “Administration managers, investment managers, other service providers, and custodians” was substituted for the heading “Provisions Relating to Schemes and Fund”, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

**19 Administration and investment management and other
service providers**

- (1) The Authority may appoint, on any terms and conditions that the Authority thinks fit, 1 or more persons (including any department) to undertake each of the following functions:
 - (a) the administration of the schemes:
 - (b) the investment of any part of the Fund:
 - (c) the provision of secretariat or other services to the Authority.
- (2) Different persons may be appointed in respect of different schemes or different parts of the Fund.
- (3) The Authority must specify, 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 15B or sections 16 and 17 of the Crown Entities Act 2004.

The original section 19 was repealed, as from 1 July 1992, by section 4 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

Sections 18 to 19I were inserted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Sections 19 to 19B were substituted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation

Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Subsection (4) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by adding the words “or sections 16 and 17 of the Crown Entities Act 2004”.

19A Custodianship of Fund

- (1) The Authority 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 in respect of which they have been appointed, in their name or, if the Authority authorises it, in the name of 1 or more nominees.
- (3) An appointment may be on any terms and conditions that the Authority thinks fit.
- (4) The Authority 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 15B or sections 16 and 17 of the Crown Entities Act 2004.

Sections 18 to 19I were inserted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28). *See* also section 24 of that Act for the transitional provisions.

Sections 19 to 19B were substituted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Subsection (5) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by adding the words “or sections 16 and 17 of the Crown Entities Act 2004”.

Performance reviews

The heading “Performance reviews” was inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28

of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

19B Performance reviews

- (1) From time to time, there must be conducted a review of how effectively and efficiently the Authority is performing its functions under section 15D.
- (2) The first performance review must be conducted no later than 5 years after the operative date.
- (3) Subsequent performance reviews must be conducted at intervals that are no more than 5 years apart (to be set by the Minister).
- (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 Authority are appropriate to the Fund; and
 - (b) whether or not the investment policies, standards, and procedures established by the Authority 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 Authority.
- (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.

Sections 18 to 19I were inserted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28). *See* also section 24 of that Act for the transitional provisions.

Sections 19 to 19B were substituted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Provisions relating to schemes

The heading “Provisions relating to schemes” was inserted, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

19C Payment of administration expenses, etc

[Repealed]

Sections 18 to 19I were inserted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28). *See* also section 24 of that Act for the transitional provisions.

Sections 19C and 19D were repealed, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

19D Powers in relation to Fund and schemes

[Repealed]

Sections 18 to 19I were inserted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28). *See* also section 24 of that Act for the transitional provisions.

Sections 19C and 19D were repealed, as from 2 October 2001, by section 7(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

19E Discretionary powers of Authority

- (1) If any question arises under this Act as to—

- (a) whether any person is employed in the Government service; or
 - (b) whether any person is a contributor, or is entitled to resume contributions, to the Fund; or
 - (c) the period of contributory service, amount of salary, amount of contributions, or amount of retiring allowance of any contributor; or
 - (d) whether any retirement is compulsory or is due to misconduct; or
 - (e) whether or not any period of employment is on a full-time basis for the purposes of this Act, or as to the proportion of any part-time employment to full-time employment; or
 - (f) any other matter whatsoever in respect of a scheme,—the question shall be determined by the Authority.
- (2) The Authority, in his or her discretion, may refuse any application for consent under this Act, or may grant any such application either wholly or partly and either unconditionally or upon or subject to such conditions as the Authority thinks fit, including conditions—
- (a) fixing or limiting the period or periods in respect of which a contributor is to be permitted to contribute to the Fund;
 - (b) fixing the contributions payable in respect of any period for which no salary is payable;
 - (c) fixing the payments (if any) to be made to the Fund by a contributor in addition to his or her contributions.
- (3) Notwithstanding anything to the contrary in this Act, but subject to the consent of the Authority in each case, any contributor may contribute to the Fund in respect of the whole or any part of any period which could not otherwise be computed as part of his or her contributory service.
- (4) Notwithstanding anything to the contrary in this Act, the Authority may in any special case deem that the Government service of any person has not been interrupted by reason only of an interval in his or her employment in the Government service, subject to any condition that only a specified part of the interval be regarded as contributory service.

Compare: 1956 No 47 s 11

Sections 18 to 19I were inserted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28). *See* also section 24 of that Act for the transitional provisions.

Section 19E was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

19F Statement of policies and exercise of discretionary powers

- (1) The Authority must, when exercising its discretionary powers in relation to the schemes,—
 - (a) act in accordance with the statement of policies, unless the Authority considers that it is inappropriate to do so in the particular circumstances of a case; and
 - (b) take into account the interests of any person who has an interest in the matter (including, without limitation, the interests of the Crown and of any contributor, beneficiary, or controlling authority affected by the matter), to the extent that those interests are known to the Authority.
- (2) If the Authority proposes to make any change to the published statement of policies, it must—
 - (a) consult with organisations that, in the Authority’s view, have or are likely to have, or are representative of persons who have or are likely to have, an interest in the proposed change; and
 - (b) republish the statement of policies, or the part of the statement of policies affected by the change, in whatever manner the Authority considers appropriate; and
 - (c) send a copy of the republished statement of policies to the Appeals Board.
- (3) In this section, **statement of policies** means the statement published by the Superintendent under this section in December 1999 (as that statement may have been, or may be, changed under subsection (2), whether before or after the substitution of this section by the Government Superannuation Fund Amendment Act 2001).

Sections 18 to 19I were inserted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28). *See* also section 24 of that Act for the transitional provisions.

Section 19F was substituted, as from 2 October 2001, by section 8 Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3)

and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

19G Delegation of Authority's functions or powers

[Repealed]

Sections 18 to 19I were inserted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28). *See* also section 24 of that Act for the transitional provisions.

Section 19G was repealed, as from 2 October 2001, by section 9 Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the Minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

19H Application of Superannuation Schemes Act 1989

- (1) Each of the schemes shall continue to be registered as a superannuation scheme under the Superannuation Schemes Act 1989 and, subject to subsection (2) of this section, that Act shall apply accordingly.
- (2) Nothing in sections 7 to 22 of the Superannuation Schemes Act 1989 shall apply in respect of any of the schemes.

Sections 18 to 19I were inserted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28). *See* also section 24 of that Act for the transitional provisions.

19I Rights to information

- (1) Each contributor shall have the right, upon request to the Authority, to receive an estimate of the contributor's benefits.
- (2) Each contributor and each beneficiary shall have the right, upon request to the Authority, to receive a copy of the latest annual report laid before the House of Representatives or published under section 93B of this Act.
- (3) No person shall be charged a fee for exercising any such right, except that if a person makes the same request more frequently than once every 12 months, then the Authority may, in its discretion, charge a reasonable fee.

Compare: 1989 No 10 s 17

Sections 18 to 19I were inserted, as from 1 October 1995, by section 4 Government Superannuation Fund Amendment Act 1995 (1995 No 28). *See* also section 24 of that Act for the transitional provisions.

Section 19I was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Section 19I was amended, as from 2 October 2001, pursuant to section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “its” for the words “his or her”.

Part 2

Government service superannuation

20 This Part not to apply to certain persons

The provisions of this Part of this Act shall not apply to the following persons:

- (a) members of Parliament or Ministers of the Crown, except as provided in Part 6 of this Act:
- (b) judges and the Solicitor-General except as provided in Part 4 and Part 5 of this Act:
- (c)
- (d) members of the regular forces except as provided in Parts 3 and 3A of this Act:
- (e) persons entitled under any other Act to receive pensions on retirement from the Government service:
- (f) persons remunerated by fees or commission and not by wages or salary:
- (g) persons contributing under Part 2A of this Act, except as provided in that part of this Act.

Compare: 1947 No 57 s 17; 1948 No 79 s 4

Paragraph (a) was amended, as from 1 January 1987, by section 29(2) Constitution Act 1986 (1986 No 114) by substituting the word “Parliament” for the words “the General Assembly”.

Paragraph (b) was substituted, as from 1 November 1976, by section 36(1) Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Paragraph (b) was amended, as from 17 April 1978, by section 6(2) Industrial Relations Amendment Act 1977 (1977 No 108) by substituting the word “Arbitration” for the word “Industrial”.

Paragraph (b) was substituted, as from 1 January 1981, by section 6(1) Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Paragraph (c) was repealed, as from 1 January 1981, by section 6(1) Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Paragraph (d) was substituted, as from 25 December 1986, by section 6 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Paragraph (g) was inserted, as from 29 March 1985, by section 3 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Contributors

21 Contributors to the Fund

- (1) The following persons shall be contributors to the Fund:
 - (a) all persons who were contributors to the Fund immediately before the commencement of this Act;
 - (b) all persons who elect in accordance with this Part of this Act to become contributors to the Fund;
 - (c) all persons who are by this Part of this Act required or declared to be contributors to the Fund.
- (2) Every person who is at any time a contributor to the Fund shall continue to be a contributor until he dies, or retires from the Government service, or ceases in accordance with section 28 of this Act to be a contributor.
- (3) Notwithstanding anything to the contrary in any enactment in force before the date of the commencement of this Act, no person who is employed in the Government service on or after that date, and is not for the time being a contributor to the Fund, shall become a contributor to the Fund except in accordance with this Part of this Act.

Compare: 1947 No 57 s 18

22 Election by employee to become a contributor

- (1) Subject to the provisions of this Part of this Act, any person who for the time being is employed in the Government service and is not a contributor to the Fund may elect to become a contributor to the Fund—
 - (a) from the date of his election; or
 - (b) from the commencement of the period of his continuous service in the Government service immediately preceding the date of his election; or
 - (c) from any date during the period of that prior continuous service:

Provided that no election shall be made under this section by any person who is not permanently employed

or by any person who is employed otherwise than on a full-time basis or who has been so employed for any part of the period of that prior continuous service for which he wishes to elect to become a contributor except with the consent of the Authority:

Provided also that, except with the consent of the Authority, no person whose age exceeds 50 years shall be entitled to make an election under this section after the expiration of 6 months from the commencement of his permanent employment in the Government service or after the 30th day of September 1957, whichever is the later.

- (1A) No person shall be entitled to make any election under subsection (1) of this section after the 30th day of April 1985.
- (2) Section 35 of this Act, as substituted by section 8 of the Government Superannuation Fund Amendment Act 1962, shall not apply, by reason only of the operation of subsection (5) of the said section 35, to any female who makes an election under this section on or after the 1st day of April 1962, whether before or after the passing of this Act, if that person—
 - (a) was over the age of 40 years on the said 1st day of April 1962; and
 - (b) commenced her permanent employment in the Government service before the 1st day of October 1961.

Compare: 1947 No 57 s 19

Subsection (1) was amended, as from 22 October 1959, by section 5(1) Government Superannuation Fund Amendment Act 1959 (1959 No 85) by inserting the words “or by any person who is employed otherwise than on a full-time basis or who has been so employed for any part of the period of that prior continuous service for which he wishes to elect to become a contributor”.

Subsection (1) first proviso was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1) first proviso was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (1) second proviso was amended, as from 14 December 1962, by section 4(1)(b) Government Superannuation Fund Amendment Act 1962 (1962 No 130) by omitting the words “and no female whose age exceeds 40 years”.

Subsection (1) second proviso was amended, as from 14 December 1962, by section 4(1)(a) Government Superannuation Fund Amendment Act 1962 (1962 No 130) by substituting the word “person” for the word “male”.

Subsection (1) second proviso was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1) second proviso was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (1A) was inserted, as from 29 March 1985, by section 4 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (2) was inserted, as from 14 December 1962, by section 4(2) Government Superannuation Fund Amendment Act 1962 (1962 No 130).

22A Compulsory contribution requirements

[Repealed]

Section 22A was inserted, as from 25 October 1963, by section 3 Government Superannuation Fund Amendment Act 1963 (1963 No 126).

Subsection (3) was amended, as from 24 November 1967, by section 2 Superannuation Amendment Act 1967 (1967 No 141) by substituting the words “the Special Division” for the words “Division B”.

Section 22A was substituted, as from 1 April 1980, by section 12(1) Government Superannuation Amendment Act 1979 (1979 No 46).

Section 22A was repealed, as from 29 March 1985, by section 5 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

22B Staff of New Zealand High Commission Office, London

[Repealed]

Section 22B was inserted, as from 24 November 1967, by section 3 Superannuation Amendment Act 1967 (1967 No 141).

Subsections (6) and (7) were inserted, as from 1 March 1978, by section 2(1) Government Superannuation Fund Amendment Act 1978 (1978 No 95).

Section 22B was repealed, as from 1 August 1990, by section 4(1) Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77).

22BA Locally engaged staff of New Zealand High Commission in United Kingdom may elect to become contributors under Part 2A

[Repealed]

Section 22BA was inserted, as from 25 December 1986, by section 7 Government Superannuation Fund Amendment Act 1986 (1986 No 132), and repealed, as from 1 August 1990, by section 4(1) Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77).

23 Contributor may elect to contribute in respect of any prior part of service

- (1) Subject to the provisions of this Part of this Act, where any person is for the time being a contributor to the Fund and any period of his service in the Government service (including service which is continuous by virtue of section 27 of this Act) is not included and has never been included in his contributory service, he may at any time elect to contribute to the Fund in respect of the whole or any part of that period:

Provided that, except with the consent of the Authority, no contributor whose age exceeds 50 years shall be entitled to make an election under this section after the 30th day of September 1957:

Provided also that, except with the consent of the Authority,—

- (a) no person shall elect to contribute to the Fund in respect of any part of that period for which his employment was otherwise than on a full-time basis:
 - (b) no person who is employed otherwise than on a full-time basis shall elect to contribute to the Fund in respect of any part of that period, whether or not his service was on a full-time basis during that part of that period.
- (2) For the purposes of this section employment in the Post Office as a message-boy for any period in excess of 2 years shall be deemed to be service in the Government service.
- (3) Subject to the consent of the Authority in each case, employment as a probationer under section 78 of the Education Act 1914 for any period before the 9th day of November 1920 (being the date of the passing of section 19 of the Education Amendment Act 1920) shall, to the extent to which the Authority determines in each case, be deemed for the purposes of this section to be service in the Government service.
- (4) Section 35 of this Act, as substituted by section 8 of the Government Superannuation Fund Amendment Act 1962 shall not apply, by reason only of the operation of subsection (5) of the said section 35, to any female who makes an election under this section on or after the 1st day of April 1962, whether before or after the passing of this Act, if that person was over the age of 40 years on the said 1st day of April 1962.

Compare: 1947 No 57 s 20; 1948 No 79 s 5

Subsection (1) was amended, as from 4 October 1957, by section 2(a) Government Superannuation Fund Amendment Act 1957 (1957 No 16) by substituting the word “service” for the words “continuous service”.

Subsection (1) was amended, as from 4 October 1957, by section 2(b) Government Superannuation Fund Amendment Act 1957 (1957 No 16) by inserting the words “and has never been included”.

Subsection (1) first proviso was amended, as from 14 December 1962, by section 5(1) and (2) Government Superannuation Fund Amendment Act 1962 (1962 No 130) by omitting the words “being a male” and the words “or a female whose age exceeds 40 years”.

Subsection (1) first proviso was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1) second proviso was inserted, as from 22 October 1959, by section 5(2) Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsection (1) second proviso was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (2) was amended, as from 1 January 1960, by section 250(4) Post Office Act 1959 (1959 No 30) by substituting the words “the Post Office” for the words “the Post and Telegraph Department”.

Subsection (3) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (4) was inserted, as from 14 December 1962, by section 5(2) Government Superannuation Fund Amendment Act 1962 (1962 No 130).

Section 23 was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

23A Election to contribute in respect of notional service

- (1) Every contributor who is an employee in the Public Service within the meaning of the State Sector Act 1988 or who is an Education Board employee to whom this section applies may elect to contribute to the Fund in respect of a period (in this section referred to as a period of notional service) not exceeding—
- (a) five years in the case of a contributor who will have less than 35 years’ contributory service on the date on which he attains the age of 60 years if he makes no election under this section;
 - (b) the period necessary to give the contributor 40 years of contributory service on the date on which he attains the age of 60 years in the case of a contributor who will

have 35 years or more contributory service on that date if he makes no election under this section.

- (2) Notwithstanding anything to the contrary in subsection (1) of this section, where any such employee is a contributor in respect of any period or periods of service or training included as Government service under paragraph (a) will or paragraph (c) of subsection (2) of section 2 of this Act, the maximum period of notional service specified in respect of that contributor under subsection (1) of this section shall be reduced by the period or periods of that service or training for which he is a contributor.
- (3) Where any contributor who has elected under this section to contribute in respect of notional service subsequently elects to contribute in respect of any other period of service, the period for which he may so elect to contribute in respect of that other service shall be reduced, where necessary, to the extent that the maximum period of notional service specified under subsection (1) of this section would have been reduced under this section had the election to contribute in respect of other service preceded the election to contribute in respect of notional service.
- (4) Any election under this section shall be made before the contributor attains the age of 50 years or before the expiration of 3 years from the date of his appointment to the Public Service, whichever is the earlier:
Provided that, where the contributor's current period of service in the Public Service commenced before the 1st day of August 1964, any election under this section shall be made before the date on which he attains the age of 40 years or the 1st day of August 1967, whichever is the earlier.
- (4A) An election under this section by an Education Board employee to whom this section applies shall be made before the contributor attains the age of 50 years or before the expiration of 3 years from the date of the commencement of his current period of employment by an Education Board, which ever is the earlier:
Provided that, where the contributor's current period of employment by an Education Board commenced before the 1st day of December 1967, any election under this section shall be

made before the date on which he attains the age of 40 years or the 1st day of December 1970, whichever is the earlier.

- (5) The period of notional service covered by any election under this section shall be deemed immediately to precede the contributor's current period of contributory service and in respect of each day of the notional service the contributor shall contribute to the Fund upon such conditions as the Authority thinks fit (including payment of contributions at such rate or rates as the Authority may determine) in respect of the notional service.
- (6) On the notification by the Authority to the contributor of the total amount which he is required to contribute to the Fund under subsection (5) of this section in respect of the period of notional service for which he has elected to contribute, he may pay all or portion of it as a lump sum within 3 months after the date on which he is so notified, and may pay any balance not so paid by instalments over such period not exceeding 10 years as the Authority may determine:
Provided that, where any portion of the amount so payable is paid by such instalments, interest at such rate and calculated in such manner as the Authority may from time to time determine shall be payable thereon.
- (7) Section 35 of this Act, as substituted by section 8 of the Government Superannuation Fund Amendment Act 1962, shall not apply by reason only of the operation of subsection (5) of the said section 35, to any female who makes an election under this section.
- (8) The Education Board employees to whom this section applies shall be those employed under the Education Authorities Employment Regulations 1982.

Section 23A was inserted, as from 4 December 1964, by section 3(1) Government Superannuation Fund Amendment Act 1964 (1964 No 125).

The reference in subsection (1) to the State Sector Act 1988 replaces a reference to the repealed State Services Act 1962.

Subsection (1) was amended, as from 24 November 1967, by section 4(1) Government Superannuation Fund Amendment Act 1967 (1967 No 141) by inserting the words "or who is an Education Board employee to whom this section applies".

Subsection (4A) was inserted, as from 24 November 1967, by section 4(2) Government Superannuation Fund Amendment Act 1967 (1967 No 141).

Subsection (5) was substituted, as from 25 December 1986, by section 8 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsections (5) and (6) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (5) and (6) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (8) was inserted, as from 24 November 1967, by section 4(3) Superannuation Amendment Act 1967 (1967 No 141).

Subsection (8) was substituted, as from 1 April 1988, by section 87 State Sector Act 1988 (1988 No 20).

24 Election to contribute in respect of previous contributory service

- (1) Subject to the provisions of this Part of this Act, any person who is for the time being a contributor to the Fund from the commencement of his current period of service in the Government service, and who was a contributor in respect of a previous period of service in the Government service which is not continuous with his current period and in respect of which he has not received any retiring allowance, may, with the consent of the Authority, elect to contribute to the Fund from any earlier date not before the commencement of his previous period of service in the Government service (whether his previous period of contributory service commenced at that time or later):

Provided that no contributor shall be entitled to elect under this section to contribute to the Fund in respect of any period exceeding one year during which he was not employed in the Government service.

- (2) Section 35 of this Act, as substituted by section 8 of the Government Superannuation Fund Amendment Act 1962, shall not apply, by reason only of the operation of subsection (5) of the said section 35, to any female who makes an election under this section on or after the 1st day of April 1962, whether before or after the passing of this Act, if that person was over the age of 40 years on the said 1st day of April 1962.

Compare: 1947 No 57 s 21; 1948 No 79 s 6

Subsection (1) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (2) was inserted, as from 14 December 1962, by section 6 Government Superannuation Fund Amendment Act 1962 (1962 No 130).

25 Election to contribute in respect of previous service as contributing employee under a National Provident Fund scheme

Subject to the provisions of this Part of this Act, any contributor to the Fund in respect of whom the Minister of Finance or a local authority or any other person has previously been a contributor to any superannuation scheme under the National Provident Fund Act 1950, and who has not received a refund of his contributions and is not in receipt of a retiring allowance from the National Provident Fund under that scheme may, with the consent of the Authority, elect to contribute to the Fund from any date before the commencement of his service in the Government service, but not before the commencement of his period of service for the purposes of the National Provident Fund Act 1950:

Provided that where under the provisions of this section a female contributor elects, on or after the 1st day of April 1962, and whether before or after the enactment of this proviso, to contribute to the Fund from any date before the said 1st day of April 1962, she shall for the purposes of this Act be deemed—

- (a) to have been a contributor to the Fund during the period to which her election relates; and
- (b) to have received, as a result of the Government Service Equal Pay Act 1960, a benefit by way of an increase in salary maximum that became effective on the 1st day of April 1962.

Compare: 1947 No 57 s 22

Section 25 proviso was inserted, as from 14 December 1962, by section 7 Government Superannuation Fund Amendment Act 1962 (1962 No 130).

Section 25 was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Section 25 was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

26 General provisions as to elections to become contributors

- (1) No person shall be entitled to elect under this part of this Act to become a contributor or to contribute to the Fund in respect of any period before the date of his attaining the age of 17 years: Provided that this subsection shall not apply to any person who—
 - (a) has been employed in the Government service continuously from a date before the 1st day of January 1946; or
 - (b) has become a contributor to the Fund, with the approval of the Appeals Board, during the period commencing on the 1st day of April 1975 and ending with the 13th day after the date on which the Superannuation Schemes Act 1976 received the Governor-General’s assent.
- (2) No person shall be entitled to elect under this Part of this Act to become a contributor or to contribute to the Fund in respect of any period during which he was a defaulter within the meaning of the National Service Emergency Regulations 1940.
- (3) No person shall be entitled to elect under this Part of this Act to become a contributor or to contribute to the Fund in respect of any previous period of service as a permanent member of the regular forces not earlier than the 1st day of April 1946 unless he repays, without interest, the amount of any gratuity paid to him in respect of that previous period of service in accordance with a scale of pay coming into force on or after that date.
- (4) Every election under this Part of this Act shall be made in writing delivered to the Authority.
- (5) Where any person elects under this part of this Act to become a contributor or to contribute to the Fund in respect of any period before the date of his election he shall pay into the Fund within such time and in such manner as the Authority may allow in that behalf, such sum as the Authority may fix in respect of that period, having regard to the rate of salary payable to the contributor at the date of his election; and his contributory ser-

vice, unless it commenced before that period, shall be deemed to have commenced at the beginning of that period:

Provided that the Authority may, in its discretion, when fixing the sum payable, have regard to any rate of salary payable to the contributor during his service in the Government service before the date of his election greater than the rate of salary payable to the contributor at that date:

Provided also that all such periods and any earlier period of contributory service shall be added together to form one continuous period which shall be deemed immediately to precede the contributor's current period of contributory service and to form part thereof.

- (6) Where no actual liability has been imposed on the Fund by reason of an election made under this Part of this Act, the election may be revoked by writing delivered to the Authority within 3 months after the date of the delivery of the election, or, with the consent of the Authority, at any time thereafter.

Compare: 1947 No 57 s 23; 1948 No 79 s 7; 1950 No 94 ss 4(1), 5(1), 6(1)

Subsection (1) proviso was substituted, as from 1 April 1975, by section 5 Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Subsection (1) proviso was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words "Appeals Board" for the word "Board".

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (5) was substituted, as from 1 April 1961, by section 6(1) Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsections (5) and (6) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Subsection (5) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (6) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

27 Continuity of service

Where the Government service of any person has been interrupted (whether before or after the date of the commencement of the Government Superannuation Fund Amendment

Act 1985) it shall, for the purposes of this part of this Act, to the extent that the Authority so determines and subject to such conditions as it thinks fit including payment of contributions at such rate or rates as the Authority may determine in respect of the interruption, be deemed not to have been interrupted.

Section 27 was substituted, as from 29 March 1985, by section 6 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Section 27 was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Section 27 was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

28 Right to cease to be contributor under Part 2

- (1) Any contributor may at any time deliver to the Authority notice in writing of the contributor’s intention to cease to be a contributor to the Fund on the expiration of the day on which the notice is received by the Authority. Any such notice shall state whether the contributor—
 - (a) elects to receive from the Fund a refund without interest of the total amount of the contributor’s contributions to the Fund (less any amounts already received by the contributor from the Fund); or
 - (b) elects, subject to regulations made under section 97 of this Act, to leave the contributor’s contributions in the Fund, and to receive—
 - (i) a deferred pension; or
 - (ii) a deferred lump sum,—in accordance with those regulations.
- (2)
- (3)
- (4) The contributor ceases to be a contributor to the Fund on the expiration of the day on which the notice is received by the Authority and, if the contributor elected to take a refund, that refund must be paid pursuant to the election as soon as practicable after that.
- (5) Notwithstanding anything to the contrary in this Act, nothing in this Part of this Act shall apply in respect of any period

of Government service after the effective date of an election under subsection (1)(b) of this section.

Subsection (1) was amended, as from 29 March 1985, by substituting the expression “3 months” for the expression “6 months”.

Section 28 was substituted, as from 1 July 1991, by section 5 Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77).

Subsection (1) (that part before paragraph (a)) was amended, as from 2 October 2001, pursuant to section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (1) (that part before paragraph (a)) was amended, as from 2 October 2001, by section 10(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “on the expiration of the day on which the notice is received by the Authority” for the words “on the expiration of 3 months from the date on which the notice is delivered”. See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 Government Superannuation Fund Amendment Act 2001, which allows the minister to enter into transitional agreements. See Part 2 of that Act as to various miscellaneous provisions.

Subsection (1)(b) was substituted, as from 1 October 1995, by section 5(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsection (2) was repealed, as from 1 October 1995, by section 5(2) Government Superannuation Fund Amendment Act 1995 (1995 No 28)

Subsection (3) was repealed, as from 2 October 2001, by section 10(2) Government Superannuation Fund Amendment Act 2001 (2001 No 47).

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the words “, if the contributor elected to take a refund, that refund shall be paid” for the words “payment shall be made”.

Subsection (4) was substituted, as from 2 October 2001, by section 10(2) Government Superannuation Fund Amendment Act 2001 (2001 No 47). See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 Government Superannuation Fund Amendment Act 2001, which allows the minister to enter into transitional agreements. See Part 2 of that Act as to various miscellaneous provisions.

Subsection (5) was inserted, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Contributions

29 Contributions to be deducted from salary

- (1) The contribution to be made by a contributor shall be the following percentage of his salary, and shall be deducted from

his salary and paid to the Fund as the salary becomes payable from time to time, that is to say:

- (a) unless the contributor (in accordance with subsection (4) of section 2 of the Government Superannuation Fund Amendment Act 1969) has duly elected to contribute under paragraph (b) of this subsection,—
 - (i) six percent if his age does not exceed 30 years at the commencement of his contributory service:
 - (ii) seven percent if his age then exceeds 30 years but does not exceed 35 years:
 - (iii) eight percent if his age then exceeds 35 years but does not exceed 40 years:
 - (iv) nine percent if his age then exceeds 40 years but does not exceed 45 years:
 - (v) ten percent if his age then exceeds 45 years but does not exceed 50 years:
 - (vi) eleven percent if his age then exceeds 50 years:
 - (b) if the contributor (in accordance with subsection (4) of section 2 of the Government Superannuation Fund Amendment Act 1969) has duly elected to contribute under this paragraph,—
 - (i) five percent if his age does not exceed 30 years at the commencement of his contributory service:
 - (ii) six percent if his age then exceeds 30 years but does not exceed 35 years:
 - (iii) seven percent if his age then exceeds 35 years but does not exceed 40 years:
 - (iv) eight percent if his age then exceeds 40 years but does not exceed 45 years:
 - (v) nine percent if his age then exceeds 45 years but does not exceed 50 years:
 - (vi) ten percent if his age then exceeds 50 years.
 - (c)
 - (d)
 - (e)
 - (f)
- (2) For the purposes of this section a contributor's age shall be deemed to exceed 30 years on and after the thirtieth anniver-

sary of his birth, and the other ages referred to in this section shall be calculated respectively in the same manner.

- (3) For the purposes of this section and of sections 19 and 20 of the Government Superannuation Fund Amendment Act 1962, where any person has elected to become a contributor or to contribute to the Fund in respect of any period before the date of his election, his contributory service shall not be deemed to have commenced at any date in that period until he has paid in full into the Fund such sum as the Authority has fixed in each case in respect of that period, and where necessary any adjustment of percentage of contribution by reference to his age at the commencement of that period shall be made only from the date of the completion of the payment of that sum and only in respect of service subsequent to that date.

Compare: 1947 No 57 s 26

Subsection (1) was amended, as from 15 June 1969, by section 2(1) Government Superannuation Fund Amendment Act 1969 (1969 No 38) by substituting paras (a) and (b).

Subsection (1)(c) to (f) were repealed, as from 15 June 1969, by section 2(1) Government Superannuation Fund Amendment Act 1969 (1969 No 38)

Subsection (3) was inserted, as from 1 April 1961, by section 7(1) Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsection (3) was amended, as from 14 December 1962, by section 27(2) Government Superannuation Fund Amendment Act 1962 (1962 No 130) by substituting the words “sections 19 and 20 of [the Government Superannuation Fund Amendment Act 1962” for the words “sections 19 and 20 of the Police Act 1958”.

Subsection (3) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

30 Variable percentage scheme

- (1) For the purposes of this section and subsection (6) of section 22B of this Act the expression **standard rate of contribution**, in relation to any contributor, means the percentage of his salary to be contributed to the Fund as determined under section 29 of this Act.
- (2) Subject to subsection (4) of this section, any non-compulsory contributor whose standard rate of contribution would other-

wise be greater than 6 percent of his salary may elect to contribute to the Fund on the basis of 6 percent of his salary. Every such election shall take effect on the date as at which the contributor becomes a contributor if it is made at the time when he elects to become a contributor, and in any other case shall take effect at the expiration of the 6 months commencing with the date of the receipt of the election by the Authority.

- (3) Subject to subsection (4) of this section, any contributor who, under the provisions of this section or the corresponding provisions of any previous section or under the provisions of subsection (6) of section 22B of this Act, is contributing to the Fund on the basis of 6 percent of his salary or any lesser percentage may at any time elect to contribute to the Fund at his standard rate of contribution. Every such election shall take effect at the expiration of 6 months from the date of the receipt of the election by the Authority.
- (4) Except with the consent of the Authority, no contributor shall make more than 3 elections pursuant to subsections (2) and (3) of this section or to subsection (6) of section 22B of this Act after he has become a contributor to the Fund.
- (5) Where under the provisions of this section or the corresponding provisions of any previous section or under the provisions of subsection (6) of section 22B of this Act a contributor contributes to the Fund on the basis of 6 percent or any lesser percentage of his salary during any period of contributory service, every annuity or allowance otherwise payable to any person by reason of the contributor's contributions to the Fund shall be reduced by the proportion of the contributor's standard rate of contribution that is in excess of the percentage contributed, whether or not the annuity or allowance is payable at a minimum rate prescribed by this Act.
- (6) Where a contributor who is contributing to the Fund under the provisions of this section or the corresponding provisions of any previous section or under the provisions of subsection (6) of section 22B of this Act on the basis of 6 percent or any lesser percentage of his salary elects to contribute at his standard rate of contribution on and after the date when the election takes effect, he may at the same time elect to contribute at his standard rate of contribution in respect of the whole or any part

of the period of his contributions on the basis of 6 percent or any lesser percentage of his salary. In every such case,—

- (a) from the expiration of 6 months commencing on the date of receipt of the election, the contributor shall be deemed to have contributed at his standard rate during the period to which the election relates; and
- (b) the contributor shall pay into the Fund, within such time and in such manner as the Authority may allow in that behalf, the balance of his contributions at his standard rate of contribution for the period to which the election relates together with compound interest thereon calculated at the rate of 5 percent per annum with annual rests.

- (7) Where any contributor was, at the 31st day of March 1975, by reason of an election under the provisions of section 30 of this Act, contributing a percentage of salary less than his standard rate of contributions, he may continue to contribute at the rate applicable to him at that date.

Section 30 was substituted, as from 1 April 1975, by section 6 Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Subsection (1) was amended, as from 1 March 1978, by section 2(2)(a) Government Superannuation Fund Amendment Act 1978 (1978 No 95) by inserting the words “and subsection (6) of section 22B of this Act”.

Subsection (2) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3) was amended, as from 1 March 1978, by section 2(2)(b) Government Superannuation Fund Amendment Act 1978 (1978 No 95) by inserting the words “or under the provisions of subsection (6) of section 22B of this Act”.

Subsection (3) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was amended, as from 1 March 1978, by section 2(2)(c) Government Superannuation Fund Amendment Act 1978 (1978 No 95) by inserting the words “or to subsection (6) of section 22B of this Act”.

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (5) was amended, as from 1 March 1978, by section 2(2)(b) Government Superannuation Fund Amendment Act 1978 (1978 No 95) by inserting the words “or under the provisions of subsection (6) of section 22B of this Act”.

Subsection (6) was amended, as from 1 March 1978, by section 2(2)(b) Government Superannuation Fund Amendment Act 1978 (1978 No 95) by inserting the words “or under the provisions of subsection (6) of section 22B of this Act”.

Subsection (6)(b) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (6)(b) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

31 Other contributions

[Repealed]

Section 31 was repealed, as from 29 March 1985, by section 22(3) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

32 Contributions while salary temporarily stopped

Where the salary of a contributor is for any period temporarily stopped on the ground of ill health or for any other reason, or where for any period a contributor is on leave of absence without salary or at a reduced salary, or is not employed in the Government service but has not retired therefrom, he shall during that period continue to contribute to the Fund in such manner and to such extent as may be determined by the Authority.

Compare: 1947 No 57 s 28

Section 32 was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Section 32 was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

33 Election to contribute on higher salary in case of reduction

- (1) Where for any reason other than misconduct a contributor's salary has been reduced (whether by reason of his transfer or appointment to another position or otherwise) he may, with the consent of his controlling authority immediately following the date of the reduction, by notice in writing delivered to the Authority not later than 3 months after the date of the reduction or 3 months after the commencement of this Act (whichever is the later) or within such further time as the Authority may in any case allow, elect to continue to contribute to the Fund as if his salary had not been so reduced; and every person so electing and contributing shall be entitled on retirement to a retiring allowance (if any) computed as if his salary had not been so reduced.
- (1A) Where any election is made under this section after the date of the commencement of the Government Superannuation Fund Amendment Act 1985, the Authority may require the contributor to pay, in respect of the difference between the salary received by the contributor from time to time and the salary the contributor would have received from time to time, as additional contributions the amount certified by the Authority, after receiving advice from an actuary, as the total amount of contributions that would be required to be paid if the contributions provided the total cost of the benefits to which the contributor may become entitled under this Act, or such lesser amount as the Authority may determine.
- (2) An election may be made under this section notwithstanding that the contributor may have been appointed to a position in the Government service under another controlling authority.
- (3) No contributor may make any election under this section following an interval during which he was not in the Government service, except with the consent of the Authority.

Compare: 1947 No 57 s 29; 1951 No 65 s 5

Subsection (1) was amended, as from 22 October 1959, by section 8(1) Government Superannuation Fund Amendment Act 1959 (1959 No 85) by substituting the words "his controlling authority immediately following the date of the reduction" for the words "the controlling authority".

Subsection (1) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (1A) was inserted, as from 29 March 1985, by section 8 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Section 33(1A): amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

Subsection (1A) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1A) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsections (2) and (3) were inserted, as from 22 October 1959, by section 8(2) Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsection (3) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Benefits of the Fund

34 Application of Fund

[Repealed]

Section 34 was repealed, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

35 Retiring allowance

- (1) Every contributor to whom this section applies may at any time retire from the Government service, and shall after his or her retirement in any manner from the Government service be entitled to receive from the Fund an annual retiring allowance for the rest of his or her life.
- (1A) The amount of any such annual retiring allowance shall, except as provided in subsection (6) of this section, be the pension percentage of the contributor’s annual salary calculated in accordance with this section and increased in accordance with subsection (1D) of this section.
- (1B) For the purposes of this section—

appropriate fraction means one one hundred-and-twentieth part

pension percentage means the percentage calculated in accordance with the following formula

$$P \times (0.7 + (0.014 \times t))$$

where—

P is the appropriate fraction multiplied by the number of years (including fractions of a year) of contributory service:

t is the number, if any, of years (including fractions of a year) by which the date on which the retiring allowance commences to be payable precedes the 1st day of October 1999.

- (1C) Where a contributor's contributory service is or includes a period or periods of employment otherwise than on a full-time basis, the length of the contributory service shall be reduced proportionately to the extent that the Authority may determine in each case.
- (1D) Every retiring allowance calculated in accordance with this section shall be increased by an amount equal to the amount of the retiring allowance that would be determined in accordance with subsections (1A) to (1C) of this section if any period of contributory service in excess of 40 years were ignored in the calculation.
- (1E) For the purposes of subsection (1B) of this section, the contributory service of a contributor to the Fund under Part 2 of the Government Superannuation Fund Amendment Act 1962 means the amount of that service as increased under section 21 of that Act.
- (2) The annual retiring allowance calculated under subsection (1) of this section shall be reduced by the amount of any retiring allowance relating to a previous period of contributory service which he or she has surrendered under section 91 of this Act.
- (3) This section shall apply to the following persons:
- (a) every contributor whose age is not less than 65 years:
 - (b) every contributor whose age is not less than 60 years and whose length of contributory service is not less than 40 years:

- (c) every contributor employed in the New Zealand Railways Corporation or the Police within the meaning of the Police Act 1958 or the Prisons Service within the meaning of Part 2 of the Government Superannuation Fund Amendment Act 1962 or who became employed in the Public Service within the meaning of the State Sector Act 1988 after the 31st day of July 1964 or who became an Education Board employee to whom section 23A of this Act applies after the 30th day of November 1967, being a contributor whose age is not less than 60 years:
- (d) every contributor whose retirement is considered by the Authority to be justified by occupational strain, or by impairment of efficiency arising out of his or her employment, or for any other reason—
 - (i) if his or her age is not less than 60 years; or
 - (ii) if his or her age is not less than 58 years and the length of his or her contributory service is not less than 40 years:
- (e) every contributor employed in the New Zealand Railways Corporation to whom this section is applied by the controlling authority, being a contributor whose length of contributory service is not less than 35 years:
- (f) every contributor to whom this section is applied by the controlling authority, being—
 - (i) a contributor whose age is not less than 60 years; or
 - (ii) a contributor whose age is not less than 55 years and whose length of contributory service is not less than 30 years; or
 - (iii) a contributor whose length of contributory service is not less than 35 years; or
 - (iv) a contributor whose age is not less than 50 years and whose length of contributory service is not less than 20 years:

Provided that this subparagraph shall not apply to any contributor unless he so consents in writing:
- (g) every contributor to whom this section is applied by the controlling authority, being a contributor who—

- (i) has contributory service of not less than 5 years, which shall have commenced before the coming into force of this paragraph; and
 - (ii) has been employed in the Government service for a period of not less than 40 years; and
 - (iii) has been compulsorily retired by his controlling authority.
- (4) This section shall also apply to every contributor who has been employed in the Government service continuously from a date before the 1st day of January 1946, or whose period of contributory service commenced before that date, if the length of his or her contributory service is not less than 40 years.
- (5) Except as provided in subsection (2) of section 22, or subsection (4) of section 23, or subsection (7) of section 23A, or subsection (2) of section 24, of this Act, this section shall also apply to the following persons:
 - (a) every female contributor whose age is not less than 55 years and whose contributory service commenced before the 1st day of April 1962, being—
 - (i) a female contributor whose age was not less than 55 years on the 1st day of April 1962 or who attained that age at any time before the 1st day of April 1965; or
 - (ii) a female contributor whose age was not less than 45 years on the 1st day of April 1962 and who, after attaining the age of 55 years, completed a period of contributory service additional to that which she had completed before attaining that age, which additional period was not less than the period between the 1st day of April 1962 and the date on which she attained the age of 55 years; or
 - (iii) a female contributor who, in the opinion of her controlling authority, received as a result of the Government Service Equal Pay Act 1960 no benefit by way of either an increase in salary or an increase in salary maximum, being a benefit that became effective on or before the 1st day of April 1962; or

- (iv) a female contributor who, in the opinion of her controlling authority, received as a result of the Government Service Equal Pay Act 1960 a benefit by way of either an increase in salary or an increase in salary maximum, being a benefit that became effective on or before the 1st day of April 1962, or a female contributor who was at that date undergoing a course of training for the purpose of qualifying for a position for which such a benefit by way of either an increase in salary or an increase in salary maximum would be obtained as a result of the Government Service Equal Pay Act 1960:

Provided that the annual retiring allowance of a contributor to whom this section applies by reason only of this subparagraph shall be reduced as provided in subsection (6) of this section:

- (b) every female contributor whose length of contributory service is not less than 30 years and whose contributory service commenced before the 1st day of April 1962, being—
 - (i) a female contributor who had completed that length of contributory service on the 1st day of April 1962 or who completed that length of contributory service at any time before the 1st day of April 1965; or
 - (ii) a female contributor whose length of contributory service on the 1st day of April 1962 was not less than 20 years, and who, after completing 30 years of contributory service, completed a further period of contributory service not less than her period of contributory service between the 1st day of April 1962 and the date on which she completed 30 years of contributory service; or
 - (iii) a female contributor who, in the opinion of her controlling authority, received as a result of the Government Service Equal Pay Act 1960 no benefit by way of either an increase in salary or

an increase in salary maximum, being a benefit that became effective on or before the 1st day of April 1962; or

- (iv) a female contributor who, in the opinion of her controlling authority, received as a result of the Government Service Equal Pay Act 1960 an increase in salary or an increase in salary maximum that became effective on or before the 1st day of April 1962, or a female contributor who was at that date undergoing a course of training for the purpose of qualifying for a position for which such benefit by way of either an increase in salary or an increase in salary maximum would be obtained as a result of the Government Service Equal Pay Act 1960:

Provided that the annual retiring allowance of a contributor to whom this section applies by reason only of this subparagraph shall be reduced as provided in subsection (6) of this section:

- (c) every female contributor whose contributory service commenced before the 1st day of April 1962 and to whom this section is applied by her controlling authority, being—
 - (i) a female contributor whose age on the 1st day of April 1962 was not less than 50 years; or
 - (ii) a female contributor whose age on the 1st day of April 1962 was not less than 40 years and who, after attaining the age of 50 years, completed a period of contributory service additional to that which she had completed before attaining that age, which additional period was not less than the period between the 1st day of April 1962 and the date on which she attained the age of 50 years.
- (5A) Subsection (5) of this section shall apply, in relation to any female contributor who is a member of the Police of New Zealand, as if every reference, in subparagraphs (i), (ii), (iii), and (iv) of paragraph (a), in subparagraphs (i), (ii), (iii), and (iv) of paragraph (b), and in subparagraphs (i) and (ii) of paragraph (c), of the said subsection (5), to the 1st day of April

1962, were a reference to the 1st day of November 1965, and as if every reference in those subparagraphs to the 1st day of April 1965 were a reference to the 1st day of November 1968.

- (6) In any case where this section applies to any female contributor by reason only of the operation of subparagraph (iv) of paragraph (a), or subparagraph (iv) of paragraph (b), of subsection (5) of this section, the annual retiring allowance which the contributor is entitled to receive from the Fund after her retirement from the Government service shall be computed as provided in subsections (1) to (1E) of this section, except that the amount of the said annual retiring allowance shall be reduced by an amount equal to half of the amount of the actuarial reduction necessary to ensure that the burden cast on the Fund because this section so applies to that contributor is the same as the burden that would have been cast on the Fund if this section had not so applied to that contributor.
- (7) In the case of any contributor to whom this section applies by virtue of paragraph (f) or paragraph (g) of subsection (3) of this section, and of every contributor to whom this section applies by virtue of paragraph (c) of subsection (5) of this section, the Authority may impose such terms and conditions, whether as to payments into the Fund, reduction of annual retiring allowance as that allowance is computed under this section, or otherwise, as the Authority thinks fit.
- (8) The Authority may, in its discretion, review any determination made before the commencement of this Act by the Teachers' Superannuation Board in so far as it effected a reduction in the retiring allowance payable to a contributor to the Teachers' Superannuation Fund who retired after attaining the age of 60 years but before he had completed 40 years' service.
- (9) For the purposes of this section, a person whose Government service was interrupted for any term which included any part of the period commencing with the 1st day of April 1961 and ending with the 1st day of April 1962, but whose Government service is deemed under subsection (4) of section 11, or under section 27, of this Act not to have been so interrupted, shall be deemed to have received, as a result of the Government Service Equal Pay Act 1960, a benefit by way of either an increase in salary or an increase in salary maximum that be-

came effective on or before the last-mentioned date, if she resumes or has resumed duty in the Government service in a position in which, in the opinion of her controlling authority, she would have received such a benefit if she had held the position throughout the said period.

The original section 35 was amended, as from 22 October 1959, by section 5(3) Superannuation Amendment Act 1959 (1959 No 85) by adding the proviso to subsection (1)(a).

Subsection (1A) was inserted, as from 22 October 1959, by section 26(2) Superannuation Amendment Act 1959 (1959 No 85).

Section 35 was substituted, as from 14 December 1962, by section 8(1) Government Superannuation Fund Amendment Act 1962 (1962 No 130).

The provisos to subsection (1)(b) were substituted, as from 14 November 1963, by section 4(1) Superannuation Amendment Act 1964 (1964 No 125).

Subsection (1) was substituted, and subsections (1A) to (1E) were inserted, as from 1 April 1990, by section 11 Government Superannuation Fund Amendment Act 1990 (1990 No 30).

Subsection (1C) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1C) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3)(c) was amended, as from 4 December 1964, by section 5 Government Superannuation Fund Amendment Act 1964 (1964 No 125) by inserting the words “or who became employed in the Public Service within the meaning of the State Services Act 1962 after the 31st day of July 1964 being a contributor”.

Subsection (3)(c) was amended, as from 24 November 1967, by section 4(4) Government Superannuation Fund Amendment Act 1967 (1967 No 141) by inserting the words “or who became an Education Board employee to whom section 23A of this Act applies after the 30th day of November 1967”.

Subsection (3)(c) was amended, as from 1 April 1982, by section 120(4) New Zealand Railways Corporation Act 1981 (1981 No 119) by substituting the words “the New Zealand Railways Corporation” for the words “the Government Railways Department”.

Subsection (3)(c) was amended, as from 1 April 1988, by section 88(2) State Sector Act 1988 (1988 No 20) by substituting a reference to the “State Sector Act 1988” for a reference to the “State Services Act 1962”.

Subsection (3)(d) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (3)(d) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3)(e) was amended, as from 1 April 1982, by section 120(4) New Zealand Railways Corporation Act 1981 (1981 No 119) by substituting the words “the New Zealand Railways Corporation” for the words “the Government Railways Department”.

Subsection (3)(f) was amended, as from 1 November 1976, by section 7(1)(a) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by omitting the words “employed otherwise than in the Government Railways Department”.

Subsection (3)(f)(iii) was amended, as from 25 October 1963, by section 4(1) Government Superannuation Fund Amendment Act 1963 (1963 No 126) by inserting the word “or”.

Subsection (3)(f)(iv) was inserted, as from 25 October 1963, by section 4(2) Government Superannuation Fund Amendment Act 1963 (1963 No 126).

Subsection (3)(g) was inserted, as from 1 November 1976, by section 7(2) Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Subsection (5) was amended, as from 4 December 1964, by section 3(2) Government Superannuation Fund Amendment Act 1964 (1964 No 125) by inserting the words “or subsection (7) of section 23A”.

Subsection (5)(b)(ii) was amended, as from 25 October 1963, by section 4(3) Government Superannuation Fund Amendment Act 1963 (1963 No 126) by substituting the words “her period of contributory service” for the words “the period”.

Subsection (5A) was inserted, as from 24 November 1967, by section 5 Government Superannuation Fund Amendment Act 1967 (1967 No 141).

Subsection (6) was amended, as from 1 April 1990, by section 11(2) Government Superannuation Fund Amendment Act 1990 (1990 No 30) by substituting the expression “subsections (1) to (1E)” for the expression “subsection (1)”.

Subsection (7) was amended, as from 1 November 1976, by section 7(1)(b) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the words “or paragraph (g)”.

Subsections (7), and (8) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (7) and (8) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

36 Retiring allowance when contributor medically unfit for further duty

- (1) Every contributor who, before becoming entitled to a retiring allowance under section 35 of this Act, retires from the Government service on the ground of being medically unfit for further duty shall, if the Authority is satisfied that his retirement has been consented to by the controlling authority, be entitled

to receive from the Fund an annual retiring allowance computed as provided in the said section 35.

- (2) The Authority may, in its discretion, suspend or reduce or cancel any retiring allowance payable under this section, whether it first became payable before or after the commencement of this subsection, if—
 - (a) the contributor resumes employment, whether in the Government service or elsewhere, or becomes gainfully self-employed; or
 - (b) the contributor, having ceased to be medically unfit for further duty, fails to accept any employment offered by a controlling authority and considered by the Authority to be suitable and reasonable for him; or
 - (c) the Authority is of the opinion that the degree of disability of the contributor is insufficient to justify the payment of the retiring allowance in full or in part; or
 - (d) the contributor fails without sufficient justification to submit himself for medical examination when and as often as required by the Authority; or
 - (e) the Authority does not know the present whereabouts of the contributor or whether he is alive or dead.
- (2A) The Authority may, in its discretion, vary or revoke any decision made by it under this section in respect of any retiring allowance payable under this section, whether the decision was made or the retiring allowance first became payable before or after the commencement of this subsection.
- (3) The provisions of subsection (2) of this section shall not apply to any contributor after the contributor has attained the age of 60 years.
- (4) For the purposes of this Part of this Act a contributor shall be deemed to be medically unfit for further duty if on the certificate of at least 2 medical practitioners approved by the Authority it is established to the satisfaction of the Authority that by reason of mental or bodily infirmity the contributor has become substantially unable to perform any duties which the controlling authority and the Authority consider suitable and reasonable for him.

- (5) Any decision by the Authority to suspend or reduce a retiring allowance under the provisions of subsection (2) of this section shall be disregarded for the purposes of section 45 of this Act.

Compare: 1947 No 57 s 32; 1955 No 107 s 9(1), (2)

Subsection (1) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (2) was substituted, and subsection (2A) was inserted, as from 22 October 1959, by section 10(1) Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsection (2) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (2A) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (2A) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3) was substituted, as from 14 December 1962, by section 9 Government Superannuation Fund Amendment Act 1962 (1962 No 130).

Subsection (4) was amended, as from 29 March 1985, by section 9 Government Superannuation Fund Amendment Act 1985 (1985 No 62) by omitting the words “not caused by irregular or intemperate habits”.

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (5) was inserted, as from 22 October 1959, by section 10(2) Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsection (5) was amended, as from 29 March 1985, by section 22(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62) by substituting the expression “section 45” for the expression “sections 45, 46, and 47”.

Subsection (5) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (5) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

37 Increasing allowance for contributor retiring in consequence of injuries

- (1) Where any contributor to the Fund retires from the Government service as medically unfit for further duty in consequence of injuries suffered by that contributor in the execution of his or her duty, or where the death of a contributor is directly attributable to injuries suffered by the contributor in the execution of his or her duty, if the Authority is of opinion that the retiring allowance payable to the contributor or any annuity payable to a spouse or partner or dependant of the contributor is not sufficient, the Authority may increase the retiring allowance or annuity to such amount as the Authority considers fair and equitable.
- (2) Any increase granted under this section may commence at the time of the contributor’s retirement or death or at any time thereafter, and may be granted for a specified period or otherwise as the Authority thinks fit; and every such increase may be varied or cancelled by the Authority at any time.
- (3) In considering any application for any increase under this section the Authority shall take into consideration any amount paid by way of compensation, damages, pension or compassionate allowance out of the Public Account or from any other source in respect of the death or disablement of the contributor.

Compare: 1947 No 57 s 32A; 1955 No 107 s 12(1)

Subsection (1) was substituted, as from 14 December 1962, by section 10 Government Superannuation Fund Amendment Act 1962 (1962 No 130).

Section 37 was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Section 37 was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (1) was amended, as from 26 April 2005, by section 5 Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “a spouse or partner or” for the words “the widow or any dependent widower or other”.

38 Computation of retiring allowances on average salary for last 5 years of service

- (1) For the purpose of computing the retiring allowance to be granted to a contributor his annual salary shall be deemed to be the average rate of salary on the basis of which he contributed to the Fund during the 5 years immediately preceding his retirement, or, if the length of his contributory service is less than 5 years, then during his contributory service:

Provided that where by reason of age or infirmity the contributor's salary has been reduced (whether by reason of his transfer or appointment to another position or otherwise), his retiring allowance shall be computed on the average rate of salary on the basis of which he contributed to the Fund during the 5 years immediately preceding that reduction or transfer, or the 5 years immediately preceding his retirement, which ever of those average rates is the higher:

[Repealed]

Provided further that, where the contributor was a contributor to the Government Railways Superannuation Fund at any time before the first day of April, nineteen hundred and forty-eight, his retiring allowance shall be computed on his annual rate of pay within the meaning of Part 3 of the Government Railways Act 1926, if computation under this proviso would increase the annual amount of the retiring allowance payable under paragraph (a) of subsection one of section thirty-five of this Act to an amount not exceeding \$300.

- (2) In computing for the purposes of this section the average rate of salary on the basis of which any contributor has contributed to the Fund during any period, no account shall be taken of any interval or intervals in respect of which he has paid no contributions or has paid reduced contributions by reason of his having been temporarily out of employment or by reason of his salary having been temporarily stopped.
- (3) Where a contributor is employed otherwise than on a full-time basis, his annual salary for the purpose of computing the retir-

ing allowance to be granted to him shall be deemed to be such an amount as the Authority may determine in each case:

Provided that the contributions payable by the contributor under section 29 of this Act shall be calculated with reference to his actual salary as received from time to time.

Compare: 1947 No 57 s 33; 1954 No 45 s 4(1)

The expression “\$300” was substituted for the words “one hundred and fifty pounds” in subsection (1) pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Subsection (1) was amended, as from 1 April 1990, by section 12 Government Superannuation Fund Amendment Act 1990 (1990 No 30) by repealing the second proviso.

Subsection (3) was inserted, as from 22 October 1959, by section 5(4) Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsection (3) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

39 Proportionate reduction in contributory service if full contributions not paid

[Repealed]

Section 39 was repealed, as from 29 March 1985, by section 22(3) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

40 Election of variable retiring allowance to secure a level income

- (1) Subject to the provisions of this section, any contributor may, within the time and in the manner prescribed by this section, elect to surrender from any specified date a specified portion of the retiring allowance which, but for his election, he would be entitled to receive from the Fund on his retirement, in order to provide for payment to him from the Fund of an increased retiring allowance up to that specified date.
- (2) An election under this section may be for one reduction of the actual retiring allowance from one specified date or for successive reductions from 2 or more specified dates.
- (3) The maximum amount or proportion of his retiring allowance that any contributor may surrender on making an elec-

tion under this section may be fixed by regulations, and if not so fixed may be determined by the Authority.

- (4) Nothing in the foregoing provisions of this section shall apply with respect to a contributor who retires on the ground of being medically unfit for further duty. Before the Authority consents to an election under this section by any other contributor, it may, in its discretion, obtain such medical evidence as to the health of the contributor as it may require.
- (5) No retiring allowance shall be granted in accordance with this section of an amount that is calculated to impose any additional liability on the Fund, and every such retiring allowance shall, in accordance with regulations in that behalf, be computed as the actuarial equivalent of the retiring allowance to which the contributor would have been entitled if he had not made an election under this section.
- (6) Every election under this section shall be in writing delivered to the Authority.
- (7) An election under this section may be made—
 - (a) at any time within the 3 months immediately preceding the retirement of the contributor, or at any time after retirement and before acceptance of the first instalment of the retiring allowance; or
 - (b) with the consent of the Authority, at any later date.
- (8) More than one election may be made by a contributor under this section, except that second or subsequent elections may be made only with the consent of the Authority.
- (9) A contributor may, with the consent of the Authority, cancel any election under this section by notice in writing delivered to the Authority.
- (10) Where an election is cancelled, future payments of the retiring allowance shall, subject to any further election under this section, be paid at the rate at which they would have been payable if the election had not been made, with an adjustment calculated on actuarial principles in respect of the variation in the amount of the retiring allowance while the election was in force.

- (11) The Authority's consent under subsection (7)(b) or subsection (8) or subsection (9) of this section may be subject to such terms and conditions as the Authority may determine.

Compare: 1947 No 57 s 35

Subsection (3) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (4) was substituted, as from 4 December 1964, by section 6 Government Superannuation Fund Amendment Act 1964 (1964 No 125).

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (6) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (7) was substituted, as from 1 July 1992, by section 5 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

Subsection (7)(b) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Subsection (7)(b) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

The original subsections (8) and (9) were inserted, as from 22 October 1959, by section 11 Superannuation Act 1959 (1959 No 85) and repealed, as from 29 March 1985, by section 22(3) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

The original subsection (10) was inserted, as from 23 December 1977, by section 2 Government Superannuation Act 1977 (1977 No 153) and repealed, as from 29 March 1985, by section 22(3) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsections (8) to (11) were inserted, as from 1 July 1992, by section 5 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

Subsections (8), (9) and (11) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Subsections (8), (9) and (11) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Authority" for the word "Superintendent".

41 Election to receive refund of contributions instead of retiring allowance

- (1) A contributor who retires under circumstances entitling him to a retiring allowance may, at any time before accepting the first instalment of his retiring allowance, elect to accept a refund of the total amount of his contributions to the Fund (less any sums already received by him from the Fund) instead of his retiring allowance, in which case he shall be entitled to receive that refund accordingly without interest, but no further sum shall be payable out of the Fund in the event of his death.
- (2) Where the Authority has suspended, reduced, or cancelled a retiring allowance as provided in subsection (2) of section 36 or subsection (1) of section 69 of this Act, the contributor may, at any time during his lifetime while the retiring allowance is suspended or reduced or cancelled as aforesaid, elect to receive a refund of his contributions, together with interest up to the date when it was first so suspended or reduced or cancelled, calculated in accordance with subsections (3) and (4) of section 42 of this Act (less any sums already received by him from the Fund), in which case no further sum shall be payable out of the Fund in the event of his death.

Compare: 1947 No 57 s 36

Subsection (2) was inserted, as from 22 October 1959, by section 12 Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsection (2) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

42 Refund of contributions on retiring before entitled to retiring allowance

- (1) Where before a contributor becomes entitled to a retiring allowance he retires from the Government service, whether voluntarily or otherwise, he shall be entitled to a refund of the total amount of his contributions to the Fund (less any sums already received by him from the Fund).
- (2) Except as hereinafter provided, every refund under this section shall be without interest.

- (3) Where the retirement of any contributor entitled to a refund under this section is compulsory for any reason other than misconduct, he shall be entitled, in addition to the refund, to receive a further sum by way of interest computed in the same manner as if the contributions from time to time paid by him (after deducting all sums from time to time received by him from the Fund) had been invested at compound interest with yearly rests at a rate calculated using a method that has been determined by the Authority, approved by the Minister, and published in the *Gazette*.
- (4) All such interest shall be computed as if all money paid into or out of the Fund during any financial year has been so paid on the 30th day of June in that year; but interest shall be allowed as aforesaid for the broken period of the year in which the contributor retires.
- (5) For the purposes of this Act no retirement of a contributor from the Government service shall be deemed to be compulsory merely because the contributor is deprived of the position held by him in that service if at any time within 3 months before the deprivation he has been offered and has failed or refused to accept some other position in the Government service which the controlling authority considers suitable for him at a salary not less than that of the position so held by him.
- (6) Where any money has been received, whether before or after the commencement of this subsection, from any person, and the money, for whatever reason, was received in error, the Authority may in its discretion pay to that person, in addition to any refund, interest on the money refunded from the date of its receipt into the Fund at a rate, and on a basis, calculated using a method that has been determined by the Authority, approved by the Minister, and published in the *Gazette*

Compare: 1947 No 57 s 37

Subsection (3) was amended, as from 2 October 2001, by section 11(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “at a rate calculated using a method that has been determined by the Authority, approved by the Minister, and published in the *Gazette*” for the words “at such rate as the Minister of Finance from time to time determines”. See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 Government Superannuation Fund Amendment Act 2001, which allows the

minister to enter into transitional agreements. See Part 2 of that Act as to various miscellaneous provisions.

Subsection (4) was amended, as from 22 October 1959, by section 13(1) Government Superannuation Fund Amendment Act 1959 (1959 No 85) by substituting the words “financial year had been so paid on the 31st day of March” for the words “year had been so paid on the thirty-first day of December”.

Subsection (4) was amended, as from 1 July 1992, by section 6(1) Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61) by substituting the words “financial year has been so paid on the 30th day of June” for the words “financial year had been so paid on the 31st day of March”.

Subsection (6) was inserted, as from 22 October 1959, by section 13(2) Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsection (6) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (6) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (6) was amended, as from 2 October 2001, by section 11(2) Government Superannuation Fund Amendment Act 2001 (2001 No 47), by substituting the words “at a rate, and on a basis, calculated using a method that has been determined by the Authority, approved by the Minister, and published in the *Gazette* for the words ‘at such rate and on such basis as may from time to time be determined by the Minister of Finance’”. See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 Government Superannuation Fund Amendment Act 2001, which allows the minister to enter into transitional agreements. See Part 2 of that Act as to various miscellaneous provisions.

43 Election to continue contributory service after retirement

- (1) Any contributor to the Fund may elect to continue to be a contributor after his retirement, if he retires from the Government service, whether voluntarily or otherwise, before he becomes entitled to a retiring allowance.
- (2) Every election under this section shall be made in writing delivered to the Authority before the retirement of the contributor.
- (3) Every contributor who makes an election under this section shall continue to be a contributor to the Fund after his retirement—
 - (a) until the date on which he elects to cease to be a contributor, which, except with the consent of the Author-

- ity, shall not be more than 3 months after the date of his retirement; or
- (b) until the date on which he again becomes employed in the Government service; or
 - (c) until the date of his death,—
- whichever date first occurs; and if the date specified in paragraph (a) of this subsection first occurs it shall be deemed to be the date of his retirement.
- (4) The period during which any person continues to be a contributor under this section shall be deemed for the purposes of this Act to be contributory service, and he shall be deemed to receive during that period such salary as the Authority may from time to time determine.
 - (5) In respect of his contributory service as aforesaid every contributor shall pay into the Fund within such time and in such manner as the Authority may allow in that behalf—
 - (a) the contributions payable by him under this Act; and
 - (b) the amount by which those contributions are less than the amount certified by the Authority, after receiving advice from an actuary, as the total amount of contributions that would require to be so paid if the contributions provided the total cost of the benefits to which the contributor may become entitled under this Act or such lesser amount as the Authority may determine.
 - (6) Except with the consent of the Authority, no part of the amount paid by any contributor under paragraph (b) of subsection (5) of this section shall be deemed to form part of his contributions to the Fund.

Compare: 1947 No 57 s 58A; 1953 No 61 s 7

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3)(a) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (3)(a) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was amended, as from 14 December 1962, by section 11 Government Superannuation Fund Amendment Act 1962 (1962 No 130) by substituting the words “such salary as the Board may from time to time determine”

for the words “the salary on the basis of which he was contributing immediately before his retirement”.

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsections (5) and (6) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (5) and (6) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Section 43(5)(b): amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

Paragraph (5)(b) was amended, as from 29 March 1985, by section 10 Government Superannuation Fund Amendment Act 1985 (1985 No 62) by inserting the words “or such lesser amount as the Board may determine”.

44 Re-employment of contributor after retiring on allowance

- (1) Where any person who has retired from the Government service on a retiring allowance is re-employed in the Government service he may again become a contributor to the Fund with the consent of the Authority at such rate of contribution as the Authority determines. In any such case the retiring allowance shall not be payable while he continues to be a contributor; and upon his subsequently ceasing to be a contributor his retiring allowance shall be computed separately in respect of each of his periods of service and of the rate of salary on the basis of which he contributed to the Fund during each of those periods: Provided that where his retirement was on the ground of being medically unfit for further duty he may with the consent of the Authority elect to have his retiring allowance computed in respect of the total length of his periods of contributory service as if they were continuous.

(2)

Compare: 1947 No 57 s 38; 1948 No 79 s 9; 1950 No 94 s 8

Subsection (1) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (2) was repealed, as from 29 March 1985, by section 22(3) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

45 Benefits where contributor under this Part dies and leaves spouse or partner

- (1) Where any contributor under this Part of this Act dies before becoming entitled to a retiring allowance and leaves a spouse or partner, there shall be paid out of the Fund to the spouse or partner, at the election of the spouse or partner,—
 - (a) an annuity at—
 - (i) one-half of the rate of the retiring allowance to which the contributor would have been entitled if the contributor had retired on the date of the contributor’s death on the ground of medical unfitness for further duty, disregarding the effect of any election made under section 40 or section 48 of this Act; or
 - (ii) the rate of \$390 a year—
whichever is the greater; or
 - (b) the amount of the contributor’s contributions to the Fund, less any amounts received by the contributor from the Fund during the contributor’s lifetime.
- (2) Where any contributor under this Part dies, after becoming entitled to a retiring allowance and while still entitled to a retiring allowance, and leaves a spouse or partner who last became the spouse or partner of the contributor before the contributor became entitled to receive a retiring allowance, there is to be paid out of the Fund to the spouse or partner, at the election of the spouse or partner,—
 - (a) an annuity at the greater of the following rates:
 - (i) one-half of the rate of the retiring allowance to which the contributor was entitled at the date of the contributor’s death, disregarding the effect of any election made under section 40 or section 48:
 - (ii) the rate of \$390 a year; or

- (b) the amount of the contributor's contributions to the Fund, less any amounts received by the contributor from the Fund during the contributor's lifetime.
- (3) Where any contributor under this Part of this Act dies and leaves a spouse or partner who last became the spouse or partner of the contributor after the contributor became entitled to a retiring allowance and who is not entitled to any payment under subsection (2) of this section, there shall be payable out of the Fund to the spouse or partner, at the election of the spouse or partner,—
 - (a) an annuity at the appropriate proportion of the retiring allowance to which the deceased contributor was entitled at the date of the contributor's death, disregarding the effect of any election made under section 40 or section 48 of this Act which shall be—
 - (i) ten percent of that allowance where the contributor dies less than 2 years after the spouse or partner last became the spouse or partner of the contributor:
 - (ii) twenty percent of that allowance where the contributor dies 2 or more years but less than 3 years after the spouse or partner last became the spouse or partner of the contributor:
 - (iii) thirty percent of that allowance where the contributor dies 3 or more years but less than 4 years after the spouse or partner last became the spouse or partner of the contributor:
 - (iv) forty percent of that allowance where the contributor dies 4 or more years but less than 5 years after the spouse or partner last became the spouse or partner of the contributor:
 - (v) fifty percent of that allowance where the contributor dies 5 or more years after the spouse or partner last became the spouse or partner of the contributor; or
 - (b) the amount of the contributor's contributions to the Fund, less any amounts received by the contributor from the Fund during the contributor's lifetime.

- (4) Every election under subsection (1), subsection (2), or subsection (3) of this section shall be made in writing delivered to the Authority, and shall not be capable of revocation or variation after the first payment from the Fund in accordance with the election is accepted by the spouse or partner.
- (5) The entitlement of any spouse or partner to any lump sum or annuity under this section is not affected by any change in the relationship status of that spouse or partner.
- (6) On or after 1 July 2002, any person living at that date to whom the remarriage rule applies—
 - (a) is entitled to an annuity under Part 2 or Part 5 or Part 6 of the principal Act, as the case may be, as if the remarriage rule had not applied; but
 - (b) is not entitled to an annuity for any period before 1 July 2002 during which the remarriage rule applied to that person.
- (6A) In subsection (6), the **remarriage rule** means the rules contained in—
 - (a) section 45(5) and (6) of the principal Act (before they were repealed by section 4 of the Government Superannuation Fund Amendment Act 2003);
 - (b) the first proviso to section 79(1)(a) of the principal Act (before it was repealed by section 3 of the Government Superannuation Fund Amendment Act 1989) providing that, if the spouse marries or remarries after becoming entitled to an annuity, the annuity is not payable while the spouse is married;
 - (c) the proviso appearing at the end of section 87(1)(a) of the principal Act (before it was repealed by section 2 of the Government Superannuation Fund Amendment Act 1987) providing that, if the spouse marries or remarries after becoming entitled to an annuity, the annuity is not payable while the spouse is married.
- (7) No person shall be entitled to receive more than one annuity under this section.
- (8) This section shall apply in respect of every contributor under this Part of this Act, whether the contributor died before the date of the commencement of the Government Superannuation

Fund Amendment Act 1985 or dies after that date, but shall not apply in respect of any period before that date.

- (9) Where any person has received any payment under the first proviso to section 45(1)(a)(ii) or the first proviso to section 46(1)(a)(ii) of this Act (as repealed by section 11 of the Government Superannuation Fund Amendment Act 1985), that person shall be deemed to have made an election and received a payment under subsection (3)(b) of this section.
- (10) Nothing in this section shall apply in respect of any spouse of a contributor who died before the 1st day of November 1976, unless that spouse was the wife or husband of the contributor at the date of the contributor's death.

The heading was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words "or partner" after the word "spouse".

Subsection (1) of the original section 45 was amended, as from 1 April 1957, by section 14(1)(a) Superannuation Amendment Act 1959 (1959 No 85) by omitting the words "whether before or after becoming entitled to a retiring allowance" and substituting the words "before becoming entitled to a retiring allowance, or after becoming entitled to a retiring allowance and while still entitled to a retiring allowance".

Subsection (1)(a)(i) of the original section 45 was amended, as from 1 April 1957, by section 14(1)(b) Superannuation Amendment Act 1959 (1959 No 85) by inserting before the first instance of the word "retirement" the words "death if he died after his".

Subsection (1)(a)(i) of the original section 45 was amended, as from 19 April 1973, by section 6(1) Superannuation Amendment Act 1972 (1972 No 33) by substituting the expression "\$390" for the words "two hundred and sixty dollars".

Subsection (1)(c) of the original section 45 was amended, as from 12 December 1963, by section 5(1) Superannuation Amendment Act 1963 (1963 No 126) by substituting the words "thirty-nine pounds" for the words "twenty-six pounds".

Section 45 was substituted, as from 1 April 1975 by section 8(1) Government Superannuation Amendment Act 1976 (1976 No 30).

Subsection (1A) of the previous section 45 was inserted, as from 1 April 1975, by section 13(1) Government Superannuation Fund Amendment Act 1979.

Sections 45 to 47 were substituted, as from 29 March 1985, by section 11 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (1) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words "or partner" after the word "spouse".

Subsection (1)(a)(ii) was amended, as from 26 April 2005, by section 6(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by omitting the words "Where the spouse is the widow or widower of the deceased contributor".

Subsection (2)(b)(ii) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (2)(b)(ii) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (2) was substituted, as from 26 April 2005, by section 6(2) Government Superannuation Fund Amendment Act 2005 (2005 No 10).

Subsection (3) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Subsection (3)(a) was amended, as from 1 April 1988, by section 7 Government Superannuation Fund Amendment Act 1988 (1988 No 19) by inserting the words “disregarding the effect of any election made under section 40 or section 48 of this Act”.

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Subsection (5) was substituted, as from 11 March 2003, by section 4 Government Superannuation Fund Amendment Act 2003 (2003 No 2).

Subsection (5) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “relationship status” for the words “marital status”.

Subsection (6)(b) was amended, as from 25 December 1986, by section 9 Government Superannuation Fund Amendment Act 1986 (1986 No 132) by substituting the expression “Part 3” for the expression “Part 2”.

Subsection (6)(b) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (6)(b) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (6) was substituted, as from 11 March 2003, by section 4 Government Superannuation Fund Amendment Act 2003 (2003 No 2).

Subsection (6A) was inserted, as from 11 March 2003, by section 4 Government Superannuation Fund Amendment Act 2003 (2003 No 2).

46 Refund of contributions where contributor under this Part dies without leaving spouse or partner

Where a contributor under this Part of this Act dies and leaves no spouse or partner there shall be paid to the contributor’s personal representatives in trust for the persons entitled to receive

them under the contributor's will or under the Acts relating to the distribution of intestate estates, as the case may be, the contributor's contributions to the Fund, without interest, less—

- (a) any amounts received by the contributor from the Fund during the contributor's lifetime; and
- (b) any amounts that have been paid or may become payable out of the Fund to or on behalf of any child of the contributor.

Subsection (1) of the original section 46 was amended, as from 1 April 1957, by section 14(2) Superannuation Amendment Act 1959 (1959 No 85) by omitting the words “whether before or after becoming entitled to a retiring allowance” and substituting the words “before becoming entitled to a retiring allowance, or after becoming entitled to a retiring allowance and while still entitled to a retiring allowance”.

Subsection (1)(a) was amended, as from 14 December 1962, by section 12 Superannuation Amendment Act 1962 (1962 No 130) by inserting after the first occurrence of the word “husband” the words “who in the opinion of the Board was neither totally nor partially dependent on her immediately before her death”.

In subsection (1) paragraphs (aa) and (ab) were inserted, as from 14 December 1962, by section 12 Superannuation Amendment Act 1962 (1962 No 130).

Paragraph (1)(aa)(i) was amended, as from 19 April 1973, by section 6(2) Superannuation Amendment Act 1972 (1972 No 33) by substituting the expression “\$390” for the words “two hundred and sixty dollars”.

Subsection (1)(b) was amended, as from 12 December 1963, by section 5(2) Superannuation Amendment Act 1963 (1963 No 126) by substituting the words “thirty-nine pounds” for the words “twenty-six pounds”.

Section 46 was substituted, as from 1 April 1975, by section 9(1) Government Superannuation Amendment Act 1976 (1976 No 30).

Subsection (1A) was inserted, as from 1 April 1975, by section 13(2) Government Superannuation Fund Amendment Act 1979 (1979 No 46).

Subparagraph (1)(a)(i) was amended, as from 20 November 1979, by section 14(1) Government Superannuation Fund Amendment Act 1979 (1979 No 46) by substituting the words “in the case of a widower” for the words “(where she leaves a spouse who is her widower and who in the opinion of the Board was totally or partially dependent on her immediately before her death)”.

Sections 45 to 47 were substituted, as from 29 March 1985, by section 11 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

The heading was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Section 46 was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

47 Children's allowance

- (1) On or after 1 July 2002, where any contributor under this Part dies, whether before or after becoming entitled to a retiring allowance, and leaves a child or children under the age of 16 years, there must be paid out of the Fund to, or on behalf of, each child an allowance calculated under section 61Q(7).
- (1A) Without limiting its application, subsection (1)—
 - (a) applies to any child to whom section 47(1) (before it was amended by section 5 of the Government Superannuation Fund Amendment Act 2003) or section 47(2) applied immediately before 1 July 2002:
 - (b) applies to any child to whom section 79(3) (before it was repealed by section 3 of the Government Superannuation Fund Amendment Act 1989) or section 87(1)(d) (before it was repealed by section 2 of the Government Superannuation Fund Amendment Act 1987) applied immediately before 1 July 2002:
 - (c) does not affect the entitlement of any child to be paid a children's allowance before 1 July 2002.
- (2) Where any child of a deceased contributor under this Part of this Act 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 Authority may grant or continue an allowance to that child—
 - (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 Authority thinks fit.
- (3) Any money payable out of the Fund under this section to or on behalf of a child of a deceased contributor may, at the discretion of the Authority, be either paid to the child directly, or expended by the Authority for the benefit of the child, or paid to Public Trust or any other person to be expended on behalf of the child in such manner as Public Trust or that other person thinks fit.

- (4) 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 Authority.
- (5) This section shall apply in respect of the child or children of every contributor under this Part of this Act, whether the contributor died before the date of the commencement of the Government Superannuation Fund Amendment Act 1985 or dies after that date, but shall not apply in respect of any period before that date.

The original subsection (5) was inserted, as from 4 December 1964, by section 5 Superannuation Amendment Act 1964 (1964 No 125).

Sections 45 to 47 were substituted, as from 29 March 1985, by section 11 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (1) was substituted, as from 11 March 2003, by section 5 Government Superannuation Fund Amendment Act 2003 (2003 No 2).

Subsection (1A) was inserted, as from 11 March 2003, by section 5 Government Superannuation Fund Amendment Act 2003 (2003 No 2).

Subsections (2) to (5) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3) was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the words “Public Trust” for the words “the Public Trustee”. *See* clause 2 Public Trust Act Commencement Order 2002 (SR 2002/11).

Subsections (3) and (4) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

48 Annual allowances to surviving spouses, partners, or approved dependants in consideration of election to accept reduced retiring allowances

- (1) In this section—

approved dependant, in relation to a contributor, means a person who, on the date of an election made by the contributor under this section, is wholly or partially dependent on the contributor, and who is approved by the Authority for the purposes of that election

partner, in relation to a contributor, means the person who was the contributor’s civil union partner or de facto partner

on the date of an election made by the contributor under this section

partner: this definition was inserted, as from 26 April 2005, by section 7(2) Government Superannuation Fund Amendment Act 2005 (2005 No 10).

spouse, in relation to a contributor, means the person who was the contributor's spouse on the date of an election made by the contributor under this section.

spouse: this definition was inserted, as from 26 April 2005, by section 7(2) Government Superannuation Fund Amendment Act 2005 (2005 No 10).

Widow*[Repealed]*

Widow: this definition was repealed, as from 26 April 2005, by section 7(2) Government Superannuation Fund Amendment Act 2005 (2005 No 10).

[Repealed]

(2)

- (3) Subject to the provisions of this section, any contributor may, within the time and in the manner prescribed by this section, elect to surrender a specified portion of the retiring allowance which, but for his election, he would be entitled to receive from the Fund on his retirement, in order to provide for payment from the Fund to his spouse, partner, or approved dependant, after his death, of an annual allowance of an amount to be determined by the Authority:

Provided that in no case shall an annual allowance be granted to a spouse, partner, or approved dependant pursuant to an election under this section of an amount that, together with any annuity or allowance that the spouse, partner, or approved dependant is otherwise entitled to receive from the Fund by virtue of the relationship to the contributor, would exceed the rate of the reduced retiring allowance payable to the contributor pursuant to the election.

- (4) An election by a contributor to surrender portion of his retiring allowance in accordance with this section may be—
- (a) an absolute election to surrender portion of the retiring allowance:
 - (b) a contingent election to surrender portion of the retiring allowance in the event of the contributor surviving the spouse, partner, or approved dependant:
 - (c) an absolute election, in accordance with paragraph (a) of this subsection, combined with a contingent election

to surrender a further portion of the retiring allowance in the event of the contributor surviving the spouse, partner, or approved dependant.

- (5) The maximum amount or proportion of his retiring allowance that any contributor may surrender on making an election under this section may be fixed by regulations, and if not so fixed, may be determined by the Authority.
- (6) Nothing in the foregoing provisions of this section shall apply with respect to a contributor who retires on the ground of being medically unfit for further duty, and no election under this section shall be considered by the Authority until it has obtained such medical evidence as to the health of the contributor as the Authority may require or as may be prescribed by regulations.
- (7) No retiring allowance or annual allowance shall be granted in accordance with this section of an amount that is calculated to impose any additional liability on the Fund, and every such retiring allowance and annual allowance that are granted to a contributor and to his spouse or partner or approved dependant shall, in accordance with regulations in that behalf, be computed as the actuarial equivalent of the retiring allowance to which the contributor would have been entitled if he had not made an election under this section.
- (8) Any annual allowance granted in accordance with this section to the spouse or partner of a contributor shall be in addition to any annuity or allowance which she would otherwise be entitled to receive from the Fund.
- (9) On the death of a contributor who has made an election under this section, the following provisions shall apply:
 - (a) the right of his spouse or partner to receive a refund in respect of his contributions to the Fund shall be deemed to have ceased and determined:
 - (b) the right of his personal representatives to receive a refund in respect of his contributions to the Fund shall be deemed to have ceased and determined, except as otherwise provided in paragraph (c) of this subsection:
 - (c) on the death of the contributor or on the death of the spouse or partner or approved dependant, whichever is the later, the amount of the contributions of the contributor to the Fund, less any sums which the contributor

has received out of the Fund in his lifetime, and less the amount of any annual allowance paid to the spouse or partner or approved dependant under this section, and less any sums which have been paid or may become payable in the future out of the Fund to or on behalf of any child or children of the contributor, shall be paid to the personal representatives of the deceased contributor in trust for the persons entitled thereto under his will or under the statutes relating to the distribution of intestates' estates, as the case may be.

- (10) Every election under this section shall be in writing delivered to the Authority.
- (11) An election under this section may be made at any time within the 3 months immediately preceding the retirement of the contributor or may be made after his retirement and before he has accepted the first instalment of a retiring allowance:
[Repealed]
- (11A) Despite subsection (11), if the contributor marries or enters into a civil union or a de facto relationship while in receipt of a retiring allowance, he or she may make an election under this section in favour of his or her spouse or partner at any time within 3 months after the date on which he or she marries or enters into the civil union or the de facto relationship.
- (12) Notwithstanding anything in subsection (11) of this section, but subject to the provisions of this subsection, any contributor who, by reason of age or length of service, is at any time entitled to retire on a retiring allowance or to give notice of his intention so to retire may, on production to the Authority of satisfactory medical evidence as to his health, make an election under this section at any time before his retirement. No election shall be made under this subsection except with the concurrence of the controlling authority. Any election made under this subsection shall take effect on the retirement of the contributor, who shall not, on his retirement, be required to furnish any further medical evidence as to his health.
- (13) An election made by a contributor under subsection (12) of this section shall not be revocable. In the event of the death of any such contributor before he has become entitled to a retiring allowance, his election shall operate in favour of the spouse or

partner or approved dependant as if the contributor had been in receipt of a retiring allowance at the date of his death.

(14)

Compare: 1947 No 57 s 42; 1955 No 107 s 10

The heading was amended, as from 26 April 2005, by section 7(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “surviving spouses, partners,” for the word “widows”. The heading previously read “Annual allowances to widows or approved dependants in consideration of election to accept reduced retiring allowances”.

Subsections (1), (3), (5), (6), 10, and (12) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (1), (3), (5), (6), 10, and (12) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (2) was repealed, as from 26 April 2005, by section 7(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10).

Subsection (3) was amended, as from 26 April 2005, by section 7(4) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “spouse, partner,” for the word “widow”.

Subsection (4) was amended, as from 26 April 2005, by section 7(5) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “spouse, partner,” for the word “widow” in both places where it appears.

Subsection (7) was amended, as from 26 April 2005, by section 7(6) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “spouse or partner” for the word “widow”.

Subsection (8) was amended, as from 26 April 2005, by section 7(6) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “spouse or partner” for the word “widow”.

Subsection (9) was amended, as from 26 April 2005, by section 7(6) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “spouse or partner” for the word “widow” wherever it appears.

The proviso to subsection (11) was repealed, as from 26 April 2005, by section 7(7) Government Superannuation Fund Amendment Act 2005 (2005 No 10).

Subsection (11A) was inserted, as from 26 April 2005, by section 7(8) Government Superannuation Fund Amendment Act 2005 (2005 No 10).

Subsection (13) was amended, as from 26 April 2005, by section 7(6) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “spouse or partner” for the word “widow”.

Subsection (14) was repealed, as from 15 October 1959, by section 2(3) Estate and Gift Duties Amendment Act 1959 (1959 No 43).

49 Payments to personal representatives

Any money payable out of the Fund under the foregoing provisions to the personal representatives of a deceased contributor may, if no grant of probate or of letters of administration is obtained within 3 months after the death of the contributor, be paid to Public Trust in trust for the persons beneficially entitled thereto.

Compare: 1947 No 57 s 43

Section 49 was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the words “Public Trust” for the words “the Public Trustee”. See clause 2 Public Trust Act Commencement Order 2002 (SR 2002/11).

*Cook Islands Public Service, Niue Public
Service, and Tokelau Public Service*

**50 Provisions as to permanent officers becoming contributors
[Spent]**

Section 50 expired with the close of 21 October 1995 pursuant to section 6(2) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

The word “Tokelau” was substituted for the words “Tokelau Islands”, as from 9 December 1976, pursuant to section 3(8) Tokelau Amendment Act 1976 (1976 No 122).

Subsection (1) was amended, as from 1 January 1962, by section 5(a) Government Superannuation Fund Amendment Act 1961 (1961 No 111) by omitting the words “or of the Western Samoan Public Service”.

Subsections (1), (2), (3), (4), (5), and (10) were amended, as from 1 January 1967, by section 733(4)(b) Niue Act 1966 (1966 No 38) by inserting the words “or the Niue Public Service”.

Subsections (1), (2), (3), (4), (5), and (10) were amended, as from 1 January 1969, by section 16(1)(b) Tokelau Amendment Act 1967 (1967 No 38) by inserting the words “or the Tokelau Islands Public Service”. See section 2 of that Act, and Tokelau Islands Amendment Act Commencement Order 1968 (SR 1968/229).

Subsections (2) to (5) were amended, as from 1 January 1962, by section (5)(b) Government Superannuation Fund Amendment Act 1961 (1961 No 111) by omitting the words “or the Western Samoan Public Service”.

Subsection (5A) was inserted, as from 1 January 1969, by section 16(2) Tokelau Amendment Act 1967 (1967 No 38). See section 16(4) of that Act.

Subsection (6) was amended, as from 1 October 1995, by section 33 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (7) was repealed, as from 1 January 1961, by section 5(c) Superannuation Amendment Act 1961 (1961 No 111).

Subsection (8)(f) was inserted, as from 4 October 1957, by section 3 Superannuation Amendment Act 1957 (1957 No 16).

Subsection (8) was repealed, as from 1 January 1961, by section 5(c) Superannuation Amendment Act 1961 (1961 No 111).

Subsection (9) was inserted, as from 2 October 1958, by section 2 Government Superannuation Fund Amendment Act 1958 (1958 No 94).

Subsection (9)(a) was substituted, as from 4 August 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1).

Subsection (9)(d) was amended, as from 4 August 1965, by section 57(4) Cook Islands Amendment Act 1964 (1964 No 70) by substituting the words “the Land Court of the Cook Islands” for the words “the Native Land Court of the Cook Islands”.

Subsections (9)(dd) and (9)(ddd) were inserted, as from 4 August 1965, by section 57(2) Cook Islands Amendment Act 1964 (1964 No 70).

Subsections (9)(dd) and (9)(ddd) were substituted, as from 4 August 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1).

Subsection (9)(e) was amended, as from 1 January 1967, by section 733(4)(c) Niue Act 1966 (1966 No 38) by omitting the words “other than Niue or of the Government of Niue”.

Subsection (9A) was inserted, as from 1 January 1967, by section 733(5) Niue Act 1966 (1966 No 38).

Subsection (9A)(a) was amended, as from 19 October 1974, by section 2(2)(g) Niue Amendment Act 1974 by substituting the words “Chief Justice” for the words “Chief Judge”.

Subsection (9B) was inserted, as from 1 January 1969, by section 16(3) Tokelau Amendment Act 1967. *See* sections 2 and 16(4) of that Act, and the Tokelau Islands Amendment Act Commencement Order 1968 (SR 1968/229).

Subsection (9B) was amended, as from 9 December 1976, by section 2(2)(b) Tokelau Amendment Act 1976 by omitting the word “Islands” from the Short Title of the Tokelau Amendment Act 1967.

Subsections (10) and (11) were inserted, as from 4 December 1964, by section 8 Government Superannuation Fund Amendment Act 1964 (1964 No 125).

Subsections (12) and (13) were inserted, as from 9 June 1995, by section 6(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

50A Members of Cook Islands Public Service may elect to become contributors under Part 2A

- (1) Any permanent officer of the Cook Islands Public Service who, immediately before the 1st day of January 1987 was a contributor to the Fund under section 50 of this Act may, notwithstanding that section, by notice in writing to the Authority at any time before the 1st day of July 1987 or such later date as the Authority may allow, elect to contribute to the Fund under Part 2A of this Act.

- (2) Every election under subsection (1) of this section shall take effect on and from the 1st day of January 1987 and the contributions payable by any contributor who makes such an election and the benefits payable in respect of contributions by that contributor shall be calculated accordingly.
- (3) Any person who, on or after the 1st day of January 1987, is required pursuant to section 50 of this Act to become a contributor to the Fund shall become a contributor to the Fund under Part 2A of this Act.
- (4) Part 2A of this Act shall apply in all respects to any person who becomes a contributor to the Fund under this section.
- (5) Notwithstanding any other provision of this section, no person shall be entitled to make an election under subsection (1) of this section after the 9th day of June 1995.

Section 50A was inserted, as from 25 December 1986, by section 10 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (1) was amended, as from 1 October 1995, by section 33 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was inserted, as from 1 August 1990, by section 6 Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77).

Subsection (4) was substituted, and subsection (5) was inserted, as from 9 June 1995, by section 7(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

50B Members of Niue Public Service and Tokelau Public Service may elect to become contributors under Part 2A

- (1) Any permanent officer of the Niue Public Service or the Tokelau Public Service who immediately before the 1st day of August 1990 was a contributor to the Fund under section 50 of this Act may, notwithstanding that section, by notice in writing to the Authority at any time before the 1st day of February 1991 or such later date as the Authority may allow, elect to contribute to the Fund under Part 2A of this Act.
- (2) Every election under subsection (1) of this section shall take effect on and from the 1st day of August 1990 and the contributions payable by any contributor who makes such an elec-

tion and the benefits payable in respect of contributions by that contributor shall be calculated accordingly.

- (3) Any person who, on or after the 1st day of August 1990, is required pursuant to section 50 of this Act to become a contributor to the Fund shall become a contributor to the Fund under Part 2A of this Act.
- (4) Part 2A of this Act shall apply in all respects to any person who becomes a contributor to the Fund under this section except that—
 - (a) section 61R of this Act shall not apply; and
 - (b) any such person who is at any time on leave of absence without salary may make an election as if section 88J of this Act applied to that person, and that section shall thereupon apply with all necessary modifications.
- (5) Notwithstanding any other provision of this section, no permanent officer of the Niue Public Service shall be entitled to make an election under subsection (1) of this section after the 9th day of June 1995.
- (6) Notwithstanding any other provision of this section, no permanent officer of the Tokelau Public Service shall be entitled to make an election under subsection (1) of this section after the 21st day of October 1995.

Section 50B was inserted, as from 1 August 1990, by section 7 Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77).

Subsection (1) was amended, as from 1 October 1995, by section 33 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsections (5) and (6) were inserted, as from 9 June 1995, by section 8(2) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

51 Computation of contributory service

- (1) Subject to the provisions of this section, for the purpose of computing the length of contributory service of any employee of the Cook Islands Public Service or the Niue Public Service or the Tokelau Public Service or of the Samoan Public Service, every complete continuous year of service in any of those Services shall be computed as one year and a half.

- (2) The foregoing provisions of this section shall not apply with respect to any period served by any such employee on or after the 1st day of April 1931, unless, after his having served for not less than 9 years in the Cook Islands Public Service or the Niue Public Service or the Tokelau Public Service or the Samoan Public Service, or partly in one of those Services and partly in one or more of the other Services, the Authority directs that this section shall so apply.
- (2A) The foregoing provisions of this section shall not apply to any period served by any contributor as an employee of either the Cook Islands Public Service or the Niue Public Service or the Tokelau Public Service or the Samoan Public Service after the 31st day of March 1960:
Provided that this subsection shall not apply to any contributor who is or has been an employee of the Cook Islands Public Service or the Samoan Public Service on or before that date.
- (2B) For the purposes of subsections (1) and (2) of this section, the Authority may direct that any period (other than a period of furlough) when the employee has not performed his normal duties in the Cook Islands Public Service or the Niue Public Service or the Tokelau Public Service or the Samoan Public Service be disregarded.
- (3) After the death of a contributor who at the date of his or her retirement or death was an employee of the Cook Islands Public Service or the Niue Public Service or the Tokelau Public Service or of the Samoan Public Service, the total annual amount of any annuity payable under section 45 of this Act and any children's allowances payable under section 47 of this Act shall not exceed the amount of the annual salary on the basis of which the contributor was contributing to the Fund at the date of his or her retirement or death. Where necessary, the amount of the widow's or widower's annuity and of each allowance shall be reduced by the same proportion so that they do not exceed in the aggregate the maximum amount payable in accordance with this subsection.
- (4) In this section the term **Samoan Public Service** means,—
- (a) in respect of the period after the termination on the 1st day of January 1962 of the Trusteeship Agreement for the Territory of Western Samoa, the service in any cap-

acity of the Government of Western Samoa or of the Western Samoa Trust Estates Corporation:

- (b) in respect of the period before that termination, the Western Samoan Public Service within the meaning of section 2 of the Samoa Amendment Act 1949, and service in any office in which the holder for the time being of the office was deemed under subsection (8) of section 50 of this Act to be a permanent officer of the Western Samoan Public Service.

Compare: 1947 No 57 s 45; 1950 No 94 s 10

The word “Tokelau” was substituted for the words “Tokelau Islands”, as from 9 December 1976, by section 3(8) Tokelau Amendment Act 1976 (1976 No 122).

Subsections (1) and (2) were amended, as from 1 January 1967, by section 733(4)(d) Niue Act 1966 (1966 No 38) by inserting the words “or the Niue Public Service”.

Subsections (1) and, (2) were amended, as from 1 January 1969, by section 16(1)(c) Tokelau Amendment Act 1967 (1967 No 38) by inserting the words “or the Tokelau Public Service”.

Subsection (1) was amended, as from 1 January 1967, by section 733(4)(e) Niue Act 1966 (1966 No 38) by substituting the words “any of those Services” for the words “either of those Services”.

Subsection (2) was amended, as from 4 October 1957, by section 4 Government Superannuation Fund Amendment Act 1957 (1957 No 16) by substituting the expression “9 years” for the words “ten years”.

Subsection (2) was amended, as from 1 January 1967, by section 733(4)(f) Niue Act 1966 (1966 No 38) by substituting the words “partly in one of those Services and partly in one or both of the other Services” for the words “partly in one and partly in the other of those Services”. It was amended, as from 1 January 1969, by section 16(1)(d) Tokelau Amendment Act 1967 (1967 No 38) by substituting the words “partly in one of those Services and partly in one or more of the other Services” for the words “partly in one of those Services and partly in one or both of the other Services”.

Subsection (2) was amended, as from 1 December 1961, by section 6(1) Government Superannuation Fund Amendment Act 1961 (1961 No 111) by substituting the word “Board” for the words “Controlling Authority”.

Subsection (2) was amended, as from 1 October 1995, by section 33 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsections (2A) and (2B) were inserted, as from 22 October 1959, by section 15 Superannuation Amendment Act 1959 (1959 No 85).

Subsections (2A) and (2B) were amended, as from 1 January 1967, by section 733(4)(d) Niue Act 1966 (1966 No 38) by inserting the words “or the Niue Public Service”.

Subsections (2A) and (2B) were amended, as from 1 January 1969, by section 16(1)(c) Tokelau Amendment Act 1967 (1967 No 38) by inserting the words “or the Tokelau Public Service”.

Subsection (2A) was amended, as from 1 January 1967, by section 733(4)(g) Niue Act 1966 (1966 No 38) by substituting the words “the Cook Islands Public Service or the Samoan Public Service” for the words “either of those Services”.

Subsection (2B) was amended, as from 1 December 1961, by section 6(1) Government Superannuation Fund Amendment Act 1961 (1961 No 111) by substituting the word “Board” for the words “controlling authority”.

Subsection (2B) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3) was amended, as from 14 December 1962, by section 12(3)(a) Superannuation Amendment Act 1962 (1962 No 130) by inserting after the second occurrence of the words “the total annual amount of” the words “the widower’s annuity and”.

Subsection (3) was amended, as from 14 December 1962, by section 12(3)(b) Superannuation Amendment Act 1962 (1962 No 130) by inserting the words “or widower’s”.

Subsection (3) was amended, as from 1 January 1967, by section 733(4)(d) Niue Act 1966 (1966 No 38) by inserting the words “or the Niue Public Service”.

Subsection (3) was amended, as from 1 January 1969, by section 16(1)(c) Tokelau Amendment Act 1967 (1967 No 38) by inserting the words “or the Tokelau Public Service”.

Subsection (3) was amended, as from 29 March 1985, by section 22(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62) by substituting the words “any annuity payable under section 45 of this Act and any children’s allowances payable under section 47 of this Act” for the words “the widow’s annuity and the children’s allowances payable under section 45 of this Act or (in the case of a female contributor) the total amount of the widower’s annuity and the children’s allowances payable under section 46 of this Act”.

Subsection (4) was inserted, as from 1 December 1961, by section 6(2) Government Superannuation Fund Amendment Act 1961 (1961 No 111).

51A Computation of refunds for redundant employees of Niue Public Service

Where the cessation of service at any time after the 1st day of June 1991 of any contributor from the Niue Public Service is compulsory for any reason other than misconduct, section 42 of this Act shall apply and be read as if it entitled the contributor to receive a refund of an amount which is the sum of—

- (a) the total amount of the contributor's contributions to the Fund (less any sums already received by the contributor from the Fund); and
- (b) the total amount paid to the Fund in respect of that contributor by the Niue Government under section 95(2) of this Act; and
- (c) a sum by way of interest on both of the total amounts referred to in paragraphs (a) and (b) of this subsection, computed in the same manner as provided for in section 42(3) of this Act.

Section 51A was inserted, as from 1 July 1992, by section 7 Government Superannuation Fund Amendment Act (No 2) 1962 (1992 No 61).

Education service

52 Contributors entitled to pensions from University

- (1) Where any contributor, on retirement from the service of any University in New Zealand or of any University College of Agriculture, is entitled to receive a pension or annual allowance under an agreement with the University or University College of Agriculture, and is also entitled to a retiring allowance under this Part of this Act, he shall not receive both the pension or allowance and the retiring allowance, but the retiring allowance under this Act shall be paid to him and he shall also be entitled to receive so much of the pension or allowance under the agreement as, together with the retiring allowance under this Act, will make up a total sum equal to the pension or allowance that would have been payable to him under the agreement.
- (2) Where any such agreement is still in force the University or University College of Agriculture may, for and on behalf of the contributor and notwithstanding anything in any Act, pay his contributions to the Fund out of its ordinary revenue.

Section 52 was substituted, as from 22 October 1959, by section 16 Superannuation Amendment Act 1959 (1959 No 85).

Subsection (1) was amended, as from 1 November 1976, by section 36(1) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by substituting the words "any University in New Zealand" for the words "the University of New Zealand".

Subsections (1) and (2) were amended, as from 1 January 1962, by section 59(2) Universities Act 1961 (1961 No 54) by substituting the words “University College of Agriculture” for the words “agricultural college”.

52A University contributors entering approved external employment

- (1) In this section the term **approved external employment** means employment by a University of a country within the Commonwealth (other than New Zealand), or employment by an organisation constituted in a country within the Commonwealth (other than New Zealand), being an organisation engaged in research or education services and approved by the controlling authority; and includes such period or periods of travelling time as the controlling authority may approve.
- (2) Where any contributor who is in the Education service under any University or University College of Agriculture, and who has been a contributor for a period of not less than 5 years, retires from that service and enters approved external employment, he may, with the approval of the controlling authority, elect in writing—
 - (a) to continue to contribute to the Fund on the basis set out in subsection (5) of this section after his retirement for a period not exceeding 5 years so long as he remains in approved external employment;
 - (b) to postpone, for such period or periods while he remains in approved external employment as the controlling authority approves, the acceptance by him of a refund of the contributions made by him to the Fund.
- (3) Except with the approval of the Authority,—
 - (a) every initial election under subsection (2) of this section in respect of any period shall be delivered to the Authority before the retirement of the contributor; and
 - (b) every subsequent election under subsection (2) of this section which is made by a contributor who has continued to contribute to the Fund in respect of any period of approved external employment shall be delivered to the Authority before the contributor ceases to contribute to the Fund.

- (4) The period during which any person continues to contribute to the Fund under this section shall be deemed for the purpose of this Act to be contributory service; and he shall be deemed to receive during that period the salary on the basis of which he was contributing immediately before his retirement.
- (5) In respect of his contributory service during the last-mentioned period, every contributor shall pay into the Fund within such time and in such manner as the Authority may allow in that behalf—
 - (a) the contributions payable by him under this Act; and
 - (b) the amount by which those contributions are less than the amount certified by the Authority, after receiving advice from an actuary, as the total amount of contributions that would require to be so paid if the contributions provided the total cost of the benefits to which the contributor may become entitled under this Act.
- (6) Except with the consent of the Authority, no part of the amount paid by the contributor under paragraph (b) of subsection (5) of this section shall be deemed to form part of his contributions to the Fund.
- (7) Where any contributor re-enters the Education service immediately following the termination of any period of approved external employment,—
 - (a) if he continued to contribute to the Fund during that period, he may continue to contribute to the Fund upon his re-entry into the Education service:
 - (b) if an election by him to postpone the acceptance of a refund of the contributions made by him to the Fund continued until the end of that period, that election shall be deemed to extend for a further period of 5 years after the date of his re-entry into the Education service:
Provided that the contributor may, with the approval of the controlling authority, at any time during that further period, elect in writing to resume contributing to the Fund as from the date of the election or some subsequent date within that further period.
- (8) Any period of postponement approved by the controlling authority under subsection (2) of this section, and any extension of that period under subsection (7) of this section, may be at

any time terminated by the contributor by notice in writing addressed to the Authority, and shall terminate in any case where the contributor ceases to be in approved external employment or in the Education service. Every such period, and every extension of any such period, during which the contributor is not actually contributing to the Fund, is hereafter in this section referred to as a period of postponement.

- (9) An election may be made under this section after any second or subsequent retirement from, or re-entry to, the Education service, whether or not the period to which the elections relate in the aggregate exceeds 5 years.
- (10) If on the termination of any period of postponement the contributor, before he has accepted a retiring allowance or a refund of his contributions, recommences to contribute to the Fund, the period of his contributory service before the commencement of that period of postponement shall be deemed, for the purpose of determining his percentage rate of contribution for the second or subsequent period under section 29 of this Act, immediately to precede the period of his contributory service after that recommencement and to form part thereof.
- (11) The contributor shall be deemed to continue to be a contributor to the Fund during any period of postponement:
Provided that no contributions shall be payable by the contributor to the Fund, and no payments shall be made to the contributor for his own benefit out of the Fund in respect of any period of postponement or any part thereof, and no part of any such period shall be regarded as part of the period of his contributory service:
Provided also that the provisions of section 36 of this Act shall not apply during any period of postponement.
- (12) Any contributor to whom section 35 of this Act becomes applicable during any period of postponement, or while he is contributing to the Fund under paragraph (a) of subsection (2) of this section, shall be entitled to receive from the Fund an annual retiring allowance computed in terms of that section as if he had retired from the Government service on the first date when that section became applicable to him; and he shall not be entitled to continue to contribute to the Fund after that date.

- (13) Where any contributor dies during a period of postponement or while the contributor is contributing to the Fund under paragraph (a) of subsection (2) of this section, the provisions of sections 45 and 47 of this Act shall apply as if the contributor would have become entitled to a retiring allowance if he had retired on the date of his death on the ground of being medically unfit for further duty.
- (14) Where any contributor retires, for whatever reason, from approved external employment before section 35 of this Act becomes applicable to him, whether or not he is contributing to the Fund under paragraph (a) of subsection (2) of this section, if he does not immediately re-enter the Education service, section 42 of this Act shall apply as if he had retired from the Government service, and the provisions of section 36 of this Act shall not apply in any such case.

Sections 52A and 52B were inserted, as from 22 October 1959, by section 17 Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsection (2) was amended, as from 1 January 1962, by section 59(1) Universities Act 1961 (1961 No 54) by substituting the words “any University or University College of Agriculture” for the words “the university of New Zealand or under any University that is a constituent institution of that University or under any agricultural college”.

In subsections (5) and (6) and (8) the word “Superintendent” was substituted for the word “Board”, as from 1 October 1995, by section 33 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsections (3), (5), (6), and (8) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Section 52A(5)(b): amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

Subsection (13) was amended, as from 29 March 1985, by section 22(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62) by substituting the expression “sections 45 and 47” for the expression “sections 45, 46, and 47”.

52B Contributors to Federated Superannuation Scheme for Universities

- (1) Where any person becomes employed in the Education service by any University or University College of Agriculture and an unencumbered policy under or formerly under the Federated Superannuation Scheme for Universities or any other Superannuation Scheme for the time being approved by the Gov-

ernor-General by Order in Council for the purposes of this section is held on his behalf by a University or an organisation approved by the controlling authority, the Minister of Finance is hereby authorised, in respect of a period not exceeding 5 years from the date of the commencement of that employment during which the person pays his own contributions for the keeping up of the policy, to pay during each financial year out of the Consolidated Account, without further appropriation than this section, to the University or University College of Agriculture or to the Secretary to that Scheme or to such person as the Minister of Education approves, as the case may be, such amount as he considers is required to pay in that year any employer's subsidy in respect of the unencumbered policy. Any such payment may be so made whether or not any employer's subsidy in respect of the policy or person has been paid in respect of any prior period, and whether or not the periods in the aggregate exceed 5 years.

- (2) No person shall be entitled to elect to become a contributor or to contribute to the Fund in respect of any period in respect of which the employer's subsidy under the Superannuation Scheme has been paid from the Consolidated Account, but any such period shall rank as contributory service if he has been or becomes a contributor to the Fund—
 - (a) for the purposes of determining the person's rate of contribution to the Fund; and
 - (b) in determining any reduction of a retiring allowance relating to a previous period of contributory service that has been surrendered under section 91 of this Act.
- (3) Notwithstanding anything in subsection (11) of section 52A of this Act, any period of approved external employment within the meaning of subsection (1) of that section in respect of which a contributor in the Education Service under a University or University College of Agriculture in New Zealand has contributed for a policy under the Superannuation Scheme shall rank as contributory service for the purpose of determining whether or not the person is entitled to receive a retiring allowance if the said policy was unencumbered at the date of its maturity or at the date of the contributor's last retirement from the Education service, whichever date is the earlier.

- (4) The Governor-General may from time to time, by Order in Council,—
- (a) approve for the purposes of this section any scheme established to provide superannuation for employees of a University of a country within the Commonwealth (other than New Zealand), or of an organisation constituted in a country within the Commonwealth (other than New Zealand) being an organisation engaged in research or educational service:
 - (b) declare that this section shall apply to a teacher or group of teachers in the Education service as if the teacher or group of teachers was employed by a University in New Zealand.

Sections 52A and 52B were inserted, as from 22 October 1959, by section 17 Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsection (1) was amended, as from 1 January 1962, by section 59(1) Universities Act 1961 (1961 No 54) by substituting the words “any University or University College of Agriculture” for the words “the University of New Zealand or by any University that is a constituent institution of that University or by any agricultural college”.

Subsection (1) was amended, as from 25 October 1960, by section 3(1)(a) Government Superannuation Fund Amendment Act 1960 (1960 No 90) by inserting the words “or any other Superannuation Scheme for the time being approved by the Governor-General by Order in Council for the purposes of this section”.

In subsections (1) and (2) the words “the Consolidated Revenue Account” were substituted for the words “the Consolidated Fund”, as from 1 April 1964, pursuant to section 4(4) Public Revenues Amendment Act 1963 (1963 No 46). In these subsections the words “the Consolidated Account” were substituted for the words “the Consolidated Revenue Account” pursuant to section 114(6) Public Finance Act 1977.

Subsection (2) was amended, as from 25 October 1960, by section 3(1)(b) Government Superannuation Fund Amendment Act 1960 (1960 No 90) by substituting the words “Superannuation Scheme” for the words “Federated Superannuation Scheme for Universities”.

Subsection (2)(a) and (b) were substituted, as from 29 March 1985, by section 12(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (3) was amended, as from 1 January 1962, by section 59(2) Universities Act 1961 (1961 No 54) by substituting the words “University College of Agriculture” for the words “agricultural college”.

Subsection (3) was amended, as from 25 October 1960, by section 3(1)(b) Government Superannuation Fund Amendment Act 1960 (1960 No 90) by substituting the words “Superannuation Scheme” for the words “Federated Superannuation Scheme for Universities”.

Subsection (3) was amended, as from 29 March 1985, by section 12(2) Government Superannuation Fund Amendment Act 1985 (1985 No 62) by substituting

the words “determining whether or not the person is entitled to receive a retiring allowance” for the words “subsection (3) of section 35 of this Act”.

Subsection (4) was inserted, as from 25 October 1960, by section 3(2) Government Superannuation Fund Amendment Act 1960 (1960 No 90).

Subsection (4)(b) was amended, as from 1 November 1976, by section 36(1) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by substituting the words “a University in New Zealand” for the words “the University of New Zealand”.

53 Teachers in endowed colleges or schools

Subject to the consent of the Authority in each case, service as a teacher in any endowed college or school (whether before or after the commencement of this Act) shall for the purposes of this Part of this Act be deemed to be employment in the Education service in the case of every person who immediately before the date of his appointment as such teacher was a contributor to the Fund or to any Superannuation Fund abolished by the Superannuation Act 1947.

Compare: 1947 No 57 s 50

Section 53 was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Section 53 was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

54 Teachers and education administrators serving in Pacific area

- (1) Subject to the consent of the Authority in each case, service (whether before or after the passing of this section) as a teacher or an education administrator in any country or territory within the area of the Pacific, being a country or territory for which the New Zealand Government undertakes to recruit teachers or education administrators, shall, for the purposes of this Part of this Act, be deemed to be employment in the Education service in the case of every person who, immediately before the date on which his service there commenced, was a contributor to the Fund or to any Superannuation Fund abolished by the Superannuation Act 1947.

- (2) For the purposes of this section the term **education administrator** means an officer responsible for the planning or the control of an education service.

Section 54 was substituted, as from 24 November 1967, by section 6(1) Government Superannuation Fund Amendment Act 1967 (1967 No 141).

Subsection (1) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Employees of service organisations

55 Employees of service organisations

Subject to the consent of the Authority in each case, service as a full-time employee of any service organisation (whether before or after the commencement of this Act) shall for the purposes of this Part of this Act be deemed to be employment in the appropriate Department of the Government service in the case of every person who immediately before the date of his appointment as such employee was a contributor to the Fund or to any Superannuation Fund abolished by the Superannuation Act 1947.

Compare: 1947 No 57 s 52

Section 55 was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Section 55 was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Allowances

56 Allowances may be declared to be salary

[Repealed]

Sections 56 and 57 were repealed, as from 29 March 1985, by section 22(3) Government Superannuation Fund Amendment Act 1985 (1985 No 62)

57 Refund of contributions on allowances no longer included in salary

[Repealed]

Sections 56 and 57 were repealed, as from 29 March 1985, by section 22(3) Government Superannuation Fund Amendment Act 1985 (1985 No 62)

58 Value of benefits for house, board, or lodging may be added to salary

(1)

(2) Where, in respect of any period after the commencement of this Act, any contributor enjoys, whether free of charge or otherwise, a concession or benefit in respect of his employment by way of board or lodging for himself or his family, or by the use of a house, or by way of an allowance instead of being so provided with board or lodging or the use of a house, the contributor may, with the approval of the Authority and upon or subject to such conditions as the Authority may impose, elect to contribute in respect of the value of that concession or benefit (as determined by the Authority) as if it were part of his salary:

Provided that this subsection shall not apply with respect to a lodging allowance paid to any contributor by reason of his being stationed away from his home:

Provided also that every contributor who on the 31st day of March 1957 was contributing in respect of the value of any concession or benefit under section 55 of the Superannuation Act 1947 shall be deemed to have made an election under this subsection to contribute in respect of the value of that concession or benefit.

(3) Every decision of the Authority under this section shall be final and conclusive.

(4) Where an election is made under this section the Authority may direct that arrears of contributions in respect of any period during which the concession or benefit has been enjoyed by the contributor (whether before or after the commencement of this Act) shall be paid by him, together with compound interest thereon computed with yearly rests at such rate as the Authority determines, within such time and in such manner as the Authority may in any case allow.

- (5) So long as any person who makes an election under this section continues to be a contributor to the Fund and to enjoy the concession or benefit he shall not be permitted to discontinue his contributions in respect of the concession or benefit.
- (6) Section 89C of this Act shall not apply with respect to any concession or benefit under this section or under section 55 of the Superannuation Act 1947.

Compare: 1947 No 57 s 55; 1948 No 79 s 13; 1950 No 94 s 12

Subsection (1) was amended, as from 1 January 1963, by section 3(10) State Services Act 1962 (1962 No 132) by substituting the words “the State Services Commission” for the words “the Public Service Commission”.

Subsection (1)(a) was amended, as from 15 October 1965, by section 2(2)(a) Education Act 1964 (1964 No 135) by substituting the words “the Director-General of Education” for the words “the Director of Education”.

Subsection (1)(b) was amended, as from 1 April 1982, by section 120(4) New Zealand Railways Corporation Act 1981 (1981 No 119) by substituting the words “the New Zealand Railways Corporation” for the words “the Government Railways Department”.

Subsection (1)(c) was amended, as from 1 January 1960, by section 250(4) Post Office Act 1959 (1959 No 30) by substituting the words “the Post Office” for the words “the Post and Telegraph Department”.

Subsection (1) was repealed, as from 1 October 1995, by section 9(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28)

Subsection (2) was amended, as from 22 October 1959, by section 18 Government Superannuation Fund Amendment Act 1959 (1959 No 85) by inserting the second proviso.

Subsection (2) was amended, as from 1 October 1995, by section 9(2) Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the words “with the approval of the Superintendent and upon or subject to such conditions as the Superintendent may impose” for the words “with the approval of the committee and upon or subject to such conditions as the committee may impose”.

Subsection (2) was amended, as from 1 October 1995, by section 9(3) Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the words “as determined by the Superintendent” for the words “as determined by the committee”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3) was amended, as from 1 October 1995, by section 9(4) Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “committee”.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (6) was amended, as from 29 March 1985, by section 22(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62) by substituting the expression “section 89C” for the expression “section 57”.

Miscellaneous provisions

59 Computation of salaries of overseas representatives and their officers

Where any head of mission or head of post within the meaning of the Foreign Affairs Act 1988, or any person assigned or reassigned under section 6 of that Act to service overseas, is a contributor to the Fund, his or her salary for the purposes of this Part of this Act in respect of any period shall be deemed to be such part of his or her total remuneration (including any allowances and the value of any benefits) as is determined from time to time by the Authority.

Compare: 1947 No 57 s 56

In the original section 59, the Foreign Affairs and Overseas Service Act 1983 (1983 No 128) and section 14 of that Act were substituted, as from 16 December 1983, for the repealed Foreign Affairs Act 1943 and section 8 of that Act.

In the original section 59, the words “State Services Commission” were substituted for the words “Public Service Commission” as from 1 January 1963, pursuant to section 3(10) State Services Act 1962 (1962 No 132).

In the original section 59, the words “the Secretary of Foreign Affairs” were substituted for the words “the Secretary of External Affairs”, as from 1 March 1970, pursuant to section 2(4) Foreign Affairs Amendment Act 1969 (1969 No 78).

Section 59 was substituted, as from 1 October 1995, by section 10 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Section 59 was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was to be amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by inserting the words “Crown entity” before the word “subsidiary”. However, this amendment appears to be in error as there is no subsection (4) in section 59.

60 Contributions to Fund may be applied in restitution of public money misappropriated by contributor

- (1) Where any contributor to the Fund has, whether before or after the commencement of this Act, been convicted in New Zealand or elsewhere on a charge of theft or misappropriation of any public money or public stores, the Minister of Finance may, by writing under his hand, direct that any money standing to the credit of the contributor in the Fund shall from time to time be applied in whole or in part towards the maintenance of the spouse or partner and children of the contributor or towards the maintenance of any other person for whose benefit a maintenance order under the Family Proceedings Act 1980 could be made against the contributor.
- (2) If the Minister is satisfied that any such money is not required for any of the aforesaid purposes, he may direct that it be applied in whole or in part in restitution of the amount or value of the money or stores misappropriated or stolen.
- (3) Every direction under this section shall be given effect to, notwithstanding anything to the contrary in section 92 of this Act.

Compare: 1947 No 57 s 57

Subsection (1) has been amended by substituting the Family Proceedings Act 1980 for the repealed Destitute Persons Act 1910.

Subsection (1) was amended, as from 26 April 2005, by section 8 Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “spouse or partner” for the word “wife”.

60A Reactivation of contributory service

- (1) If at any time after the 31st day of March 1975 and while any contributor is living and under the age of 50 years he ceases to be eligible to contribute to the Fund in accordance with the provisions of this Act before he becomes entitled to a retiring allowance, he may (in addition to any other course available to him) elect to leave all his contributions in the Fund on a contingent basis.
- (2) Where a contributor so elects, he may, at any time there after, elect to uplift the amount so left by him in the Fund.
- (3) In any case where a contributor has ceased to be eligible to contribute to the Fund and has left his contributions in the Fund,—

- (a) if at the time when he attains the age of 50 years or at the sooner expiration of the period of 15 years from the time when he ceased to be a contributor to the Fund or of such shorter period as the Authority may determine he has not again become a contributor to the Fund, the amount so left by him in the Fund shall be refunded to him:
- (b) if he again becomes a contributor to the Fund while he is under the age of 50 years and before the expiration of the said 15 years or the said shorter period, his contributions shall not be refunded to him, and his previous period of contributory service shall be reactivated and count as continuous contributory service for the purpose of calculating benefits under this Act, but shall be discounted in the following manner:
 - (i) a discount of 1 $\frac{1}{4}$ percent for each complete year of the period of his ineligibility for which he has a corresponding period of contributory service that will be reactivated in accordance with this section, and of a relative proportion of that percentage in respect of any fraction of a year of ineligibility for which he has a corresponding period of such contributory service:
 - (ii) a discount of 2 $\frac{1}{4}$ percent for each complete year of the period of his ineligibility that is in excess of his period of contributory service that will be reactivated in accordance with this section, and of a relative proportion of that percentage in respect of any fraction of a year of ineligibility for which he has no corresponding period of such contributory service.
- (4) Any such period of discounted contributory service shall be deemed to precede immediately the date on which the person again became a contributor to the Fund; and the contributor's rate of contributions to the Fund after he again becomes a contributor thereto shall be determined according to his age at the date when his period of discounted contributory service is deemed to commence.

- (5) Notwithstanding anything expressed or implied in the foregoing provisions of this section,—
- (a) during any period when contributions of any former contributor are held in the Fund pursuant to the exercise of the option conferred by subsection (1) of this section and while the former contributor is not eligible to contribute to the Fund, there shall be no liability for payment from the Fund of any allowance or annuity whatsoever in respect of those contributions:
 - (b) if during any such period the former contributor becomes medically unfit for further duty or dies, the amount left by him in the Fund shall be refunded to him or to his legal personal representative.

- (6) A contributor shall not be entitled to elect pursuant to any of the provisions of sections 23 and 24 of this Act to contribute to the Fund in respect of any period that is for the time being excluded in accordance with the provisions of this section.

Section 60A was inserted, as from 1 April 1975, by section 10 Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Subsection (3)(a) was amended, as from 1 April 1991, by section 80 National Provident Fund Restructuring Act 1990 (1990 No 126) by omitting the words “or, if his whereabouts cannot be ascertained, paid to his credit in an appropriate scheme of the National Provident Fund Board”.

Subsection (3)(a) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (3)(a) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection 3(b)(i) and (ii) were amended, as from 9 June 1995, by section 19(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28) by omitting the word “additional”.

61 Power to postpone superannuation rights of members of Parliament

- (1) Where any contributor to the Fund or to any Superannuation Fund abolished by the Superannuation Act 1947 has retired from the Government service for the purpose of becoming a candidate for a seat in the House of Representatives or by reason of the fact that he has become a member of Parliament he may elect to postpone the acceptance by him of a refund of the

contributions made by him to the Fund or the other benefits to which he may be entitled from the Fund and the making of any election which he may be entitled to make in respect of those benefits.

- (2) This section shall apply whether the contributor retired before or after the commencement of this Act, or before or after he is entitled to a retiring allowance, and whether his retirement was voluntary or pursuant to any Act or otherwise.
- (3) The period of postponement shall expire not later than 13 months after the contributor ceases to be a member of Parliament or (in the case of an unsuccessful candidate at any election who was not a member at the time of the election) shall expire not later than 3 months after the date of the election. The period may be at any time terminated by the contributor by notice in writing addressed to the Authority. The period shall be deemed to commence from the date of the contributor's retirement and is in this section referred to as the period of postponement.
- (4) If the contributor is during the period of postponement appointed (whether permanently or temporarily) to the Government service and, during or after the period of postponement but before he has accepted a retiring allowance or a refund of his contributions, becomes a contributor to the Fund as from the date of that appointment, the period of his contributory service after that appointment shall for the purposes of this Part of this Act be deemed to be continuous with the period of his contributory service before his retirement.
- (5) The contributor shall be deemed to continue to be a contributor to the Fund during the period of postponement:
Provided that no contributions shall be payable by the contributor to the Fund, and no payments shall be made to the contributor for his own benefit out of the Fund, in respect of the period of postponement or any part thereof, and no part of that period shall be regarded as part of the period of his contributory service.
- (6) Notwithstanding the provisions of subsections (4) and (5) of this section, where the contributor has resumed employment in the Government service, he may, with the consent of the Authority, elect to contribute to the Fund in respect of the period

during which he was a member of Parliament; and if he does so that period shall be regarded as part of his contributory service.

- (7) Where any contributor ceases to be a member of Parliament during the period of postponement, and at the time when he ceases to be a member of Parliament or thereafter during the period of postponement he is or becomes medically unfit for further duty within the meaning of subsection (4) of section 36 of this Act, he shall be entitled to receive from the Fund an annual retiring allowance computed as provided in section 35 of this Act.
- (8) The provisions of subsections (2), (2A), (3), and (5) of section 36 of this Act shall apply as if any retiring allowance payable under this section were payable under the said section 36.
- (9) Where any contributor dies during the period of postponement, the provisions of sections 45 and 47 of this Act shall apply as if the contributor's death had occurred immediately before his retirement.

Compare: 1947 No 57 s 58

Subsection (1) was amended, as from 25 October 1960, by section 2(1)(a) Government Superannuation Fund Amendment Act 1960 (1960 No 90) by substituting the words "elect to postpone" for the words "with the approval of the controlling authority postpone for such period as the controlling authority approves".

Subsection (3) was amended, as from 25 October 1960, by section 2(1)(b) Government Superannuation Fund Amendment Act 1960 (1960 No 90) by substituting the words "of postponement" for the words "approved by the controlling authority as aforesaid".

Subsection (3) was amended, as from 25 October 1960, by section 2(1)(c) Government Superannuation Fund Amendment Act 1960 (1960 No 90) by omitting the words "Subject to the foregoing provisions of this subsection, the controlling authority may from time to time extend the period at the request of the contributor".

Subsection (3) was amended, as from 25 October 1960, by section 2(1)(d) Government Superannuation Fund Amendment Act 1960 (1960 No 90) by substituting the word "is" for the words "together with any extensions thereof, is hereafter".

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (6) was inserted, as from 22 October 1959, by section 19 Superannuation Amendment Act 1959 (1959 No 85).

Subsection (6) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (6) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsections (7) to (9) were inserted, as from 25 October 1960, by section 2(2) Government Superannuation Fund Amendment Act 1960 (1960 No 90).

Subsection (9) was amended, as from 29 March 1985, by section 22(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62) by substituting the expression “sections 45 and 47” for the expression “sections 45, 46 and 47”.

Part 2A

New government service superannuation scheme

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Eligibility and contributions

61A Election to become contributor under this Part

- (1) Subject to this section, any person who is employed in the Government service, and is not for the time being a contributor to the Fund or required to contribute under any other Part of this Act, may elect to become a contributor to the Fund under this Part of this Act.
- (1A) No person shall be entitled to make any election under subsection (1) of this section after the 30th day of June 1992.
- (1B)
- (2) Subject to subsection (3) of this section, every election under subsection (1) of this section shall take effect from—
 - (a) the date of the election; or
 - (b) the commencement of, or any date during, the contributor’s period of continuous Government service immediately preceding the date of the election—
at the option of the contributor.
- (3) No election under subsection (1) of this section shall have effect in respect of any period of Government service before the 1st day of May 1985.

- (4) Except with the consent of the Authority, and subject to such conditions as it thinks fit, no election may be made under subsection (1) of this section by any person—
- (a) who is not a permanent full-time employee in the Government service; or
 - (b) in respect of any period during which the contributor was not a permanent full-time employee in the Government service; or
 - (c) whose permanent full-time employment in the Government service commences before the contributor attains the age of 50 years and who has not made the election under subsection (1) of this section in respect of that service before the contributor attains that age or within 6 months after the commencement of that service, whichever is the later; or
 - (d) whose permanent full-time employment in the Government service commences after the contributor attains the age of 50 years, unless the election under subsection (1) of this section in respect of that service is made within 6 months after the commencement of that service; or
 - (e) who has previously made more than one election under section 61R(1) of this Act; or
 - (f) who has ceased to be a contributor to the Fund by virtue of section 92G(1) of this Act.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsections (1A) and (1B) were inserted, as from 30 June 1991, by section 2(1) Government Superannuation Fund Amendment Act 1991 (1991 No 59).

Subsection (1B) was repealed, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

61AA Special provisions in relation to elections made after 30 June 1992

- (1) Nothing in section 61A(1A) of this Act limits the provisions of section 61E(4) of this Act.
- (2) Nothing in section 61A(1A) of this Act prevents any person who is employed in the Government service on or after the 1st day of July 1992 from again electing to become a contributor to the Fund under this Part of this Act if—
 - (a) that person was a contributor to the Fund under this Part of this Act in respect of a period of Government service that took place before the 1st day of July 1992; and
 - (b) that person's contributions under this Part of this Act in respect of his or her previous period of Government service have remained, as a result of an election made by that person under section 61R(1)(c) of this Act, in the Fund throughout the period between the date on which that person's election under section 61R(1)(c) of this Act took effect and the date on which that person again elects to become a contributor to the Fund under Part 2A of this Act.
- (3) Nothing in section 61A(1A) of this Act prevents any person who resumes employment in the Government service on or after the 1st day of July 1992 from again electing to become a contributor to the Fund under this Part of this Act if—
 - (a) that person was a contributor to the Fund under this Part of this Act in respect of a period of Government service that took place before the 1st day of July 1992; and
 - (b) that person's contributions under this Part of this Act in respect of his or her previous period of Government service have remained, as a result of an election made by that person under section 61S(1)(b) of this Act, in the Fund throughout the period between that person's two periods of Government service.

Section 61AA was inserted, as from 1 July 1992, by section 8(1) Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

61B Rate of contribution

- (1) The contribution to be made by a contributor who has made an election under section 61A(1) of this Act shall be 6.5 percent of

the contributor's salary, and shall be deducted from the salary and paid to the Fund as the salary becomes payable from time to time.

(2)

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (1) was amended, as from 1 July 2004, by section 3(a) Government Superannuation Fund Amendment Act (No 2) 2003 (2003 No 75) by substituting the word "The" for the words "Except as provided in subsection (2) of this section, the".

Subsection (2) was amended, as from 1 July 1991, by section 9(2) Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77) by substituting the expression "section 61R(1)(c)" for the expression "section 61R(4)".

Subsection (2) was repealed, as from 1 July 2004, by section 3(b) Government Superannuation Fund Amendment Act (No 2) 2003 (2003 No 75).

61C Contributor may elect to contribute in respect of prior service

- (1) Subject to subsection (2) of this section, where any contributor under this Part of this Act has service in the Government service that is not at present included in his contributory service, the contributor may elect to contribute to the Fund under this Part of this Act in respect of that service.
- (2) Except with the consent of the Authority, and subject to such conditions as it thinks fit, including payment of contributions at such rate or rates as may be determined by the Authority, no election may be made under subsection (1) of this section by any person—
 - (a) who is not a permanent full-time employee in the Government service; or
 - (b) in respect of any period during which the contributor was not a permanent full-time employee in the Government service; or
 - (c) who has attained the age of 50 years.
- (3) Where any contributor under this Part of this Act was, at the time of becoming a contributor under this Part, a contributor under section 30 of this Act, the contributor may elect to contribute in respect of the service to which that section applies at the standard rate of contribution within the meaning of that section and, where such an election is made, paragraphs (a)

and (b) of section 30(6) of this Act shall apply in respect of the contributor and his contributions.

- (4) Without limiting the power of the Authority to require greater contributions in any case to which subsection (2) of this section applies, where a contributor makes an election to contribute under this section, the contributor shall pay contributions in respect of the period to which the election relates at the appropriate rate under this Part of this Act—
- (a) on the salary received by the contributor in respect of that period; or
 - (b) as if the contributor received salary in respect of that period at the rate of salary payable to the contributor at the date of the election—

whichever is the greater.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsections (2) and (4) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (2) and (4) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

61D Continuity of service for the purposes of this Part

Where the Government service of any person has been interrupted it shall, for the purposes of this Part of this Act, to the extent that the Authority so determines, and subject to such conditions including payment of contributions at such rate or rates as it thinks fit, be deemed not to be interrupted.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Section 61D was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Section 61D was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

*Application of this part to contributors under
Part 2*

61E Contributors under Part 2 may become contributors under this Part

- (1) Any person who, immediately before the 1st day of May 1985, is a contributor under Part 2 of this Act and is not required to remain a contributor under that Part may elect to contribute to the Fund under this Part of this Act.
- (2) Any person who immediately before the 1st day of May 1985 is a contributor under Part 2 of this Act may, at any time before the 1st day of November 1985, notify the Authority that the contributor elects that this Part of this Act shall not apply to the contributor, and that Part 2 of this Act shall continue to apply in respect of the contributor.
- (3) Any person who, immediately before the 1st day of May 1985, is a contributor under Part 2 of this Act and has not made an election under subsection (1) or subsection (2) of this section before the 1st day of November 1985, shall, if the person remains a contributor under Part 2 of this Act on that date, be deemed to have elected to contribute to the Fund under this Part of this Act.
- (4) The Authority may, in any case or class of cases,—
 - (a) allow any person to make an election under subsection (2) of this section at any time after the 1st day of November 1985, notwithstanding that the person has or is deemed to have elected to contribute to the Fund under this Part of this Act; and every such person shall pay to the Fund, within such period as the Authority may determine, the difference (if any) between the person's contributions under this Part of this Act and the contributions the person would have been liable to pay if the person had remained a contributor under Part 2 of this Act:
 - (aa) allow any person who has made an election under subsection (2) of this section to revoke that election and make an election under subsection (1) of this section:
 - (b) determine that subsections (1) and (2) of this section shall apply to persons who are contributors to the Fund under Part 2 of this Act but were not paying contribu-

tions under that Part immediately before the 1st day of May 1985, and determine the period within which any such person may make any election under those subsections.

- (5) Every election made under subsection (1) of this section or deemed to have been made under subsection (3) of this section shall take effect on and from the 1st day of May 1985, and the contributions payable by the contributors who make or are deemed to have made such elections and the benefits payable in respect of contributions by such contributors shall be calculated accordingly.
- (5A) Subsection (5) is subject, in the case of persons to whom section 30 (variable percentage scheme) applies, to section 30(5) and (6) and section 61P.
- (6) Where any contributor has at any time made an election of postponement under section 61(1) of this Act, and the period of postponement has not expired or been terminated, the contributor may elect to become a contributor under this Part of this Act at any time during the period of postponement, and shall thereupon be deemed to be a contributor under this Part of this Act.
- (7) Where any contributor has made an election under subsection (6) of this section,—
 - (a) the contributor shall not be liable or entitled to pay any contributions under this Part of this Act until the contributor again becomes employed in the Government service; and
 - (b) any period for which contributions are not payable by virtue of paragraph (a) of this subsection shall not constitute contributory service for the purposes of this Act.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4)(aa) was inserted, as from 25 December 1986, by section 11 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (5A) was inserted, as from 2 October 2001, by section 12 Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 Government Superannuation Fund Amendment Act 2001, which allows the minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

61F Rate of contributions by former contributors under Part 2

- (1) The contribution to be made by a contributor under this Part who made, or is deemed to have made, an election under section 61E to contribute to the Fund under this Part is 6.5% of the contributor’s salary.
- (2) For the purposes of this section, where any contributor who makes or is deemed to have made an election under section 61E of this Act to contribute to the Fund under this Part of this Act was, by virtue of section 27 or section 61 of this Act, not contributing to the Fund immediately before the 1st day of May 1985, the provision of section 29(1)(a) of this Act under which the contributor last contributed shall be deemed to be the provision under which the contributor was contributing immediately before that date.
- (3) For the purposes of this section, where any contributor who makes or is deemed to have made an election under section 61E of this Act to contribute to the Fund under this Part of this Act—
 - (a) elected before the 1st day of May 1985 under section 60A of this Act to leave all the contributor’s contributions in the Fund on a contingent basis; and
 - (b) becomes a contributor to the Fund again before uplifting those contributions under that section,—the provision of section 29(1)(a) of this Act under which the contributor would have contributed had the contributor been entitled to elect to contribute under Part 2 of this Act shall be determined by the operation of section 60A(4) of this Act, and

the contributor shall be deemed to be contributing under that provision immediately before the 1st day of May 1985.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (1) was substituted, as from 1 July 2004, by section 4 Government Superannuation Fund Amendment Act (No 2) 2003 (2003 No 75).

61G Contribution rates where contributor under Part 2 was also contributing in respect of previous service

Where any contributor who makes or is deemed to have made an election under section 61E of this Act to contribute to the Fund under this Part of this Act has, before the 1st day of May 1985, made an election under section 23, section 23A, or section 24 of this Act to contribute in respect of prior service, notional service, or previous contributory service (in this section each referred to as **previous service**) and payment of those contributions has not been completed,—

- (a) the contributor shall continue to pay contributions in respect of the previous service in terms of the election; and
- (b) upon the completion of the payment of the contributions in respect of the previous service, the contributor shall,—
 - (i) if the contributor is contributing at the rate specified in section 61F(1)(b) of this Act; and
 - (ii) if the contributor remained a contributor under Part 2 of this Act the contributor would then have been entitled to contribute under subparagraph (i) or subparagraph (ii) of section 29(1)(a) of this Act,—

be entitled to contribute from that date at the rate specified in section 61F(1)(a) of this Act.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

61H Effect of contributions in respect of period before person becomes contributor

Where any contributor who makes or is deemed to have made an election under section 61E of this Act to contribute to the Fund under this Part of this Act has elected under Part 2 of section 61C of this Act to contribute to the Fund in respect of any period before the date on which he became a contributor, the contributor's contributory service shall be deemed not to have commenced at any date in that period until the contributor has paid into the Fund such contributions as the Authority has determined in respect of that period; and, where necessary, any adjustment of the contributor's contribution rate by reference to the contributor's age at the commencement of that period shall be made only—

- (a) from the date on which payment of those contributions is completed; and
- (b) in respect of service after that date.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Section 61H was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Section 61H was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Benefits and withdrawal rights

61I Entitlement to retiring allowance

- (1) Every contributor to whom this section applies who ceases to be employed in the Government service shall, subject to this Part of this Act, thereafter be entitled to receive an annual retiring allowance calculated under section 61L of this Act.
- (2) This section applies to all contributors under this Part of this Act who have attained the age of 60 years.
- (3) This section also applies to all contributors under this Part of this Act—
 - (a) who have made an election under section 61S(1)(d) of this Act to receive a retiring allowance; or

- (b) who have made an initial election under section 61S(1)(d) of this Act and who die before making a further election provided for in that paragraph or before the date specified in that further election.
- (4) This section also applies to all contributors under this Part of this Act—
 - (a) who have attained the age of 50 years; and
 - (b) who have completed not less than 10 years' contributory service; and
 - (c) who have agreed in writing that this section should apply to them; and
 - (d) whose controlling authority has agreed in writing that this section should apply to them.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

61J Retiring allowance of contributor who has been contributing since before 1946

- (1) Every contributor to whom this section applies shall be entitled to receive an annual retiring allowance calculated under section 61L(1) of this Act as if the contributor had attained the age of 60 years on the date on which the contributor ceased Government service.
- (2) This section applies to all contributors under this Part of this Act who have been employed in the Government service continuously from a date before the 1st day of January 1946, or whose period of contributory service commenced before the 1st day of January 1946 and is of not less than 40 years' duration.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

61K Retiring allowance where contributor medically unfit

- (1) Every contributor who, before becoming entitled under section 61I(2) of this Act to receive a retiring allowance, ceases Government service with the consent of the controlling authority on the ground of medical unfitness for further duty shall, subject to this Part of this Act, thereafter be entitled to receive an

annual retiring allowance calculated under section 61L(1) of this Act.

- (2) The Authority may from time to time suspend, reduce, or cancel any retiring allowance payable under this section to any contributor who has not attained the age of 60 years if—
 - (a) the contributor resumes employment, whether in the Government service or elsewhere, or becomes gainfully self-employed; or
 - (b) the contributor has ceased to be medically unfit for further duty, and fails to accept any employment offered by a controlling authority that is considered by the Authority to be suitable and reasonable for the contributor; or
 - (c) the Authority is satisfied that the degree of disability of the contributor is not sufficient to justify the payment of part or all of the allowance; or
 - (d) the contributor fails without sufficient justification to submit himself for medical examination when and as often as required by the Authority; or
 - (e) the Authority does not know the present whereabouts of the contributor, or whether the contributor is alive or dead.
- (3) Any suspension, reduction, or cancellation of a retiring allowance under subsection (2) of this section shall cease when the contributor attains the age of 60 years.
- (4) For the purposes of this section, a contributor shall be considered to be medically unfit for duty if, on the certificate of at least 2 medical practitioners approved by the Authority, it is established to the satisfaction of the Authority that, by reason of physical or mental disability, the contributor is and is likely to remain substantially unable to perform any duties which the controlling authority and the Authority consider are suitable and reasonable for the contributor.
- (5) Any decision of the Authority under subsection (2) of this section to suspend, reduce, or cancel a retiring allowance shall be disregarded for the purposes of sections 61N, 61O, and 61Q of this Act.

- (6) This section shall apply to all persons who have elected that section 61R(1)(c) of this Act shall apply in respect of them and their contributions as if they were contributors.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsections (2) and (4) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (2) and (4) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered”. *See* sections 178 to 227 of that Act as to the transitional provisions.

Subsection (5) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (5) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (6) was amended, as from 1 July 1991, by section 9(3) Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77).

61L Computation of retiring allowance

- (1) The retiring allowance of every contributor to the Fund who is entitled under section 61I, section 61J, or section 61K of this Act to receive a retiring allowance shall be the pension percentage of the contributor’s final average earnings.
- (1A) For the purposes of subsection (1) of this section,—
- appropriate percentage** means 1.5 percent—
- (a) plus 0.002 percent in respect of every month or part of a month before the retirement during which the contributor is over the age of 60 years but under the age of 65 years; or
 - (b) less, in the case of a retiring allowance to which the contributor is entitled under subsection (3) or subsection (4) of section 61I of this Act,—
 - (i) 0.004 percent in respect of every month or part of a month after the date of retirement during which

the contributor is of or over the age of 55 years but under the age of 60 years; and

- (ii) 0.002 percent in respect of every month or part of a month after the date of retirement during which the contributor is under the age of 55 years:

pension percentage means the percentage calculated in accordance with the following formula

$$P \times (0.7 + (0.014 \times t))$$

where—

P is the appropriate percentage multiplied by the number of years (including fractions of a year) of contributory service:

t is the number, if any, of years (including fractions of a year) by which the date on which the retiring allowance commences to be payable precedes the 1st day of October 1999.

(2)

- (3) Where a contributor's contributory service includes employment otherwise than on a full-time basis the length of the contributory service shall, for the purposes of this section, be reduced to the extent that the Authority considers appropriate in the circumstances.

- (4) A contributor who is entitled under section 61I(4) to receive a retiring allowance may elect to increase the amount of that retiring allowance to the amount that would have been payable if the contributor had retired at an age stated in the election and not exceeding 65 years subject to—

- (a) the contributor making the election before attaining the age of 60; and
- (b) the contributor complying with any terms and conditions set by the Authority, including making any payments into the Fund that the Authority thinks fit to impose for the purpose of funding the increased benefit which will result from the election; and
- (c) the maximum amount of the retiring allowance being the amount calculated under subsection (1) as if the contributor had retired at the age stated in the election.

(5)

(6) For the purposes of this section—

appropriate percentage*[Repealed]*

Subsection (6) appropriate percentage: this definition was inserted, as from 25 December 1986, by section 12(2) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (6) appropriate percentage: this definition was repealed, as from 1 April 1990, by section 13(3) Government Superannuation Fund Amendment Act 1990 (1990 No 30).

[Repealed]

earnings means the salary on which a contributor paid contributions to the Fund, whether or not the contributor actually receives that salary and, in the case of a contributor whose contributory service has not been on a full-time basis at any time, shall include the earnings on which the contributor would have paid contributions if the contributory service had been on a full-time basis

final average earnings means—

- (a) the final average earnings of a contributor computed in accordance with the following formula:

$$\text{FAE} = [(E1 \times \frac{P5}{P1}) + (E2 \times \frac{P5}{P2}) + (E3 \times \frac{P5}{P3}) + (E4 \times \frac{P5}{P4}) + E5] \div 5$$

where—

FAE is the final average earnings:

E5 is the earnings of the contributor in respect of the 12 months ending with the day before the day on which the contributor is entitled to receive a retiring allowance:

E4 is the earnings of the contributor in respect of the 12 months immediately before E5:

E3 is the earnings of the contributor in respect of the 12 months immediately before E4:

E2 is the earnings of the contributor in respect of the 12 months immediately before E3:

E1 is the earnings of the contributor in respect of the 12 months immediately before E2:

P5 is the all groups index number of the New Zealand Consumer Price Index for the second

- quarter preceding the quarter in which the contributor retires:
- P4 is the all groups index number of the New Zealand Consumer Price Index for the quarter that occurred 4 quarters before the quarter from which P5 is derived:
- P3 is the all groups index number of the New Zealand Consumer Price Index for the quarter that occurred 4 quarters before the quarter from which P4 is derived:
- P2 is the all groups index number of the New Zealand Consumer Price Index for the quarter that occurred 4 quarters before the quarter from which P3 is derived:
- P1 is the all groups index number of the New Zealand Consumer Price Index for the quarter that occurred 4 quarters before the quarter from which P2 is derived; or
- (b) the earnings of the contributor in respect of the 12 months ending with the day before the day on which the contributor is entitled to receive a retiring allowance—whichever is the lesser.
- (7) Notwithstanding subsection (6) of this section, where a contributor's contributory service has not been continuous during the 5 years immediately before the day on which the contributor becomes entitled to receive a retiring allowance, and the contributor has paid contributions in respect of all or part of the period of 12 months immediately before that day, the contributor's final average earnings shall comprise—
- (a) the contributor's final average earnings as determined under paragraph (a) of the definition of the term **final average earnings** in subsection (6) of this section; and
- (b) one-fifth of the contributor's earnings before that 5 year period for a period equal to the period of interruption of the contributory service, as adjusted by the Authority, which shall make the adjustments having regard to the formula set out in subsection (6) of this section for the adjustment of earnings by reference to appropriate quar-

ters of the all groups index number of the New Zealand Consumer Price Index—

but shall not exceed the earnings of the contributor during the 12 months immediately before the day on which the contributor is entitled to receive a retiring allowance, increased to an annual basis in any case where the contributor did not pay contributions in respect of the whole of that period.

- (8) Notwithstanding subsection (6) of this section, where a contributor's contributory service has not been continuous during the 5 years immediately before the day on which the contributor becomes entitled to receive a retiring allowance, and the contributor has not paid contributions in respect of any part of the 12 months immediately preceding that day, the contributor's final average earnings shall comprise—

- (a) the contributor's final average earnings as determined under paragraph (a) of the definition of the term **final average earnings** in subsection (6) of this section; and
- (b) one-fifth of the contributor's earnings before that 5 year period for a period equal to the period of interruption of the contributory service as adjusted by the Authority, which shall make the adjustments having regard to the formula set out in subsection (6) of this section for the adjustment of earnings by reference to appropriate quarters of the all groups index number of the New Zealand Consumer Price Index,—

but shall not in any event exceed the earnings of the contributor during the 12 months immediately before the day on which the last interruption to the contributor's contributory service commenced, increased to an annual basis in any case where the contributor did not pay contributions in respect of the whole of that period; and further increased by the percentage (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 which immediately precedes the date upon which the retiring allowance is first to be paid exceeds the index number for the quarter immediately following the date on which contributions were last paid.

- (9) Where a contributor's contributory service is less than 5 years the formula in subsection (6)(a) of this section shall apply as if

the expression “ $\div 5$ ” were omitted and the expression “ $\times a/b$ ” were substituted; and in any such case “a” shall be 365 and “b” shall be the number of days of the contributor’s contributory service.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (1) was substituted, as from 25 December 1986, by section 12(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (1) was substituted and subsection 1A was inserted, as from 1 April 1990, by section 13(1) Government Superannuation Fund Amendment Act 1990 (1990 No 30).

Subsection (2) was repealed, as from 25 December 1986, by section 12(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (3) was amended, as from 1 April 1990, by section 13(2) Government Superannuation Fund Amendment Act 1990 (1990 No 30) by omitting the words “subsections (1) and (2) of”.

Subsections (3) and (4) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (3) and (4) were amended, as from 2 October 2001, pursuant to section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was substituted, as from 2 October 2001, by section 13 Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 Government Superannuation Fund Amendment Act 2001, which allows the minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Subsection (5) was repealed, as from 1 April 1988, by section 12(2) Government Superannuation Fund Amendment Act 1988 (1988 No 19).

Subsections (7)(b) and (8)(b) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (7)(b) and (8)(b) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (9) was inserted, as from 25 December 1986, by section 12(3) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

61M Benefits where contributor under this Part dies before becoming entitled to retiring allowance and leaves spouse or partner

- (1) Where any contributor under this Part of this Act dies before becoming entitled to a retiring allowance and leaves a spouse or partner, there shall be paid out of the Fund to the spouse or partner, at the election of the spouse or partner,—
- (a) a lump sum being—
- (i) one year's salary of the contributor calculated at the rate of salary payable to the contributor when the contributor was last a contributor to the Fund; or
 - (ii) a refund of the contributor's contributions to the Fund including interest, as if the contributor had ceased Government service on the date of the contributor's death and made an election under section 61S(1)(a) of this Act—
- whichever is the greater, and the spouse or partner shall have no further claim against the Fund; or
- (b) both—
- (i) a lump sum, being not more than 80 percent of the maximum sum that the contributor could have elected to receive under section 91 of this Act had the contributor retired on the date of the contributor's death on the ground of medical unfitness for further duty and had the contributor been entitled to make an election under section 91 at the date of the contributor's death; and
 - (ii) an annuity at one-half of the rate of the retiring allowance to which the deceased contributor would have been entitled if the contributor had retired on the date of the contributor's death on the ground of medical unfitness for further duty, reduced by the same proportion as the proportion of the retiring allowance which the contributor would have had to surrender under section 91 of this Act for the purpose of providing a lump sum equal to that payable under subparagraph (i) of this paragraph.

- (2) Every election under subsection (1) of this section shall be made in writing delivered to the Authority, and shall not be capable of revocation or variation after the first payment from the Fund in accordance with the election is accepted by the spouse or partner.
- (3) The entitlement of any spouse or partner to any lump sum or annuity under this section shall not be affected by any change in the marital status of that spouse or partner.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (1)(b) was substituted, as from 1 April 1988, by section 8 Government Superannuation Fund Amendment Act 1988 (1988 No 19).

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

The heading was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Section 61M was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

Subsection (3) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “relationship status” for the words “marital status”.

61N Benefits where contributor under this Part dies after becoming entitled to retiring allowance and leaves spouse or partner

- (1) Where any contributor under this Part of this Act dies after becoming entitled to a retiring allowance and leaves a spouse or partner who last became the spouse or partner of the contributor before the contributor became entitled to a retiring allowance, there shall be paid out of the Fund to the spouse or partner, at the election of the spouse or partner,—
 - (a) the amount that the contributor would have been entitled to receive if the contributor had made an election under section 61S(1)(a) of this Act on the date from which the first payment of the retiring allowance was payable, less any amounts received by the contributor from the Fund; or

- (b) an annuity at one-half of the rate of retiring allowance to which the deceased contributor was entitled at the date of the contributor's death disregarding the effect of any election made under section 40 or section 48 of this Act (as applied by section 61T(2) of this Act).
- (2) Where any contributor under this Part of this Act dies after becoming entitled to a retiring allowance and leaves a spouse or partner who last became the spouse or partner of the contributor after the contributor became entitled to a retiring allowance, there shall be paid out of the Fund to the spouse or partner, at the election of the spouse or partner,—
 - (a) the amount that the contributor would have been entitled to receive if the contributor had made an election under section 61S(1)(a) of this Act on the date from which the first payment of the retiring allowance was payable, less any amounts received by the contributor from the Fund; or
 - (b) an annuity being the appropriate proportion of the retiring allowance to which the deceased contributor was entitled at the date of the contributor's death, disregarding the effect of any election made under section 40 or section 48 of this Act (as applied by section 61T(2) of this Act), which shall be—
 - (i) ten percent of that allowance where the contributor dies less than 2 years after the spouse or partner last became the spouse or partner of the contributor;
 - (ii) twenty percent of that allowance where the contributor dies 2 or more years but less than 3 years after the spouse or partner last became the spouse or partner of the contributor;
 - (iii) thirty percent of that allowance where the contributor dies 3 or more years but less than 4 years after the spouse or partner last became the spouse or partner of the contributor;
 - (iv) forty percent of that allowance where the contributor dies 4 or more years but less than 5 years after the spouse or partner last became the spouse or partner of the contributor;

- (v) fifty percent of that allowance where the contributor dies 5 or more years after the spouse or partner last became the spouse or partner of the contributor.
- (3) Every election under subsection (1) or subsection (2) of this section shall be made in writing delivered to the Authority, and shall not be capable of revocation or variation after the first payment from the Fund in accordance with the election is accepted by the spouse or partner.
- (4) The entitlement of any spouse or partner to any annuity under this section shall not be affected by any change in the relationship status of that spouse or partner.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

The heading was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Section 61N was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

Subsection (2) was amended, as from 1 April 1988, by section 9(1) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by inserting the words “under this Part of this Act”.

Subsection (2)(b) was amended, as from 1 April 1988, by section 9(2) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by inserting the words “disregarding the effect of any election made under section 40 or section 48 of this Act (as applied by section 61T (2) of this Act),”.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “relationship status” for the words “marital status”.

61O Benefit where contributor under this Part dies without leaving spouse or partner

- (1) Where any contributor under this Part of this Act dies whether before or after becoming entitled to a retiring allowance and does not leave a spouse or partner, there shall be paid out of the Fund to the contributor’s personal representatives in trust for the persons entitled to receive them under the contributor’s

will or under the Acts relating to the distribution of intestate estates, as the case may be,—

- (a) where the contributor dies before becoming entitled to a retiring allowance, the contributor's contributions to the Fund, including interest, as if the contributor had ceased Government service on the date of the contributor's death and made an election under section 61S(1)(a) of this Act:
 - (b) where the contributor dies after becoming entitled to a retiring allowance, the amount that the contributor would have been entitled to receive if the contributor had made an election under section 61S(1)(a) of this Act on the date from which the first payment of the retiring allowance was payable, less any amounts received by the contributor from the Fund.
- (2) Any money payable out of the Fund under subsection (1) of this section to the personal representatives of a deceased contributor may, if no grant of probate or of letters of administration is obtained within 3 months after the death of the contributor, be paid to Public Trust in trust for the persons beneficially entitled to that money.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

The heading was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Section 61O was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Subsection (2) was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the words “Public Trust” for the words “the Public Trustee”. See clause 2 Public Trust Act Commencement Order 2002 (SR 2002/11).

61P Reduction of allowance or annuity where contributor was a contributor under section 30

- (1) Where any contributor who has made or is deemed to have made an election under section 61E of this Act to contribute to the Fund under this Part of this Act was a contributor under section 30 of this Act immediately before the 1st day of May

1985, every allowance or annuity payable to any person by reason of the contributor's contributions to the Fund shall be reduced in respect of contributory service before the date by reducing that contributory service by the proportion by which the actual rate of the contributor's contributions under section 30(2) of this Act was less than the contributor's standard rate of contribution within the meaning of that section.

- (2) Nothing in subsection (1) of this section shall apply in respect of any allowance payable to a child under section 61Q of this Act.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

61Q Children's allowance

- (1) Where any contributor under this Part of this Act dies, whether before or after becoming entitled to a retiring allowance, and leaves a child or children under the age of 16 years, there shall be paid out of the Fund to or on behalf of every such child an allowance at the rate calculated under subsection (7) of this section until the child attains the age of 16 years.
- (2) Where a child of a deceased contributor under this Part of this Act 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 Authority may grant or continue an allowance to that child at such rate as the Authority may determine, not exceeding the rate calculated under subsection (7) 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 Authority thinks fit.
- (3) No allowance shall be paid to any child of a deceased contributor under this section if an allowance is already payable to that child under this section as the child of another contributor.
- (4) 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.

- (5) Any money payable out of the Fund under this section to or on behalf of a child of a deceased contributor may, at the discretion of the Authority, be either paid to the child directly, or expended by the Authority for the benefit of the child, or paid to Public Trust or any other person to be expended on behalf of the child in such manner as the Public Trust or that other person thinks fit.
- (6) 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 Authority.
- (7) The rate of the allowance payable each financial year to or on behalf of any child under this section shall be—

$$\$1,000 \times \frac{A}{B}$$

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.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsections (2) and (5) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (2) and (5) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (5) was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the words “Public Trust” for the words “the Public Trustee”. See clause 2 Public Trust Act Commencement Order 2002 (SR 2002/11).

Subsection (6) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (6) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

61R Right to cease to be contributor under Part 2A

- (1) Any contributor under this Part of this Act may at any time deliver to the Authority notice in writing of the contributor’s intention to cease to be a contributor to the Fund on the expiration of the day on which the notice is received by the Authority. Any such notice shall state whether the contributor—
- (a) elects to receive from the Fund a refund without interest of the total amount of the contributor’s contributions to the Fund (less any amounts already received by the contributor from the Fund); or
 - (b) elects, subject to regulations made under section 97 of this Act, to leave the contributor’s contributions in the Fund, and to receive—
 - (i) a deferred pension; or
 - (ii) a deferred lump sum,—in accordance with those regulations:
 - (c) If the contributor will not have attained the age of 50 years on the expiration of that period, elects to leave the contributor’s contributions in the Fund, subject to the right to elect to take a refund under subsection (5) of this section.
- (2)
- (3)
- (4) The contributor ceases to be a contributor to the Fund on the expiration of the day on which the notice is received by the Authority and, if the contributor elected to take a refund, that refund must be paid pursuant to the election as soon as practicable after that.
- (4A) Notwithstanding anything to the contrary in this Act, nothing in this Part of this Act shall apply in respect of any period of Government service after the effective date of an election under subsection (1)(b) of this section.
- (5) Any person who has made an election under subsection (1)(c) of this section may at any time elect to have paid to the person the amount left by the person in the Fund, which shall be paid

to the person without interest, except to the extent that the person qualifies under section 61S of this Act to have interest paid on part or all of that amount by reason of the person's having ceased Government service.

- (6) In any case where a person has left contributions in the Fund under subsection (1)(c) of this section and has not elected to take a refund under subsection (5) of this section—
- (a) if, at the time when the person attains the age of 50 years, the person has not again become a contributor to the Fund, the amount so left by the person in the Fund shall be refunded to the person without interest except to the extent that the person qualifies under section 61S of this Act to have interest paid on all or part of that amount by reason of the person's having ceased Government service:
 - (b) if the person again becomes a contributor to the Fund before attaining the age of 50 years, the person's contributions shall not be refunded to the person, and the person's previous record of contributory service shall be reactivated and count as continuous contributory service for the purpose of calculating benefits under this Act, but shall be discounted in the following manner:
 - (i) a discount of 1.25 percent for each complete year of the period of the person's ineligibility to be a contributor for which the person has a corresponding period of contributory service that will be reactivated in accordance with this section, and of a relative proportion of that percentage in respect of any fraction of a year of ineligibility for which the person has a corresponding period of such contributory service:
 - (ii) a discount of 2.25 percent for each complete year of the period of the person's ineligibility to be a contributor that is in excess of the person's period of contributory service that will be reactivated in accordance with this section, and of a relative proportion of that percentage in respect of any fraction of a year of ineligibility for which the

person has no corresponding period of such contributory service.

- (7) Any such period of discounted contributory service shall be deemed to precede immediately the date on which the person again became a contributor to the Fund.
- (8) While any contributions are held in the Fund under this section on behalf of a person who has ceased to be a contributor and who dies before again becoming a contributor,—
 - (a) sections 61M and 61Q of this Act shall not apply and, if the contributor leaves a spouse or partner, there shall be paid out of the Fund to the spouse or partner, at the election of the spouse or partner,—
 - (i) a refund of the contributor's contributions to the Fund increased in respect of contributions paid in respect of any period after the 1st day of May 1985 under this Part of this Act by 0.25 percent for every month beginning on or after the 1st day of May 1985 between the date on which the contributor became a contributor under this Part of this Act and the date of the contributor's death; or
 - (ii) an annuity at one-half of the rate of the retiring allowance to which the deceased contributor would have been entitled if the contributor had become entitled to a retiring allowance under section 61I(4) of this Act on the date of the contributor's death—

and the entitlement of the spouse or partner to the refund or annuity shall not be affected by any change in the relationship status of that spouse or partner:

- (b) sections 61O and 61Q of this Act shall not apply and, if the contributor dies without leaving a spouse or partner, there shall be paid out of the Fund to the contributor's personal representatives in trust for the persons entitled to receive them under the contributor's will or under the Acts relating to the distribution of intestate estates, as the case may be, the contributor's contributions to the Fund increased in respect of contributions paid in respect of any period after the 1st day of May 1985

under this Part of this Act by 0.25 percent for every month beginning on or after the 1st day of May 1985 between the date on which the contributor became a contributor under this Part of this Act and the date of the contributor's death.

- (9) For the purposes of determining the retiring allowance that would have been payable to any person in any case to which subsection (8) of this section applies, the retiring allowance shall be calculated under section 61L of this Act as if the person was entitled to a retiring allowance under section 61I(4) of this Act, except that—
- (a) the contributor's final average earnings shall be determined under section 61L of this Act as if the date on which the contributor ceased Government service was the date of the contributor's retirement:
 - (b) the final average earnings shall be increased by the percentage (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 which immediately preceeds the date upon which the retiring allowance is first to be paid exceeds the index number for the quarter immediately following the date of resignation:
 - (c) for the purposes of the definition of **appropriate percentage** in section 61L(1A) of this Act, the date of the contributor's death shall be treated as the date of the contributor's retirement.
- (10) Where any contributions are refunded under this section the refund shall include any amount payable to or in respect of the contributor under section 35(1) of the Government Superannuation Fund Amendment Act 1976.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsections (1) to (5) were substituted, as from 1 July 1991, by section 9(1) Government Superannuation Fund Amendment Act 1990 (1990 No 77).

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (1)(b) was substituted, as from 1 October 1995, by section 11(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsection (2) was repealed, as from 1 October 1995, by section 11(2) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the words “, if the contributor elected to take a refund, that refund shall be paid” for the words “any payment shall be made”.

Subsection (3) was repealed, and subsection (4) was substituted, as from 2 October 2001, by section 14(2) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 Government Superannuation Fund Amendment Act 2001, which allows the minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the words “, if the contributor elected to take a refund, that refund shall be paid” for the words “any payment shall be made”.

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4A) was inserted, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsection (6) was amended, as from 1 July 1991, by section 9(4) Government Superannuation Fund Amendment Act 1990 (1990 No 77) by substituting the expression “subsection 1(c)” for the expression “subsection (4)”.

Subsection (6)(a) was amended, as from 1 April 1991, by section 80 National Provident Fund Restructuring Act 1990 (1990 No 126) by omitting the words “or, if his whereabouts cannot be ascertained, paid to his credit in an appropriate scheme of the National Provident Fund Board”.

Subsection (6)(b)(i) and (ii) were amended, as from 9 June 1995, by section 9(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28) by omitting the word “additional”.

Subsection (8) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

Subsection (8) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “relationship status” for the words “marital status”.

Subsection (8)(a)(ii) was amended, as from 1 April 1988, by section 10(1) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by substituting the words “under section 61I(4)” for the words “calculated under section 61L(2)”.

Subsection (9) was amended, as from 1 April 1988, by section 10(2) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by inserting

the words “as if the person was entitled to a retiring allowance under section 61I(4) of this Act”.

Subsection (9)(c) was substituted, as from 1 April 1988, by section 10(2) Government Superannuation Fund Amendment Act 1988 (1988 No 19).

Subsection (9)(c) was amended, as from 1 April 1990, by section 13(4) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by substituting the expression “section 61L(1A)” for the expression “section 61L(6)”.

61S Rights and benefits where contributor ceases Government service

- (1) Where the Government service of any contributor under this Part of this Act ceases for any reason (other than the death of the contributor) the contributor may—
- (a) elect to receive a refund of the contributor’s contributions to the Fund (less any amounts already received by the contributor from the Fund) increased, in respect of contributions paid in respect of any period after the 1st day of May 1985 under any Part of this Act other than Part 2, Part 3, or Part 6 by 0.25 percent for every month beginning on or after the 1st day of May 1985 during which the person was a contributor under any Part of this Act other than Part 2, Part 3, or Part 6:
 - (b) if the contributor has not attained the age of 50 years, make an election that section 61R(1)(c) of this Act shall apply in respect of the contributor and the contributor’s contributions:
 - (c) if the contributor has not less than 10 years’ contributory service, elect to have the transfer value of the contributor’s contributions as determined in accordance with subsection (6) of this section, paid to any superannuation scheme nominated by the contributor that is approved by the Authority and is registered under the Superannuation Schemes Act 1989:
 - (d) if the contributor has not less than 10 years’ contributory service, elect, not more than 6 months after the date of the contributor’s ceasing to be in Government service or such extended period as the Authority may allow, to leave the contributor’s contributions in the Fund on the basis that the contributor may make a further election not sooner than 3 months before the contributor attains

the age of 50 years to receive a retiring allowance which shall commence to be payable to the contributor on such date as the contributor may elect being a date on or after the day on which the contributor attains the age of 50 years and shall continue to be payable to the contributor during any period when the contributor is not contributing to the Fund.

- (2) Every election under subsection (1) of this section may, subject to subsection (3) of this section, be revoked and the contributor may thereupon make an election under any other paragraph of that subsection.
- (3) Every election under subsection (1) of this section shall be in writing delivered to the Authority, and shall be irrevocable once any payment has been accepted from the Fund pursuant to the election.
- (4) Where a contributor who has made an election under subsection (1)(d) of this section dies before becoming entitled to a retiring allowance either because the contributor has not made the further election provided for in that paragraph or because the contributor dies before a date specified in such an election,—
 - (a) sections 61M and 61Q of this Act shall not apply and, if the contributor leaves a spouse or partner, there shall be paid out of the Fund to the spouse or partner, at the election of the spouse or partner,—
 - (i) a refund of the contributor's contributions to the Fund increased in respect of contributions paid in respect of any period after the 1st day of May 1985 under this Part of this Act by 0.25 percent for every month beginning on or after the 1st day of May 1985 between the date on which the contributor became a contributor under this Part of this Act and the date of the contributor's death; or
 - (ii) an annuity at one-half of the rate of the retiring allowance to which the deceased contributor would have been entitled if the contributor had become entitled to a retiring allowance under sec-

tion 61I(4) of this Act on the date of the contributor's death—

and the entitlement of the spouse or partner to the refund or annuity shall not be affected by any change in the relationship status of that spouse or partner:

- (b) sections 61O and 61Q of this Act shall not apply and, if the contributor dies without leaving a spouse or partner, there shall be paid out of the Fund to the contributor's personal representatives in trust for the persons entitled to receive them under the contributor's will or under the Acts relating to the distribution of intestate estates, as the case may be, the contributor's contributions to the Fund increased in respect of contributions paid in respect of any period after the 1st day of May 1985 under this Part of this Act by 0.25 percent for every month beginning on or after the 1st day of May 1985 between the date on which the contributor became a contributor under this Part of this Act and the date of the contributor's death.
- (5) Where any contributor who is entitled to make an election under paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) of this section or an initial election under paragraph (d) of that subsection dies before making such an election, there shall be paid out of the Fund to the contributor's personal representatives in trust for the persons entitled to receive them under the contributor's will or the Acts relating to the distribution of interstate estates, as the case may be, the contributor's contributions, including interest, as if the contributor had made an election under subsection (1)(a) of this section on the date of the contributor's death, and no person shall have any claim on the Fund for any allowance or annuity arising from the contributor's contributions to the Fund.
- (6) For the purposes of subsection (1)(c) of this section, the transfer value of a contributor's contributions shall be—
 - (a) the amount of the refund that the contributor would be entitled to receive if the contributor made an election under subsection (1)(a) of this section, increased by 10 percent of that amount for every complete year of the contributor's contributory service in excess of 10 years'

- contributory service, and an appropriate portion of 10 percent for any part year of such contributory service; or
- (b) twice the amount of the refund that the contributor would be entitled to receive if the contributor had made an election under subsection (1)(a) of this section—
- whichever is the lesser, and the amount that would be included in any refund of contributions payable to the contributor by virtue of section 35(1) of the Government Superannuation Fund Amendment Act 1976.
- (7) For the purposes of determining the retiring allowance payable to a person who has made an election under subsection (1)(d) of this section to receive a retiring allowance, the retiring allowance shall be calculated under section 61L of this Act as if the person was entitled to a retiring allowance under section 61I(4) of this Act, except that—
- (a) the contributor's final average earnings shall be determined under section 61L of this Act as if the date on which the contributor ceased Government service was the date of the contributor's retirement:
- (b) the final average earnings shall be increased by the percentage (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 which immediately precedes the date upon which the retiring allowance is first to be paid exceeds the index number for the quarter immediately following the date of resignation:
- (c) for the purposes of the definition of **appropriate percentage** in section 61L(1A) of this Act, the date upon which the retiring allowance is first to be paid shall be treated as the date of the contributor's retirement.
- (8) For the purposes of determining the amount of any refund of contributions payable to or in respect of any contributor under any provision of this section other than subsection (6), the amount of the refund shall include any amount payable to or in respect of the contributor under section 35(1) of the Government Superannuation Fund Amendment Act 1976.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (1)(a) was substituted, as from 25 December 1986, by section 13 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (1)(b) was amended, as from 1 July 1991, by section 9(5) Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77) by substituting the expression “section 61R(1)(c)” for the expression “section 61R(4)”.

Subsection (1)(c) was amended, as from 22 March 1989, by section 31(1) Superannuation Schemes Act 1989 (1989 No 10) by inserting the words “is registered under the Superannuation Schemes Act 1989”.

Subsection (1)(c) was amended, as from 1 April 1990, by section 32(3) Superannuation Schemes Act 1989 (1989 No 10) by omitting the words “is approved under the Superannuation Schemes Act 1976 and classified under that Act as an employee pension superannuation scheme or a personal pension superannuation scheme”.

Subsection (1)(d) was amended, as from 1 April 1988, by section 11(1) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by substituting the words “when the contributor is not contributing to the Fund” for the words “in which the contributor is not a contributor to the Fund”.

Subsection (1)(c) and (1)(d) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1)(c) and (1)(d) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Subsection (4) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “relationship status” for the words “marital status”.

Subsection (4)(a)(ii) was amended, as from 1 April 1988, by section 11(2) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by substituting the words “section 61I(4)” for the words “calculated under section 61L(2)”.

Subsection (7)(c) was substituted, as from 1 April 1988, by section 11(4) Government Superannuation Fund Amendment Act 1988 (1988 No 19).

Subsection (7)(c) was amended, as from 1 April 1990, by section 13(5) Government Superannuation Fund Amendment Act 1990 (1990 No 30) by substituting the expression “section 61L(1A)” for the expression “section 61L(6)”.

Application of other provisions

61T Sections to apply to contributors and contributions under this Part

- (1) Except as provided in subsection (2) of this section, nothing in Part 2 of this Act shall apply to contributors or contributions under this Part of this Act.
- (2) Sections 23A, 25, 32, 33, 37, 40, 42 (except subsection (2)), 43, 48, 52B, 55, 58, 59, and 60 of this Act shall apply to contributors and contributions under this Part of this Act as if those sections were also included in this Part of this Act.

Part 2A, comprising sections 61A to 61T, was inserted, as from 29 March 1985, by section 13 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (2) was amended, as from 1 April 1988, by section 12(1) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by omitting the expression “44”.

Subsection (2) was amended, as from 9 June 1995, by section 19(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the words “42 (except subsection (2))” for the words “42 (except subsections (1) and (2))”.

Part 3

Superannuation of members of armed forces

62 Interpretation

- (1) For the purposes of this Part of this Act, unless the context otherwise requires,—

contributing member means a contributor to the Fund who is a permanent member of the regular forces or who is a regular serviceman

Contributing member: amended, as from 1 November 1976, by section 18(a) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by adding the words “or who is a regular serviceman”.

Her Majesty’s forces means any of Her Majesty’s naval, military, or air forces, whether established before or after the commencement of this Act, and whether established in New Zealand or elsewhere

New Zealand forces means any of Her Majesty’s forces that have been established in New Zealand, whether before or after the commencement of this Act

permanent member of the regular forces or **permanent member** means any person who is a member of any of the regular forces by virtue of a contract to serve therein for a specified period not being less than 2 years or for any subsequent period or periods continuous with any such specified period

regular forces means the Royal New Zealand Navy, the Regular Force of the New Zealand Army, and the Regular Air Force collectively

Regular forces and regular serviceman: substituted, as from 1 November 1976, for the original definition of the term regular forces by section 18(b) Government Superannuation Fund Amendment Act 1976 (1976 No 30).

regular serviceman means a serviceman of the regular forces
salary, in relation to any member of the New Zealand forces, means the basic pay payable to him, plus the value of rations or ration allowance as determined by the Minister of Finance; but, except as otherwise provided by or under this Act, does not include any other allowances.

Service Board*[Repealed]*

Service Board: repealed, as from 1 April 1972, by section 89(1) Defence Act 1971 (1971 No 52). See regulation 2 Defence Act Commencement Order 1972 (SR 1972/70).

[Repealed]

- (2) A person who received a refund of his contributions to the Fund or retired on a retiring allowance before the 5th day of December 1951 shall not be deemed to have been a permanent member of the regular forces during any such subsequent period as is mentioned in the definition of the term **permanent member of the regular forces** in subsection (1) of this section unless, within such period as the Authority may allow, he elects to contribute to the Fund in respect of the whole or any part of any such subsequent period.

Compare: 1947 No 57 s 60(1); 1951 No 65 ss 7, 9

Subsection (2) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

62A Application of Part 3

Except as provided in Part 3A of this Act, nothing in this Part of this Act shall apply in respect of any person who—

- (a) is a member of the regular forces on the 5th day of December 1986; or
- (b) has been a member of the regular forces and has not retired before the 5th day of December 1986; or
- (c) becomes a member of the regular forces after the 5th day of December 1986.

Section 62A was inserted, as from 25 December 1986, by section 14 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

63 Application of Part 2 to permanent members of regular forces and regular servicemen

- (1) Subject to the provisions of this Part of this Act, the provisions of Part 2 of this Act shall, so far as they are applicable and with any necessary modifications, apply with respect to permanent members of the regular forces and regular servicemen.
- (2) The following provisions of Part 2 of this Act shall not apply with respect to permanent members of the regular forces and regular servicemen, namely:
 - Subsection (3) of section 21; sections 22, 23, 24, and 26; paragraphs (d) and (e) of section 27; sections 28 and 36; subsection (5) of section 42; and sections 44 and 58.
- (3) In their application to permanent members of the regular forces and regular servicemen,—
 - (a) all references in this Act to the controlling authority shall be deemed to be references to the New Zealand Defence Council;
 - (b) section 25 of this Act shall be read subject to the provisions of section 66 of this Act as if service for the purposes of the National Provident Fund Act 1950 were service in the Government service;
 - (c) section 33 of this Act shall not apply in the case of any reduction of a contributor's salary by reason of his ceasing to hold any rank higher than his substantive rank but in the case of every such reversion at any time after the 3rd day of September 1939, the contributor shall receive a refund, without interest, of the amount of his contri-

butions to the Fund in respect of the excess of his salary over the salary for the rank to which he reverts (except in respect of any period before the said date), and the amount of that excess shall not be deemed to form part of his salary for the purposes of this Act:

- (d) subsections (3) and (4) of section 42 of this Act shall not apply in the case of a contributor who retires only because his services are no longer required at the expiration of the period of his engagement unless the length of his contributory service as a permanent member is 12 years or more:

Provided that in the case of any contributor who was a permanent member on the 24th day of November 1967 (being a contributor who on that date was serving under an engagement at the expiration of which he would have completed 8 years or more contributory service as a permanent member or who on or before that date had accepted the offer of further service under such an engagement), subsections (3) and (4) of the said section 42 shall apply as if section 7 of the Government Superannuation Fund Amendment Act 1967 had not been enacted.

Compare: 1947 No 57 s 61; 1948 No 79 ss 14, 15; 1951 No 65 s 10

Subsections (1), (2), and (3) were amended, as from 1 November 1976, by section 19 Government Superannuation Fund Act 1976 (1976 No 30) by inserting the words “and regular servicemen”.

Subsection (3)(a) was amended, as from 1 April 1972, by section 89(1) Defence Act 1971 (1971 No 52) by substituting the words “New Zealand Defence Council” for the words “Service Board”. See regulation 2 Defence Act Commencement Order 1972 (SR 1972/70).

Subsection (3)(d) was amended, as from 24 November 1967, by section 7 Government Superannuation Fund Amendment Act 1967 (1967 No 141) by substituting the figures “12” for the word “eight”.

Subsection (3)(d) was amended, as from 24 November 1967, by section 2(1) Government Superannuation Fund Amendment Act 1973 (1973 No 94) by inserting the proviso.

63A Rates of contribution to the Fund by permanent members of the regular forces and regular servicemen

- (1) Notwithstanding anything to the contrary in section 29 of this Act, the contribution to be made on and after the 9th day of

July 1975 by a permanent member of the regular forces or a regular serviceman shall be the following percentages of his salary as the salary becomes payable from time to time:

- (a) 7 percent if his age does not exceed 30 years at the commencement of his contributory service:
- (b) 8 percent if his age at the commencement of his contributory service exceeds 30 years but does not exceed 35 years:
- (c) 9 percent if his age at the commencement of his contributory service exceeds 35 years but does not exceed 40 years:
- (d) 10 percent if his age at the commencement of his contributory service exceeds 40 years but does not exceed 45 years:
- (e) 11 percent if his age at the commencement of his contributory service exceeds 45 years but does not exceed 50 years:
- (f) 12 percent if his age at the commencement of his contributory service exceeds 50 years:

Provided that any permanent member of the regular forces or regular serviceman who on the 1st day of April 1975 was subject to the provisions of either paragraph (a) of subsection (1) of section 29 of this Act (as substituted by section 2 of the Act heretofore known as the Superannuation Amendment Act 1969) or paragraphs (a) to (f) of subsection (1) of this section (as the last-mentioned paragraphs were initially enacted by section 2 of the Act heretofore known as the Superannuation Amendment Act 1972) may elect to remain subject to the provisions of that paragraph or those paragraphs; and where any such permanent member of the regular forces or regular serviceman so elects any retiring allowance payable to that person, and any annuity payable to the spouse or partner of that person, in respect of his current period of contributory service shall be computed and paid as if subsection (3) of section 13 of

the Government Superannuation Fund Amendment Act 1976 had not been enacted:

Provided also that where any permanent member of the regular forces or regular serviceman has at any time made an election under subsection (4) of section 2 of the Act heretofore known as the Superannuation Amendment Act 1969, if he has not revoked the election under subsection (6) of that section (as inserted by section 4 of the Act heretofore known as the Superannuation Amendment Act 1970) or subsection (3) of this section, he shall be subject to the provisions of subsections (7) and (8) of section 2 of the Act heretofore known as the Superannuation Amendment Act 1969 (as inserted by section 11 of the Government Superannuation Fund Amendment Act 1976), and shall be deemed to be subject to the provisions of the said paragraph (a) of subsection (1) of section 29 of this Act.

(2)

(3) Notwithstanding the provisions of subsection (6) of section 2 of the Government Superannuation Fund Amendment Act 1969 (as added by section 4 of the Government Superannuation Fund Amendment Act 1970), any person who was a permanent member of the regular forces or a regular serviceman on the 1st day of April 1975, and who has made an election under subsection (4) of the said section 2, may elect to revoke that election, and, upon that election being revoked, he shall be required to contribute the amount by which his actual contributions have been less than the contributions which would have been payable had he not made an election under the said subsection (4), together with compound interest at such rate and calculated in such manner as the Authority may determine.

(4) Every election under this section shall be made in writing delivered to the Authority before the 1st day of December 1972 or before such later date as the Authority may determine in any particular case or class of cases.

Section 63A was inserted, as from 20 April 1972, by section 2(1) Government Superannuation Fund Amendment Act 1972 (1972 No 33).

Subsection (1) was substituted, as from 1 April 1975, by section 20(1) Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Subsection (1) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Subsection (2) was repealed, as from 1 April 1975, by section 20(1) Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Subsection (3) was amended, as from 1 April 1975, by section 20(2) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by substituting the words “or a regular serviceman on the 1st day of April 1975” for the words “on the 19th day of April 1972”.

Subsections (3) and (4) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (3) and (4) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

63B Flat rate contributions

- (1) Notwithstanding anything to the contrary in section 63A of this Act (as inserted by section 2 of the Act heretofore known as the Superannuation Amendment Act 1972 and amended by section 20 of the Government Superannuation Fund Amendment Act 1976), any permanent member of the regular forces or regular serviceman who at the date of his enlistment was aged 30 years or over may elect to contribute to the Fund 7 percent of his salary as the salary becomes payable from time to time:
Provided that, in respect of any period before the 10th day of July 1975, the minimum contribution shall be 6.7 percent of his salary.
- (2) Every such election shall take effect—
 - (a) from the time when the contributor becomes a contributor if the election is made at that time; and
 - (b) in any other case, at the expiration of 6 months from the date of the receipt of the election.
- (3) Subject to subsection (4) of this section, any contributor who is contributing to the Fund on the basis specified in subsection (1) of this section may at any time elect to contribute to the Fund on the basis specified in the said section 63A of this Act. Every such election shall take effect at the expiration of 6 months from the date of the receipt of the election.

- (4) Except with the consent of the Authority, no contributor shall make more than 3 elections pursuant to subsections (1) and (3) of this section after he has become a contributor to the Fund.
- (5) Where a contributor contributes to the Fund on the basis specified in subsection (1) of this section during any period of contributory service, every annuity or allowance payable to any person by reason of the contributor's contributions to the Fund for that period shall be reduced in accordance with the ratio that the actual percentage contribution paid bears to the percentage contribution that should have been paid pursuant to the said section 63A of this Act, whether or not the annuity or allowance is payable at a minimum rate prescribed by this Act.
- (6) Where a contributor who is contributing to the Fund on the basis specified in subsection (1) of this section elects to contribute on the basis specified in the said section 63A of this Act from the time when the election takes effect, he may at the same time elect to contribute on the basis set out in the said section 63A in respect of the whole or any part of the period during which he made contributions on the basis specified in subsection (1) of this section. In every such case,—
 - (a) from the expiration of 6 months from the date of the receipt of the election, the contributor shall be deemed to have contributed to the Fund on the basis specified in the said section 63A of this Act during the period to which the election relates:
 - (b) the contributor shall pay into the Fund within such time and in such manner as the Authority may allow in that behalf the balance of his contributions on the basis specified in the said section 63A of this Act for the period to which the election relates together with compound interest thereon calculated at the rate of 5 percent per annum with annual rests.
- (7) Where any contributor was, at the 31st day of March 1975 (by reason of an election under section 30 of this Act) contributing a proportion of the percentage of salary that he would otherwise contribute on the basis specified in section 29 or section 63A of this Act, as the case may be, he may continue to contribute that proportion.

- (8) Where any contributor is contributing or has contributed in respect of any period (by reason of an election under section 30 of this Act) a proportion of the percentage of salary he would otherwise contribute or have contributed on the basis specified in section 29 of this Act, the foregoing provisions of this section shall be read as if references therein to “the basis specified in subsection (1) of this section” were references to the actual percentage of salary contributed, and references to section 63A of this Act were references to section 29 of this Act.

Section 63A was inserted, as from 1 April 1975, by section 21 Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Subsections (4) and (6)(b) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (4) and (6)(b) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

64 Provisions as to permanent members and regular servicemen becoming contributors

- (1) Every person who is or becomes a permanent member of the regular forces or a regular serviceman and is not a contributor to the Government Superannuation Fund shall become a contributor to that Fund on and after the 1st day of April 1975 or the date of his becoming a permanent member or regular serviceman, whichever is the later:

[Repealed]

Provided also that any person to whom this subsection applies, being a person whose age at the date of enlistment was not less than 35 years and who is not a contributor to the Government Superannuation Fund, may, with the consent of the New Zealand Defence Council, elect in accordance with subsection (1A) of this section not to become a contributor to that Fund.

- (1A) Every such election shall be made within 6 months after the person concerned has become a permanent member of the regular forces or a regular serviceman, or within 6 months after the commencement of this subsection, whichever is the later: Provided that any such election may, with the consent of the New Zealand Defence Council, be made at any time thereafter.

- (2) Subject to the provisions of this Part of this Act, any permanent member of the regular forces who was a permanent member at the commencement of this Part of this Act and is not a contributor to the Fund may, with the consent of the Authority, elect to become a contributor to the Fund—
- (a) from the date of his election; or
 - (b) from the commencement of the period of his continuous service as a permanent member immediately preceding the date of his election; or
 - (c) from any date during the period of that prior continuous service,—

not being in any case a date before the day on which he attains the age of 17 years.

Compare: 1947 No 57 s 63; 1948 No 79 ss 16, 17; 1951 No 65 s 11

Subsection (1) was substituted and subsection (1A) inserted, as from 1 November 1976, by section 22 Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Subsection (1) was amended, as from 1 April 1991, by section 80 National Provident Fund Restructuring Act 1990 (1990 No 126) by repealing the first proviso.

Subsection (2) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

65 Election to contribute in respect of previous service in Her Majesty’s forces

- (1) Subject to the provisions of this Part of this Act, where any contributing member has served as a member of any of Her Majesty’s forces for any period or periods before the commencement of his contributory service as a permanent member of the regular forces or regular serviceman, he may elect to contribute to the Fund in respect of the whole or any part of that period or those periods of previous service.
- (2) Every election under this section shall be made within 6 months after the contributing member has become a permanent member of the regular forces, or regular serviceman, or, with the consent of the Authority, at any time thereafter.

- (3) No election shall be made under this section so as to enable any contributing member—
- (a) to contribute to the Fund in respect of any period of service for which he is receiving or has received any pension or retiring allowance:
Provided that such an election may be made with the consent of the Authority and subject to such conditions as may be imposed by the Authority; or
 - (b) to contribute to the Fund from any date before the date of his attaining the age of 17 years; or
 - (c) to contribute to the Fund in respect of any period of contributory service in excess of 10 years before the commencement of his actual continuous service as a permanent member of the regular forces or regular serviceman:
Provided that paragraph (c) of this subsection shall not apply to any election in so far as it relates to service as a permanent member of the regular forces or regular serviceman.
- (4) No election shall be made under this section except with the consent of the Authority.

Compare: 1947 No 57 s 64; 1948 No 79 ss 17, 18; 1951 No 65 ss 11(b), 12, 13(1), (3)

Subsections (1) and (2) and (3) were amended, as from 1 November 1976, by section 23 Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the words “or regular serviceman”.

Subsection (2) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3)(a) was amended, as from 22 October 1959, by section 20 Government Superannuation Fund Amendment Act 1959 (1959 No 85) by inserting the proviso.

Subsection (3)(a) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (3)(a) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

66 Provisions as to previous contributory service otherwise than in Her Majesty’s forces

- (1) Where any contributing member was a contributor to the Fund, otherwise than as a permanent member of the regular forces or regular serviceman, in respect of a previous period of contributory service in the Government service which is continuous with the current period and in respect of which he has not received any retiring allowance, he may, with the consent of the Authority, elect to count the whole or any part of his previous period of contributory service (computed backwards from the end thereof), but not exceeding 10 years, in which case the amount of his contributions to the Fund in respect of the balance of his previous period of contributory service shall be refunded to him without interest:

Provided that, where the contributing member was a contributor to the Fund as a permanent member of the regular forces or regular serviceman immediately before that previous period of contributory service in the Government service, he may, with the consent of the Authority, elect to count for the purposes of a retiring allowance under section 68 of this Act the whole of his contributory service from the commencement of his first period of service as a permanent member of the regular forces or regular serviceman.

- (2) Every election under this section shall be made within 6 months after the contributing member has become a permanent member of the regular forces or regular serviceman, or, with the consent of the Authority, at any time thereafter:

Provided that where he has become a permanent member or regular serviceman by virtue of a contract to serve as an educational officer or as a schoolmaster for a specified period not exceeding 5 years he may make an election at any time during that period and unless he makes such an election any benefit which may become payable during that period shall be com-

puted only as if he had remained a contributor under Part 2 of this Act.

- (3) Where any contributing member to whom this section applies, but who does not make an election as aforesaid, compulsorily retires as mentioned in section 68 of this Act before becoming entitled to a retiring allowance under Part 2 of this Act, or becomes entitled to a retiring allowance under section 69 of this Act, he may count for the purposes of a retiring allowance under either of those sections so much of his previous period of contributory service (computed backwards from the end thereof) as is necessary to entitle him to the minimum period for a retiring allowance under the said section 68 but not exceeding 10 years; and, if he becomes entitled to such a retiring allowance, then, subject to section 68 or section 69 of this Act, as the case may be, the amount of his contributions to the Fund in respect of the balance of his previous period of contributory service shall be refunded to him without interest.

Compare: 1947 No 57 s 66; 1948 No 79 ss 17, 19; 1951 No 65 ss 11(b), 13(2)

Subsections (1) and (2) were amended, as from 1 November 1976, by section 24(a) and (b) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the words “or regular serviceman”.

Subsection (1) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (2) was amended, as from 22 October 1959, by section 21(1) Government Superannuation Fund Amendment Act 1959 (1959 No 85) by inserting in the proviso the words “and unless he makes such an election any benefit which may become payable during that period shall be computed only as if he had remained a contributor under Part 2 of this Act”.

Subsection (2) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3) was substituted, as from 22 October 1959, by section 21(2) Government Superannuation Fund Amendment Act 1959 (1959 No 85).

66A Contributions under special armed forces scheme by member with previous contributory service otherwise than in armed forces

Where any permanent member of the regular forces or regular serviceman counts under section 66 of this Act any previous period of contributory service otherwise than as such a permanent member or regular serviceman, he shall be required in respect of any such previous period or part thereof on or after the 20th day of April 1972 to contribute the amount by which his actual contributions have been less than the contributions which would have been payable had he contributed a percentage of salary determined under subsection (1) of section 63A of this Act, together with compound interest at such rate and calculated in such manner as the Authority may from time to time determine:

Provided that the provisions of this section shall not apply in the case of any person who, pursuant to an election under subsection (4) of section 2 of the Government Superannuation Fund Amendment Act 1969, is subject to the provisions of subsection (5) of that section:

Provided also that where any person counts under the said section 66 any previous period of service under the National Provident Fund Act 1950 and that person has made an election under the provisions of a scheme prepared under the provisions of that Act, being an election which in the opinion of the Authority is comparable in its effects to an election under subsection (4) of section 2 of the Government Superannuation Fund Amendment Act 1969, he shall for the purposes of this section be deemed to be subject to the provisions of the said subsection (5).

Section 66A was inserted, as from 20 April 1972, by section 3 Government Superannuation Fund Amendment Act 1972 (1972 No 33).

Section 66A was amended, as from 1 November 1976, by section 24(a) and (b) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the words “or regular serviceman”.

Section 66A was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Section 66A was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

66B Flying Qualification Pay and Surveying Pay

Notwithstanding the abolition on the 11th day of October 1977 of Flying Qualification Pay and Surveying Pay (as previously payable under determinations made by the Secretary of Defence pursuant to the State Services Remuneration and Conditions of Employment Act 1969), every contributing member who was contributing to the Fund in respect of Flying Qualification Pay or Surveying Pay on the 10th day of October 1977 may, by giving notice in writing to the Authority of the Fund before the 31st day of December 1979, elect to continue to contribute to the Fund so long as he remains a contributing member as if the amount of such Flying Qualification Pay or Surveying Pay, at the rate applicable on the 10th day of October 1977, had continued to be paid to him as salary.

Section 66B was inserted, as from 19 October 1978, by section 3 Government Superannuation Fund Amendment Act 1978 (1978 No 46).

Section 66B was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

67 General provisions as to elections

- (1) Every election under this Part of this Act shall be made in writing delivered to the Authority.
- (2) No person shall be entitled to elect under this Part of this Act to become a contributor or to contribute to the Fund in respect of any period during which he was a defaulter within the meaning of the National Service Emergency Regulations 1940.
- (3) No person shall be entitled to elect under this Part of this Act to become a contributor or to contribute to the Fund in respect of any previous period of service as a permanent member of the regular forces not earlier than the 1st day of April 1946, unless he repays, without interest, the amount of any gratuity paid to him in respect of that previous period of service in accordance with a scale of pay coming into force on or after that date.
- (4) Where any person elects under this Part of this Act to become a contributor or to contribute to the Fund in respect of any period before the date of his election he shall pay into the Fund within such time and in such manner as the Authority may allow in that behalf, such sum as the Authority may fix in respect of

that period, having regard to the rate of salary payable to the contributor at the date of his election; and his contributory service, unless it commenced before that period, shall be deemed to have commenced at the beginning of that period:

Provided that the Authority may, in its discretion, when fixing the sum payable, have regard to any rate of salary payable to the contributor during his service in the Government service before the date of his election greater than the rate of salary payable to the contributor at that date:

Provided also that all such periods and any earlier period of contributory service shall be added together to form one continuous period which shall be deemed immediately to precede the contributor's current period of contributory service and to form part thereof.

- (5) Where no actual liability has been imposed on the Fund by reason of an election made under this Part of this Act, the election may, with the consent of the Authority, be revoked by writing delivered to the Authority within such time as the Authority may determine.

Compare: 1947 No 57 s 65; 1950 No 94 ss 4(2), 5(2), 6(2)

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (4) was substituted, as from 1 April 1961, by section 22(1) Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsections (4) and (5) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Subsections (4) and (5) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

68 Retiring allowance of permanent members and regular servicemen compulsorily retired

- (1) Every contributor who, being a permanent member or a regular serviceman, compulsorily retires from the regular forces for any reason other than misconduct (whether by reason of the expiration of the period of his engagement, or by reason of his attaining the appropriate age for retirement, or otherwise) shall be entitled to receive from the Fund an annual retiring allowance for the rest of his life computed as provided in sec-

tion 35 of this Act if at the date of his retirement the length of his contributory service including not more than 10 years of service other than actual service as a permanent member of the regular forces or a regular serviceman is not less than 20 years:

Provided that, notwithstanding anything hereinbefore or hereinafter expressed, the Authority may in its discretion defer the commencement of the payment of any retiring allowance until the contributor attains the age of 37 years.

- (2) For the purposes of this Part of this Act no retirement of a contributor from any Service before the expiration of the period of his engagement or before he attains the appropriate age for retirement, as the case may be, shall be deemed to be compulsory merely because the contributor is deprived of the position held by him in that Service if at any time within 3 months before the deprivation he has been offered and has failed or refused to accept some other position in the same Service which the New Zealand Defence Council considers suitable for him at a salary not less than that of the position so held by him.
- (3) For the purposes of this section the term **Service** means the New Zealand Naval Forces or the New Zealand Army or the Royal New Zealand Air Force.
- (4) Every contributor who, being a permanent member or a regular serviceman, retires from the regular forces in any case to which subsection (1) of this section does not apply shall, with the consent of the Authority, if the Authority is satisfied that his retirement has been consented to by the New Zealand Defence Council, be entitled to receive from the Fund an annual retiring allowance for the rest of his life computed as provided in section 35 of this Act if at the date of his retirement the length of his contributory service including not more than 10 years of service other than actual service as a permanent member of the regular forces or a regular serviceman is not less than 20 years:
Provided that, if the Authority in any such case so directs, the retiring allowance shall be computed as if the contributor had retired at such date as the Authority may specify, being earlier than the date of his actual retirement but not earlier than the date on which he completed 20 years of contributory service,

and in any such case the contributor shall be entitled to receive from the Fund a refund without interest of his contributions to the Fund in respect of his contributory service after the date so specified:

Provided also that the Authority, in its discretion, may defer the commencement of payment of any retiring allowance payable under this subsection until such date as the Authority may specify, being not later than the earliest date at which the contributor could have been compulsorily retired from the regular forces by reason of the expiration of the period of his engagement or by reason of his attaining the appropriate age for retirement:

Provided further that, notwithstanding anything hereinbefore or hereinafter expressed, the Authority may in its discretion defer the commencement of the payment of a retiring allowance until the contributor attains the age of 37 years.

- (5) The Authority may, in its discretion, with the consent of the contributor, vary any decision made by it under subsection (4) of this section.
- (6) Any decision by the Authority to defer the commencement of the payment of a retiring allowance under the provisions of subsection (4) of this section shall be disregarded for the purposes of sections 45 and 47 of this Act.
- (7) In any case where, under the provisions of subsection (4) of this section, the Authority has deferred the commencement of the payment of a retiring allowance to any contributor to any specified date,—
 - (a) for the purposes of the proviso to subsection (11) of section 48 of this Act, but of no other part of that subsection, the contributor shall be deemed to be in receipt of the retiring allowance from the date of his retirement:
 - (b) for the purposes of section 91 of this Act, the contributor shall be deemed not to become entitled to the retiring allowance until the specified date.

Compare: 1947 No 57 s 62; 1950 No 94 s 13

Subsection (1) was amended, as from 1 April 1957, by section 23 Government Superannuation Fund Amendment Act 1959 (1959 No 85) by substituting the words “including not more than 10 years of service other than actual service as a permanent member of the regular forces” for the words “computed in accordance with this Part of this Act”,

Subsection (1) was amended, as from 1 November 1976, by section 26(a) and (b) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the words “or a regular serviceman”.

Subsection (1) was amended, as from 1 November 1976, by section 26(c) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the proviso.

Subsection (1) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsections (2) and (4) were amended, as from 1 April 1972, by section 89(1) Defence Act 1971 (1971 No 52) by substituting the words “New Zealand Defence Council” for the words “Service Board”.

Subsection (4) was amended, as from 1 November 1976, by section 26(d) and (e) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the words “or a regular serviceman”.

Subsection (4) was amended, as from 1 April 1957, by section 23 Government Superannuation Fund Amendment Act 1959 (1959 No 85) by substituting the words “including not more than 10 years of service other than actual service as a permanent member of the regular forces” for the words “computed in accordance with this Part of this Act”.

Subsection (4) was amended, as from 25 October 1963, by section 6(1) Government Superannuation Fund Amendment Act 1963 (1963 No 126) by inserting the second proviso.

Subsection (4) was amended, as from 1 November 1976, by section 26(f) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the third proviso.

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsections (5) to (7) were inserted, as from 25 October 1963, by section 6(2) Government Superannuation Fund Amendment Act 1963 (1963 No 126).

Subsection (6) was amended, as from 29 March 1985, by section 22(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62) by substituting the expression “sections 45 and 47” for the expression “sections 45, 46, and 47”.

Subsections (5) to (7) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (5) to (7) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

69 Retiring allowance when contributing member medically unfit for further duty

- (1) Every contributing member who, before becoming entitled to a retiring allowance under this Act, compulsorily retires from the regular forces on the ground of being medically unfit for further duty shall be entitled to receive from the Fund an annual retiring allowance computed as provided in section 35 of this Act, if the Authority is of opinion that the degree of disability for any employment whatsoever is sufficient to justify the payment of that retiring allowance:

Provided that the Authority may, in its discretion, suspend or reduce or cancel any retiring allowance payable under this section, whether it first became payable before or after the commencement of this subsection, if—

- (a) it is of opinion that the degree of disability is insufficient to justify the payment of the retiring allowance in full or in part; or
 - (b) the contributor fails without sufficient justification to submit himself for medical examination when and as often as required by the Authority; or
 - (c) the Authority does not know the present whereabouts of the contributor or whether he is alive or dead.
- (1A) The Authority may, in its discretion, vary or revoke any decision made by it under subsection (1) of this section, whether the decision was made or the retiring allowance first became payable before or after the commencement of this subsection.
- (1B) Any decision by the Authority to suspend or reduce a retiring allowance under the provisions of subsection (1) of this section shall be disregarded for the purposes of sections 45 and 47 of this Act.
- (2) For the purposes of this Part of this Act a contributor shall be deemed to be medically unfit for further duty if on the certificate of at least 2 medical practitioners approved by the Authority it is established to the satisfaction of the Authority that by reason of mental or bodily infirmity, not caused by irregular or intemperate habits, the contributor has become substantially unable to perform any duties which the New Zealand Defence Council considers suitable and reasonable for him.

Compare: 1947 No 57 s 68; 1955 No 107 s 9(3)

Subsection (1) was substituted and (1A) and (1B) were inserted, as from 22 October 1959, by section 24 Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsections (1A) and (1B) were inserted, as from 22 October 1959, by section 24 Government Superannuation Fund Amendment Act 1959 (1959 No 85).

Subsection (1A) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1A) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (1B) was amended, as from 29 March 1985, by section 22(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62) by substituting the expression “sections 45 and 47” for the expression “sections 45, 46, and 47”.

Subsection (1B) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1B) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (2) was amended, as from 1 April 1972, by section 89(1) Defence Act 1971 (1971 No 52) by substituting the words “New Zealand Defence Council” for the words “Service Board”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

70 Contributors entering Government service after retirement from regular forces

- (1) Where any permanent member or regular serviceman retires from the regular forces, and within 6 months thereafter becomes employed in the Government service otherwise than in the regular forces, the following provisions shall apply:
 - (a) he may elect to become a contributor under Part 2 of this Act, in which case his contributory service before his retirement from the regular forces shall be deemed to be continuous with his employment in the Government service thereafter, and his right (if any) to receive a retiring allowance under section 68 of this Act shall cease:

- (b) if he is entitled to receive a retiring allowance under section 68 of this Act, he may elect to continue as a contributor to the Fund and to reserve his right to that retiring allowance, in which case he shall be entitled on his retirement from the Government service to receive that retiring allowance from the date of that retirement, computed by reference to the portion of his contributory service before his retirement from the regular forces, and also, if he is entitled to a retiring allowance under Part 2 of this Act, to receive that retiring allowance computed by reference to the portion of his contributory service subsequent to his retirement from the regular forces, or if he is not entitled to or elects not to receive such a retiring allowance, to receive a refund, without interest, of the amount of his contributions to the Fund in respect of that subsequent portion of his contributory service:
 - (c) he may elect to receive a refund, without interest, of his contributions to the Fund, in which case he may become a contributor to the Fund in respect of his employment in the Government service but, subject to the provisions of subsection (3) of this section, not in respect of any period before his retirement from the regular forces:
 - (d) if he is entitled to a retiring allowance under section 68 of this Act, he may elect to receive that retiring allowance.
- (2) Every election under this section shall be made within 6 months after the retirement of the contributor from the regular forces.
- (3) Subject to such conditions as the Authority 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 of his contributions or may have previously commenced to receive a retiring allowance.
- (4) Where there is an interval between the retirement of the contributor from the regular forces and the commencement of his subsequent employment in the Government service, he may, with the consent of the Authority but not otherwise, contribute to the Fund in respect of that interval.

- (5) Where any permanent member or regular serviceman who has retired from the regular forces on a retiring allowance under section 68 or section 69 of this Act, and whose length of contributory service is less than 40 years, is re-employed as a regular serviceman, he shall again be a contributor to the Fund from the date of his re-employment at such rate of contribution as the Authority determines. In any such case the retiring allowance shall not be payable while he continues to be a contributor; and upon his subsequently ceasing to be a contributor his retiring allowance shall be computed separately in respect of each of his periods of service and of the rate of salary on the basis of which he contributed to the Fund during each of those periods:

Provided that where his retirement was on the ground of being medically unfit for further duty he may with the consent of the Authority elect to have his retiring allowance computed in respect of the total length of his periods of contributory service as if they were continuous.

Compare: 1947 No 57 s 67; 1951 No 65 s 8

Subsection (1) was amended, as from 1 April 1975, by section 27(a) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the words “or regular serviceman”.

Subsections (3) and (4) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (3) and (4) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (5) was amended, as from 1 April 1975, by section 27(b) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the words “or regular serviceman”.

Subsection (5) was amended, as from 1 April 1975, by section 27(c) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by omitting the words “for full-time service as a member of the New Zealand Forces” and substituting the words “as a regular serviceman”.

Subsections (5) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (5) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

70A Contributor to special armed forces scheme entering Government service

- (1) Where any person ceasing to be a permanent member of the regular forces or regular serviceman elects under paragraph (a) of subsection (1) of section 70 of this Act to become a contributor under Part 2 of this Act or elects under paragraph (b) of the said subsection (1) to continue as a contributor to the Fund, his rate of contribution payable in respect of his service after his ceasing to be such a permanent member or regular serviceman shall be the appropriate rate payable under the said Part 2, having regard to his age at the commencement of his contributory service.
- (2) Where any such person, being a person who immediately before ceasing to be a permanent member or regular serviceman was contributing a percentage of salary determined under subsection (1) of section 63A of this Act, makes any such election under paragraph (a) of subsection (1) of section 70 of this Act, he shall be entitled to a refund of an amount equal to the difference between his actual contributions as a permanent member or regular serviceman and the contributions he would have paid if the said subsection (1) of section 63A and section 66A of this Act had not been enacted.

Section 70A was inserted, as from 20 April 1972, by section 4 Government Superannuation Fund Amendment Act 1972 (1972 No 33).

Subsection (1) was amended, as from 1 November 1976, by section 28(a) and (b) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the words “or regular serviceman”.

Subsection (2) was amended, as from 1 November 1976, by section 28(c) and (d) Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the words “or regular serviceman”.

71 Effect of loss of pay through punishment

- (1) Where, in conjunction with any punishment awarded, the salary of a contributing member is completely stopped for a period of 28 days or more, no contributions shall be payable by the member in respect of that period, and it shall not be counted in computing the length of his contributory service, but shall not be deemed to break the continuity thereof.
- (2) Where the salary of a contributing member is completely stopped as aforesaid for a period of less than 28 days, or is

partly stopped for any period, his contributions to the Fund shall be payable in respect of that period as if his salary had not been stopped, and that period shall be counted in computing the length of his contributory service.

- (3) Where a contributor compulsorily retires from the regular forces by reason of the termination of his engagement by the New Zealand Defence Council before he has attained the appropriate age for retirement, and there has been any reduction of his salary within 5 years before the date of his retirement by reason of his ceasing to hold higher rank or seniority than his substantive rank or seniority, the Authority, in its discretion, may direct that the contributor shall receive a refund, without interest, of his contributions to the Fund in respect of the excess of his salary over the salary for the rank or seniority to which he reverted, and in any such case the amount of that excess shall not be deemed to form part of his salary for the purposes of this Act.
- (4) Where any permanent member or regular serviceman is or has been a deserter or is or has been absent without leave from Her Majesty's Forces for a continuous period of not less than 3 months commencing on or after the 1st day of April 1947, that permanent member or regular serviceman shall not be entitled to receive a retiring allowance under this Part of this Act nor shall any spouse or partner or children of that permanent member or regular serviceman be entitled to any annuity or allowance under section 45 or section 47 of this Act:
Provided that, with the consent of the New Zealand Defence Council, this subsection shall cease to apply in any case where the period of desertion or absence without leave has terminated or in the case of a deceased permanent member or regular serviceman is deemed by the New Zealand Defence Council to have terminated before his death.

Compare: 1947 No 57 s 69

Subsections (3) and (4) were amended, as from 1 April 1972, by section 89(1) Defence Act 1971 (1971 No 52) by substituting the words "New Zealand Defence Council" for the words "Service Board".

Subsection (3) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the words "Superintendent, in his or her discretion," for the words "Government Superannuation Board, in its discretion,".

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority, in its” for the word “Superintendent, in his or her”.

Subsection (4) was inserted, as from 14 December 1962, by section 13 Government Superannuation Fund Amendment Act 1962 (1962 No 130).

Subsection (4) was amended, as from 1 November 1976, by section 29 Government Superannuation Fund Amendment Act 1976 (1976 No 30) by inserting the words “or regular serviceman”.

Subsection (4) was amended, as from 29 March 1985, by section 22(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62) by substituting the words “or allowance under section 45 or section 47 of this Act” for the words “under the provisions of section 45 or 46 of this Act”.

Subsection (4) was amended, as from 26 April 2005, by section 9 Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “spouse or partner” for the words “widow or widower”.

Part 3A

Superannuation of members of armed forces after 4 December 1986

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

71A Interpretation

In this Part of this Act, unless the context otherwise requires,—
accrued leave includes in respect of a contributor any Armed Forces Terminal Benefit (payable pursuant to section 54 of the Defence Act 1971) which is taken as leave

basic pay, in relation to a member of the regular forces, means the daily rate of pay for that member’s rank and seniority including, where applicable, trade classification or other qualification pay but excluding other allowances

contributory service includes any period of accrued leave as a member of the regular forces due to a contributor at the date of the contributor’s discharge or release from the regular forces

regular forces means the Royal New Zealand Navy, the Regular Force of the New Zealand Army, and the Regular Air Force collectively

retirement date means in respect of a contributor the final day of accrued leave taken after the contributor’s discharge

or release from the regular forces; and **retire** and **retirement** have corresponding meanings

salary, in relation to a member of the regular forces, means the basic pay payable to the member and in respect of any person who has made an election pursuant to section 66B of this Act also includes Flying Qualification Pay and Surveying Pay.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Salary: this definition was amended, as from 2 October 2001, by section 16(2) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by omitting the words “together with such allowances as are specified in Orders in Council made pursuant to section 56 or section 89B of this Act”.

71B Application

- (1) This Part of this Act shall apply to every contributor to the Fund who is or becomes a member of the regular forces required to contribute to the Fund in that capacity, and the entitlements of and benefits payable to or in respect of that person shall be determined in accordance with this Part and Part 7 of this Act, and not otherwise.
- (2) Nothing in this Part of this Act shall apply in respect of—
 - (a) any person who first becomes a member of the regular forces after the 30th day of June 1992; or
 - (b) any period of service as a member of the regular forces after the 30th day of June 1992 by any person who re-joins the regular forces after that date (other than a person whose contributions in respect of his or her previous period of service remain, as a result of an election made by that person under this Part of this Act, in the Fund throughout the period between that person’s two periods of service as a member of the regular forces).
- (3) Nothing in subsection (2) of this section prevents any person who returns to service in the regular forces on or after the 1st day of July 1992 from again electing to become a contributor to the Fund under this Part of this Act if—
 - (a) that person was, as at the close of the 30th day of June 1992, a contributor to the Fund under this Part of this Act who was on leave of absence, without salary, from the regular forces; and

- (b) that person has, throughout the period beginning with the date on which he or she began his or her period of leave of absence, without salary, from the regular forces and ending with the date on which he or she returned to service with the regular forces, either—
 - (i) continued to contribute to the Fund in accordance with section 32 of this Act (as applied by section 71S(2) of this Act); or
 - (ii) as a result of an election made by that person under section 71P(1) of this Act allowed his or her contributions to remain in the Fund.
- (4) Notwithstanding anything to the contrary in this Act, nothing in this Part of this Act shall apply in respect of any period of service as a member of the regular forces after the effective date of an election under section 71JA of this Act.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsections (2) and (3) were inserted, as from 1 July 1992, by section 9 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

Section (4) was inserted, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

71C Members of regular forces to become and remain contributors to Fund under this Part

- (1) Except as provided in this section and section 71P of this Act, every person who on or after the 5th day of December 1986 becomes a member of the regular forces shall contribute to the Fund under this Part of this Act in respect of any period during which the person remains a member of the regular forces and any period of accrued leave taken after the contributor's discharge or release from the regular forces.
- (2) Nothing in subsection (1) of this section shall apply to—
 - (a)
 - (b) any person who—
 - (i) is a chaplain in the regular forces; and
 - (ii) is a member of a church superannuation scheme; and

- (iii) with the consent of the New Zealand Defence Council, elects not to become a contributor to the Fund:
 - (c) any person—
 - (i) whose age at the date of becoming a member of the regular forces is not less than 35 years; and
 - (ii) who is not a contributor to the Fund; and
 - (iii) who, with the consent of the New Zealand Defence Council, elects not to become a contributor to the Fund:
 - (d) any person who becomes a member of the regular forces and has received or is in receipt of any benefit under Part 3 or this Part of this Act unless the New Zealand Defence Council and the Authority agree that the person may become a member of the Fund:
 - (e) any person who becomes a member of the regular forces and has received or is receiving any pension or retiring allowance in respect of service as a regular member of the armed forces of any State (other than New Zealand) unless the New Zealand Defence Council and the Authority agree that the person may become a member of the Fund.
- (3) Except with the consent of the New Zealand Defence Council and the Authority, no person may make an election under paragraph (a), paragraph (b), or paragraph (c) of subsection (2) of this section more than 6 months after the date on which the person becomes a member of the regular forces.
- (4) Any election made under paragraph (a), paragraph (b), or paragraph (c) of subsection (2) of this section may be revoked at any time with the consent of the New Zealand Defence Council and the Authority, and the person concerned shall become a contributor to the Fund under this Part of this Act on and from the date of the revocation.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (2)(a) was repealed, as from 1 April 1991, by section 80 National Provident Fund Restructuring Act 1990 (1990 No 126)

Subsections (2)(d), (2)(e), (3) and (4) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (2)(d), (2)(e), (3) and (4) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

71D Contributors under Part 3 to become contributors under this Part

- (1) Every person who immediately before the 5th day of December 1986 is a contributor under Part 3 of this Act and has not retired shall become a contributor under this Part of this Act on and from that date and, except as provided in section 71P of this Act, shall remain a contributor under this Part of this Act in respect of any period during which that person remains a member of the regular forces and any period of accrued leave taken after the contributor’s discharge or release from the regular forces.
- (2) Subsection (5) of section 70 of this Act shall continue to have effect in respect of any person to whom that subsection applied before the 5th day of December 1986 and who becomes a contributor under this Part of this Act by virtue of this section.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

71E Existing members of regular forces may elect to become contributors under this Part

- (1) Subject to subsections (2) and (3) of this section, every person who immediately before the 5th day of December 1986 is a member of the regular forces and is not a contributor under Part 3 of this Act shall be entitled not later than the 30th day of June 1987 or such later date as the Authority may allow, to elect to become a contributor to the Fund under this Part of this Act.
- (2) The following persons shall not be entitled to make an election under this section without the consent of the New Zealand Defence Council:
 - (a)
 - (b) any person who—

- (i) is a chaplain in the regular forces; and
 - (ii) is a member of a church superannuation scheme:
- (c) any person whose age at the date of becoming a member of the regular forces was not less than 35 years.
- (3) The following persons shall not be entitled to make an election under this section without the consent of the New Zealand Defence Council and the Authority:
 - (a) any member of the regular forces who has received or is in receipt of any benefit under Part 3 or this Part of this Act:
 - (b) any member of the regular forces who has received or is receiving any pension or retiring allowance in respect of service as a regular member of the armed forces of any State other than New Zealand.
- (4) Every election made under subsection (1) of this section shall take effect on and from the 5th day of December 1986 and the contributions payable by the contributors who make such elections and the benefits payable in respect of contributions by such contributors shall be calculated accordingly.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (1) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (2)(a) was repealed, as from 1 April 1991, by section 80 National Provident Fund Restructuring Act 1990 (1990 No 126).

Subsection (3) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

71F Rate of contributions

- (1) The contribution to be made by every contributor under this Part of this Act shall be 7.6 percent of the contributor’s salary.

- (2) All contributions shall be deducted from the salary of the contributor and paid to the Fund as the salary becomes payable from time to time.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

71G Entitlement to retiring allowance

- (1) Every contributor to the Fund under this Part of this Act who is discharged or released from the regular forces and who, at the date of retirement, has not less than 20 years' contributory service of which at least 10 years' service is actual service as a member of the regular forces shall be entitled to a retiring allowance of an amount equal to the pension percentage of the contributor's final average earnings.

- (1A) For the purposes of this section—

appropriate percentage means 1.5 percent

pension percentage means the percentage calculated in accordance with the following formula

$$P \times (0.7 + (0.014 \times t))$$

where—

P is the appropriate percentage multiplied by the number of years (including fractions of a year) of contributory service:

t is the number, if any, of years (including fractions of a year) by which the contributor's date of retirement precedes the 1st day of October 1999.

- (2) Where any contributor to the Fund under this Part of this Act is discharged or released from the regular forces in circumstances to which subsection (1) of this section does not apply, that person shall not be entitled to receive any retiring allowance under this Part of this Act unless the person is entitled to receive a retiring allowance under section 71H of this Act.
- (3) Where any contributor is convicted of any offence under the Armed Forces Discipline Act 1971 that carries a maximum punishment of death or life imprisonment becomes entitled to a retiring allowance under subsection (1) of this section, the benefits payable may, at the discretion of the Authority having

regard to the recommendation of the New Zealand Defence Council, be reduced or varied in such manner as the Authority thinks fit, but shall not be less than the value of the contributor's entitlement under section 71K of this Act.

- (4) For the purposes of determining the retiring allowance of any contributor under this Part of this Act this section shall be deemed to include subsections (6) to (9) of section 61L of this Act and shall read as if those subsections were part of this section.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (1) was substituted and (1A) was inserted, as from 1 April 1990, by section 14 Government Superannuation Fund Amendment Act 1990 (1990 No 30).

Subsection (3) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

71H Entitlement to retiring allowance where retirement on grounds of disability

- (1) Every contributor to the Fund under this Part of this Act who is discharged from the regular forces on the ground of being medically unfit for further duty shall, if the Authority is of the opinion that the degree of disability is sufficient to justify the payment of a retiring allowance, be entitled to receive from the Fund an annual retiring allowance of an amount equal to the amount that would have been payable had section 71G of this Act applied to the contributor.
- (2) The Authority may, in its discretion, suspend, reduce, or cancel any retiring allowance payable under subsection (1) of this section if—
- (a) it is of the opinion that the degree of disability is insufficient to justify the payment of the retiring allowance in full or in part; or
 - (b) the contributor fails without sufficient justification to submit to medical examination when and as often as required by the Authority; or

- (c) the Authority does not know the present whereabouts of the contributor or whether the contributor is alive or dead.
- (3) The Authority may, in its discretion, vary or revoke any decision made by it under subsection (1) or subsection (2) of this section.
- (4) Any decision by the Authority to suspend or reduce a retiring allowance under the provisions of subsection (1) of this section shall be disregarded for the purposes of sections 61N, 61O, and 61Q of this Act as applied by sections 71L and 71N(4) of this Act.
- (5) For the purpose of this section a contributor shall be deemed to be medically unfit for further duty if on the certificate of at least 2 medical practitioners approved by the Authority it is established to the satisfaction of the Authority that by reason of mental or bodily infirmity the contributor has become substantially unable to perform any duties which the New Zealand Defence Council considers suitable and reasonable for the contributor.
- (6) Where the Authority has suspended, reduced, or cancelled a retiring allowance under subsection (2) of this section, the contributor may at any time while the retiring allowance is suspended, reduced, or cancelled elect to receive a refund of the contributor's contributions calculated in accordance with the provisions of section 71K of this Act as if the date when such retiring allowance was first so suspended, reduced, or cancelled was the date of payment for the purposes of section 71K (less any amounts already received by the contributor from the Fund), in which case no further sum shall be payable out of the Fund in the event of the contributor's death.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (1) was substituted, as from 1 April 1990, by section 15 Government Superannuation Fund Amendment Act 1990 (1990 No 30).

Subsections (1) to (6) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Subsections (1) to (6) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

71I Contributions and contributory service where contributor disciplined or service otherwise interrupted

- (1) Where, pursuant to the Armed Forces Discipline Act 1971 or any regulations made under that Act, a contributor forfeits the whole of the contributor’s salary for a period of 28 days or more, no contributions shall be payable by the contributor in respect of that period and it shall not be counted in computing the length of the contributor’s contributory service, but shall be deemed not to break the continuity of the service.
- (2) Where the salary of a contributor is forfeited under that Act or any regulations made under that Act for a period of less than 28 days or is partly forfeited for any period, the contributor’s contributions to the Fund shall be payable in respect of that period as if the contributor’s salary had not been forfeited, and that period shall be counted in computing the length of the contributor’s contributory service.
- (3) Where subsections (1) and (2) of this section do not apply, and the service in the regular forces of any person has been interrupted, it shall for the purposes of this Part of this Act to the extent that the Authority so determines and subject to such conditions including payment of contributions at such rate or rates as it thinks fit, be deemed not to be interrupted.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (1) was amended, as from 1 April 1988, by section 13(1) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by substituting the words “, pursuant to the Armed Forces Discipline Act 1971 or any regulations made under that Act, a contributor” for the words “pursuant to the Armed Forces Discipline Regulations 1983 or any regulations made in substitution for those regulations the contributor”.

Subsection (2) was amended, as from 1 April 1988, by section 13(2) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by substituting the words “that Act or any regulations made under that Act” for the words “those regulations”.

Subsection (3) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

71J Benefits where member of regular forces dies while deserter or dies or is discharged while absent without leave

- (1) Where a contributor dies while a deserter or absent without leave and has been in desertion or so absent for a continuous period of 28 days or more, any spouse or partner of the contributor may, at the discretion of the Authority exercised having regard to the recommendation of the New Zealand Defence Council, receive such benefits as the Authority thinks fit; but those benefits shall not exceed the benefits which the spouse or partner would have been entitled to receive under section 71P of this Act had the contributor died while on leave of absence without salary, nor shall the benefits be less than the benefits to which the contributor would have been entitled under section 71K of this Act if that section applied.
- (2) Where any member of the regular forces has been discharged from the regular forces on the grounds of being absent without leave for a continuous period of 3 years or more the member may at the discretion of the Authority, having regard to the recommendation of the New Zealand Defence Council, receive the following benefits:
 - (a) a refund of the total amount of the contributor’s contributions to the Fund (less any amounts already received by the contributor from the Fund) increased in respect of contributions paid in respect of any period of contributory service under Part 3 or this Part of this Act by 0.25 percent for every month between the date on which the contributor became a contributor under Part 3 or this Part of this Act and the date of payment of the refund; or
 - (b) a retiring allowance computed in accordance with the provisions of section 71G of this Act if the contributor would have been entitled to such an allowance had the contributor retired from the regular forces on the date when the desertion or absence without leave commenced.

- (3) Where any member of the regular forces who has been discharged from the regular forces on the grounds of being absent without leave for a continuous period of 3 years or more dies, any spouse or partner of the contributor may receive such benefits as the Authority thinks fit but such benefits shall not exceed the benefits that the spouse or partner would have been entitled to receive had the contributor died while on leave of absence without salary pursuant to section 71P of this Act nor shall the benefits be less than the benefits to which the contributor would have been entitled under section 71K of this Act if that section applied.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsections (1) to (3) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (1) to (3) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsections (1) and (3) were amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

71JA Right to cease to be contributor under Part 3A

Any contributor under this Part of this Act may, subject to regulations made under section 97 of this Act, elect to cease to be a contributor to the Fund and—

- (a) to leave the contributor’s contributions in the Fund and to receive—
 - (i) a deferred pension; or
 - (ii) a deferred lump sum,—in accordance with those regulations; or
- (b) to receive a refund of the contributor’s contributions in accordance with those regulations.

Section 71JA was inserted, as from 1 October 1995, by section 12 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

71K Benefits where contributor leaves regular forces and is not entitled to retiring allowance

- (1) Where any contributor under this Part of this Act is discharged or released from the regular forces in circumstances where no retiring allowance is payable, the contributor shall be entitled to receive a refund of the total amount of the contributor's contributions to the Fund (less any amounts already received by the contributor from the Fund), increased—
 - (a) in respect of contributions paid in respect of any period of contributory service under Part 3 or this Part of this Act by 0.25 percent for every month between the date of commencement of the contributor's contributory service under Part 3 or this Part of this Act and the date of payment of the refund; and
 - (b) where the New Zealand Defence Council and the Authority so agree, by a further sum by way of interest computed as if the contributions paid by the contributor (after deducting all sums from time to time received by the contributor from the Fund) had been invested at compound interest with yearly rests at a rate calculated using a method that has been determined by the Authority, approved by the Minister, and published in the *Gazette*; and, except in the case of payments made during the financial year in which the contributor retires, that interest shall be computed as if all money paid into or out of the Fund in any financial year had been paid on the 30th day of June in that year.
- (2) For the purposes of determining the amount of any refund of contributions payable to any contributor under subsection (1) of this section, the amount of the refund shall include any amount payable to the contributor under section 35(1) of the Government Superannuation Fund Amendment Act 1976.
- (3) Where any contributor is entitled to receive a payment under subsection (1) of this section and the contributor has not less than 10 years contributory service, the contributor may elect to decline the payment and to have the transfer value of the contributor's contributions (as determined in accordance with subsection (5) of this section) paid to any superannuation scheme

- nominated by the contributor that is approved by the Authority and is registered under the Superannuation Schemes Act 1989.
- (4) Any election under subsection (3) of this section may be revoked, but shall be irrevocable once any payment has been accepted from the Fund pursuant to that election.
- (5) For the purposes of subsection (3) of this section the transfer value of a contributor's contributions shall be—
- (a) the amount of the refund that the contributor would be entitled to receive under subsection (1) of this section, increased by 10 percent of that amount for every complete year of the contributor's contributory service in excess of 10 years' contributory service, and an appropriate portion of 10 percent for any part year of such contributory service; or
 - (b) twice the amount of the refund that the contributor would be entitled to receive pursuant to subsection (1) of this section,—
- whichever is the lesser, and the amount that would be included in any refund of contributions payable to the contributor by virtue of section 35(1) of the Government Superannuation Fund Amendment Act 1976.
- (6) Any contributor who is entitled to receive a payment under subsection (1) of this section and who has not attained the age of 50 years may, at any time before the payment is made, elect to defer the contributor's right to payment under subsection (1) of this section and to leave the contributor's contributions in the Fund.
- (7) Any election under subsection (6) of this section may be revoked at any time.
- (8) In any case where a person has elected to leave contributions in the Fund under subsection (6) of this section, the provisions of subsections (6) and (7) of section 61R of this Act shall apply in all respects to that person, with such modifications as may be necessary, as if—
- (a) every reference to Government service were a reference to service in the regular forces; and
 - (b) every reference to section 61S were a reference to section 71K of this Act.

- (9) Where a contributor who has elected to leave contributions in the Fund under subsection (6) of this section dies while any contributions are held in the Fund on his or her behalf and while not contributing and leaves a spouse or partner, sections 61M and 61Q of this Act shall not apply and there shall be paid out of the Fund to the spouse or partner, at the election of the spouse or partner,—
- (a) a refund of the contributor's contributions to the Fund increased in respect of contributions paid in respect of any period of contributory service under Part 3 or this Part of this Act by 0.25 percent for every month between the date of commencement of the contributor's contributory service under Part 3 or this Part of this Act and the date of the contributor's death; or
 - (b) an annuity of one-half of the rate of the retiring allowance to which the deceased contributor would have been entitled if the contributor had become entitled to a retiring allowance calculated under section 71G of this Act on the date of the contributor's death as if—
 - (i) the date on which the contributor was discharged or released from the regular forces was the date of the contributor's retirement; and
 - (ii) the final average earnings of the contributor were increased by the percentage (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 which immediately precedes the date of the contributor's death exceeds the index number for the quarter immediately following the date on which the contributor was discharged or released from the regular forces—and the entitlement of the spouse or partner to the refund or annuity shall not be affected by any change in the relationship status of that spouse or partner.
- (10) Where a contributor who has elected to leave contributions in the Fund under subsection (6) of this section dies while any contributions are held in the Fund on his or her behalf and while not contributing and does not leave a spouse or partner,

sections 61O and 61Q of this Act shall not apply and there shall be paid out of the Fund to the contributor's personal representatives in trust for the persons entitled to receive them under the contributor's will or under the Acts relating to the distribution of intestate estates, as the case may be, the contributor's contributions to the Fund increased in respect of contributions paid in respect of any period of contributory service under Part 3 or this Part of this Act by 0.25 percent for every month between the date of commencement of the contributor's contributory service under Part 3 or this Part of this Act and the date of the contributor's death.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (1)(b) was amended, as from 1 July 1992, by section 10 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61) by substituting the expression "30th day of June" for the expression "31st day of March".

Subsection (1)(b) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Subsection (1)(b) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (1)(b) was amended, as from 2 October 2001, by section 15 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words "at a rate calculated using a method that has been determined by the Authority, approved by the Minister, and published in the *Gazette*" for the words "at such rate as the Minister of Finance from time to time determines".

Subsection (3) was amended, as from 22 March 1989, by section 31(1) Superannuation Schemes Act 1989 (1989 No 10) by inserting the words "or is registered under the Superannuation Schemes Act 1989".

Subsection (3) was amended, as from 1 April 1990, by section 32(3) Superannuation Schemes Act 1989 (1989 No 10) by omitting the words "is approved under the Superannuation Schemes Act 1976 and classified under that Act as an employee pension superannuation scheme or a personal pension superannuation scheme or".

Subsection (3) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsections (6) to (10) were inserted, as from 1 April 1988, by section 14 Government Superannuation Fund Amendment Act 1988 (1988 No 19).

Subsection (9) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “relationship status” for the words “marital status”.

Subsections (9) and (10) were amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

71L Benefits on death of contributor

Sections 61M, 61N, 61O, and 61Q of this Act shall apply in respect of contributors under this Part of this Act as if—

- (a) the references in those sections to Government Service included service in the regular forces:
- (b) the references in section 61M(1)(a)(ii), section 61N(1)(a), section 61N(2)(a), and section 61O(1)(b) to section 61S(1)(a) of this Act were references to section 71K of this Act:
- (c) the reference in section 61M(1)(b) of this Act to section 91 of this Act where a reference to section 71M of this Act:
- (d) the reference in section 61N(1)(b) to section 61T(2) of this Act were a reference to section 71S(2) of this Act:
- (e) paragraph (a) of section 61O(1) had been repealed, and the following paragraph substituted:
 - “(a) where the contributor dies before becoming entitled to a retiring allowance, a lump sum being:
 - “(i) one year’s salary of the contributor calculated at the rate of salary payable to the contributor when the contributor was last a contributor to the Fund; or
 - “(ii) a refund of the contributor’s contributions to the Fund including interest, as if the contributor had ceased service in the regular forces on the date of the contributor’s death and become entitled to receive a refund of contributions under section 71K(1) of this Act—

whichever is the greater.”

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

71M Election to surrender proportion of retiring allowance and receive cash payment

- (1) Any contributor who becomes entitled to a retiring allowance under this Part of this Act may elect to surrender the contributor's right to a proportion of the retiring allowance and to receive instead payment out of the Fund of an amount calculated according to the formula $A \times B$, where—
 - A is the amount by which the contributor's annual retiring allowance is reduced pursuant to the surrender:
 - B is
 - (a) 21 where the contributor is not more than 40 years of age at the date of retirement:
 - (b) 21 reduced by 0.075 for each month between the contributor's 40th birthday and the contributor's age at the date of retirement where the contributor is more than 40 years of age but not more than 50 years of age at the date of retirement:
 - (c) 12 where the contributor is more than 50 years of age at the date of retirement.
- (2) For the purposes of subsection (1) of this section a contributor shall be deemed to be entitled to a retiring allowance under this Act in any case where the contributor would have been so entitled if the contributor had retired on the date of the election.
- (3) An election may be made under subsection (1) of this section by a contributor at any time within 3 months immediately preceding the date on which the contributor becomes entitled to a retiring allowance under this Part of this Act.
- (4) Where an election is made during the period specified in subsection (3) of this section it shall be deemed to have been made on the earliest day on which the contributor would be entitled to a retiring allowance under this Part of this Act if the contributor survived and had retired.
- (5) Subject to subsection (6) of this section, any contributor who has made an election under subsection (1) of this section may make a further election within 3 months before the contributor is discharged or released from the regular forces, to thereupon receive not more than half the amount that the contributor would be entitled to receive if the contributor had been entitled

to a retiring allowance when the contributor made the election under subsection (1) of this section.

- (6) Where the Authority has determined under section 71H(2) of this Act to defer the commencement of the payment of a retiring allowance to a contributor, that contributor shall not be entitled to make any election under subsection (5) of this section.
- (7) Where any amount is paid to any contributor under subsection (5) of this section, interest shall be payable on that amount by the contributor at such rate as the Authority may determine for the period between the date on which the contributor receives that amount and the date on which the contributor becomes entitled to the retiring allowance or the date of the contributor's death, whichever is the earlier.
- (8) All such interest shall be recoverable as a debt due to the Crown and may be deducted from any retiring allowance payable to the contributor or any annuity payable to the surviving spouse or partner of the contributor.
- (9) Every election under this section shall be made in writing and delivered to the Authority before the contributor has accepted any instalment of the contributor's retiring allowance.
- (10) Except as provided in subsection (11) of this section, no contributor shall have the right to revoke or amend any election under this section or to make any further election.
- (11) Where a contributor to whom subsection (2) or subsection (5) of this section applies has made an election under subsection (1) of this section, that contributor shall be entitled to make one further election to increase the proportion of the retiring allowance surrendered under subsection (1) of this section before the contributor has accepted any instalment of the contributor's retiring allowance.
- (12) No election or combination of elections under this section shall entitle any contributor to surrender more than one-quarter of the contributor's retiring allowance.
- (13) Where a contributor has completed an election under this section in respect of a previous period of contributory service, the amount so surrendered shall be deducted from the retiring allowance that the contributor may elect to surrender.

- (14) Upon an election under this section becoming effective the annual retiring allowance payable to a contributor shall be reduced by the same proportion as that which the contributor has elected to surrender, and all rights in respect of the proportion so surrendered shall be deemed to be determined.
- (15) Except as provided in subsection (5) of this section, any amount which a contributor is entitled to receive under this section shall become payable—
- (a) on the date on which the contributor becomes entitled to payment of the retiring allowance; or
 - (b) in the case of a contributor to whom subsection (2) of this section applies, on the date of the contributor's death,—

whichever is the earlier.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (1) was amended, as from 1 April 1990, by section 16 Government Superannuation Fund Amendment Act 1990 (1990 No 30) by amending the definition of the expression “B” as follows:

by substituting “21” for “17.5” in paragraph (a);

by substituting “21” for “17.5” in paragraph (b);

by substituting “0.075” for “0.0625” in paragraph (b);

by substituting “12” for “10” in paragraph (c).

Subsections (6) and (7) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (6), (7) and (9) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (8) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

71N Right to defer retiring allowance to age 55 or 60 in return for lump sum at retirement

- (1) Any contributor who becomes entitled to a retiring allowance under this Part of this Act may, in addition to or instead of exercising the right to surrender a proportion of the contributor's retiring allowance under section 71M of this Act, elect to defer receiving from the Fund the contributor's retiring allow-

ance until the contributor attains the age of 55 or 60 years and to receive on the date on which the contributor would otherwise be entitled to receive the first instalment of the retiring allowance an amount from the Fund calculated according to the formula $C \times D$, where:

C is the contributor's annual retiring allowance after the effect of any election under section 40, section 48, or section 71M of this Act:

D is—

(a) the number of months from the contributor's date of retirement to the date the contributor attains 55 or 60 years of age (whichever is appropriate) multiplied by 0.08; or

(b) 20.16—

whichever is the lesser.

- (2) Every election under subsection (1) of this section shall be made in writing and delivered to the Authority before the contributor has accepted any instalment of the contributor's retiring allowance.
- (3) No contributor shall have the right to revoke or amend any election under subsection (1) of this section or to make any further election after the contributor has accepted any payment under this section.
- (4) Subject to subsection (5) of this section, where any contributor dies after having made an election under subsection (1) of this section but before attaining the age at which the contributor has elected to receive the annual retiring allowance, sections 61N, 61O, and 61Q of this Act shall apply—
 - (a) as if the references in section 61N(1)(a), section 61N(2)(a), and section 61O to section 61S(1)(a) of this Act were references to section 71K(1) of this Act; and
 - (b) as if the reference in section 61N(1)(b) to section 61T(2) of this Act were a reference to section 71S(2) of this Act.
- (5) Where any contributor to whom subsection (4) of this section applies dies, no annuity shall be payable under sections 61N(1)(b) or 61N(2)(b) of this Act until such time as the contributor's annual retiring allowance would have been payable had the contributor survived and attained the age at which the contributor elected to receive the retiring allowance.

- (6) For the purposes of calculating the amount of the retiring allowance payable to the contributor at the date at which the contributor has elected to receive the retiring allowance, and for the purposes of calculating any annuity, the contributor shall be deemed to have been receiving from the date of retirement an annual retiring allowance of an amount calculated from time to time according to the formula set out in subsection (7) or subsection (8) of this section (as appropriate).
- (7) In any case where the contributor's date of retirement is on or after the 1st day of April 1990, the formula for the purposes of subsection (6) of this section is—

$$\frac{C}{1 + (0.02 \times n)}$$

where—

C is the retiring allowance that would have been payable—

- (a) had the contributor not elected to defer the retiring allowance, but after allowing for the effect of any election under section 40 or section 48 or section 71M of this Act; and
- (b) had Part 3 of the Government Superannuation Fund Amendment Act 1990 not been enacted:

n is the number, if any, of years (including fractions of a year) by which the contributor's date of retirement precedes whichever is the earlier of—

- (a) the date to which the contributor elected to defer the retiring allowance; or
- (b) the 1st day of October 1999.

- (8) In any case where the contributor's date of retirement is before the 1st day of April 1990, the formula for the purposes of subsection (6) of this section is—

$$C \times (0.7 + (0.014 \times t))$$

where—

C is the retiring allowance that would have been payable—

- (a) had the contributor not elected to defer the retiring allowance, but after allowing for the effect

of any election under section 40 or section 48 or section 71M of this Act; and

- (b) had neither Part 1 nor Part 3 of the Government Superannuation Fund Amendment Act 1990 been enacted:

t is the number, if any, of years (including fractions of a year) by which the date to which the contributor elected to defer the retiring allowance precedes the 1st day of October 1999.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (1) was amended, as from 1 April 1990, by section 17(1) Government Superannuation Fund Amendment Act 1990 (1990 No 30) by substituting the following figures in the definition of “D”:

In subsection (1)(a), “0.08” was substituted for “0.0667”;

In subsection (1)(b), “20.16” was substituted for “16.8”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (6) was substituted, as from 1 April 1990, and sections (7) and (8) were inserted, as from 1 April 1990, by section 17(2) Government Superannuation Fund Amendment Act 1990 (1990 No 30).

71O Contributions in respect of previous service in armed forces

- (1) Where any contributor has served as a member of the regular forces or as a regular member of the armed forces of any State other than New Zealand for any period or periods before the commencement of the contributor’s contributory service as a member of the regular forces, the contributor may, with the consent of the Authority and the New Zealand Defence Council, elect to contribute to the Fund in respect of the whole or any part of that period or those periods of previous service.
- (2) The consent of the Authority under subsection (1) of this section may be given subject to such conditions as the Authority thinks fit, including payment of contributions at such rate or rates as the Authority thinks fit.
- (3) Except with the consent of the Authority no election under this section shall be made more than 5 years after the contributor last became a member of the regular forces.

- (4) No election shall be made under this section so as to enable any contributor—
- (a) to contribute to the Fund in respect of any period of service for which the contributor is receiving or has received any pension or retiring allowance except with the consent of the Authority and subject to such conditions as may be imposed by the Authority:
 - (b) to contribute to the Fund in respect of any period of contributory service in excess of 10 years occurring before the commencement of the contributor's current actual continuous service as a member of the regular forces unless that earlier contributory service was service as a member of the regular forces.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsections (1) to (3) and (4)(a) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (1) to (3) and (4)(a) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

71P Option where contributor on leave of absence without salary

- (1) Where any contributor under this Part of this Act is on leave of absence without salary, the contributor may elect that section 32 of this Act (as applied by section 71S(2) of this Act) shall apply, or may elect that that section shall not apply and that subsection (2) of this section shall apply.
- (2) Where a contributor elects that this subsection shall apply—
- (a) the contributor's contributions shall remain in the Fund:
 - (b) the contributor shall not be liable to pay contributions in respect of the period of leave of absence:
 - (c) the period of leave of absence shall not be counted as contributory service of the contributor:
 - (d) if the person again becomes a contributor to the Fund under this Part of this Act before attaining the age of 50 years, the person's contributions shall not be refunded to the person, and the person's previous record of con-

tributory service shall be reactivated and count as continuous contributory service for the purpose of calculating benefits under this Part of this Act, but shall be discounted in the following manner:

- (i) a discount of 1.25 percent for each complete year of the period of the person's ineligibility to be a contributor for which the person has a corresponding period of contributory service that will be reactivated in accordance with this section, and of a relative proportion of that percentage in respect of any fraction of a year of ineligibility for which the person has a corresponding period of such contributory service:
 - (ii) a discount of 2.25 percent for each complete year of the period of the person's ineligibility to be a contributor that is in excess of the person's period of contributory service that will be reactivated in accordance with this section and of a relative proportion of that percentage in respect of any fraction of a year of ineligibility for which the person has no corresponding period of such contributory service:
- (e) if the contributor dies during the period of leave of absence and leaves a spouse or partner, sections 61M and 61Q of this Act shall not apply and there shall be paid out of the Fund to the spouse or partner, at the election of the spouse or partner—
- (i) a refund of the contributor's contributions to the Fund increased in respect of contributions paid in respect of any period of contributory service under Part 3 or this Part of this Act by 0.25 percent for every month between the date of commencement of the contributor's contributory service and the date of the contributor's death; or
 - (ii) an annuity at one-half of the rate of the retiring allowance to which the deceased contributor would have been entitled if the contributor had become entitled to a retiring allowance calculated under

section 71G of this Act on the date of the contributor's death—

and the entitlement of the spouse or partner to the refund or annuity shall not be affected by any change in the relationship status of that spouse or partner:

- (f) if the contributor dies during the period of leave of absence and does not leave a spouse or partner, sections 61O and 61Q of this Act shall not apply and there shall be paid out of the Fund to the contributor's personal representatives in trust for the persons entitled to receive them under the contributor's will or under the Acts relating to the distribution of intestate estates, as the case may be, the contributor's contributions to the Fund increased in respect of contributions paid in respect of any period of contributory service under Part 3 or this Part of this Act by 0.25 percent for every month between the date of commencement of the contributor's contributory service and the date of the contributor's death.
- (3) Any period of discounted contributory service referred to in subsection (2)(d) of this section shall be deemed to precede immediately the date on which the person again became a contributor to the Fund.
- (4) Nothing in this section shall apply in respect of any period of leave of absence without salary of less than 29 days duration.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (2) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words "or partner" after the word "spouse" wherever it appears.

Subsection (2) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words "relationship status" for the words "marital status".

Subsection (2)(d)(i) and (ii) was amended, as from 9 June 1995, by section 19(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28) by omitting the word "additional".

Subsection (2)(e)(i) was amended, as from 1 April 1988, by section 15(1) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by inserting the words "or this Part".

Subsection (4) was amended, as from 1 April 1988, by section 15(2) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by substituting the expression "29" for the expression "92".

71Q Election to contribute in respect of previous Government service

- (1) Subject to subsection (2) of this section, where any contributor under this Part of this Act has service in the Government service that is not at present included in the contributor's contributory service, the contributor may elect to contribute to the Fund under this Part of this Act in respect of not more than 10 years of that service.
- (2) Except with the consent of the Authority, and subject to such conditions as it thinks fit, including payment of contributions at such rate or rates as may be determined by the Authority, no election may be made under subclause (1) of this section by any person—
 - (a) who is not a full-time member of the regular forces; or
 - (b) in respect of any period during which the contributor was not a permanent full-time employee in the Government service; or
 - (c) who has attained the age of 50 years.
- (3) Without limiting the power of the Authority to require greater contributions in any case to which subsection (2) of this section applies, where a contributor makes an election to contribute under this section, the contributor shall contribute to the Fund in respect of the period to which the election relates as if that service had been service as a member of the regular forces—
 - (a) on the salary received by the contributor in respect of that period; or
 - (b) as if the contributor received salary in respect of that period at the rate of salary payable to the contributor at the date of the election—whichever is the greater.
- (4) Where any election is made under this section the extent to which the Government service concerned is to be treated as service under this Part of this Act shall be determined by the Authority.
- (5) Except with the consent of the Authority, every election under this section shall be made within 5 years of the contributor becoming a member of the regular forces.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsections (2) to (5) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (2) to (5) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

71R Election to contribute at former rate where salary reduced

- (1) Where for any reason a contributor’s salary has been reduced (whether by reason of the contributor ceasing to hold higher rank or otherwise) the contributor may, by notice in writing delivered to the Authority not later than 3 months after the date of the reduction, or within such further time as the Authority may in any case allow, elect to continue to contribute to the Fund as if the salary had not been so reduced; and every person so electing and contributing shall be entitled on retirement to a retiring allowance (if any) computed as if the salary had not been so reduced.
- (2) In the case of any reduction of a contributor’s salary by reason of the contributor ceasing to hold any rank higher than the contributor’s substantive rank, the contributor may, instead of exercising the contributor’s right under subsection (1) of this section, elect to receive a refund of the contributor’s contributions to the Fund in respect of the excess of the contributor’s salary over the salary for the rank which the contributor then holds, and the amount of that excess shall be deemed not to form part of the contributor’s salary for the purposes of this Act.
- (3) Interest shall be payable on any refund payable under subsection (2) of this section at the rate of 0.25 percent for each month during which the contributions in respect of the excess were held by the Fund.
- (4) Except with the consent of the Authority, no contributor may make an election under subsection (1) of this section following an interval during which the contributor was not in the regular forces.

- (5) Where any election is made under subsection (1) of this section, the Authority may require the contributor to pay, in respect of the difference between the salary received by the contributor from time to time and the salary the contributor would have received from time to time, as additional contributions the amount certified by the Authority, after receiving advice from an actuary, as the total amount of contributions that would be required to be paid if the contributions provided the total cost of the benefits to which the contributor may become entitled under this Act, or such lesser amount as the Authority may determine.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsections (1), (4) and (5) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (1), (4) and (5) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Section 71R(5): amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

71S Sections to apply to contributors and contributions under this Part

- (1) Except as provided in this section, nothing in Part 2, Part 2A, or Part 3 of this Act shall apply to contributors or contributions under this Part of this Act.
- (2) Sections 32, 37, 40, 43, 48, 60, and 66B of this Act shall apply to contributors and contributions under this Part of this Act as if those sections were also included in this Part of this Act.
- (2A) Section 25 of this Act shall apply to contributors and contributions under this Part of this Act as if it were also included in this Part of this Act and as if every reference to service in the Government service were a reference to service in the regular forces.
- (3) Sections 61L, 61M, 61N, 61O, 61Q, and 61R of this Act shall apply in respect of contributors and contributions under this Part of this Act in the manner indicated in sections 71G, 71H(4), 71K, 71L, 71N, and 71P(2) of this Act.

- (4) Section 70(5) of this Act shall apply to contributors under this Part of this Act to the extent specified in section 71D(2) of this Act.

Part 3A, comprising sections 71A to 71S, was inserted, as from 25 December 1986, by section 15(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (2A) was inserted, as from 1 April 1988, by section 16 Government Superannuation Fund Amendment Act 1988 (1988 No 19).

Subsection (3) was substituted, as from 1 April 1988, by section 16 Government Superannuation Fund Amendment Act 1988 (1988 No 19).

Part 4

Superannuation of Judges and Solicitor-General

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Interpretation and application

72 Interpretation

In this Part of this Act, unless the context otherwise requires,—

Judge means—

- (a) a Judge of the High Court appointed under section 4 of the Judicature Act 1908:
- (b) a Judge of the Labour Court appointed under section 288 of the Labour Relations Act 1987:
- (c) a Judge of the Compensation Court appointed under section 41 of the Workers' Compensation Act 1956:
- (d) a Judge of the Maori Land Court appointed under section 7 of Te Ture Whenua Maori Act 1993:
- (e) a Chief Judge of the District Court appointed under section 5A of the District Courts Act 1947:
- (f) a Judge of the District Court appointed under section 5 of the District Courts Act 1947:

Judge: amended, as from 1 August 1987, by section 359(f) Labour Relations Act 1987 (1987 No 77) by substituting the words “a Judge of the Labour Court” for the words “a Judge of the Arbitration Court”.

Judge: further amended, as from 1 August 1987, by section 358(1) Labour Relations Act 1987 (1987 No 77) by substituting the words “section 288 of the Labour Relations Act 1987” for the words “section 37 of the Industrial Relations Act 1973”.

Judge: the reference to “section 7 of Te Ture Whenua Maori Act 1993” was impliedly substituted, as from 1 July 1993, for a reference to “section 16 of the Maori Affairs Act 1953” by section 362(2) Te Ture Whenua Maori Act 1993 (1993 No 4).

judicial service means any service as a Judge; and where such service is not continuous shall be the aggregate of all such periods of service

temporary Judge means—

- (a) a Judge of the High Court appointed under section 11 of the Judicature Act 1908:
- (b) a Judge of the Labour Court appointed under section 291 of the Labour Relations Act 1987:
- (c) a Judge of the Compensation Court appointed under section 43 of the Workers’ Compensation Act 1956:
- (d) a Judge of the Maori Land Court appointed under section 11 of Te Ture Whenua Maori Act 1993:
- (e) a Judge of the District Court appointed under section 10 or section 10A of the District Courts Act 1947.

Temporary Judge: paragraph (b) amended, as from 1 August 1987, by section 359(f) Labour Relations Act 1987 (1987 No 77) by substituting the words “a Judge of the Labour Court” for the words “a Judge of the Arbitration Court”.

Temporary Judge: further amended, as from 1 August 1987, by section 358(1) Labour Relations Act 1987 (1987 No 77) by substituting the words “section 291 of the Labour Relations Act 1987” for “section 40 of the Industrial Relations Act 1973”.

Temporary Judge: the reference to “section 11 of Te Ture Whenua Maori Act 1993” was impliedly substituted, as from 1 July 1993, for a reference to “section 16A of the Maori Affairs Act 1953” by section 362(2) Te Ture Whenua Maori Act 1993 (1993 No 4).

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

73 Application of this Part to Solicitor-General

- (1) Subject to subsection (2) of this section, this Part of this Act shall apply to any person appointed to the office of Solicitor-General as if that appointment were an appointment as a Judge.
- (2) Where any person has, before the 31st day of December 1980, elected under section 74 of this Act to remain a contributor under Part 2 of this Act, this Part of this Act shall not apply to that person while he holds the office of Solicitor-General.

Subsection (2) of the original section 73 was amended, as from 4 December 1964, by section 9(1)(a) Superannuation Amendment Act 1964 (1964 No 125) by inserting after the words “sixty-eight years” the words “and after not less than 5 years service”.

Subsection (2) was amended, as from 4 December 1964, by section 9(1)(b) Superannuation Amendment Act 1964 (1964 No 125) by substituting the words “one-thirtieth” for the words “one-fortieth” wherever they appear.

The proviso to subsection (2) was inserted, as from 4 December 1964, by section 9(1)(c) Superannuation Amendment Act 1964 (1964 No 125).

Subsection (5) was substituted, as from 4 December 1964, by section 9(2) Superannuation Amendment Act 1964 (1964 No 125).

Subsection (5) was amended, as from 15 June 1969, by section 5 Superannuation Amendment Act 1970 (1970 No 116), by substituting the words “nine percent” for the words “eight percent”.

The proviso to subsection (8) was inserted, as from 4 December 1964, by section 9(3) Superannuation Amendment Act 1964 (1964 No 125).

The proviso to subsection (8) was amended, as from 27 October 1965, by section 2(1) Superannuation Amendment Act 1965 (1965 No 116) by inserting after the words “Provided that” the words “except where the person became entitled to a retiring allowance before the fourth day of December 1964”.

The proviso to subsection (8) was amended, as from 15 June 1969, by section 5(5) Superannuation Amendment Act 1970 (1970 No 116) by inserting, after the words “retirement or death, and” the words “subject to any adjustment thereto made under the Superannuation Amendment Act 1970”.

Subsection (8) was amended, as from 20 November 1979, by section 15(1) Government Superannuation Fund Amendment Act 1979 (1979 No 46) by omitting from the proviso the words “and subject to any adjustment thereto made under the Superannuation Amendment Act 1969 shall not exceed 25 percent of that salary”.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

74 Application of this Part

- (1) Subject to section 74B of this Act, this Part of this Act shall apply to all Judges appointed after the commencement of this Part of this Act.
- (2) Nothing in this Part of this Act shall apply to any Judge appointed after the 31st day of March 1988.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Subsection (2) was inserted, as from 1 April 1988, by section 2 Government Superannuation Fund Amendment Act 1980 (1989 No 23).

74A Application of this Part to Judges to whom Parts 4 and 5 applied

- (1) Subject to subsection (2) of this section and to section 7 of the Government Superannuation Fund Amendment Act 1980, this Part of this Act shall apply to all persons to whom Part 4 or Part 5 of this Act applied on the 31st day of December 1980.
- (2) Any Judge who was a contributor under Part 5 of this Act on the 31st day of December 1980 may elect, by notice in writing delivered to the Authority before the 30th day of June 1981, to remain a contributor under Part 5 of this Act.
- (3) Every such election shall be irrevocable.
- (4) Where any such election is made this Part of this Act shall not apply and is hereby deemed never to have applied to that Judge.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

74B Application of this Part to Judge of or over age of 63 years on appointment

- (1) Where any person is first appointed to be a Judge after he has attained the age of 63 years he may elect, by notice in writing delivered to the Authority within 3 months after that appointment, that this Act shall not apply to him.
- (2) Every such election shall be irrevocable.
- (3) Where any such election is made this Act shall not apply and is hereby deemed never to have applied to that person.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Contributions

74C Contributions

- (1) From the salary payable to any Judge in respect of any period after the 31st day of December 1980 a contribution at the rate applicable under subsection (2) of this section shall be deducted as the salary becomes payable from time to time.
- (2) The contribution to be deducted from the salary of a Judge in accordance with subsection (1) of this section shall be—
 - (a) seven percent if his age is under 42 years at the commencement of his judicial service:
 - (b) seven and a half percent if he has then attained the age of 42 years but has not attained the age of 50 years:
 - (c) eight percent if he has then attained the age of 50 years.
- (3) Notwithstanding subsection (1) of this section, where the judicial service completed by any Judge is such that if he were to retire he would be entitled to the maximum retiring allowance payable under section 74E of this Act, no further contributions shall be deducted from his salary in respect of any period after the 31st day of December 1980 or after such service has been completed, whichever is the later.
- (4) Notwithstanding subsection (1) of this section, where the judicial service completed by any Judge who was a contributor under Part 5 of this Act on the 31st day of December 1980 is such that if Part 5 of this Act still applied to that Judge he would be entitled to the maximum retiring allowance under that Part, no further contributions shall be deducted from his salary in respect of any period after the 31st day of December 1980 or after such service has been completed, whichever is the later.

(5)

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Subsection (5) was repealed, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164).

74D Service as a temporary Judge

- (1) Where any person is appointed as a temporary Judge and that person was, immediately before his appointment, holding of-

office as a Judge, that person shall pay contributions in respect of his service as a temporary Judge as if that service were service as a Judge.

- (2) Where subsection (1) of this section applies to any person the provisions of this Part of this Act shall apply to that person as if he had received a further appointment as a Judge on the date on which he was appointed as a temporary Judge.
- (3) Where any person to whom subsection (1) of this section does not apply is appointed as a Judge, and that person was, immediately before his appointment, holding office as a temporary Judge, that person may elect to pay contributions in respect of his service as a temporary Judge as if that service were service as a Judge.
- (4) Every such election shall be irrevocable, and shall be delivered to the Authority within 3 months after the person is appointed as a Judge.
- (5) Where any such election is made the provisions of this Part of this Act shall apply to that person as if he had been appointed as a Judge on the date on which he was appointed as a temporary Judge.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Retiring allowances

74E Entitlement of Judge to retiring allowance

- (1) Every Judge who—
 - (a) retires after having attained the age of 68 years; or
 - (b) resigns his office after having completed 10 years’ judicial service and having attained the age of 60 years; or
 - (c) resigns his office after having completed not less than 20 years’ judicial service; or
 - (d) satisfies the Governor-General in Council that he has become incapable of performing the duties of his office by reason of any permanent infirmity or other cause, and thereupon resigns his office,—

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

- (2) In no case shall the retiring allowance computed under this section exceed two-thirds of the annual salary of the Judge at the date of his retirement or resignation.
- (3) Subject to subsection (2) of this section and to sections 74F and 74G of this Act, the retiring allowance of a Judge shall be computed so that for each year of judicial service the Judge shall be entitled to receive the following proportions of his salary at the date of his retirement or resignation:
 - (a) where the Judge was under 42 years of age at the date of his first appointment, one thirty-third part of that salary for each year of judicial service and a proportionate part of that fraction of that salary for each part of a year of judicial service:
 - (b) where the Judge was 42 years of age or over but under 50 years of age at the date of his first appointment, one thirtieth part of that salary for each year of judicial service and a proportionate part of that fraction of that salary for each part of a year of judicial service:
 - (c) where the Judge was 50 years of age or over but under 54 years of age at the date of his first appointment, one twenty-seventh part of that salary for each year of judicial service and a proportionate part of that fraction of that salary for each part of a year of judicial service:
 - (d) where the Judge was 54 years of age or over at the date of his first appointment, one twenty-fourth part of that salary for each year of judicial service and a proportionate part of that fraction of that salary for each part of a year of judicial service.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

74F Minimum retiring allowance for certain Judges who retire at 68 years of age or over

- (1) Notwithstanding section 74E(3) of this Act, where any Judge to whom section 74E(1)(a) of this Act applies has completed not less than 18 years of judicial service immediately before his retirement under that section the retiring allowance of that Judge shall be two-thirds of his annual salary at the date of his retirement.
- (2) Notwithstanding section 74E(3) of this Act, but subject to subsection (1) of this section, where any Judge to whom section 74E(1)(a) of this Act applies was 52 years of age or over but under 54 years of age at the date of his first appointment the minimum retiring allowance of that Judge shall be sixteen twenty-sevenths of his annual salary at the date of his retirement.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

74G Minimum retiring allowance for Judge who resigns on grounds of incapacity

Notwithstanding section 74E(3) of this Act, the retiring allowance of every Judge to whom section 74E(1)(d) of this Act applies shall be not less than 15 percent of his salary at the date of his resignation.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

*Refund of contributions***74H Power to elect to receive refund of contributions instead of retiring allowance**

- (1) Where any Judge retires or resigns his office and is entitled to receive a retiring allowance he may, at any time before accepting the first instalment of his retiring allowance, elect to accept a refund of the total contributions paid by him under this Act instead of a retiring allowance.
- (2) Every such election shall be irrevocable.

- (3) Where any such election is made, the Judge shall be entitled to receive the refund of contributions without interest unless interest is payable under section 61S(1)(a) of this Act (as applied by section 74IA of this Act), and no sum shall be payable under this Part of this Act in the event of his death.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Subsection (3) was amended, as from 1 May 1985, by section 18(2) Government Superannuation Fund Amendment Act 1986 (1986 No 132) by inserting the words “unless interest is payable under section 61S(1)(a) of this Act (as applied by section 74IA of this Act)”.

74I Entitlement to refund where no entitlement to retiring allowance

- (1) Where any Judge retires or resigns his office and is not entitled to receive a retiring allowance, he shall be entitled to receive a refund of the total contributions paid by him under this Act.
- (2) The refund of the contributions shall be paid without interest unless interest is payable under section 61S(1)(a) of this Act (as applied by section 4IA of this Act), and no sum shall be payable under this Part of this Act in the event of the death of the Judge.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Subsection (2) was amended, as from 1 May 1985, by section 18(3) Government Superannuation Fund Amendment Act 1986 (1986 No 132) by inserting the words “unless interest is payable under section 61S(1)(a) of this Act (as applied by section 74IA of this Act)”.

74IA Rights and benefits where judicial service ceases other than on death

Section 61S of this Act shall apply in respect of Judges as if—

- (a) Judges were contributors under Part 2A of this Act:
- (b) paragraph (b) of subsection (1) of that section, and the reference to that paragraph in subsection (5) of that section, had been repealed:
- (c) the references in that section to Government service included judicial service:

- (d) the references in that section to section 61L of this Act were references to section 74E of this Act.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

This Section was inserted, as from 1 May 1985, by section 18(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Payments to spouses or partners and dependants

This heading was amended, as from 26 April 2005, by section 4(2) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partners” after the word “spouses”.

74J Benefits payable on death of Judge

- (1) Subject to subsection (2) of this section, sections 61M, 61N, 61O, and 61Q of this Act shall apply in respect of Judges as if—
- (a) Judges were contributors under Part 2A of this Act:
 - (b) the references in those sections to becoming entitled to a retiring allowance were references to receipt of the first instalment of that allowance:
 - (c) the references in those sections to Government service included judicial service:
 - (d) the reference in section 61M(1)(b)(ii) to the ground of medical unfitness for further duty were a reference to resignation of office under section 74E(1)(d) of this Act:
 - (e) section 61S(1)(b) of this Act had been repealed.
- (2) Notwithstanding the limitations in sections 61M(1)(b)(ii) and 61N(1)(b) and (2)(b) of this Act (as applied by subsection (1) of this section), where a Judge dies and leaves a spouse or partner who last became the spouse or partner of the Judge before the Judge received any instalment of a retiring allowance (irrespective of the date at which the Judge became entitled to receive a retiring allowance) and who elects to receive an annuity the minimum annuity that shall be payable to the spouse or partner shall be—
- (a) fifteen percent of the salary payable to the Judge at the date of the Judge’s retirement or death, whichever first occurs; or

- (b) where the Judge has made an election under the second proviso to section 78(1) of this Act, 20 percent of the salary payable to the Judge to the date of the Judge's retirement or death, whichever first occurs—

reduced by the same proportion as that which the spouse or partner has elected to surrender under section 61M(1)(b)(i) of this Act.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Subsection (2) was amended, as from 29 March 1985, by section 22(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62) by omitting the expression “or section 46”

Section 74J was substituted, as from 1 May 1985, by section 19(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (2) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

Capitalisation of retiring allowance or annuity

74K Election to surrender proportion of retiring allowance or annuity and receive cash payment

[Repealed]

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Section 74K was repealed, as from 25 December 1986, by section 25(2) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Minimum payments in respect of certain Judges

74L Certain Judges or surviving spouses or partners to be entitled to minimum payments

Notwithstanding this Part of this Act, no retiring allowance or annuity payable under this Part of this Act to or in respect of a Judge who was contributing under Part 5 of this Act on the 31st day of December 1980 shall be any less than the allowance or annuity that would have been payable to that person had this Part of this Act not been passed, and, in the case of a Judge to whom section 74E(1)(a) applies, that Judge is hereby deemed to have completed as much judicial service as he would have completed had he retired at 72 years of age.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

The heading was amended, as from 26 April 2005, by section 4(2) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partners” after the word “spouses”.

Accounting

74M Judges Superannuation Account

- (1) All contributions payable under this Part and Part 5 of this Act shall be paid into a special account within the Government Superannuation Fund to be called the Judges Superannuation Account.
- (2) All retiring allowances, annuities, refunds of contributions, and other payments payable under this Part of this Act or Part 5 of this Act shall be paid out of the Judges Superannuation Account; and where in any year the money in the Judges Superannuation Account is insufficient to meet all such payments, the deficiency shall be met by a payment from the Consolidated Account without further appropriation than this section.
- (3) The Judges shall not, by reason of this section, become contributors to the Government Superannuation Fund for the purposes of any Part of this Act other than this Part and Part 5 of this Act.

Part 4 (comprising sections 72 to 74M) was substituted for the original Part 4 (comprising sections 72 to 74), as from 1 January 1981, by section 2 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Part 4A

Superannuation of Masters

Part 4A, comprising sections 74N to 74T, was inserted, as from 25 December 1986, by section 20 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Part 4A was repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

74N Interpretation

[Repealed]

Part 4A, comprising sections 74N to 74T, was inserted, as from 25 December 1986, by section 20 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Part 4A was repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

74O Masters may elect to contribute under Part 4 of this Act
[Repealed]

Part 4A, comprising sections 74N to 74T, was inserted, as from 25 December 1986, by section 20 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Part 4A was repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

74P Judges appointed as Masters may elect to continue to contribute under Part 4
[Repealed]

Part 4A, comprising sections 74N to 74T, was inserted, as from 25 December 1986, by section 20 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Part 4A was repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

74Q Part-time Masters
[Repealed]

Part 4A, comprising sections 74N to 74T, was inserted, as from 25 December 1986, by section 20 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Part 4A was repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

74R Masters may elect to continue to contribute under Parts 2, 2A, 3, or 3A
[Repealed]

Part 4A, comprising sections 74N to 74T, was inserted, as from 25 December 1986, by section 20 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Part 4A was repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

74S Master deemed to have retired on expiration of term of appointment*[Repealed]*

Part 4A, comprising sections 74N to 74T, was inserted, as from 25 December 1986, by section 20 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Part 4A was repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

74T Transitional provision*[Repealed]*

Part 4A, comprising sections 74N to 74T, was inserted, as from 25 December 1986, by section 20 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Part 4A was repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Part 5

Superannuation of Judges appointed before 1 January 1981

75 Interpretation*[Repealed]*

The definition of contributor in the original section 75 was substituted, as from 4 December 1964, by section 10(1) Superannuation Amendment Act 1964 (1964 No 125).

In paragraph (a) the words “High Court” were substituted for the words “Supreme Court”, as from 1 April 1980, pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

Paragraph (b) was substituted, as from 4 December 1964, by section 10(2) Government Superannuation Fund Amendment Act 1964 (1964 No 125).

In paragraph (b) the words “A Judge of the Labour Court” were substituted for the words “A Judge of the Court of Arbitration”, as from 1 August 1987, pursuant to section 359(f) Labour Relations Act 1987 (1987 No 77).

Sections 75 to 81 were repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

75A Application of this Part*[Repealed]*

Section 75A was inserted, as from 1 January 1981, by section 3 Government Superannuation Fund Amendment Act 1980 (1980 No 163), and repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

76 Retiring allowances of Judges

[Repealed]

Subsection (1) was amended, as from 4 October 1957, by section 5 Superannuation Act 1957 (1957 No 16) by inserting, after the words “if any”, the words “and by a proportionate part of one-twenty-fourth of that salary for each fraction of a year”.

Subsection (2) was amended, as from 4 October 1957, by section 5 Superannuation Act 1957 (1957 No 16) by inserting, after the words “if any”, the words “and by a proportionate part of one-twenty-fourth of that salary for each fraction of a year”.

Subsection (2) was amended, as from 4 December 1964, by section 11(2)(a) Superannuation Amendment Act 1964 (1964 No 125) by omitting the words “but not less than five years”.

Subsection (2)(a) was amended, as from 4 December 1964, by section 11(2)(b) Superannuation Amendment Act 1964 (1964 No 125) by inserting after the words “seventy-two years” the words “after not less than five years’ service”.

The second proviso to subsection (2) was inserted, as from 4 December 1964, by section 11(2)(c) Superannuation Amendment Act 1964 (1964 No 125).

Subsections (3) and (4) were inserted, as from 4 December 1964, by section 11(1) Superannuation Amendment Act 1964 (1964 No 125).

Sections 75 to 81 were repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

77 Election to contribute for widow’s annuity

[Repealed]

Section 77 was repealed, as from 4 December 1964, by section 12 Superannuation Amendment Act 1964 (1964 No 125).

78 Contributions

[Repealed]

Subsection (1) was substituted, as from 4 December 1964, by section 13 Superannuation Amendment Act 1964 (1964 No 125).

Subsection (1) was amended, as from 1 April 1970, by section 6(3) Superannuation Amendment Act 1970 (1970 No 116) by substituting the words “8 per cent” for the words “seven percent”.

Subsection (1A) and (1B) were inserted, as from 13 December 1968, by section 3 Superannuation Amendment Act 1968 (1968 No 109).

Subsection (1A) was amended, as from 17 April 1978, by section 6(2) Industrial Relations Amendment Act 1977, by inserting the words “or under section 40 of the Industrial Relations Act 1973”. This subsection was amended, as from 1 August 1987, by substituting section 291 of the Labour Relations Act 1987 for section 40 of the repealed Industrial Relations Act 1973.

Sections 75 to 81 were repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

79 Annuity to widow or refund of contributions on death of contributor*[Repealed]*

Subsection (1)(a)(i) and (ii) were substituted, as from 4 December 1964, by section 14(1) Government Superannuation Fund Amendment Act 1964 (1964 No 125).

Subsection (1)(a) and (b) was substituted, as from 1 November 1976 by section 30 (1) Government Superannuation Fund Amendment Act 1976 (1976 No 30).

The second proviso to paragraph (1)(a) was inserted, as from 4 December 1964, by section 14(2) Government Superannuation Fund Amendment Act 1964 (1964 No 125).

The second proviso to paragraph (1)(a) was amended, as from 1 April 1970, by section 6(7) Government Superannuation Fund Amendment Act 1970 (1970 No 116) by inserting after the words “retirement or death or” the words “subject to any adjustment thereto made under the Superannuation Amendment Act 1969”.

The third proviso to paragraph (1)(a) was inserted, as from 27 October 1965, by section 2(2) Government Superannuation Fund Amendment Act 1965 (1965 No 116).

Subsection (1)(a) was amended, as from 20 November 1979, by section 16 Government Superannuation Fund Amendment Act 1979 (1979 No 46) by omitting from the second proviso the words “or (subject to any adjustment thereto made under the Superannuation Amendment Act 1969) exceed 25 per cent of that salary:”.

Subsection (1)(c) was amended, as from 4 December 1964, by section 14(2) Government Superannuation Fund Amendment Act (1964 No 125) by inserting after the words “contributions under this Part of this Act” the words “less any sums received by him under this Part of this Act in his lifetime, and less any sums which have been paid or may become payable under this section to or on behalf of any child or children of the deceased contributor”.

Paragraph (1)(d) was inserted, as from 20 November 1979 by section 17(1) Government Superannuation Fund Amendment Act 1979 (1979 No 46).

Subsections (3) and (4) were inserted, as from 4 December 1964, by section 14(4) Government Superannuation Fund Amendment Act 1964 (1964 No 125).

Subsection (3) was substituted and subsection (4) was repealed, as from 29 March 1985, by section 2(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Sections 75 to 81 were repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

79A Election by Judge or surviving spouse to surrender proportion of retiring allowance or annuity and receive cash payment*[Repealed]*

Section 79A was inserted, as from 1 April 1979, by section 18(1) Government Superannuation Amendment Act 1979 (1979 No 46) and repealed, as from 25

December 1986, by section 25(2) Government Superannuation Fund Amendment Act 1986 (1986 No 23).

80 Refund of contributions where Judge unmarried after retirement

[Repealed]

In the original section 80 the word “contributor” was omitted, and the words “person who was a Judge at the commencement of the Superannuation Amendment Act 1964” substituted, as from 4 December 1964, by section 15(a) Superannuation Amendment Act 1964 (1964 No 125).

The proviso was inserted, as from 4 December 1964, by section 15(a) Superannuation Amendment Act 1964 (1964 No 125).

Sections 75 to 81 were repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

81 Judges’ Superannuation Account

[Repealed]

Section 81 was substituted, as from 1 April 1965, by section 8 Government Superannuation Fund Amendment Act 1967 (1967 No 141).

Sections 75 to 81 were repealed, as from 1 April 1988, by section 3 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Part 5A
Superannuation of Judges and
Solicitor-General as from commencement
of 1 April 1988

Interpretation and application

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

81A Interpretation

In this Part of this Act, unless the context otherwise requires,—

Judge means—

- (a) a Judge of the High Court appointed under section 4 of the Judicature Act 1908:
- (b) a Judge of the Employment Court appointed under section 200 of the Employment Relations Act 2000 or deemed to have been appointed under that Act by

subsection (1) or subsection (2) of section 253 of that Act:

- (c) a Judge of the Compensation Court appointed under section 41 of the Workers' Compensation Act 1956:
- (d) a Judge of the Maori Land Court appointed under section 7 of the Maori Affairs Act 1993:
- (e) a Judge of the District Court appointed under section 5 or section 5A of the District Courts Act 1947,—

and includes, for the purpose of calculating any retiring allowance, annuity, other allowance, or payment that is payable under this Part, any person to whom this Part of this Act has applied and who has ceased to be a Judge

Judge: paragraph (b) was substituted, as from 19 August 1991, by section 11(1) Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

Judge: paragraph (b) of this definition was substituted, as from 2 October 2000, by section 240 Employment Relations Act 2000 (2000 No 24).

Judge: the reference to “section 7 of Te Ture Whenua Maori Act 1993” was impliedly substituted, as from 1 July 1993, for a reference to “section 16 of the Maori Affairs Act 1953” by section 362(2) Te Ture Whenua Maori Act 1993 (1993 No 4).

Judicial service means—

- (a) any service as a Judge; and
- (b) any service as a temporary Judge in respect of which contributions are paid as if that service were service as a Judge,—

and, where such service is not continuous, shall be the aggregate of all such periods of service

temporary Judge means—

- (a) a Judge of the High Court appointed under section 11 of the Judicature Act 1908:
- (b) a Judge of the Employment Court appointed under section 207 of the Employment Relations Act 2000:
- (c) a Judge of the Compensation Court appointed under section 43 of the Workers' Compensation Act 1956:
- (d) a Judge of the Maori Land Court appointed under section 11 of Te Ture Whenua Maori Act 1993:
- (e) a Judge of the District Court appointed under section 10 of the District Courts Act 1947.

Temporary Judge: paragraph (b) was substituted, as from 19 August 1991, by section 11(2) Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

Temporary Judge: paragraph (b) of this definition was substituted, as from 2 October 2000, by section 240 Employment Relations Act 2000 (2000 No 24).

Temporary Judge: the reference to “section 11 of Te Ture Whenua Maori Act 1993” was impliedly substituted, as from 1 July 1993, for a reference to “section 16A of the Maori Affairs Act 1953” by section 362(2) Te Ture Whenua Maori Act 1993 (1993 No 4).

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

81B Application of this Part to Judges

- (1) Subject to section 81D of this Act, this Part of this Act shall apply to all Judges appointed on or after the 1st day of April 1988.
- (2) Nothing in this Part of this Act shall apply in respect of—
 - (a) any person who is first appointed as a Judge or as Solicitor-General after the 30th day of June 1992; or
 - (b) any period of judicial service after the 30th day of June 1992 by any person who resumes judicial service after that date (other than a person whose contributions in respect of his or her previous period of judicial service remained, as a result of an election made by that person under this Part of this Act, in the Judges Superannuation Account throughout the period between that person’s two periods of judicial service).
- (3) Nothing in subsection (2) of this section prevents any person who, as at the close of the 30th day of June 1992, is a temporary Judge and who is appointed as a Judge immediately after ceasing to be a temporary Judge, from—
 - (a) contributing in accordance with section 81G(3) of this Act in respect of his or her service as a temporary Judge; and
 - (b) contributing under this Part of this Act in respect of that immediately following period of service as a Judge.
- (4) Nothing in subsection (2) of this section prevents any person who, as at the close of the 30th day of June 1992, is a Master to whom this Part of this Act applies, and who takes office as a Judge immediately after ceasing to be a Master, from contributing under this Part of this Act in respect of his or her period of service as a Judge.

- (5) Notwithstanding subsection (2) of this section, this Part of this Act shall continue to apply to any person who, as at the close of the 30th day of June 1992, holds the office of Solicitor-General.
- (6) Notwithstanding anything to the contrary in this Act, nothing in this Part of this Act shall apply in respect of any period of judicial service after the effective date of an election under section 81OA of this Act.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Subsections (2) to (5) were inserted, as from 1 July 1992, by section 12 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

Subsection (6) was inserted, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

81C Application of this Part to persons to whom Part 4 applies

- (1) Subject to subsection (2) of this section, this Part of this Act shall apply to all persons to whom Part 4 of this Act applied on the 31st day of March 1988 and who were, on that date, in office.
- (2) Any person referred to in subsection (1) of this section may elect, by notice in writing delivered to the Authority before the 1st day of July 1989, to remain a contributor under Part 4 of this Act.
- (3) Every such election shall be irrevocable.
- (4) Where any such election is made, this Part of this Act shall not apply and shall be deemed never to have applied to that person.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

81D Application of this Part to Judge of or over age of 63 years on appointment

- (1) Where any person is first appointed to be a Judge after that person has attained the age of 63 years, that person may elect,

by notice in writing delivered to the Authority within 3 months after that appointment, that this Part of this Act shall not apply to that person.

- (2) Every such election shall be irrevocable.
- (3) Where any such election is made, this Part of this Act shall not apply and shall be deemed never to have applied to that person.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

81E Application of this Part to Solicitor-General

- (1) Subject to subsections (2) to (5) of this section, this Part of this Act shall apply to any person appointed to the office of Solicitor-General as if that appointment were an appointment as a Judge.
- (2) The person who held the office of Solicitor-General on the 31st day of March 1988 may elect, by notice in writing delivered to the Authority before the 1st day of July 1989, to remain a contributor under Part 2A of this Act.
- (3) Any person who is appointed to the office of Solicitor-General and who is a contributor under Part 2A of this Act may elect, by notice in writing delivered to the Authority within 3 months after that appointment, to remain a contributor under Part 2A of this Act.
- (4) Every election under subsection (2) or subsection (3) of this section shall be irrevocable.
- (5) Where any such election is made, this Part of this Act shall not apply and shall be deemed never to have applied to that person.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Subsections (2) and (3) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

*Contributions***81F Contributions**

- (1) A contribution at the rate of 8 percent shall be deducted from the salary payable to any Judge in respect of any period after the 31st day of March 1988.
- (2) The contribution shall be deducted as the salary becomes payable from time to time, and shall be paid into a special account within the Government Superannuation Fund to be called the Judges Superannuation Account.
- (3) Notwithstanding the provisions of subsection (1) of this section, where the judicial service completed by a Judge exceeds 16 years, no further contributions shall be deducted from his or her salary in respect of any period after the 31st day of March 1988 or after such service has been completed, whichever is the later.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

81G Service as temporary Judge

- (1) Where any person is appointed as a temporary Judge and that person was, immediately before his or her appointment, holding office as a Judge, that person shall, unless he or she is entitled to a retiring allowance under section 81H(a) of this Act, pay contributions in respect of his or her service as a temporary Judge as if that service were service as a Judge.
- (2) Where subsection (1) of this section applies to any person, the provisions of this Part of this Act shall apply to that person as if he or she had received a further appointment as a Judge on the date on which he or she was appointed as a temporary Judge.
- (3) Where any person to whom subsection (1) of this section does not apply is appointed as a Judge, and that person was, immediately before his or her appointment, holding office as a temporary Judge, that person may elect to pay contributions in respect of his or her service as a temporary Judge as if that service were service as a Judge.

- (4) Every such election shall be irrevocable, and shall be delivered to the Authority within 3 months after the person is appointed as a Judge.
- (5) Where any such election is made, the provisions of this Part of this Act shall apply to that person as if he or she had been appointed as a Judge on the date on which he or she was appointed as a temporary Judge.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Retiring allowances

81H Entitlement of Judge to retiring allowance

Every Judge who—

- (a) retires after having attained the age of 68 years; or
- (b) resigns his or her office after having completed not less than 10 years’ judicial service and having attained the age of 50 years; or
- (c) satisfies the Governor-General in Council that he or she has become incapable of performing the duties of his or her office by reason of any permanent infirmity or other cause, and resigns his or her office,—

shall be entitled to a retiring allowance in proportion to the amount of his or her salary at the time of retiring or resigning, computed in accordance with the provisions of section 81I of this Act.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

81I Computation of retiring allowance

- (1) The retiring allowance of a Judge shall be the pension percentage of the Judge’s salary at the date of his or her retirement or resignation.
- (2) For the purposes of this section—
appropriate fraction means one twenty-fourth part less, in the case where a Judge is under the age of 55 years at the

date on which the retiring allowance is first to be paid, one nine-thousandth part in respect of every month or part of a month after that date during which the Judge is under that age
pension percentage means the percentage calculated in accordance with the following formula

$$P \times (0.7 + (0.014 \times t))$$

where—

P is the appropriate fraction multiplied by the number of years (including fractions of a year) of judicial service, with a maximum of two-thirds, and, in the case of a Judge to whom section 81H(c) of this Act applies, with a minimum of one-half:

t is the number, if any, of years (including fractions of a year) not exceeding 9.5, by which the date which is the earlier of—

- (a) the date on which judicial service ceased; or
- (b) the date on which a period of 16 years of judicial service was completed,—

precedes the 1st day of October 1999.

- (3) Where a Judge who was contributing under Part 5 of this Act on the 31st day of December 1980 retires after having attained the age of 68 years and before attaining the age of 72 years, then, for the purpose of calculating the item **P** in subsection (2) of this section, the period of judicial service shall be deemed to include the period between the date of the Judge's retirement and his or her 72nd birthday.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Section 81I was substituted, as from 1 April 1990, by section 18 Government Superannuation Fund Amendment Act 1990 (1990 No 30).

81J Minimum retiring allowance for Judge who resigns on grounds of incapacity

[Repealed]

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Section 81J was repealed, as from 1 April 1990, by section 19 Government Superannuation Fund Amendment Act 1990 (1990 No 30)

Death benefits

81K Minimum annuity payable to eligible spouse or partner of deceased Judge

- (1) This section applies to a spouse or partner—
 - (a) who is the spouse or partner of a Judge who has died; and
 - (b) who last became the spouse or partner of the Judge before the Judge received any instalment of a retiring allowance (irrespective of the date at which the Judge became entitled to receive a retiring allowance); and
 - (c) who is entitled to a benefit under section 81L or section 81M(1) of this Act, and who elects to receive an annuity.
- (2) Notwithstanding anything in section 81L or section 81M(1) of this Act, but subject to subsection (3) of this section, the minimum annuity payable to a spouse or partner to whom this section applies shall be 25 percent of the salary payable to the Judge at the date of the Judge's retirement or death, whichever first occurs.
- (3) The minimum annuity referred to in subsection (2) of this section shall be reduced—
 - (a) by the same proportion as that which the spouse or partner elects to surrender under section 81L(1)(b) of this Act; and
 - (b) in the case of the spouse or partner of a Judge who has made an election under section 91 of this Act before his or her death, by the same proportion as that which the Judge elected to surrender under that election.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

The heading was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Section 81K was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

81L Benefits where Judge dies while in office and leaves spouse or partner

- (1) Subject to subsection (2) of this section, where any Judge dies while in office and leaves a spouse or partner, there shall be paid to the spouse or partner, at the election of the spouse or partner,—
- (a) a lump sum being—
- (i) one year's salary of the Judge calculated at the rate of salary payable to him or her when he or she was last a contributor to the Judges Superannuation Account; or
 - (ii) a refund of the Judge's contributions to the Judges Superannuation Account including interest, as if he or she had ceased judicial service on the date of his or her death and made an election under section 81P(1)(a) of this Act—
- whichever is the greater, and the spouse or partner shall have no further claim against the Judges Superannuation Account; or
- (b) both—
- (i) a lump sum, being not more than 80 percent of the maximum sum that the Judge could have elected to receive under section 91 of this Act had the Judge resigned from office under section 81H(c) of this Act on the date of his or her death and had the Judge been entitled to make an election under section 91 of this Act at the date of his or her death; and
 - (ii) an annuity at one-half of the rate of the retiring allowance to which the deceased Judge would have been entitled if he or she had resigned from office under section 81H(c) of this Act on the date of his or her death, reduced by the same proportion as the proportion of the retiring allowance which the Judge would have had to surrender under section 91 of this Act for the purpose of providing a lump sum equal to that payable under subparagraph (i) of this paragraph.

- (2) Where a Judge dies while in office after making an election under section 91 of this Act and leaves a spouse or partner,—
 - (a) subsection (1)(a) of this section shall not apply; and
 - (b) any lump sum payable under subsection (1)(b)(i) of this section shall be reduced by such amount as the Judge elected to receive under section 91 of this Act.
- (3) Every election under subsection (1) of this section shall be made in writing delivered to the Authority, and shall not be capable of revocation or variation after the first payment from the Judges Superannuation Account in accordance with the election is accepted by the spouse or partner.
- (4) The entitlement of any spouse or partner to any lump sum or annuity under this section shall not be affected by any change in the relationship status of that spouse or partner.
- (5) Nothing in this section shall apply to a Judge who dies while in office after becoming entitled to a retiring allowance in respect of any previous judicial service.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

The heading was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Section 81L was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “relationship status” for the words “marital status”.

81M Benefits where Judge dies after becoming entitled to retiring allowance and leaves spouse or partner

- (1) Where any Judge dies after becoming entitled to a retiring allowance and leaves a spouse or partner who last became the spouse or partner of the Judge before the Judge became entitled to the retiring allowance, there shall be paid to the spouse or partner, at the election of the spouse or partner,—

- (a) the amount that the Judge would have been entitled to receive if he or she had made an election under section 81P(1)(a) of this Act on the date from which the first payment of the retiring allowance was payable, less any amounts received by the Judge from the Judges Superannuation Account; or
 - (b) an annuity at one-half of the rate of retiring allowance to which the deceased Judge was entitled at the date of his or her death.
- (2) Where any Judge dies after becoming entitled to a retiring allowance and leaves a spouse or partner who last became the spouse or partner of the Judge after the Judge became entitled to a retiring allowance, there shall be paid to the spouse or partner, at the election of the spouse or partner,—
 - (a) the amount that the Judge would have been entitled to receive if the Judge had made an election under section 81P(1)(a) of this Act on the date from which the first payment of the retiring allowance was payable, less any amounts received by the Judge from the Judges Superannuation Account; or
 - (b) an annuity being the appropriate proportion of the retiring allowance to which the deceased Judge was entitled at the date of his or her death which shall be—
 - (i) ten percent of that allowance where the Judge dies less than 2 years after the spouse or partner last became his or her spouse or partner:
 - (ii) twenty percent of that allowance where the Judge dies 2 or more years but less than 3 years after the spouse or partner last became his or her spouse or partner:
 - (iii) thirty percent of that allowance where the Judge dies 3 or more years but less than 4 years after the spouse or partner last became his or her spouse or partner:
 - (iv) forty percent of that allowance where the Judge dies 4 or more years but less than 5 years after the spouse or partner last became his or her spouse or partner:

- (v) fifty percent of that allowance where the Judge dies 5 or more years after the spouse or partner last became his or her spouse or partner.
- (3) Every election under subsection (1) or subsection (2) of this section shall be made in writing delivered to the Authority, and shall not be capable of revocation or variation after the first payment from the Judges Superannuation Account in accordance with the election is accepted by the spouse or partner.
- (4) The entitlement of any spouse or partner to any annuity under this section shall not be affected by any change in the relationship status of that spouse or partner.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

The heading was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Section 81M was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “relationship status” for the words “marital status”.

81N Benefit where Judge dies without leaving spouse or partner

- (1) Where any Judge dies and does not leave a spouse or partner, there shall be paid to the Judge’s personal representatives in trust for the persons entitled to receive them under the Judge’s will, or under the Acts relating to the distribution of intestate estates, as the case may be,—
 - (a) where the Judge dies while in office, the amount that the Judge would have been entitled to receive if he or she had made an election under section 81P(1)(a) of this Act on the date of his or her death:
 - (b) where the Judge dies after becoming entitled to a retiring allowance, the amount that the Judge would have been entitled to receive if he or she had made an elec-

tion under section 81P(1)(a) of this Act on the date from which the first payment of the retiring allowance was payable, less any amounts received by him or her from the Judges Superannuation Account.

- (2) Any money payable under subsection (1) of this section to the personal representatives of a deceased Judge may, if no grant of probate or of letters of administration is obtained within 3 months after the death of the Judge, be paid to Public Trust in trust for the persons beneficially entitled to that money.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

The heading was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Section 81N was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Subsection (2) was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the words “Public Trust” for the words “the Public Trustee”. *See* clause 2 Public Trust Act Commencement Order 2002 (SR 2002/11).

81O Children’s allowance

- (1) Where any Judge dies 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 (6) of this section until the child attains the age of 16 years.
- (2) Where a child of a deceased Judge 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 Authority may grant or continue an allowance to that child at such rate as the Authority may determine, not exceeding the rate calculated under subsection (6) 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 Authority thinks fit.

- (3) No allowance shall be paid to any child of a deceased Judge under this section if an allowance is already payable to that child under this Act.
- (4) Any money payable under this section to or on behalf of a child of a deceased Judge may, at the discretion of the Authority, be—
 - (a) paid to the child directly; or
 - (b) expended by the Authority for the benefit of the child; or
 - (c) paid to Public Trust or any other person to be expended on behalf of the child in such manner as Public Trust or that other person thinks fit.
- (5) 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 Authority.
- (6) The rate of the allowance payable each financial year to or on behalf of any child under this section shall be—

$$\$1,000 \times \frac{A}{B}$$

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.

- (7) Nothing in this section shall apply to a Judge who dies before becoming entitled to a retiring allowance if the Judge's judicial service had already ceased before the Judge dies.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Subsections (2) and (4) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Subsections (2) and (4) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (4)(c) was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the words "Public Trust" for the

words “the Public Trustee”. See clause 2 Public Trust Act Commencement Order 2002 (SR 2002/11).

Subsection (5) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (5) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

81OA Right to cease to be contributor under Part 5A

Any contributor under this Part of this Act may, subject to regulations made under section 97 of this Act, elect to cease to be a contributor to the Judges Superannuation Account and—

- (a) to leave the contributor’s contributions in the Account and to receive—
 - (i) a deferred pension; or
 - (ii) a deferred lump sum,—in accordance with those regulations; or
- (b) to receive a refund of the contributor’s contributions in accordance with those regulations.

Section 81OA was inserted, as from 1 October 1995, by section 13 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Benefits on ceasing service

81P Rights and benefits where Judge ceases judicial service

- (1) Where the judicial service of any Judge ceases for any reason (other than the death of the Judge), the Judge may—
 - (a) elect to receive a refund of his or her contributions to the Judges Superannuation Account (less any amounts already received by the Judge from that Account) increased, in respect of contributions paid in respect of any period after the 1st day of May 1985 under this Part or Part 4 of this Act, by 0.25 percent for every month beginning on or after the 1st day of May 1985 during which the Judge was a contributor under this Part or Part 4 of this Act;
 - (b) if the Judge has not less than 10 years’ judicial service, elect to have the transfer value of his or her contributions (as determined in accordance with section 81S of this Act) paid to any superannuation scheme nominated

- by him or her that is approved by the Authority and is approved under the Superannuation Schemes Act 1976 and classified under that Act as an employee pension superannuation scheme or a personal pension superannuation scheme or is registered under the Superannuation Schemes Act 1989:
- (c) if the Judge has not less than 10 years' judicial service, elect, not more than 6 months after the date of ceasing judicial service or such extended period as the Authority may allow, to leave his or her contributions in the Judges Superannuation Account on the basis that—
 - (i) he or she may make a further election, not sooner than 3 months before he or she attains the age of 50 years, to receive a retiring allowance from such date as he or she may specify in the election, being a date on or after the day on which he or she attains the age of 50 years; and
 - (ii) the retiring allowance shall continue to be payable to him or her during any period when the Judge is not contributing to the Judges Superannuation Account.
 - (2) Every election under subsection (1) of this section may, subject to subsection (3) of this section, be revoked, and the Judge may thereupon make an election under any other paragraph of that subsection.
 - (3) Every election under subsection (1) of this section shall be in writing delivered to the Authority, and shall be irrevocable once any payment has been accepted from the Judges Superannuation Account pursuant to the election.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Subsection (1)(b) and (c) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (1)(b) and (c) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

81Q Benefits where Judge who has made election under section 81P(1)(c) dies before becoming entitled to retiring allowance

Where a Judge who has made an election under section 81P(1)(c) of this Act dies before becoming entitled to a retiring allowance, either because he or she has not made the further election provided for in that paragraph or because he or she dies before a date specified in such an election,—

- (a) if the Judge leaves a spouse or partner, sections 81L and 81O of this Act shall not apply, and there shall be paid to the spouse or partner, at the election of the spouse or partner,—
 - (i) a refund of the Judge's contributions to the Judges Superannuation Account increased, in respect of contributions paid in respect of any period after the 1st day of May 1985 under this Part or Part 4 of this Act, by 0.25 percent for every month beginning on or after the 1st day of May 1985 between the date on which the Judge became a contributor under this Part or Part 4 of this Act and the date of the Judge's death; or
 - (ii) an annuity at one-half of the rate of the retiring allowance to which the deceased Judge would have been entitled if he or she had become entitled to a retiring allowance calculated under section 81I of this Act on the date of his or her death—and the entitlement of the spouse or partner to the refund or annuity shall not be affected by any change in the relationship status of that spouse or partner:
- (b) if the Judge dies without leaving a spouse or partner, sections 81N and 81O of this Act shall not apply, and there shall be paid to the Judge's personal representatives in trust for the persons entitled to receive them under the Judge's will, or under the Acts relating to the distribution of intestate estates, as the case may be, the Judge's contributions to the Judges Superannuation Account increased, in respect of contributions paid in respect of any period after the 1st day of May 1985 under this Part or Part 4 of this Act, by 0.25 percent for every

month beginning on or after the 1st day of May 1985 between the date on which the Judge became a contributor under this Part or Part 4 of this Act and the date of his or her death.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Section 81Q was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

Section 81Q was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “relationship status” for the words “marital status”.

81R Benefits where Judge dies before making election under section 81P(1)

Where any Judge who is entitled to make an election under paragraph (a) or paragraph (b) of section 81P(1) of this Act, or an initial election under paragraph (c) of that section, dies before making such an election, there shall be paid to the Judge’s personal representatives in trust for the persons entitled to receive them under the Judge’s will, or under the Acts relating to the distribution of intestate estates, as the case may be, the Judge’s contributions to the Judges Superannuation Account, including interest, as if the Judge had made an election under section 81P(1)(a) of this Act on the date of his or her death, and no person shall have any claim on the Judges Superannuation Account for any allowance or annuity arising from the Judge’s contributions to the Judges Superannuation Account.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

81S Calculation of transfer value

For the purposes of section 81P(1)(b) of this Act, the transfer value of a Judge’s contributions shall be—

- (a) the amount of the refund that the Judge would be entitled to receive if he or she made an election under section 81P(1)(a) of this Act, increased by 10 percent of that amount for every complete year of his or her judicial service in excess of 10 years, and an appropriate

portion of 10 percent for any part of a year of such service; or

- (b) twice the amount of the refund that the Judge would be entitled to receive if he or she had made an election under section 81P(1)(a) of this Act—

whichever is the lesser, increased by the amount that would be included in any refund of contributions payable to the Judge by virtue of section 35(1) of the Government Superannuation Fund Amendment Act 1976.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

81T Calculation of retiring allowance payable to Judge who has made election under section 81P(1)(c)

For the purposes of determining the retiring allowance payable to a person who has made an election under section 81P(1)(c) of this Act to receive a retiring allowance, the retiring allowance shall be calculated under section 81I of this Act, except that—

- (a) the Judge's salary at the date of retirement or resignation shall be determined as the salary at the date on which the judicial service ceased, increased by the percentage (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 immediately precedes the date upon which the retiring allowance is first to be paid exceeds the index number for the quarter immediately following the date on which the judicial service ceased:
- (b) the date upon which the retiring allowance is first to be paid shall be treated as the date of the person's retirement or resignation.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

81U Determination of amount of refund

For the purposes of determining the amount of any refund of contributions payable to or in respect of any Judge under

any provision of sections 81P, 81Q, and 81R of this Act, the amount of the refund shall include any amount payable to or in respect of the contributor under section 35(1) of the Government Superannuation Fund Amendment Act 1976.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

81UA Election by Solicitor-General to continue to contribute to Judges Superannuation Account after retirement from office

- (1) In this section, **Solicitor-General** means the person holding office as Solicitor-General on the date on which the Judicial Superannuation Determination 1996 comes into force.
- (2) Notwithstanding anything contained in this Part of this Act, the Solicitor-General may elect to continue to contribute to the Judges Superannuation Account in accordance with this Part of this Act after resigning office as Solicitor-General, if the Solicitor-General resigns office, whether voluntarily or otherwise, before becoming entitled to a retiring allowance under this Part of this Act.
- (3) Any election by the Solicitor-General under subsection (2) of this section must be made in writing delivered to the Authority before the Solicitor-General resigns office.
- (4) If the Solicitor-General makes an election under subsection (2) of this section, the Solicitor-General shall continue to be a contributor to the Judges Superannuation Account under this Part of this Act after resigning office until—
 - (a) the date on which the Solicitor-General elects to cease to be a contributor, which, except with the consent of the Authority, shall not be more than 3 months after the date of resignation; or
 - (b) the Solicitor-General dies,—whichever date first occurs; and if the date specified in paragraph (a) of this subsection first occurs it shall be deemed to be the date on which the Solicitor-General resigns office.
- (5) The period during which the Solicitor-General continues to be a contributor to the Judges Superannuation Account under this section shall be deemed for the purposes of this Part of this

Act to be judicial service, and the Solicitor-General shall be deemed to receive during that period such salary as the Authority may from time to time determine.

- (6) The Solicitor-General shall, for the purposes of this Part of this Act, be deemed to have continued to hold office as Solicitor-General during the period specified in subsection (5) of this section.
- (7) If before becoming entitled to a retiring allowance under this Part of this Act, the Solicitor-General—
 - (a) satisfies the Governor-General in Council that, if the Solicitor-General were still in office, the Solicitor-General would be incapable of performing the duties of that office by reason of any permanent infirmity or other cause; and
 - (b) elects to cease to be a contributor under this section to the Judges Superannuation Account,—the Solicitor-General shall be deemed to be entitled to a retiring allowance as if the Solicitor-General had complied with section 81H(c) of this Act.
- (8) The Solicitor-General shall, in respect of the period of judicial service referred to in subsection (5) of this section, pay into the Judges Superannuation Account within the time and in the manner determined by the Authority,—
 - (a) the contributions payable under this Part of this Act if the Solicitor-General had continued in office; and
 - (b) the amount by which those contributions are less than the amount certified by the Authority, after receiving advice from an actuary, as the total amount of contributions that would require to be so paid if the contributions provided the total cost of the benefits to which the Solicitor-General may become entitled under this Part of this Act or such lesser amount as the Authority may determine.
- (9) Except with the consent of the Authority, no part of the amount paid by the Solicitor-General under subsection (8)(b) of this section shall be deemed to form part of the Solicitor-General's contributions to the Judges Superannuation Account.

Section 81UA was inserted, as from 14 October 1996, by clause 2 Judicial Superannuation Determination 1996 (SR 1996/320).

Subsections (3), (4)(a), (5), (8), and (9) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Section 81UA(8)(b): amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

Minimum payments in respect of certain Judges

81V Certain Judges or surviving spouses to be entitled to minimum payments

[Repealed]

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Section 81V was repealed, as from 1 April 1990, by section 20 Government Superannuation Fund Amendment Act 1990 (1990 No 30).

Subsidy

81W Provision for payments

- (1) All retiring allowances, annuities, other allowances, and payments that are payable under this Part of this Act shall be paid out of the Judges Superannuation Account.
- (2) Where in any year the money in the Judges Superannuation Account is insufficient to meet the payments required by subsection (1) of this section, the deficiency shall be met by a payment from public money without further appropriation than this section.

Part 5A, comprising sections 81A to 81W, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

Subsection (2) was amended, as from 1 April 1990, by section 86(1) Public Finance Act 1989 (1989 No 44) by substituting the words “public money” for the words “the Consolidated Account”.

Part 5B

Superannuation of Associate Judges

Part 5B, comprising sections 81X to 81ZC, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

The heading to Part 5B was amended, as from 20 May 2004 by section 6(2) Judicature Amendment Act 2004 (2004 No 45), by substituting the words “Associate Judges” for the word “Master”.

81X Interpretation

In this Part of this Act, unless the context otherwise requires,—

Associate Judge means an Associate Judge of the High Court appointed or deemed to have been appointed under section 26C of the Judicature Act 1908

Associate Judge: this definition was inserted as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45).

Judge has the same meaning as in Part 5A of this Act

Master*[Repealed]*

Master: this definition was repealed, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45).

[Repealed]

Part 5B, comprising sections 81X to 81ZC, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

81XA Application

- (1) Nothing in this Part of this Act shall apply in respect of—
 - (a) any person who is first appointed as an Associate Judge after the 30th day of June 1992; or
 - (b) any period of service as an Associate Judge after the 30th day of June 1992 by any person who resumes service as a Master after that date (other than a person whose contributions in respect of his or her previous period of service as an Associate Judge remained, as a result of an election made by that person under Part 5A of this Act (as applied by section 81Y(4) or section 81Z(3) of this Act), in the Judges Superannuation Account throughout the period between the person's two periods of service as an Associate Judge).
- (2) Notwithstanding anything to the contrary in this Act, nothing in this Part or Part 5A of this Act shall apply in respect of any period of service as an Associate Judge after the effective date of an election under section 81OA of this Act.

Section 81XA was inserted, as from 1 July 1992, by section 13 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

Section 81XA was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words “an Associate Judge” for the words “a Master”, wherever they appear.

Subsection (2) was inserted, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

81Y Associate Judges may elect to contribute under Part 5A

- (1) Subject to this section, any person who is appointed as an Associate Judge may elect to pay contributions in respect of that person's service as an Associate Judge as if that service were service as a Judge.
- (2) No person shall be entitled to make an election under subsection (1) of this section who has made an election under section 81Z(1) or section 81ZB(1) of this Act.
- (3) Every election under subsection (1) of this section shall be irrevocable, and shall be delivered to the Authority within 3 months after the person is appointed as an Associate Judge, or before the 1st day of July 1989, whichever is the later.
- (4) Where any person makes an election under subsection (1) of this section, the provisions of Part 5A of this Act shall apply to that person as if that person had been appointed as a Judge on the date on which that person was appointed as an Associate Judge, and the contributions payable by that person, and the benefits payable in respect of those contributions, shall be calculated accordingly.

Part 5B, comprising sections 81X to 81ZC, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

The heading to section 81Y was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words "Associate Judges" for the word "Master".

Section 81Y was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words "an Associate Judge" for the words "a Master", wherever they appear.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

81Z Judges appointed as Associate Judges may elect to continue to contribute under Part 5A

- (1) Subject to this section, where any person—
 - (a) is appointed as an Associate Judge; and
 - (b) was, immediately before that appointment, holding office as a Judge,—

that person may elect to pay contributions in respect of that person's service as an Associate Judge as if that service were service as a Judge.

- (2) Every election under subsection (1) of this section shall be irrevocable, and shall be delivered to the Authority within 3 months after the person is appointed as an Associate Judge.
- (3) Where any person makes an election under subsection (1) of this section, the provisions of Part 5A of this Act shall apply to that person as if that person had received a further appointment as a Judge on the date on which that person was appointed as an Associate Judge, and the contributions payable by that person, and the benefits payable in respect of those contributions, shall be calculated accordingly.

Part 5B, comprising sections 81X to 81ZC, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

The heading to section 81Z was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words "Associate Judges" for the word "Masters".

Section 81Z was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words "an Associate Judge" for the words "a Master", wherever they appear.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

81ZA Part-time Masters

- (1) Notwithstanding anything in this Act, where any Associate Judge to whom section 81Y(4) or section 81Z(3) of this Act applies acts as an Associate Judge on a part-time basis at any time during that Associate Judge's period of service as an Associate Judge, every retiring allowance, annuity, other allowance, or payment (other than any payment under section 91 or section 91A or section 91B of this Act, or a refund of that Associate Judge's contributions under this Act and any interest payable on those contributions) payable to any person by reason of that Associate Judge's contributions under this Act shall be reduced by the proportion by which the total amount paid to that Associate Judge by way of salary during that Associate Judge's period of service is less than the total amount that

would have been paid by way of salary to an Associate Judge who had acted on a full-time basis during that same period.

- (2) Subsection (1) of this section shall apply whether or not the retiring allowance, annuity, other allowance, or payment is payable at a minimum rate prescribed by this Act, but nothing in subsection (1) of this section shall apply in respect of any allowance payable to a child under section 81O of this Act.
- (3) For the purposes of determining any retiring allowance, annuity, other allowance, or payment that would, apart from subsection (1) of this section, be payable to any person by reason of an Associate Judge's contributions under this Act, the retiring allowance, annuity, other allowance, or payment shall be calculated in accordance with this Act, except that, for the purposes of section 81I and section 81L(1)(a)(i) of this Act, where any Associate Judge to whom section 81Y(4) or section 81Z(3) of this Act applies was, at the time of the resignation, retirement, or death of that Associate Judge, acting as any Associate Judge on a part-time basis, the retiring allowance, annuity, other allowance, or payment shall be calculated as if the annual salary of that Associate Judge at the date of that Associate Judge's resignation, retirement, or death, were the annual salary payable by law to any Associate Judge who, at that date, had at all times acted as an Associate Judge on a full-time basis.
- (4) Subject to subsection (1) of this section, in determining, for the purposes of Part 5A of this Act, the period of service of any Associate Judge, any period of service during which any Associate Judge has acted as any Associate Judge on a part-time basis shall be deemed to be service on a full-time basis.

Part 5B, comprising sections 81X to 81ZC, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

The heading to section 81ZA was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words "Associate Judges" for the words "Master", wherever they appear.

Section 81ZA was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words "any Associate Judge" for the words "any Master", wherever they appear.

Section 81ZA was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words "an Associate Judge" for the words "a Master", wherever they appear.

Section 81ZA was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words “that Associate Judge” for the words “that Master”, wherever they appear.

Section 81ZA was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words “that Associate Judge’s” for the words “that Master’s”, wherever they appear.

Section 81ZA was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words “an Associate Judge’s” for the words “a Master’s”, wherever they appear.

81ZB Associate Judges may elect to continue to contribute under Parts 2, 2A, 3, or 3A

- (1) Notwithstanding anything in this Act but subject to this section, any person who—
 - (a) is appointed as an Associate Judge; and
 - (b) was, immediately before that appointment, a contributor under Part 2 or Part 2A or Part 3 or Part 3A of this Act,—

may elect to continue to contribute under Part 2 or Part 2A or Part 3 or Part 3A of this Act, as the case may be, while that person continues to hold office as an Associate Judge.
- (2) No person shall be entitled to make an election under subsection (1) of this section who has made an election under section 81Y(1) of this Act.
- (3) Every election under subsection (1) of this section shall be irrevocable, and shall be delivered to the Authority within 3 months after that person is appointed as an Associate Judge.
- (4) Where any person makes an election under subsection (1) of this section, that person shall be deemed, for the purposes of Part 2 or Part 2A or Part 3 or Part 3A of this Act, as the case may require, to be employed in the Government service so long as that person continues to hold office as an Associate Judge, and Part 2 or Part 2A or Part 3 or Part 3A of this Act, as the case may require, shall continue to apply to that person in all respects as if that person’s service as an Associate Judge were Government service.
- (5) For the purposes of applying Part 2 or Part 2A or Part 3 or Part 3A of this Act, in accordance with subsection (4) of this section, to a person who holds office as an Associate Judge, and is a contributor to the Fund, the term **controlling authority** in

relation to any such person, means the chief executive of the Department for Courts.

Part 5B, comprising sections 81X to 81ZC, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

The heading to section 81ZB was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words “Associate Judges” for the words “Masters”.

Section 81ZB was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words “an Associate Judge” for the words “a Master”, wherever they appear.

Subsection (5) was amended, as from 1 October 1995, by section 10(3) Department of Justice (Restructuring) Act 1995 (1995 No 39) by substituting the words “chief executive of the Department for Courts” for the words “Secretary for Justice”.

81ZC Associate Judges deemed to have retired on expiration of term of appointment

For the purposes of applying this Act to a person who holds office as an Associate Judge and is a contributor under this Act, where any Associate Judge vacates office by reason of that Associate Judge’s term of appointment having expired, that Associate Judge shall, unless that Associate Judge is reappointed as an Associate Judge or is appointed as a Judge, be deemed to have retired on the date on which that term of appointment expired.

Part 5B, comprising sections 81X to 81ZC, was inserted, as from 1 April 1988, by section 4 Government Superannuation Fund Amendment Act 1989 (1989 No 23).

The heading to section 81ZC was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words “Associate Judges” for the words “Master”, wherever they appear.

Section 81ZC was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words “an Associate Judge” for the words “a Master”, wherever they appear.

Section 81ZC was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words “any Associate Judge” for the words “any Master”, wherever they appear.

Section 81ZC was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words “that Associate Judge’s” for the words “that Master’s”, wherever they appear.

Section 81ZC was amended, as from 20 May 2004, by section 6(2) Judicature Amendment Act 2004 (2004 No 45) by substituting the words “that Associate Judge” for the words “that Master”, wherever they appear.

Part 6

Parliamentary superannuation

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

82 Interpretation

- (1) In this Part of this Act, unless the context otherwise requires,—
- member** means a member of the House of Representatives; and includes any person who is for the time being receiving a salary fixed by a determination made under section 16 of the Civil List Act 1979
- ordinary member** means a member of the House of Representatives who holds no other office in respect of which a salary is payable under the Civil List Act 1979
- salary**, in relation to a member, means the salary payable to that member under the Civil List Act 1979
- year** means a period of 12 months ending with the 31st day of December.
- (2) For the purpose of computing the length of any period of service of any person as a member for the purposes of this Part of this Act,—
- (a) where any period of such service has commenced or ended before the 1st day of July in any year, it shall be deemed to have commenced or ended, as the case may be, at the beginning of that year:
- (b) where any period of such service has commenced or ended on or after the 1st day of July in any year, it shall be deemed to have commenced or ended, as the case may be, at the end of that year.

Subsection (1) of the original section 82 was amended, as from 1 December 1961, by section 7 Superannuation Amendment Act 1961 (1961 No 111) by adding to the definition of the term “member” the words “and includes any person who is for the time being receiving the salary of the Prime Minister or any other Minister of the Crown, or of a Parliamentary Under-Secretary, or of the Speaker or Chairman of Committees, or of the Leader or Deputy Leader of the Official Opposition, or of a Member of the House of Representatives”.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

82A Application

- (1) Nothing in this Part of this Act shall apply in respect of any person who, not being a member on the 30th day of June 1992, is elected as a member after that date.
- (2) Where any person who is a member on the 30th day of June 1992—
 - (a) is not re-elected as a member at any general election that takes place after that date; or
 - (b) ceases to be a member after that date by reason of his or her seat having become vacant under section 32 of the Electoral Act 1956,—

nothing in this Part of this Act shall apply in respect of any subsequent period of service as a member.
- (3) Notwithstanding anything to the contrary in this Act, nothing in this Part of this Act shall apply in respect of any period of service as a member after the effective date of an election under section 86FA of this Act.

Section 82A was inserted, as from 1 July 1992, as from 1 July 1992, by section 14 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

Subsection (3) was inserted, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Contributions

83 Contributions by members

- (1) From the salary payable to any member a superannuation contribution at a rate equal to 11 percent of an ordinary member's salary shall be deducted as the salary becomes payable from time to time, and paid into a special account within the Government Superannuation Fund to be called the Parliamentary Superannuation Account.
- (2) Notwithstanding the provisions of subsection (1) of this section, where the service of any person as a member exceeds 20 years, the superannuation contribution deducted from that member's salary shall, in respect of service as a member in excess of 20 years, be at a rate equal to 8 percent of an ordinary member's salary instead of at the rate specified in subsection (1) of this section.

Subsection (1) of the original section 83 was substituted, as from 1 July 1959, by section 28(1) Superannuation Amendment Act 1959 (1959 No 85).

Subsection (1) was amended, as from 1 April 1970, by section 7(3) Superannuation Amendment Act 1970 (1970 No 116) by substituting the words “11 per cent” for the words “ten percent”.

Subsection (2) was amended, as from 1 July 1959, by section 28(2) Superannuation Amendment Act 1959 (1959 No 85) by omitting the words “the Consolidated Fund” and substituting in each case the words “the Parliamentary Superannuation Account”.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Subsection (2) was amended, as from 8 May 1992, by section 2 Government Superannuation Fund Amendment Act 1992 (1992 No 40) by substituting the figure “20” for the figure “16” in both places where it occurred.

83A Subsidy of 11 percent from Consolidated Fund

[Repealed]

Section 83A was inserted, as from 1 July 1959, by section 29 Superannuation Amendment Act 1959 (1959 No 85).

Section 83A was substituted, as from 1 December 1961, by section 8(1) Superannuation Amendment Act 1961 (1961 No 111).

Section 83A was amended, as from 1 April 1970, by section 7(4) Superannuation Amendment Act 1970 (1970 No 116) by substituting the words “11 per cent” for the words “ten percent”.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Section 83A was repealed, as from 1 April 1990, by section 21 Government Superannuation Fund Amendment Act 1990 (1990 No 30)

83B Election to contribute in respect of notional service

- (1) Where any person is first elected as a member at a by-election in the period which begins with the day after the polling day appointed for a general election and ends with the 30th day of June in the second year following the year in which that polling day occurred, that person may elect, for the purposes of this Part of this Act, to have that person’s period of service computed as if that person had been elected a member at that general election.
- (2) Every election made under subsection (1) of this section shall be made not later than 3 months after the polling day appointed

for the general election immediately following the by-election at which the person was elected.

- (3) Every election made under subsection (1) of this section shall be made in writing delivered to the Authority.
- (4) Where a person makes an election under subsection (1) of this section, that person shall pay into the Parliamentary Superannuation Account an amount equal to the superannuation contribution that would have been deducted under section 83(1) of this Act if—
 - (a) that person had been elected a member at the general election mentioned in subsection (1) of this section; and
 - (b) that person had been receiving, from the polling day appointed for that general election until the day on which that person's salary commenced to be payable consequent on that person's election as a member at the by-election, a salary at a rate equal to that payable to an ordinary member as at the date on which the election is made by that person under subsection (1) of this section.
- (5) Where any amount payable pursuant to subsection (4) of this section is not paid within 6 months after the polling day appointed for the general election next following the by-election at which the person was elected, that amount or so much of it as is for the time being unpaid shall thereafter bear interest at the rate for the time being determined by the Authority for the purposes of the proviso to section 23A(6) of this Act.
- (6) All interest payable under subsection (5) of this section shall be recoverable as a debt due to the Crown and may be deducted from any annual retiring allowance payable to the person who made the election or any annuity payable to the surviving spouse or partner of that person.
- (7) Every election made under subsection (1) of this section shall have effect according to its tenor.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (5) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (5) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (6) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

83C Interest payments not to count as contributions

Where any person is required or permitted to make payments to the Parliamentary Superannuation Account that include the payment of interest, that interest shall not comprise part of the contributions of that person.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Retiring allowances

84 Retiring allowance of members

- (1) Any person who—
- (a) ceases to be a member on or after the commencement of the Government Superannuation Fund Amendment Act 1992; and
 - (b) has, at the time of so ceasing to be a member, served as a member for not less than 9 years (whether continuously or in 2 or more separate periods, and whether before or after the commencement of the Government Superannuation Fund Amendment Act 1992); and
 - (c) has attained the age of 50 years,—
- shall be entitled to an annual retiring allowance until that person dies or again becomes a member.
- (2) An annual retiring allowance under this section shall commence to be payable to the person entitled to it on the day after the date on which that person ceases to be a member or on the day on which that person attains the age of 50 years, whichever day is the later.
- (3) The annual retiring allowance payable to a person under this section shall be the pension percentage of the salary payable to

an ordinary member at the date on which the retiring allowance first becomes payable.

- (4) For the purposes of this section, **pension percentage** means the percentage calculated in accordance with the following formula:

$$P \times (0.7 + (0.014 \times t))$$

where—

P is the sum of—

- (a) one-thirtieth part multiplied by the number of years of service as a member, not exceeding 20; and
- (b) one one-hundred-and-twentieth part multiplied by the number of years of service as a member in excess of 20:

t is the number, if any, of years (including fractions of a year) not exceeding 9.5, by which the date which is the earlier of—

- (a) the date on which service as a member ceased; or
- (b) the date on which a period of 20 years of service as a member was completed,—

precedes the 1st day of October 1999.

The original section 84 was amended, as from 1 December 1961, by section 9(a) Superannuation Amendment Act 1961 (1961 No 111) by inserting, after the words “nineteen hundred and forty-seven” the words “and before the passing of the Superannuation Amendment Act 1961”.

The original section 84 was amended, as from 1 December 1961, by section 9(b) Superannuation Amendment Act 1961 (1961 No 111) by substituting the words “until he dies or again becomes a member” for the words “for the rest of his life”.

Subsections (2) to (4) were inserted, as from 1 December 1961, by section 9(b) Superannuation Amendment Act 1961 (1961 No 111).

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Subsection (3) of the previous section 84 was substituted, and subsection (4) was inserted, as from 1 April 1990, by section 22 Government Superannuation Fund Amendment Act 1990 (1990 No 30).

Section 84 was substituted, as from 8 May 1992, by section 3(1) Government Superannuation Fund Amendment Act 1992 (1992 No 40).

84A Election to surrender portion of retiring allowance and receive cash payment

- (1) Any person who becomes entitled to an annual retiring allowance under this Part of this Act may elect to surrender the right to receive a proportion of the annual retiring allowance and to receive instead payment out of the Parliamentary Superannuation Account of a sum equal to 12 times the amount by which the annual retiring allowance is reduced by the surrender.
- (2) Notwithstanding anything in subsection (1) of this section, a member who intends to cease to be a member within the following 3 months may make an election under that subsection as if that member had become entitled to an annual retiring allowance under this Part of this Act if—
 - (a) that member would have been so entitled if that member had ceased to be a member on the day before the date of the making of the election; or
 - (b) that member would be so entitled if that member were to continue in office as a member for a further period (not exceeding 3 months) and were then to cease to be a member.
- (3) Where any member to whom subsection (2) of this section applies has made an election under subsection (1) of this section, that member may make a further election, before that member ceases to be a member, to thereupon receive not more than half the amount that that member would be entitled to receive if that member had been entitled to an annual retiring allowance when that person made the election under subsection (1) of this section.
- (4) Where any amount is paid to any person under subsection (3) of this section, interest shall be payable on that amount by that person at such rate as the Authority may determine for the period between the date on which that person receives that amount and the date on which that person becomes entitled to the annual retiring allowance or the date of that person's death, whichever is the earlier.
- (5) All such interest shall be recoverable as a debt due to the Crown and may be deducted from any annual retiring allowance payable to the person who made the election or any annuity payable to the surviving spouse or partner of that person.

- (6) Every election under this section shall be made in writing and delivered to the Authority before the person who made the election has accepted any instalment of that person's annual retiring allowance.
- (7) Except as provided in subsections (3) and (8) of this section, no person shall have the right to revoke or amend any election under this section or to make any further election.
- (8) Where a person has made an election under subsection (1) of this section, that person shall be entitled to make one further election to increase the proportion of the annual retiring allowance surrendered by that person under subsection (1) of this section before that person has accepted any instalment of that person's annual retiring allowance.
- (9) No election or combination of elections under this section shall entitle any person to surrender more than one-quarter of that person's annual retiring allowance under this Part of this Act.
- (10) Where a person has completed an election under this section or under section 91 of this Act in respect of a previous period of service as a member, the amount so surrendered shall be deducted from the annual retiring allowance that that person may elect to surrender.
- (11) Upon an election under this section becoming effective, the annual retiring allowance payable to the person who made that election shall be reduced by the same proportion as that which that person has elected to surrender and all rights in respect of the proportion so surrendered shall be determined.
- (12) Except as provided in subsection (3) of this section, any amount which a person is entitled to receive by virtue of an election made pursuant to subsection (2) of this section shall become payable—
 - (a) on the date on which that person becomes entitled to payment of the annual retiring allowance; or
 - (b) on the date of that person's death,—whichever is the earlier.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Subsection (1) was amended, as from 1 April 1990, by section 22 Government Superannuation Fund Amendment Act 1990 (1990 No 30) by substituting the figure “12” for the figure “10”.

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (4) and (6) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (5) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

84AA Special right of person who has not attained 50 years 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 1st day of April 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 this section, to become entitled to an annual retiring allowance on the day after the date on which that person ceases to be a member (being an annual retiring allowance calculated as if that person had become entitled to receive an annual 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, elect to surrender the right to receive a proportion of the annual retiring allowance and to receive instead payment out of the Parliamentary Superannuation Account of a sum equal to 12 times the amount by which the annual retiring allowance is reduced by the surrender.
- (3) Where any person to whom this section applies exercises a right of election under this section and an annual retiring allowance subsequently becomes payable to that person pur-

suant to section 84 of this Act or an annuity subsequently becomes payable to that person's spouse or partner pursuant to section 86B or section 86C of this Act,—

- (a) that annual retiring allowance or the annual retiring allowance on which the annuity is based shall be calculated in accordance with subsections (3) and (4) of section 84 of this Act as if subsection (2) of this section had not been passed; and
 - (b) that annual retiring allowance or the annual 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 determined.
- (4) Every election under this section shall be made in writing and delivered to the Authority before the person who made the election has accepted any instalment of that person's annual retiring allowance.
- (5) Except as provided in subsection (6) of this section, no person shall have the right to revoke or amend any election under this section or to make any further election.
- (6) Where a person has made an election under subsection (2)(b) of this section, that person shall be entitled to make one further election to increase the proportion of the annual retiring allowance surrendered by that person under subsection (2)(b) of this section before that person has accepted any instalment of that person's annual retiring allowance.
- (7) No election or combination of elections under this section shall entitle any person to surrender more than one-quarter of that person's annual retiring allowance under this Part of this Act.
- (8) Where a person has completed an election under this section in respect of a previous period of contributory service, the amount so surrendered shall be deducted from the annual retiring allowance that that person may elect to surrender.
- (9) A person to whom this section applies may not make an election under section 84A of this Act.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Subsections 1(b), (1)(c), and (2)(b) were amended, as from 8 May 1992, by section 4 Government Superannuation Fund Amendment Act 1992 (1992 No 40) by substituting “50” for “45”.

Subsection (2)(b) was amended, as from 1 April 1990, by section 24 Government Superannuation Fund Amendment Act 1990 (1990 No 30) by substituting the figure “12” for the figure “10”.

Subsection (3) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Subsection (3)(a) was amended, as from 1 July 1992, by section 15 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61) by substituting the expression “subsections (3) and (4) of section 84” for the expression “section 84(3)”.

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

84B Right to defer retiring allowance to age 55 years or 60 years in return for lump sum on retirement

- (1) Any person to whom section 84AA of this Act 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 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 or section 84AA of this Act:
- D is 4.2 if deferral is to age 55 years or 8.4 if deferral is to age 60 years.
- (2) Every election under subsection (1) of this section—
- (a) shall be made in writing; and
- (b) shall be delivered to the Authority—
- (i) within 3 months after the date on which the person ceases to be a member; and
- (ii) before the person who made the election has accepted any portion of that person’s annual retiring allowance.

- (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) The amount of the annual retiring allowance payable to every person who has made an election under this section shall be calculated according to the formula set out in subsection (5) or subsection (6) of this section (as appropriate).
- (5) In any case where the person ceases to be a member on or after the 1st day of April 1990, the formula for the purposes of subsection (4) of this section is—

$$\frac{C}{1 + (0.02 \times n)}$$

where—

C is the annual retiring allowance that would have been payable—

- (a) had that person not elected to defer the annual retiring allowance, but after allowing for the effect of any election under section 84A or section 84AA or section 84C of this Act; and
- (b) had Part 3 of the Government Superannuation Fund Amendment Act 1990 not been enacted:

n is the number, if any, of years (including fractions of a year) by which the date on which service as a member ceased precedes whichever is the earlier of—

- (a) the date to which the person elected to defer the annual retiring allowance; or
- (b) the 1st day of October 1999.

- (6) In any case where the person ceases to be a member before the 1st day of April 1990, the formula for the purposes of subsection (4) of this section is—

$$C \times (0.7 + (0.014 \times t))$$

where—

C is the annual retiring allowance that would have been payable—

- (a) had that person not elected to defer the annual retiring allowance, but after allowing for the ef-

fect of any election under section 84A or section 84AA or section 84C of this Act; and

- (b) had neither Part 1 nor Part 3 of the Government Superannuation Fund Amendment Act 1990 been enacted:

t is the number, if any, of years (including fractions of a year) by which the date to which the person elected to defer the annual retiring allowance precedes the 1st day of October 1999.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Subsection (2) was amended, as from 1 April 1990, by section 25 Government Superannuation Fund Amendment Act 1990 (1990 No 30) by substituting the definition of “D”.

Section 84B was substituted, as from 8 May 1992, by section 5(1) Government Superannuation Fund Amendment Act 1992 (1992 No 40).

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

84C Election of variable retiring allowance to secure level income

- (1) Subject to the provisions of this section, any person who becomes entitled to an annual retiring allowance payable out of the Parliamentary Superannuation Account may, with the consent of the Authority and within the time and in the manner prescribed by this section, elect to surrender from any specified date a specified portion of the annual retiring allowance which, but for that person’s election that person would be entitled to receive from the Parliamentary Superannuation Account on ceasing to be a member, in order to provide for payment to that person from that Account of an increased annual retiring allowance up to that specified date.
- (2) An election under this section may be for one reduction of the actual annual retiring allowance from one specified date or for successive reductions from 2 or more specified dates.
- (3) The maximum amount or proportion of the annual retiring allowance that any person who becomes entitled to an annual retiring allowance payable out of the Parliamentary Superannuation

ation Account may surrender on making an election under this section shall be determined by the Authority.

- (4) Before the Authority consents to an election under this section by a person, it may, in its discretion, obtain such medical evidence as to the health of that person as it may require.
- (5) Every annual retiring allowance granted in accordance with this section shall be determined by the Authority on an actuarial basis so that there is no overall increase or decrease in the liabilities of the Parliamentary Superannuation Account.
- (6) Every election under this section shall be in writing delivered to the Authority.
- (7) An election under this section may be made at any time within the 3 months immediately preceding the date of the commencement of the annual retiring allowance or at any time before the acceptance of the first instalment of that annual retiring allowance.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Subsections (1), and (3) to (5) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Section 84C was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Cash benefits

85 Elections to receive cash benefits, etc

- (1) Any person who ceases to be a member may, at any time before accepting any payment under this Part of this Act, elect to receive, without interest, twice the total amount of that person’s contributions under this Part of this Act.
- (2) Subsection (1) of this section and section 85C of this Act shall not apply where a contributor elects, in accordance with section 61 of this Act, to contribute to the Government Superannuation Fund in respect of the period during which the contributor was a member, in which case there shall be refunded to the contributor, without interest, the total amount of the contributor’s contributions under this Part of this Act.

- (3) Except as provided in section 85C of this Act, no person who, in accordance with this section,—
- (a) receives a payment pursuant to an election made under subsection (1) of this section; or
 - (b) receives a refund under subsection (2) of this section,—
- shall be entitled to any other benefit under this Part of this Act.

The original section 85 was amended, as from 22 October 1959, by section 25 Superannuation Amendment Act 1959 (1959 No 85) by inserting subsections (4) and (5).

Section 85 was substituted, as from 1 April 1975, by section 31(1) Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Section 85 was substituted, as from 9 July 1984, by clause 2 Parliamentary Superannuation Determination (No 2) 1984 (SR 1984/187).

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

85A Benefit where retired member who is not entitled to retiring allowance dies before receiving cash benefit

- (1) This section applies to any person—
- (a) who has ceased to be a member, on or after the 1st day of April 1987, after having served as a member for less than 9 years; and
 - (b) who has not received—
 - (i) a payment pursuant to an election made under section 85(1) of this Act; or
 - (ii) a refund under section 85(2) of this Act.
- (2) Where any person to whom this section applies dies on or after the 1st day of April 1987, 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 of that person's death, shall be paid—
- (a) to that person's spouse or partner; or
 - (b) if that person does not leave a spouse or partner, 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.
- (3) Any money payable out of the Parliamentary Superannuation Account under subsection (2)(b) of this section to the personal representatives of a deceased person may, if no grant of pro-

bate or of letters of administration is obtained within 3 months after the death of that person, be paid to Public Trust in trust for the persons beneficially entitled to that money.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Subsection (2) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” in both places where it appears.

Subsection (3) was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the words “Public Trust” for the words “the Public Trustee”. See clause 2 Public Trust Act Commencement Order 2002 (SR 2002/11).

Re-election

85B Re-election as member before receiving any payment

[Repealed]

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Sections 85B to 85D were repealed, as from 1 July 1992, by section 16 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61)

85C Re-election as member after receiving cash benefit

[Repealed]

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Sections 85B to 85D were repealed, as from 1 July 1992, by section 16 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61)

85D Re-election as member before attaining age at which retiring allowance is payable

[Repealed]

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Sections 85B to 85D were repealed, as from 1 July 1992, by section 16 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61)

86 Re-election as member after retiring

Where any person who is in receipt of, or who would otherwise become entitled to, an annual retiring allowance under this Part of this Act (including a person who has ceased to be a member before the 1st day of July 1992) again becomes a member, that annual retiring allowance shall not be payable while that person continues to be a member; and, upon subsequently ceasing to be a member, the annual retiring allowance shall be payable to that person at the rate at which it would have been payable in accordance with this Part of this Act if that person had not again become a member.

Subsection (2) of the original section 86 was inserted, as from 1 December 1961, by section 10 Superannuation Amendment Act 1961 (1961 No 111).

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Section 86 was substituted, as from 1 July 1992, by section 17 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

*Death benefits***86A Benefits where member dies and leaves spouse or partner**

(1) Where any member dies on or after the 1st day of April 1987 and leaves a spouse or partner, there shall be paid to the spouse or partner, at the election of the spouse or partner,—

- (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) without interest, twice the total amount of that member's contributions under this Part 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 from time to time under section 84 of this Act if—
 - (i) he or she had ceased to be a member 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 member could have elected to receive under section 84A of this Act had the member been entitled to make an election under that section at the date of the member's death and nothing in section 84 of this Act required him or her to attain the age of 50 years or to serve as a member for any minimum period; and
 - (ii) an annuity at the rate fixed by paragraph (b) of this subsection, reduced by the same proportion as the proportion of the annual retiring allowance which the member would have had to surrender under section 84A(1) of this Act for the purpose of providing a lump sum equal to that payable under subparagraph (i) of this paragraph.
- (2) Every election under subsection (1) of this section shall be made in writing delivered to the Authority, 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 or partner.
- (3) The entitlement of any spouse or partner to any benefit under this section shall not be affected by any change in the relationship status of that spouse or partner.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Subsections (1)(b)(ii) and (1)(c)(i) were amended, as from 8 May 1992, by section 6 Government Superannuation Fund Amendment Act 1992 (1992 No 40) by substituting the figure "50" for the figure "45".

The heading was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words "or partner" after the word "spouse".

Section 86A was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words "or partner" after the word "spouse" wherever it appears.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (3) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words "relationship status" for the words "marital status".

86B Benefits where retired member dies before becoming entitled to retiring allowance and leaves spouse or partner

- (1) Where any person, being a person who has ceased to be a member on or after the 1st day of April 1987 and who would, on attaining the age of 50, 55, or 60 years, have become entitled to an annual retiring allowance under this Part of this Act, dies before becoming entitled to such an annual retiring allowance and leaves a spouse or partner, there shall be paid to the spouse or partner, at the election of the spouse or partner,—
 - (a) without interest, twice the total amount of that person's contributions under this Part of this Act, less any amounts received by that person from the Parliamentary Superannuation Account since that person last became a member; 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 or partner of that person elects, pursuant to subsection (1)(b) of this section, to receive an annuity under this subsection—
 - (a) the spouse or partner 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 from time to time under this Part 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 or partner of that person elects, pursuant to subsection (1)(b) of this section, to receive an annuity under this subsection—
 - (a) the spouse or partner 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 from time to time 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 Authority, 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 or partner.
- (5) The entitlement of any spouse or partner to any benefit under this section shall not be affected by any change in the relationship status of that spouse or partner.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

The heading was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Section 86B was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

Subsections (1) and (2) were amended, as from 8 May 1992, by section 7 Government Superannuation Fund Amendment Act 1992 (1992 No 40) by substituting the figure “50” for the figure “45”.

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (5) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “relationship status” for the words “marital status”.

86C Benefits where retired member dies after becoming entitled to retiring allowance and leaves spouse or partner

- (1) Where any person who has ceased to be a member on or after the 1st day of April 1987 dies after becoming entitled to an annual retiring allowance under this Part of this Act and leaves a spouse or partner who last became the spouse or partner of that person before that person became entitled to such an annual retiring allowance, there shall be paid to the spouse or partner, at the election of the spouse or partner,—
 - (a) without interest, twice the total amount of that person’s contributions under this Part of this Act, less any amounts received by that person from the Parliamen-

- tary Superannuation Account since that person last became a member; or
- (b) an annuity at one-half of the rate of the annual retiring allowance that, disregarding the effect of any election made under section 40 or section 84C of this Act, would have been payable to that person from time to time if that person had not died.
- (2) Where any person who has ceased to be a member on or after the 1st day of April 1987 dies after becoming entitled to an annual retiring allowance under this Part of this Act and leaves a spouse or partner who last became the spouse or partner of that person after that person became entitled to an annual retiring allowance under this Part of this Act, there shall be paid to the spouse or partner, at the election of the spouse or partner,—
- (a) without interest, twice the total amount of that person's contributions under this Part of this Act, less any amounts received by that person from the Parliamentary Superannuation Account since that person last became a member; or
- (b) an annuity being the appropriate proportion of the annual retiring allowance that, disregarding the effect of any election made under section 40 or section 84C of this Act, would have been payable to that person from time to time if that person had not died, which proportion shall be—
- (i) ten percent of that allowance where that person dies less than 2 years after the spouse or partner last became the spouse or partner 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 or partner last became the spouse or partner 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 or partner last became the spouse or partner 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 or partner last became the spouse or partner of that person:

- (v) fifty percent of that allowance where that person dies 5 or more years after the spouse or partner last became the spouse or partner of that person.
- (3) Every election under subsection (1) or subsection (2) of this section shall be made in writing delivered to the Authority, 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 or partner.
- (4) The entitlement of any spouse or partner to any benefit under this section shall not be affected by any change in the relationship status of that spouse or partner.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

The heading was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Section 86C was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (4) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “relationship status” for the words “marital status”.

86D Benefit where member or retired member dies without leaving spouse or partner

- (1) This section applies to any person who is—
 - (a) a member; or
 - (b) a person who has ceased to be a member on or after the 1st day of April 1987 but who—
 - (i) is entitled to an annual retiring allowance under this Part of this Act; or
 - (ii) will, on attaining the age of 50, 55, or 60 years, become entitled to an annual retiring allowance under this Part of this Act.

- (2) Where any person to whom this section applies dies on or after the 1st day of April 1987 and does not leave a spouse or partner, 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, without interest, twice the total amount of that person's contributions under this Part of this Act, less any amounts received by that person from the Parliamentary Superannuation Account since that person last became a member.
- (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 Public Trust in trust for the persons beneficially entitled to that money.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

The heading was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words "or partner" after the word "spouse".

Section 86D was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words "or partner" after the word "spouse".

Subsection (1)(b)(ii) was amended, as from 8 May 1992, by section 8 Government Superannuation Fund Amendment Act 1992 (1992 No 40) by substituting the figure "50" for the figure "45".

Subsection (3) was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the words "Public Trust" for the words "the Public Trustee". See clause 2 Public Trust Act Commencement Order 2002 (SR 2002/11).

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 on or after the 1st day of April 1987 but who—
 - (i) is entitled to an annual retiring allowance under this Part of this Act; or

- (ii) will, on attaining the age of 50, 55, or 60 years, become entitled to an annual retiring allowance under this Part of this Act.
- (2) Where any person to whom this section applies dies on or after the 1st day of April 1987, whether before or after becoming entitled to an annual retiring allowance under this Part 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 (2) of this section if that child had not attained that age, the Authority may grant or continue an allowance to that child at such rate as the Authority 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 close of the 31st day of December of the 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 Authority 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 or section 61Q(3) 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 or section 61Q(3) 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 Authority, be—
 - (a) paid to the child directly; or
 - (b) expended by the Authority for the benefit of the child; or
 - (c) paid to Public Trust or any other person to be expended on behalf of the child in such manner as Public Trust 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 Authority.
- (8) The rate of the allowance payable each year to or on behalf of any child under this section shall be—

$$\$1,000 \times \frac{A}{B}$$

where—

- A is the all groups index number of the New Zealand Consumer Price Index for the December quarter preceding the year in respect of which the allowance is payable:
- B is the all groups index number of the New Zealand Consumer Price Index for the December quarter in the year 1982.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Subsection (1)(b)(ii) was amended, as from 8 May 1992, by section 9 Government Superannuation Fund Amendment Act 1992 (1992 No 40) by substituting the figure “50” for the figure “45”.

Subsections (3) and (6) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (3) and (6) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (6)(c) was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the words “Public Trust” for the words “the Public Trustee”. See clause 2 Public Trust Act Commencement Order 2002 (SR 2002/11).

Subsection (7) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (7) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

86F Election to surrender proportion of annuity and receive cash payment

- (1) This section shall apply to any surviving spouse or partner who becomes entitled to an annuity under this Part of this Act and

who is less than 61 years of age at the time the entitlement to the annuity arises.

- (2) Any surviving spouse or partner to whom this section applies may 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 12 times the amount by which the annuity is reduced by the surrender.
- (3) Every election under this section shall be made in writing and delivered to the Authority before the surviving spouse or partner has accepted any instalment of the annuity.
- (4) No surviving spouse or partner shall have the right to revoke, amend, or extend any election made under this section.
- (5) The proportion of the annuity that any surviving spouse or partner elects to surrender under this section shall not exceed one-fourth.
- (6) On the making of any such election, the annuity payable to the surviving spouse or partner shall be reduced by the same proportion as that which the surviving spouse or partner has elected to surrender, and all rights in respect of the proportion so surrendered shall be determined.

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Section 86F was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

Subsection (2) was amended, as from 1 April 1990, by section 26 Government Superannuation Fund Amendment Act 1990 (1990 No 30) by substituting the figure “12” for the figure “10”.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

86FA Right to cease to be contributor under Part 6

Any contributor under this Part of this Act may, subject to regulations made under section 97 of this Act, elect to cease to be a contributor to the Parliamentary Superannuation Account and—

- (a) to leave the contributor’s contributions in the Account and to receive—

- (i) a deferred pension; or
- (ii) a deferred lump sum,—
in accordance with those regulations; or
- (b) to receive a refund of the contributor's contributions in
accordance with those regulations.

Section 86FA was inserted, as from 1 October 1995, by section 14 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Exclusion of annual adjustment

87 Exclusion of provision for annual adjustment

[Repealed]

Subsection (1) was amended, as from 1 December 1961, by section 11(1) Superannuation Amendment Act 1961 (1961 No 111) by substituting the words “who, having ceased to be a member, is entitled or will on attaining the age of fifty years become entitled to a retiring allowance under section 84 of this Act dies, or where any person who for is the who is for the time being a member dies” for the words “who is for the time being a member or has at any time after the 27th day of November, 1947, been a member dies, whether before or after becoming entitled to a retiring allowance”.

Subsection (1)(a)(i) was substituted, as from 1 December 1961, by section 11(2) Superannuation Amendment Act 1961 (1961 No 111).

Subsection (1)(a)(i) was amended, as from 19 April 1973, by section 6(3)(a) Superannuation Amendment Act 1972 (1972 No 33) by substituting the expression “\$390” for the words “two hundred and sixty dollars”.

Subsection (1)(b) was amended, as from 1 October 1964, by section 16(1)(a) Superannuation Amendment Act 1964 (1964 No 125), by inserting after the words “widow” the words “or the dependent widower”.

Subsection (1)(b) was amended, as from 1 October 1964, by section 16(1)(b) Superannuation Amendment Act 1964 (1964 No 125) by adding the words “or by him”.

Subsection (1)(c) was substituted and paragraphs (c) to (e) inserted, as from 1 October 1964, by section 16(2) Superannuation Amendment Act 1964 (1964 No 125).

Subsection (1)(c)(i) was amended, as from 19 April 1973, by section 6(3)(b) Superannuation Amendment Act 1972 (1972 No 33) by substituting the expression “\$390” for the words “two hundred and sixty dollars”.

Section 87 was substituted, as from 1 November 1976, by section 32 Government Superannuation Fund Amendment Act 1976 (1976 No 30).

The first proviso to subparagraph (1)(a)(i) was substituted, as from 20 November 1979, by section 14(2) Government Superannuation Fund Amendment Act 1979 (1979 No 46).

Subsection (1)(ba) was inserted, as from 20 November 1979, by section 17(2) Government Superannuation Fund Amendment Act 1979 (1979 No 46).

Subsection (1)(d) was substituted, as from 29 March 1985, by section 22(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Section 87 was repealed, as from 8 May 1992, by section 10 Government Superannuation Fund Amendment Act 1992 (1992 No 40).

Subsidy

88 Provision for payments

- (1) All retiring allowances and refunds of contributions and all other money payable under this Part of this Act shall be paid out of the Parliamentary Superannuation Account.
- (2) Where in any year the money in the Parliamentary Superannuation Account is insufficient to meet the payments required by subsection (1) of this section, the deficiency shall be met by a payment from public money without further appropriation than this section.

Section 88 was substituted, as from 1 July 1959, by section 30 Superannuation Amendment Act 1959 (1959 No 85).

Part 6, comprising sections 82 to 88, was substituted, as from 1 April 1987, by section 2 Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Subsection (2) was amended, as from 1 July 1989, by section 86(1) Public Finance Act 1989 (1989 No 44) by substituting the words “public money” for the words “the Consolidated Account”.

Part 6A

Superannuation of members of Police

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

Application of this part

88A Application

- (1) This Part of this Act shall apply to every contributor to the Fund who is or becomes a member of the Police required to contribute to the Fund as such, and the entitlements of and benefits payable to or in respect of that person shall be determined in accordance with this Part and Part 7 of this Act and not otherwise.
- (1A) Nothing in this Part of this Act shall apply in respect of—

- (a) any person who first becomes a member of the Police after the 30th day of June 1992; or
 - (b) any period of service as a member of the Police after the 30th day of June 1992 by any person who rejoins the Police after that date (other than a person whose contributions in respect of his or her previous period of service as a member of the Police remained, as a result of an election made by that person under section 61S(1)(b) of this Act (as applied by section 88H(1) of this Act), in the Fund throughout the period between that person's two periods of service as a member of the Police).
- (1B) Nothing in subsection (1A) of this section prevents any person who returns to service as a member of the Police on or after the 1st day of July 1992 from again electing to become a contributor to the Fund under this Part of this Act if—
 - (a) that person was, as at the close of the 30th day of June 1992, a contributor to the Fund under this Part of this Act who was on leave of absence, without salary, from the Police; and
 - (b) that person has, throughout the period beginning with the date on which he or she began his or her period of leave of absence, without salary, from the Police and ending with the date on which he or she returned to service with the Police, either—
 - (i) continued to contribute to the Fund in accordance with section 32 of this Act (as applied by section 88M(2) of this Act); or
 - (ii) as a result of an election made by that person under section 88J(1) of this Act allowed his or her contributions to remain in the Fund.
- (2) This Part of this Act shall not apply in respect of any person who has been a member of the Police but is not a member of the Police at the date of the person's retirement or death.
- (3) Notwithstanding anything to the contrary in this Act, nothing in this Part of this Act shall apply in respect of any period of service as a member of the Police after the effective date of an election under section 88HA of this Act.

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

Subsections (1A) and (1B) were inserted, as from 1 July 1992, by section 18 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

Subsection (3) was inserted, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

88B Members of Police to become and remain contributors to Fund under this Part

- (1) Except as provided in this section and section 88J of this Act, every person who, on or after the 1st day of May 1985, becomes a member of the Police shall contribute to the Fund under this Part of this Act in respect of any period during which the person remains a member of the Police.
- (2) Nothing in subsection (1) of this section shall apply to—
 - (a) a member of the police who was or is appointed by reason of special qualifications to perform duties of a specialised nature and who, throughout the member's entire police career, holds a specially designated rank:
 - (b) any temporary member of the Police whom the Commissioner of Police has directed shall not become a contributor to the Fund under this Part of this Act.
- (3) Every person who, immediately before the 1st day of May 1985, is a member of the Police and is a contributor under Part 2 of the Government Superannuation Fund Amendment Act 1962 shall become a contributor under this Part of this Act on and from that date and, except as provided in section 88J of this Act, shall remain a contributor to the Fund under this Part of this Act in respect of any period during which that person remains a member of the Police.
- (4) Every person who, immediately before the 1st day of May 1985, is a member of the Police and is not a contributor under Part 2 of the Government Superannuation Fund Amendment Act 1962 shall be entitled, not later than the 1st day of November 1985 or such later date as the Authority may allow, to elect to become a contributor to the Fund under this Part of this Act unless the person is—
 - (a) a member of the police who was or is appointed by reason of special qualifications to perform duties of a

- specialised nature and who, throughout the member's entire police career, holds a specially designated rank:
- (b) a temporary member of the Police whom the Commissioner of Police has directed shall not become a contributor to the Fund under this Part of this Act.
- (5) Every election made under subsection (4) of this section shall take effect on and from the 1st day of May 1985, and the contributions payable by the contributors who make such elections and the benefits payable in respect of contributions by such contributors shall be calculated accordingly.

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

Subsection (2)(a) was substituted, as from 1 January 2002, by section 63(2) Human Rights Amendment Act 2001 (2001 No 96).

Subsection (4) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word "Superintendent" for the word "Board".

Subsection (4) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (4)(a) was substituted, as from 1 January 2002, by section 63(2) Human Rights Amendment Act 2001 (2001 No 96).

88C Rate of contributions

- (1) The contribution to be made by every contributor under this Part of this Act who, immediately before the 1st day of May 1985, was a contributor to the Fund under Part 2 of the Government Superannuation Fund Amendment Act 1962 shall be—
- (a) seven percent of the contributor's salary in respect of the period beginning with the 1st day of May 1985 and ending with the day before the first date after the 1st day of October 1985 on which a determination of the Commissioner of Police under section 66A of the Police Act 1958 prescribing salaries or scales of salaries comes into force;
 - (b) seven and one-half percent of the contributor's salary in respect of every period after the period described in paragraph (a) of this subsection.
- (2) The contribution to be made by every contributor under this Part of this Act who is not a contributor to whom subsection (1)

of this section applies shall be 7.5 percent of the contributor's salary.

- (3) All contributions shall be deducted from the salary of the contributor and paid to the Fund as the salary becomes payable from time to time.

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

88D Calculation of contributory service of contributors who become members of Police after 1 May 1985 and existing members who retire or die before attaining the age of 55 years

- (1) This section applies to every person—
- (a) who becomes a contributor under this Part of this Act under section 88B(1) of this Act and who is a member of the Police at the date of the person's death or retirement:
 - (b) who becomes a contributor under this Part of this Act by virtue of section 88B(3) of this Act or under section 88B(4) of this Act, and who dies or retires before attaining the age of 55 years in circumstances in which a retiring allowance or annuity is payable.
- (2) For the purpose of calculating the contributory service of any person to whom this section applies, the actual contributory service of that person as a member of the Police shall, subject to subsection (3) of this section, be increased by 25 percent.
- (3) No person to whom this section applies shall be entitled to have more than 40 years' contributory service counted for any of the purposes of this Act unless that person has more than 40 years' actual contributory service, in which case only the actual contributory service shall be counted.

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

88E Calculation of contributory service of certain contributors who became members of Police before 1 May 1985 and who retire or die after attaining the age of 55 years

- (1) This section applies to every person—

- (a) who became a contributor under this Part of this Act by virtue of section 88B(3) of this Act; or
 - (b) who becomes a contributor under this Part of this Act under section 88B(4) of this Act—
and who retires or dies on or after attaining the age of 55 years.
- (2) For the purpose of calculating the contributory service of any person to whom this section applies—
- (a) the person shall, subject to subsection (3) of this section, be deemed to have completed an extra period of service as a member of the Police, being the difference between the age of the person at the date of retirement and the age of 60 years; and
 - (b) the contributory service of the person as so increased shall, subject to subsection (3) of this section, be further increased by one-seventh.
- (3) No person to whom this section applies shall be entitled to have more than 40 years' contributory service counted for any of the purposes of this Act unless that person has more than 40 years' actual contributory service, in which case only the actual contributory service shall be counted.

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

Benefits

88F Computation of retiring allowance

- (1) The retiring allowance of every contributor to the Fund under this Part of this Act—
- (a) who elected or was required to retire from the police under section 27 or 28 of the Police Act 1958; or
 - (b) who elected or was required to retire from the police under section 28C or 28D of the Police Act 1958 on or after attaining the age of 50 years; or
 - (c) who elects or is required to leave the police under section 74 or 76 of the Policing Act 2008 on or after attaining the age of 50 years—
- shall be an amount equal to the pension percentage of the contributor's final average earnings.

- (2) The retiring allowance of every contributor to the Fund under this Part of this Act—
- (a) who has attained the age of 50 years; and
 - (b) who has completed not less than 10 years' actual contributory service; and
 - (c) who has agreed in writing that this section should apply to him or her; and
 - (d) in respect of whom the Commissioner of Police has agreed that this section should apply—
- shall be an amount equal to the pension percentage of the contributor's final average earnings.
- (2A) For the purposes of this section—
- appropriate percentage** means 1.5 percent less, in the case of a contributor to whom subsection (2) of this section applies, 0.004 percent in respect of every month or part of a month after the date of retirement and during which the contributor is under the age of 55 years
- pension percentage** means the percentage calculated in accordance with the following formula
- $$P \times (0.7 + (0.014 \times t))$$
- where—
- P is the appropriate percentage multiplied by the number of years (including fractions of a year) of contributory service:
- t is the number, if any, of years (including fractions of a year) by which the date on which the retiring allowance commences to be payable precedes the 1st day of October 1999.
- (2B) For the purposes of subsection (2A) of this section, a contributor's contributory service means the amount of that service as increased in respect of service in the Police under section 88D or section 88E of this Act, as the case may require.
- (3) The Authority may from time to time suspend, reduce, or cancel any retiring allowance payable under subsection (1) of this section to any contributor who has not attained the age of 55 years if—

- (a) the contributor resumes employment, whether in the Government service or elsewhere, or becomes gainfully self-employed; or
 - (b) the contributor has ceased to be medically unfit for further duty, and fails to accept any employment offered by a controlling authority that is considered by the Authority to be suitable and reasonable for the contributor; or
 - (c) the Authority is satisfied that the degree of disability of the contributor is not sufficient to justify the payment of part or all of the allowance; or
 - (d) the contributor fails without sufficient justification to submit himself for medical examination when and as often as required by the Authority; or
 - (e) the Authority does not know the present whereabouts of the contributor, or whether the contributor is alive or dead.
- (4) Any suspension, reduction, or cancellation of a retiring allowance under subsection (3) of this section shall cease when the contributor attains the age of 55 years.
- (5) For the purposes of subsection (3)(b) of this section, a contributor shall be considered to be medically unfit for further duty if, on the certificate of at least 2 medical practitioners approved by the Authority, it is established to the satisfaction of the Authority that, by reason of physical or mental disability, the contributor is and is likely to remain substantially unable to perform any duties which the Commissioner and the Authority consider are suitable and reasonable for the contributor.
- (6) Any decision of the Authority under subsection (3) of this section to suspend, reduce, or cancel a retiring allowance shall be disregarded for the purposes of sections 61N, 61O, and 61Q of this Act (as applied by section 88I of this Act).
- (7)
- (8) For the purposes of determining the retiring allowance of any contributor under this Part of this Act, this section shall be deemed to include subsections (6) to (8) of section 61L of this Act and shall be read as if those subsections were part of this section.

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

Subsection (1) was substituted, as from 1 April 1990, by section 27 Government Superannuation Fund Amendment Act 1990 (1990 No 30).

Section 88F(1)(a): substituted, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 88F(1)(b): substituted, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 88F(1)(c): added, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Subsection (2) was substituted, as from 1 April 1990, by section 27 Government Superannuation Fund Amendment Act 1990 (1990 No 30).

The original subsection (2) was amended, as from 25 December 1986, by substituting a proviso for the words “less, in respect of every month or part of a month after the date of retirement and during which the contributor is under the age of 55 years, 0.004 percent of the contributor’s final average earnings”.

Subsection (2A) was inserted, as from 1 April 1990, by section 27 Government Superannuation Fund Amendment Act 1990 (1990 No 30).

Subsection (2B) was inserted, as from 1 April 1990, by section 27 Government Superannuation Fund Amendment Act 1990 (1990 No 30).

Subsections (3), (5) and (6) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (3) and (5) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (5) was amended, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48) by omitting the word “registered”. *See* sections 178 to 227 of that Act as to the transitional provisions.

Subsection (6) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (7) was repealed, as from 1 April 1988, by section 17(2) Government Superannuation Fund Amendment Act 1988 (1988 No 19).

88G Increases to benefits where contributor leaves Police under certain provisions due to lack of fitness

- (1) Where any contributor under this Part of this Act left the police under section 28C or 28D of the Police Act 1958, or leaves the police under section 74 or 76 of the Policing Act 2008 before attaining the age of 50 years, the contributor shall be entitled to exercise any of the options conferred by paragraphs (b), (c),

and (d) of section 61S(1) of this Act (as applied by section 88H of this Act) or to receive a refund of the contributor's contributions to the Fund (less any amounts already received by the contributor from the Fund) increased by 0.25 percent for every month during which the contributor was a contributor under this Part or Part 2A of this Act, or as a member of the Police under Part 2 of the Government Superannuation Fund Amendment Act 1962 or any earlier scheme administered under any other Act.

- (2) The refund payable under subsection (1) of this section to any person who has 5 or more years' service in the Police and who was a contributor to the Fund under Part 2 of the Government Superannuation Fund Amendment Act 1962 shall be further increased in accordance with the following formula:

$$\left(\frac{A}{B} + \frac{C}{D} + \frac{E}{F} + \frac{G}{H} \right) \times I$$

where—

- A is the total contributions paid by the contributor as a member of the Police during the period that ended with the 31st day of March 1969 whether in respect of that period or any other period:
- B is the contributor's rate of contribution on the 31st day of March 1969:
- C is the total contributions paid by the contributor as a member of the Police during the period that began with the 1st day of April 1969 and ends with the 30th day of April 1985 whether in respect of that period or any other period:
- D is the contributor's rate of contribution on the 31st day of March 1985:
- E is the total contributions paid by the contributor as a member of the Police during the period beginning with the 1st day of May 1985 and ending with the day before the first date after the 1st day of October 1985 on which a determination of the Commissioner of Police under section 66A of the Police Act 1958 prescribing salaries or scales of salaries comes into force:
- F is 7 percent:

G is the total contributions paid by the contributor as a member of the Police after the period described in E:

H is 7.5 percent:

I is—

- (a) five percent, where the contributor has 5 years' but less than 6 years' service in the Police:
- (b) ten percent, where the contributor has 6 years' but less than 7 years' service in the Police:
- (c) fifteen percent, where the contributor has 7 or more years' service in the Police.

- (3) The refund payable under subsection (1) of this section to any person who has 5 or more years' service in the Police and all the contributor's contributory service as a member of the Police is on or after the 1st day of May 1985 shall be further increased in accordance with the following formula:

$$\frac{J}{K} \times I$$

where—

J is the total contributions paid by the contributor as a member of the Police:

K is 7.5 percent:

I is—

- (a) five percent, where the contributor has 5 years' but less than 6 years' service in the Police:
- (b) ten percent, where the contributor has 6 years' but less than 7 years' service in the Police:
- (c) fifteen percent, where the contributor has 7 or more years' service in the Police.

- (4) The increases provided for in subsections (2) and (3) of this section shall not be paid in respect of contributions made in respect of any period during which the contributor was not a member of the Police; notwithstanding that the contributor may have paid contributions in respect of that period, and irrespective of whether or not the person was a member of the Police when the contributions were paid.

- (5) The amount by which any refund is increased under subsection (2) or subsection (3) of this section shall be further increased by 0.25 percent for every month during which the contributor

was a contributor under this Part of this Act or as a member of the Police under Part 2 of the Government Superannuation Fund Amendment Act 1962 or any earlier scheme administered under any other Act.

- (6) Any refund calculated under this section shall be increased by adding to the refund any amount payable to or in respect of the contributor under section 35(1) of the Government Superannuation Fund Amendment Act 1976.

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

Section 88G(1): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

88H Benefits where contributor leaves Police other than on death, retirement, or due to lack of fitness

- (1) Section 61S of this Act shall apply to contributors under this Part of this Act, as if—
- (a) the references in that section to Government service were references to service in the Police;
 - (b) the references in that section to section 61L of this Act were references to section 88F of this Act.
- (2) Where any person makes an election under section 61S(1)(b) of this Act (as applied by subsection (1) of this section) section 61R of this Act shall apply in respect of the contributor and the contributions as if—
- (a) the references in that section to Government service were references to service in the Police;
 - (b) the references in that section to section 61L of this Act were references to section 88F of this Act.
- (3) Where any person makes an election under section 61S(1)(b) of this Act (as applied by subsection (1) of this section), sections 88D and 88E of this Act shall not apply in respect of any contributory service under this Part of this Act unless the person again becomes a contributor under this Part of this Act.

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

88HA Right to cease to be contributor under Part 6A

Any contributor under this Part of this Act may, subject to regulations made under section 97 of this Act, elect to cease to be a contributor to the Fund and—

- (a) to leave the contributor's contributions in the Fund and to receive—
 - (i) a deferred pension; or
 - (ii) a deferred lump sum,—in accordance with those regulations; or
- (aa) to transfer to the Police Superannuation Scheme (being the superannuation scheme registered with that name under Part 1 of the Superannuation Schemes Act 1989 on 20 November 1992) in accordance with those regulations; or
- (b) to receive a refund of the contributor's contributions in accordance with those regulations.

Section 88HA was inserted, as from 1 October 1995, by section 15 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Paragraph (aa) was inserted, as from 17 May 2005, by section 3 Government Superannuation Fund Amendment Act (No 2) 2005 (2005 No 55).

88I Benefits on death of contributor

Sections 61M, 61N, 61O, and 61Q of this Act shall apply in respect of contributors under this Part of this Act as if—

- (a) the references in those sections to Government service included service in the Police;
- (b) the references in section 61M(1)(b)(ii) to the ground of medical unfitness for further duty were a reference to retirement under section 28 of the Police Act 1958;
- (c) the reference in section 61N(1)(b) to section 61T(2) were a reference to section 88M(2) of this Act.

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

Miscellaneous provisions

88J Option where contributor on leave of absence without salary

- (1) Where any contributor under this Part of this Act is on leave of absence without salary, the contributor may elect that section

32 of this Act (as applied by section 88M(2) of this Act) shall apply, or may elect that that section shall not apply and that subsection (2) of this section shall apply.

- (2) Where a contributor elects that this subsection shall apply—
- (a) the contributor's contributions shall remain in the Fund;
 - (b) the contributor shall not be liable to pay contributions in respect of the period of leave of absence;
 - (c) the period of leave of absence shall not be counted as contributory service of the contributor;
 - (d) if the person again becomes a contributor to the Fund under this Part of this Act before attaining the age of 50 years, the person's contributions shall not be refunded to the person, and the person's previous record of contributory service shall be reactivated and count as continuous contributory service for the purpose of calculating benefits under this Part of this Act, but shall be discounted in the following manner:
 - (i) a discount of 1.25 percent for each complete year of the period of the person's ineligibility to be a contributor for which the person has a corresponding period of contributory service that will be reactivated in accordance with this section, and of a relative proportion of that percentage in respect of any fraction of a year of ineligibility for which the person has a corresponding period of such contributory service;
 - (ii) a discount of 2.25 percent for each complete year of the period of the person's ineligibility to be a contributor that is in excess of the person's period of contributory service that will be reactivated in accordance with this section, and of a relative proportion of that percentage in respect of any fraction of a year of ineligibility for which the person has no corresponding period of such contributory service;
 - (e) if the contributor dies during the period of leave of absence and leaves a spouse or partner, sections 61M and 61Q of this Act shall not apply, and there shall be paid

out of the Fund to the spouse or partner, at the election of the spouse or partner,—

- (i) a refund of the contributor's contributions to the Fund increased in respect of contributions paid in respect of any period after the 1st day of May 1985 under this Part or Part 2A of this Act by 0.25 percent for every month beginning on or after the 1st day of May 1985 between the date on which the contributor became a contributor under this Part or Part 2A of this Act and the date of the contributor's death; or
- (ii) an annuity at one-half of the rate of the retiring allowance to which the deceased contributor would have been entitled if the contributor had become entitled to a retiring allowance calculated under section 88F(2) of this Act on the date of the contributor's death—

and the entitlement of the spouse or partner to the refund or annuity shall not be affected by any change in the relationship status of that spouse or partner:

- (f) if the contributor dies during the period of leave of absence and does not leave a spouse or partner, sections 61O and 61Q of this Act shall not apply and there shall be paid out of the Fund to the contributor's personal representatives in trust for the persons entitled to receive them under the contributor's will or under the Acts relating to the distribution of intestate estates, as the case may be, the contributor's contributions to the Fund increased in respect of contributions paid in respect of any period after the 1st day of May 1985 under this Part or Part 2A of this Act by 0.25 percent for every month beginning on or after the 1st day of May 1985 between the date on which the contributor became a contributor under this Part or Part 2A of this Act and the date of the contributor's death.
- (3) Any period of discounted contributory service referred to in subsection (2)(d) of this section shall be deemed to precede immediately the date on which the person again became a contributor to the Fund.

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

Subsection (2) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Subsection (2) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “relationship status” for the words “marital status”.

Subsection (2)(d)(i) and (ii) were amended, as from 9 June 1995, by section 19(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28) by omitting the word “additional”.

88K Contributor may elect to contribute in respect of prior service or notional service

- (1) Subject to subsections (2) and (3) of this section, where any contributor under this Part of this Act has service in the Government service that is not at present included in his contributory service or wishes to contribute under section 23A of this Act (as applied by section 88M(2) of this Act) in respect of notional service the contributor may elect to contribute to the Fund under this Part of this Act in respect of that service.
- (2) Except with the consent of the Authority, and subject to such conditions as it thinks fit, including payment of contributions at such rate or rates as may be determined by the Authority, no election may be made under subsection (1) of this section by any contributor—
 - (a) who is not receiving salary as a full-time member of the Police; or
 - (b) in respect of any period during which the contributor was not a permanent full-time employee in the Government service; or
 - (c) who has attained the age of 50 years.
- (3) No contributor may contribute under this Part of this Act in respect of any training or service to which section 2(2) of this Act applies or under section 23A of this Act in respect of any notional service without the consent of the Commissioner of Police and the Authority which, in the case of the Authority, may be given subject to such conditions as it thinks fit, including payment of contributions at such rate or rates as may be determined by the Authority.

- (4) The service in respect of which any contributor contributes under this section shall be counted as Government service, but shall not be counted as service as a member of the Police unless it was service as a member of the Police.
- (5) Without limiting the power of the Authority to require greater contributions in any case to which subsection (2) or subsection (3) of this section applies, where a contributor makes an election to contribute under this section, the contributor shall pay contributions in respect of the service to which the election relates at the appropriate rate under this Part of this Act—
 - (a) on the salary received by the contributor in respect of that period; or
 - (b) as if the contributor received salary in respect of that period at the rate of salary payable to the contributor at the date of the election—

whichever is the greater.

Compare: 1962 No 130 s 24; 1964 No 125 s 3(3)

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

Subsections (2), (3) and (5) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (2), (3) and (5) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

88L Service in Cook Islands, Niue, and Tokelau

Where any contributory service as a contributor under this Part of this Act is computed under section 51 of this Act (as applied by section 88M(2) of this Act) the provisions of this Part of this Act relating to increases of actual contributory service shall apply in respect of that service only on such terms and conditions and to the extent that the Authority shall determine in any individual case or class of cases.

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

Section 88L was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Section 88L was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Application of other provisions

88M Sections to apply to contributors and contributions under this Part

- (1) Except as provided in this section, nothing in Part 2 or Part 2A of the principal Act shall apply to contributors or contributions under this Part of this Act.
- (2) Subject in the case of section 23A to section 88K of this Act, sections 23A, 27, 32, 33, 40, 42 (except subsection (2)), 43, 48, 51, 55, 58, and 60 of this Act shall apply to contributors and contributions under this Part of this Act as if those sections were also included in this Part of this Act.
- (3) Sections 61M, 61N, 61O, 61Q, 61R, and 61S of this Act shall apply in respect of contributors and contributions under this Part of this Act in the manner indicated in sections 88H and 88I of this Act.

Part 6A, comprising sections 88A to 88M, was inserted, as from 29 March 1985, by section 2 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

Section 88M(2) was amended, as from 1 April 1988, by section 17(1) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by omitting the expression “44”.

Subsection (2) was amended, as from 9 June 1995, by section 19(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the words “42 (except subsection (2))” for the words “42 (except subsections (1) and (2))”.

Part 6B
Superannuation of members of Prisons
Service

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

88N Application

- (1) This Part of this Act shall apply to every contributor to the Fund who is or becomes a member of the Prisons Service and

who contributes to the Fund in that capacity, and the entitlements of and benefits payable to or in respect of that person shall be determined in accordance with this Part and Part 7 of this Act and not otherwise.

- (1A) Nothing in this Part of this Act shall apply in respect of—
- (a) any person who first becomes a member of the Prisons Service after the 30th day of June 1992; or
 - (b) any period of service as a member of the Prisons Service after the 30th day of June 1992 by any person who rejoins the Prisons Service after that date (other than a person whose contributions in respect of his or her previous period of service as a member of the Prisons Service remained, as a result of an election made by that person under section 61S(1)(b) of this Act (as applied by section 88U(1) of this Act), in the Fund throughout the period between that person's two periods of service as a member of the Prisons Service).
- (1B) Nothing in subsection (1A) of this section prevents any person who returns to service in the Prisons Service on or after the 1st day of July 1992 from again electing to become a contributor to the Fund under this Part of this Act if—
- (a) that person was, as at the close of the 30th day of June 1992, a contributor to the Fund under this Part of this Act who was on leave of absence, without salary, from the Prisons Service; and
 - (b) that person has, throughout the period beginning with the date on which he or she began his or her period of leave of absence, without salary, from the Prisons Service and ending with the date on which he or she returned to service with the Prisons Service, either—
 - (i) continued to contribute to the Fund in accordance with section 32 of this Act (as applied by section 88Z(2) of this Act); or
 - (ii) as a result of an election made by that person under section 61R(1)(c) of this Act (as applied by section 88U(2) of this Act) allowed his or her contributions to remain in the Fund.
- (2) This Part of this Act shall not apply in respect of any person who has been a member of the Prisons Service but is not a

member of the Prisons Service at the date of the person's retirement or death.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Section 88N(1) was amended, as from 1 July 1992, by section 19(1) Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61) by substituting the words "and who contributes" for the words "required to contribute".

Subsections (1A) and (1B) were inserted, as from 1 July 1992, by section 19(2) Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61)

**88NA Application to certain members of Prisons Service
appointed on contract**

- (1) Nothing in this Part of this Act shall require any person—
 - (a) who is appointed after the commencement of this Act to a position of General Manager (or any other position designated by the chief executive of the Department of Corrections and which is not covered by an award or agreement negotiated under section 68 of the State Sector Act 1988 (as amended by section 16 of the State Sector Amendment Act (No 2) 1989)); and
 - (b) who was not, immediately before that appointment, a member of the Prisons Service; and
 - (c) who elects, within 3 months of being so appointed, that this Part of this Act shall not apply to him or her,—
to contribute to the Fund under this Part of this Act.
- (2) This section applies notwithstanding anything in section 88N or section 88O of this Act.
- (3) Every election under this section shall be made in writing and delivered to the Authority.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Section 88NA was inserted, as from 1 August 1990, by section 10 Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77).

Subsection (1)(a) was amended, as from 1 October 1995, by section 10(3) Department of Justice (Restructuring) Act 1995 (1995 No 39) by substituting the words "chief executive of the Department of Corrections" for the words "Secretary for Justice".

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

88O Members of Prisons Service who may contribute to Fund under Part 6B of principal Act

- (1) Every person who, on the commencement of the 1st day of July 1992, is a member of the Prisons Service and is contributing to the Fund in that capacity may continue to contribute to the Fund under this Part of this Act in respect of any period during which the person remains a member of the Prisons Service.
- (2) Every person who returns to service in the Prisons Service on or after the 1st day of July 1992 may again elect to contribute to the Fund under this Part of this Act if—
 - (a) that person was, as at the close of the 30th day of June 1992, a contributor to the Fund under this Part of this Act who was on leave of absence, without salary, from the Prisons Service; and
 - (b) that person has, throughout the period beginning with the date on which he or she began his or her period of leave of absence, without salary, from the Prisons Service and ending with the date on which he or she returned to service with the Prisons Service, either—
 - (i) continued to contribute to the Fund in accordance with section 32 of this Act (as applied by section 88Z(2) of this Act); or
 - (ii) as a result of an election made by that person under section 61R(1)(c) of this Act (as applied by section 88U(2) of this Act) allowed his or her contributions to remain in the Fund.
- (3) Every person who rejoins the Prisons Service on or after the 1st day of July 1992 may contribute to the Fund under this Part of this Act in respect of any period during which that person, after rejoining, remains a member of the Prisons Service only if that person’s contributions under this Part of this Act in respect of his or her previous period of service as a member of the Prisons Service remained, as a result of an election made by that person under section 61S(1)(b) of this Act (as applied by section 88U(1) of this Act), in the Fund throughout the period

between that person's two periods of service as a member of the Prisons Service.

- (4) Where, on or after the 1st day of July 1992, any person who is a contributor to the Fund under this Part of this Act—
- (a) ceases to be a member of the Prisons Service; but
 - (b) becomes an employee of the Department of Justice or the Department of Corrections with responsibilities relating to the administration of the criminal justice system; and
 - (c) obtains the approval of the Chief Executive of the Department of Justice or the Department of Corrections to that person remaining a contributor under this Part of this Act,—

this Part of this Act shall apply to that person as if his or her service as an employee of the Department of Justice or the Department of Corrections with responsibilities relating to the administration of the criminal justice system were service as a member of the Prisons Service.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Section 88O was substituted, as from 1 July 1992, by section 20(1) Government Superannuation Fund Amendment Act 1992 (1992 No 61).

Subsection (4) was amended, as from 1 October 1995, by section 10(3) Department of Justice (Restructuring) Act 1995 (1995 No 39) by inserting the words “or the Department of Corrections”.

88P Right of contributors under Part 2 of Government Superannuation Fund Amendment Act 1962 to cease to pay contributions after 32 years' contributory service

- (1) Every person to whom section 88O(2) of this Act applies may, at any time after completing 32 years' actual contributory service in the Prisons Service, elect to cease paying contributions to the Fund and to receive a retiring allowance that shall commence to be payable on the day after the date on which the contributor ceases to be employed in the Prisons Service.
- (2) The retiring allowance of any person who has made an election under subsection (1) of this section shall be calculated under section 61L of this Act (as applied by section 88Z of this Act) except that—

- (a) the contributor's final average earnings shall be determined under section 61L of this Act as if the date on which the contributor ceased contributions was the date of the contributor's retirement:
 - (b) the final average earnings shall be increased by the percentage (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 which immediately precedes the date upon which the retiring allowance is to be paid exceeds the index number for the quarter immediately following the date on which the contributor ceased contributions:
 - (c) for the purposes of section 88T of this Act, the date upon which the allowance is to be paid shall be treated as the date of the contributor's retirement.
- (3) Where any contributor who has made an election under subsection (1) of this section dies before becoming entitled to receive a retiring allowance, that person shall be deemed to have been a contributor to the Fund on the date of the person's death.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

88PA Right to cease to contribute under Part 6B of principal Act

Section 61R of this Act shall apply to contributors under this Part of this Act as if the reference in subsection (5) of that section to Government Service were a reference to service in the Prisons Service.

Section 88PA was inserted, as from 1 July 1992, by section 21 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

88Q Rate of contributions

- (1) The contributions to be made by every contributor under this Part of this Act shall be 8.5 percent of the contributor's salary.
- (2) All contributions shall be deducted from the salary of the contributor and paid to the Fund as the salary becomes payable from time to time.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

88R Calculation of contributory service

- (1) This section applies to every person who becomes a contributor under this Part of this Act and who is a member of the Prisons Service at the date of the person's death or retirement.
- (2) For the purpose of calculating the contributory service of any person to whom this section applies, the actual contributory service of that person as a member of the Prisons Service shall, subject to subsection (3) of this section, be increased by 25 percent.
- (3) No person to whom this section applies shall be entitled to have more than 40 years' contributory service counted for any of the purposes of this Act unless that person has more than 40 year's actual contributory service, in which case only the actual contributory service shall be counted.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

88S Entitlement to retiring allowance

- (1) Every contributor to the Fund under this Part of this Act to whom this section applies who ceases to be employed in the Prisons Service, shall, subject to this Part of this Act, thereafter be entitled to receive an annual retiring allowance calculated under section 88T of this Act.
- (2) This section applies to all contributors under this Part of this Act who have attained the age of 58 years.
- (3) This section also applies to all contributors under this Part of this Act—
 - (a) who have made an election under section 61S(1)(d) of this Act (as applied by section 88Z of this Act) to receive a retiring allowance; or
 - (b) who have made an initial election under section 61S(1)(d) of this Act and who die before making the further election provided for in that paragraph or before the date specified in that further election.

- (4) This section also applies to all contributors under this Part of this Act—
- (a) who have attained the age of 50 years; and
 - (b) who have completed not less than 10 years' contributory service; and
 - (c) who have agreed in writing that this section should apply to them; and
 - (d) in respect of whom the State Services Commissioner has agreed in writing that this section should apply to them.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (4) was amended, as from 19 December 1989, by section 33(1) State Sector Amendment Act (No 2) 1989 (1989 No 136) by substituting the reference to "State Services Commissioner" for a reference to the "State Services Commission".

88T Calculation of retiring allowance

- (1) The retiring allowance of every contributor to the Fund under this Part of this Act who is entitled under section 88S(2) or section 61K of this Act (as applied by section 88Z of this Act) to receive a retiring allowance shall be an amount equal to the pension percentage of the contributor's final average earnings.
- (2) The retiring allowance of every contributor to the Fund under this Part of this Act who is entitled under section 88P or subsection (3) or subsection (4) of section 88S of this Act to receive a retiring allowance shall be an amount equal to the pension percentage of the contributor's final average earnings.
- (2A) For the purposes of this section—
- appropriate percentage** means 1.5 percent less, in the case of a person to whom subsection (2) of this section applies,—
- (a) 0.004 percent in respect of every month or part of a month after the date of retirement during which the contributor is of or over the age of 53 years but under the age of 58 years; and
 - (b) 0.002 percent in respect of every month or part of a month after the date of retirement and during which the contributor is under the age of 53 years.

pension percentage means the percentage calculated in accordance with the following formula

$$P \times (0.7 + (0.014 \times t))$$

where—

P is the appropriate percentage multiplied by the number of years (including fractions of a year) of contributory service:

t is the number, if any, of years (including fractions of a year) by which the date on which the retiring allowance commences to be payable precedes the 1st day of October 1999.

(2B) For the purposes of subsection (2A) of this section, a contributor's contributory service means the amount of that service as increased under section 88R of this Act.

(3) The Authority may from time to time suspend, reduce, or cancel any retiring allowance payable under section 61K of this Act (as applied by section 88Z of this Act) to any contributor under this Part of this Act who has not attained the age of 58 years if—

- (a) the contributor resumes employment whether in the Government service or elsewhere, or becomes gainfully self-employed; or
- (b) the contributor has ceased to be medically unfit for further duty, and fails to accept any employment offered by a controlling authority that is considered by the Authority to be suitable and reasonable for the contributor; or
- (c) the Authority is satisfied that the degree of disability of the contributor is not sufficient to justify the payment of part or all of the allowance; or
- (d) the contributor fails without sufficient justification to submit to medical examination when and as often as required by the Authority; or
- (e) the Authority does not know the present whereabouts of the contributor, or whether the contributor is alive or dead.

- (4) Any suspension, reduction, or cancellation of a retiring allowance under subsection (3) of this section shall cease when the contributor attains the age of 58 years.
- (5) Any decision of the Authority under subsection (3) of this section to suspend, reduce, or cancel a retiring allowance shall be disregarded for the purposes of sections 61N, 61O, and 61Q of this Act (as applied by section 88Z of this Act).
- (6)
- (7) For the purposes of determining the retiring allowance of any contributor under this Part of this Act this section shall be deemed to include subsections (6) to (9) of section 61L of this Act and shall be read as if those subsections were part of this section.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsections (1) and (2) were substituted, as from 1 April 1990, by section 28 Government Superannuation Fund Amendment Act 1990 (1990 No 30).

Subsections (2A) and (2B) were inserted, as from 1 April 1990, by section 28 Government Superannuation Fund Amendment Act 1990 (1990 No 30).

Subsections (3) and (5) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (3) and (5) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (6) was repealed, as from 1 April 1988, by section 18(2) Government Superannuation Fund Amendment Act 1988 (1988 No 19)

88U Benefits where contributor leaves Prisons Service other than on death or retirement

- (1) Section 61S of this Act shall apply to contributors under this Part of this Act, as if the references in that section to Government service were references to service in the Prisons Service.
- (2) Where any person makes an election under section 61S(1)(b) of this Act (as applied by subsection (1) of this section) section 61R of this Act shall apply in respect of the contributor and the contributions as if the references in that section to Government service were references to service in the Prisons Service.
- (3) Where any person makes an election under section 61S(1)(b) of this Act (as applied by subsection (1) of this section), sec-

tion 88R of this Act shall not apply in respect of any contributory service under this Part of this Act unless the person again becomes a contributor under this Part of this Act.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

88V Benefits on death of contributor

Sections 61M, 61N, 61O, and 61Q of this Act shall apply in respect of contributors under this Part of this Act as if—

- (a) the references in those sections to Government service included the Prisons Service:
- (b) the reference in section 61N(1)(b) to section 61T(2) were a reference to section 88Z of this Act.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

88W Option where contributor on leave of absence without salary

- (1) Where any contributor under this Part of this Act is on leave of absence without salary, the contributor may elect that section 32 of this Act (as applied by section 88Z of this Act) shall apply, or may elect that that section shall not apply and that subsection (2) of this section shall apply.
- (2) Where a contributor elects that this subsection shall apply—
 - (a) the contributor's contributions shall remain in the Fund:
 - (b) the contributor shall not be liable to pay contributions in respect of the period of leave of absence:
 - (c) the period of leave of absence shall not be counted as contributory service of the contributor:
 - (d) if the person again becomes a contributor to the Fund under this Part of this Act before attaining the age of 50 years, the person's contributions shall not be refunded to the person, and the person's previous record of contributory service shall be reactivated and count as continuous contributory service for the purpose of calculating benefits under this Part of this Act, but shall be discounted in the following manner:

- (i) a discount of 1.25 percent for each complete year of the period of the person's ineligibility to be a contributor for which the person has a corresponding period of contributory service that will be reactivated in accordance with this section, and of a relative proportion of that percentage in respect of any fraction of a year of ineligibility for which the person has a corresponding period of such contributory service:
 - (ii) a discount of 2.25 percent for each complete year of the period of the person's ineligibility to be a contributor that is in excess of that person's period of contributory service that will be reactivated in accordance with this section, and of a relative proportion of that percentage in respect of any fraction of a year of ineligibility for which the person has no corresponding period of such contributory service:
- (e) if the contributor dies during the period of leave of absence and leaves a spouse or partner, sections 61M and 61Q of this Act shall not apply, and there shall be paid out of the Fund to the spouse or partner, at the election of the spouse or partner,—
 - (i) a refund of the contributor's contributions to the Fund increased in respect of contributions paid under this Part of this Act in respect of any period of service after the 9th day of December 1986, by 0.25 percent for every month of contributory service under this Part; or
 - (ii) an annuity at one-half of the rate of the retiring allowance to which the deceased contributor would have been entitled if the contributor had become entitled to a retiring allowance calculated under section 88T of this Act on the date of the contributor's death—

and the entitlement of the spouse or partner to the refund or annuity shall not be affected by any change in the relationship status of that spouse or partner:

- (f) if the contributor dies during the period of leave of absence and does not leave a spouse or partner, sections 61O and 61Q of this Act shall not apply and there shall be paid out of the Fund to the contributor's personal representatives in trust for the persons entitled to receive them under the contributor's will or under the Acts relating to the distribution of intestate estates, as the case may be, the contributor's contributions to the Fund increased in the same manner as they would have been increased under paragraph (e)(i) of this subsection if the contributor had left a spouse or partner.
- (3) Any period of discounted contributory service referred to in subsection (2)(d) of this section shall be deemed to precede immediately the date on which the person again became a contributor to the Fund.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (2) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words "or partner" after the word "spouse" wherever it appears.

Subsection (2) was amended, as from 26 April 2005, by section 4(3) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words "relationship status" for the words "marital status".

Subsection (2)(d)(i) and (ii) were amended, as from 9 June 1995, by section 19(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28) by omitting the word "additional".

88X Contributor may elect to contribute in respect of prior service or notional service

- (1) Subject to subsections (2) and (3) of this section, where any contributor under this Part of this Act has service in the Government service that is not at present included as contributory service or wishes to contribute under section 23A of this Act (as applied by section 88Z of this Act) in respect of notional service, the contributor may elect to contribute to the Fund under this Part of this Act in respect of that service.
- (2) Except with the consent of the Authority, and subject to such conditions as it thinks fit, including payment of contributions at such rate or rates as may be determined by the Authority, no

election may be made under subsection (1) of this section by any contributor—

- (a) who is not receiving salary as a full-time member of the Prisons Service; or
 - (b) in respect of any period during which the contributor was not a permanent full-time employee in the Government service; or
 - (c) who has attained the age of 50 years.
- (3) No contributor may contribute under this Part of this Act in respect of training or service to which section 2(2) of this Act applies or under section 23A of this Act in respect of any notional service without the consent of the State Services Commissioner and the Authority which, in the case of the Authority, may be given subject to such conditions as it thinks fit, including payment of contributions at such rate or rates as may be determined by the Authority.
- (4) The service in respect of which any contributor contributes under this section shall be counted as Government service, but shall not be counted as service as a member of the Prisons Service unless it was service as a member of the Prisons Service.
- (5) Without limiting the power of the Authority to require greater contributions in any case to which subsection (2) or subsection (3) of this section applies, where a contributor makes an election to contribute under this section, the contributor shall pay contributions in respect of the service to which the election relates at the appropriate rate under this Part of this Act—
- (a) on the salary received by the contributor in respect of that period; or
 - (b) as if the contributor received salary in respect of that period at the rate of salary payable to the contributor at the end of the election—
- whichever is the greater.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (2) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3) was amended, as from 19 December 1989, by section 33(1) State Sector Amendment Act (No 2) 1989 (1989 No 136) by substituting the reference to “State Services Commissioner” for a reference to the “State Services Commission”.

Subsections (3) and (5) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (3) and (5) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

88Y Service in Cook Islands, Niue, and Tokelau

Where any contributory service as a contributor under this Part of this Act is computed under section 51 of this Act (as applied by section 88Z of this Act) the provisions of this Part of this Act relating to increases of actual contributory service shall apply in respect of that service only on such terms and conditions and to the extent that the Authority shall determine in any individual case or class of cases.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Section 88Y was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Section 88Y was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

88Z Sections to apply to contributors and contributions under this Part

- (1) Except as provided in this section, nothing in Part 2 or Part 2A of this Act shall apply to contributors or contributions under this Part of this Act.
- (2) Subject in the case of section 23A to section 88X of this Act, sections 23A, 32, 33, 37, 40, 42 (except subsection (2)), 43, 48, 51, 55, 58, 60, and 61K of this Act shall apply to contributors and contributions under this Part of this Act as if those sections were also included in this Part of this Act.

- (3) Sections 61L, 61M, 61N, 61O, 61Q, 61R, 61S of this Act shall apply in respect of contributors and contributions under this Part of this Act in the manner indicated in sections 88P, 88PA, 88T, 88U, and 88V of this Act.

Part 6B, comprising sections 88N to 88Z, was inserted, as from 25 December 1986, by section 23 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (2) was amended, as from 1 April 1988, by section 18(1) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by omitting the expression “44”.

Subsection (3) was amended, as from 1 July 1992, by section 22 Government Superannuation Fund Amendment Act 1992 (1992 No 61) by inserting the expression “88PA”.

Subsection (2) was amended, as from 9 June 1995, by section 19(1) Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the words “42 (except subsection (2))” for the words “42 (except subsections (1) and (2))”.

Part 7

General provisions

88ZA Application of this Part

- (1) Except as provided in this section, this Part shall apply to and in respect of every person who contributes to the Fund as if that person were a contributor within the meaning of this Act.
- (2) Section 95 of this Act shall not apply in respect of the Judges Superannuation Fund Account referred to in section 74M and section 81W of this Act, or the Parliamentary Superannuation Account referred to in section 88 of this Act.

Section 88ZA was inserted, as from 25 December 1986, by section 25(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (2) was amended, as from 1 April 1988, by section 5 Government Superannuation Fund Amendment Act 1989 (1989 No 23) by inserting the expression “and section 81W”.

89 Payment of retiring allowances and annuities

- (1) Every retiring allowance or annuity under this Act shall be paid in advance by 4-weekly or monthly instalments as the Authority may direct, and no portion of any such instalment shall be recoverable when the retiring allowance or annuity ceases to be payable.

- (2) Except as otherwise provided in this Act, every such instalment shall be payable to the person entitled to the retiring allowance or annuity (in this section referred to as the beneficiary) personally, unless the Authority in its discretion directs that it shall be payable to some other person on behalf of the beneficiary:

Provided that in any case where, by reason of the age or infirmity of the beneficiary or for any other sufficient cause, it is not convenient that payment be made to the beneficiary personally, payment may be made to any person duly authorised by the beneficiary to receive payment on his behalf.

Compare: 1947 No 57 s 82A; 1953 No 61 s 9

Subsections (1) and (2) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (1) and (2) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

89A Treatment of contributory service under one Part of the Act as contributory service under another Part

- (1) Except as otherwise provided in this Act, any contributor under one Part of this Act who becomes eligible to contribute, or is required to contribute, under another Part of this Act shall, if he so elects, be entitled to have his contributory service under the one Part treated as contributory service under the other Part upon such terms and conditions, including terms and conditions as to the credit to be given for the contributory service so treated, as may be prescribed by regulations made under section 97 of this Act.
- (1A) Regulations relating to the treatment of contributory service under one part of this Act as treatment under another Part of this Act may include provision for the payment of additional contributions, or the refund of contributions, with or without interest.
- (2) Any such regulations may be made to come into force before or after the date of the making thereof or on the date; and any such regulations that are made to come into force before the date of the making thereof may be made to come into force

before or after the date of the commencement of this section or on that date.

Section 89A was inserted, as from 24 November 1967, by section 9 Government Superannuation Fund Amendment Act 1967 (1967 No 141).

Subsection (1A) was inserted, as from 29 March 1985, by section 6 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

89B Other contributions

- (1) This section applies if a contributor has been required (whether before or after the commencement of this section) to pay any sum into the Fund that is other than the standard rate of contribution in respect of the scheme to which the contributor belongs (whether in respect of any period that is included in a period of contributory service, or in respect of contributions not duly paid by deduction from salary, or in respect of contributions repaid after having been refunded to the contributor, or otherwise).
- (2) The Authority may determine whether the whole or any part of that sum is to be treated as contributions for the purpose of this Act, and the amount so determined is to be treated as contributions accordingly.
- (3) Except as provided in this section, the only sums that are to form part of a contributor's contributions for the purpose of this Act are the amounts paid by the contributor by way of standard rate of contribution in respect of the scheme to which the contributor belongs.
- (4) In this section, **standard rate of contribution** means the rates referred to in sections 29, 30, 61B, 61F, 63A, 71F, 74C, 78, 81F, 83, 88C, and 88Q and in section 19 of the Government Superannuation Fund Amendment Act 1962, and any other provisions with like effect.

Sections 89B to 89E were inserted, as from 29 March 1985, by section 15 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Section 89B was substituted, and section 89C was repealed, as from 2 October 2001, by section 16(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 Government Superannuation Fund Amendment Act 2001, which allows the minister to enter into transitional agreements. See Part 2 of that Act as to various miscellaneous provisions.

89C Refund of contributions on allowances no longer included in salary*[Repealed]*

Sections 89B to 89E were inserted, as from 29 March 1985, by section 15 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Section 89B was substituted, and section 89C was repealed, as from 2 October 2001, by section 16(1) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 Government Superannuation Fund Amendment Act 2001, which allows the minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

89D Interest payments by contributor not to count as contributions

Where any contributor is required or permitted to make payments to the Fund that include the payment of interest that interest shall not comprise part of the contributions of the contributor.

Sections 89B to 89E were inserted, as from 29 March 1985, by section 15 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

89E Options where contributions not fully paid

Where, on the death or retirement of any contributor, the contributor has not paid to the Fund all the contributions for which the contributor is liable, the Authority shall permit the contributions to be paid to the Fund within a reasonable period determined by the Authority and, if the contributions remain unpaid, the Authority may—

- (a) deduct the unpaid contributions from any retiring allowance, annuity, other allowance, or payment (other than a child allowance) payable in respect of the contributor's contributions; or
- (b) if the unpaid contributions exceed the likely amount of the benefits from which the unpaid contributions may be deducted under paragraph (a) of this section or the recipient of the benefit so requires, direct that an appropriate reduction be made in the period of contributory service of the contributor to take account of the unpaid contributions.

Sections 89B to 89E were inserted, as from 29 March 1985, by section 15 Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Section 89E was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Section 89E was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

90 Recovery of money paid without lawful authority

All payments received by any person under this Act without that person being lawfully entitled thereto may be recovered as a debt due to the Crown, and when so recovered shall be repaid into the Fund.

Compare: 1947 No 57 s 82B; 1953 No 61 s 10

90A Conflicting claims of spouses or partners

Where under any provision of this Act more persons than one have claims as spouses or partners of any contributor or annuitant, the total amount of any annuity or other payment payable to them in respect of any benefit to which one spouse or partner would be entitled may be divided by the Authority between them in such shares and proportions as it from time to time thinks fit; and, in any case where they disagree regarding the making of an election, the Authority shall determine how they are to be deemed to have elected, and the provisions of this Act shall apply accordingly.

The heading was amended, as from 26 April 2005, by section 4(2) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partners” after the word “spouses”.

Section 90A was inserted, as from 1 April 1975, by section 33 Government Superannuation Fund Amendment Act 1976 (1976 No 30).

Section 90A was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Section 90A was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Section 90A was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Section 90A was amended, as from 26 April 2005, by section 4(2) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partners” after the word “spouses”.

91 Election to surrender proportion of retiring allowance and receive cash payment

- (1) Any contributor who becomes entitled to a retiring allowance under this Act may elect to surrender the right to receive a proportion of the retiring allowance and to receive instead payment out of the Fund of a sum equal to,—
 - (a) in the case of a contributor to the Fund under Part 2A, Part 4, Part 5A, Part 6A, or Part 6B of this Act, 12 times the amount by which the annual retiring allowance is reduced by the surrender:
 - (b) in the case of any other contributor (not being a contributor to whom section 71M of this Act or section 14 of the Government Superannuation Fund Amendment Act 1970 applies or a person to whom an annual retiring allowance is payable under Part 6 of this Act), 10.8 times the amount by which the annual retiring allowance is reduced by the surrender.
- (2) For the purposes of subsection (1) of this section a contributor shall be deemed to be entitled to a retiring allowance under this Act in any case where he would have been so entitled if he had retired on the date of his election.
- (3) An election may be made under subsection (1) of this section by a contributor at any time within 3 months immediately preceding the date on which the contributor becomes entitled to a retiring allowance under this Act.
- (4) Where an election is made under subsection (3) of this section it shall be deemed to have been made on the earliest day on which the contributor would be entitled to a retiring allowance under this Act if he survived and had retired.
- (5) Subject to subsection (6) of this section, any contributor who has made an election under subsection (1) of this section may make a further election within 3 months before he ceases duty in the Government service (whether or not he will remain in the Government service on leave after ceasing duty), to thereupon receive not more than half the amount that he would be

entitled to receive if he had been entitled to a retiring allowance when he made the election under subsection (1) of this section.

- (6) Where the Authority has determined under section 36(2) of this Act or the second or third proviso to section 68(4) of this Act or the first proviso to section 69(1) of this Act to defer the commencement of the payment of a retiring allowance to a contributor or a contributor has made an election under section 61S(1)(d) or section 81P(1)(c) of this Act, that contributor shall not be entitled to make any election under subsection (5) of this section.
- (7) Where any amount is paid to any contributor under subsection (5) of this section, interest shall be payable on that amount by the contributor at such rate as the Authority may determine for the period between the date on which the contributor receives that amount and the date on which he becomes entitled to his retiring allowance or the date of his death, whichever is the earlier.
- (8) All such interest shall be recoverable as a debt due to the Crown and may be deducted from any retiring allowance payable to the contributor or any annuity payable to the surviving spouse or partner of the contributor.
- (9) Every election under this section shall be made in writing and delivered to the Authority before the contributor has accepted any instalment of his retiring allowance.
- (10) No contributor shall have the right to revoke or amend any election under this section or to make any further election, except as provided in subsection (11) of this section.
- (11) Where a contributor to whom subsection (2) or subsection (5) of this section applies has made an election under subsection (1) of this section, that contributor shall be entitled to make one further election to increase the proportion of the retiring allowance surrendered by him under subsection (1) of this section before he has accepted any instalment of his retiring allowance.
- (12) No election or combination of elections under this section shall entitle any contributor to surrender more than one quarter of his retiring allowance.

- (13) Where a contributor has completed an election under this section in respect of a previous period of contributory service, the amount so surrendered shall be deducted from the retiring allowance that he may elect to surrender.
- (14) Upon an election under this section becoming effective the annual retiring allowance payable to a contributor shall be reduced by the same proportion as that which he has elected to surrender and all rights in respect of the proportion so surrendered shall be deemed to be determined.
- (15) Except as provided in subsection (5) of this section, any amount which a contributor is entitled to receive under this section shall become payable—
 - (a) on the date on which the contributor becomes entitled to payment of the retiring allowance; or
 - (b) in the case of a contributor to whom subsection (2) of this section applies, on the date of his death,—whichever is the earlier.

In the original section 91, subsection (1A) was inserted, as from 14 December 1962, by section 14 Superannuation Amendment Act 1962 (1962 No 130).

In the original section 91, the proviso to subsection (1) was inserted, as from 25 October 1963, by section 7(1) Superannuation Amendment Act 1963 (1963 No 126).

In the original section 91, subsection (2) was amended, as from 25 October 1963, by section 7(1) Superannuation Amendment Act 1963 (1963 No 126), by adding the words “and shall not be revocable”.

In the original section 91, subsection (2) was amended, as from 27 November 1970, by section 2 Superannuation Amendment Act 1970 by adding 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”.

In the original section 91, subsection (2A) was inserted, as from 25 October 1963, by section 7(1) Superannuation Amendment Act 1963 (1963 No 126).

In the original section 91, subsection (3) was substituted, and subsection (4) was inserted, as from 22 October 1959, by section 26(1) Superannuation Amendment Act 1959 (1959 No 85).

Section 91 was substituted, as from 1 January 1981, by section 5 Government Superannuation Fund Amendment Act 1980 (1980 No 163).

Subsection (1) was amended, as from 29 March 1985, by section 16 Government Superannuation Fund Amendment Act 1985 (1985 No 62) by inserting the words “or, in the case of a contributor to the Fund under Part 2A of this Act, 10 times”.

Subsection (1) was amended, as from 29 March 1985, by section 4 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63) by inserting the expression “or Part 6A”.

Subsection (1) was substituted, as from 25 December 1986, by section 26(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (1) was substituted, as from 1 April 1987, by section 3 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (1) was amended, as from 1 April 1988, by section 5 Government Superannuation Fund Amendment Act 1989 (1989 No 23) by substituting the expression “VA” for the expression “V”.

Subsection (1)(a) was amended, as from 1 April 1990, by section 29(1) Government Superannuation Fund Amendment Act 1990 (1990 No 30) by substituting the expression “12” for the expression “10”.

Subsection (1)(b) was amended, as from 1 April 1990, by section 29(2) Government Superannuation Fund Amendment Act 1990 (1990 No 30) by substituting the expression “10.8” for the expression “9”.

Subsection (6) was amended, as from 25 December 1986, by section 26(2) Government Superannuation Fund Amendment Act 1986 (1986 No 132) by inserting the words “or a contributor has made an election under section 61S(1)(d) of this Act”.

Subsection (6) was amended, as from 1 April 1988, by section 5 Government Superannuation Fund Amendment Act 1989 (1989 No 23) by inserting the expression “or section 81P(1)(c)”.

Subsections (6) and (7) were amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsections (6), (7) and (9) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (8) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

91A Election to surrender proportion of annuity and receive cash payment

- (1) This section shall apply to any surviving spouse or partner who becomes entitled to an annuity on or after the 12th day of April 1979 and who is less than 61 years of age at the time the entitlement to the annuity arises.
- (2) Any surviving spouse or partner to whom this section applies 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—

- (a) in the case of an annuity payable to the spouse or partner of a person who was a contributor under Part 2A, Part 3A, Part 4, Part 5A, Part 6A, or Part 6B of this Act, 12 times the amount by which the annuity is reduced by the surrender:
 - (b) in the case of an annuity payable to the spouse or partner of a person who was a contributor under any other Part of this Act (other than Part 6), Part 2 of the Government Superannuation Fund Amendment Act 1962, or Part 2 of the Government Superannuation Fund Amendment Act 1970, 10.8 times the amount by which the annuity is reduced by the surrender.
- (2A)
- (3) Any election under this section shall be made in writing delivered to the Authority before the surviving spouse or partner has accepted any instalment of the annuity.
 - (4) No surviving spouse or partner shall have the right to revoke, amend, or extend any election made under this section.
 - (5) The proportion of the annuity that any surviving spouse or partner elects to surrender under this section shall not exceed one-fourth.
 - (6) On the making of any such election, the annuity payable to the surviving spouse or partner shall be reduced by the same proportion as that which the surviving spouse or partner has elected to surrender as aforesaid, and all rights in respect of the proportion so surrendered shall be deemed to be determined.

Section 91A was inserted, as from 12 April 1979, by section 19(1) Government Superannuation Fund Amendment Act 1979 (1979 No 46).

Section 91A was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse” wherever it appears.

The original subsection (2) was amended, as from 29 March 1985, by section 17 Government Superannuation Fund Amendment Act 1985 (1985 No 62) by inserting the words “or, in the case of a contributor to the Fund under Part 2A of this Act, 10 times”.

The original subsection (2) was amended, as from 29 March 1985, by section 5 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63) by inserting the words “or Part 6A”.

Subsection (2) was substituted, as from 25 December 1986, by section 27(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (2)(a) was amended, as from 1 April 1988, by section 5(1) Government Superannuation Fund Amendment Act 1989 (1989 No 23) by substituting the expression “Part 5A” for the expression “Part 5”.

Subsection (2)(a) was amended, as from 1 April 1990, by section 30(1) Government Superannuation Fund Amendment Act 1990 (1990 No 30) by substituting the expression “12” for the expression “10”.

Section 91A(2)(b): amended (with effect from 1 April 1990), on 24 February 2009, by section 5(2) of the Government Superannuation Fund Amendment Act 2009 (2009 No 2).

Subsection (2)(b) was amended, as from 1 April 1987, by section 4(1) Government Superannuation Fund Amendment Act 1987 (1987 No 187) by inserting the words “(other than Part 6)”.

Subsection (2A) was inserted, as from 21 July 1987, by clause 5 Parliamentary Superannuation Determination 1987 (SR 1987/209). It was repealed before coming into effect, as from 1 April 1987, by section 4(2) Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

91B Surrender of part of retiring allowance for allowance to another person

- (1) Any contributor may, at any time within the 3 months before or at any time after the contributor becomes entitled to a retiring allowance, elect to surrender from any specified date a specified portion of the contributor’s basic retiring allowance not exceeding one-half in return for payment to another person (in this section called **the assignee**) of an allowance determined under subsection (3) of this section.
- (2) For the purposes of this section, the term **basic retiring allowance** means the annual amount of the retiring allowance payable under this Act after taking into account any surrender under section 48 or section 91 of the Act, but disregarding the effect of any election made under section 40 of the Act.
- (3) The allowance that is to be paid to any assignee under this section shall be determined by the Authority on an actuarial basis so that there is no overall increase or decrease in the liabilities of the Fund.
- (4) Any election under subsection (1) of this section shall not affect the application of the Government Superannuation Fund Amendment Act 1969 and the Government Superannuation Fund Amendment Act 1979, and where the contributor’s basic

- retiring allowance is increased under those Acts the allowance payable to the assignee shall be increased proportionately.
- (5) Every election under this section shall be in writing delivered to the Authority and shall be irrevocable once any payment has been accepted from the Fund pursuant to the election.
- (6) Where any assignee dies, the allowance payable to the assignee under this section shall cease; and the portion of the retiring allowance payable to the person who surrendered a portion of a retiring allowance to enable the allowance to be paid shall not be increased by reason of the death of the assignee.
- (7) Where a person who has surrendered a portion of a basic retiring allowance under this section dies,—
- (a) any annuity payable in respect of the basic retiring allowance shall be calculated on that portion of the basic retiring allowance that has not been surrendered under this section; and
- (b) the allowance payable to the assignee under this section shall continue until the death of the assignee and shall be increased in accordance with subsection (4) of this section as if the contributor's basic retiring allowance remained payable.
- (8) The minimum annuities referred to in sections 45, 74J, and 81K of this Act shall be reduced by the proportion that the basic retiring allowance on which they are based has been surrendered under subsection (1) of this section.
- (9) Nothing in this section shall in any way restrict or prevent the suspension, reduction, or cancellation in accordance with this Act of the payment of any retiring allowance; and any suspension, reduction, or cancellation shall be applied equally to the retiring allowance and the payments under this section to the assignee.
- (10) Nothing in this section shall in any way affect or apply to the payment of any allowance to a child under section 47 or section 61Q or section 81O of this Act.

Section 91B was inserted, as from 25 December 1986, by section 28(1) Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (3) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the word “Superintendent” for the word “Board”.

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (5) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (8) was amended, as from 1 April 1987, by section 5 Government Superannuation Fund Amendment Act 1987 (1987 No 187) by substituting the expression “and 79” for the expression “79 and 87”.

Subsection (8) was amended, as from 1 April 1988, by section 5 Government Superannuation Fund Amendment Act 1989 (1989 No 23) by substituting the expression “sections 45, 74J, and 81K” for the expression “sections 45, 74J, and 79”.

Subsection (10) was amended, as from 1 April 1988, by section 5 Government Superannuation Fund Amendment Act 1989 (1989 No 23) by inserting the expression “or section 81O”.

92 Retiring allowances not alienable

- (1) Except as expressly provided in this Act or in any other enactment, in no case shall any retiring allowance or other money granted or payable under this Act to any person be in any way assigned or charged or pass to any other person by operation of law; nor shall any money payable under this Act on the death of any person be assets for the payment of his debts or liabilities.
- (2) This section shall bind the Crown.
- (3) Nothing in this section shall prevent the operation of any agreement entered into under Part 6 of the Property (Relationships) Act 1976; and every such agreement shall be binding on the Fund and on every special account within the Fund and shall be given effect to, as necessary, by the Authority so long as the agreement does not increase the liabilities of the Fund or of any such special account or infringe any requirement relating to compulsory contributions to the Fund or to any such special account.

Compare: 1947 No 57 s 83; 1950 No 54 s 5(2)

Subsection (3) was inserted, as from 25 December 1986, by section 29 Government Superannuation Fund Amendment Act 1986 (1986 No 132).

Subsection (3) was substituted, as from 1 April 1987, by section 6(1) Government Superannuation Fund Amendment Act 1987 (1987 No 187).

Subsection (3) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47), by substituting the word “Authority” for the word “Superintendent”.

Subsection (3) was amended, as from 1 February 2002, by section 64(2) Property (Relationships) Amendment Act 2001 (2001 No 5) by substituting the expression “Part 6 of the Property (Relationships) Act 1976” for the expression “section 21 of the Matrimonial Property Act 1976”.

Charging of contributions

The heading “Charging of Contributions” was inserted, as from 29 March 1985, by section 18(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

92A Contributor may grant charge over contributions

- (1) Any contributor may grant a charge over the contributor’s contributions to the Fund in favour of any other person.
- (2) The Authority shall maintain a register of all charges notified to him showing the time and date of registration or release, and no charge or release of a charge shall be of any validity unless it is entered in that register.
- (3) No charge shall be registered against the contributions of any contributor if—
 - (a) there is already a charge registered against those contributions; or
 - (b) a copy of any order made under section 25 of the Property (Relationships) Act 1976 or any arrangement or deed entered into pursuant to section 31(1) of that Act has been served on the Authority in respect of the contributions of the contributor, and is still in force; or
 - (c) a charging order has been served on the Authority in accordance with section 120(4) of the Family Proceedings Act 1980 in respect of the contributions of the contributor and is still in force; or
 - (d) the contributor has notified the Authority that the contributor intends to cease Government service or wishes to cease to be a contributor to the Fund.
- (4) Every notification of a charge shall be in the appropriate form specified in Schedule 1 to this Act or a form to like effect, and shall be accompanied by the fee (if any) prescribed in any regulations made under section 97 of this Act.

- (5) It shall not be necessary for the notification of a charge to specify any amount or any maximum amount of contributions to be charged.
- (6) The chargeholder shall forthwith notify the Authority in writing if any charge is to be released.
- (7) The Authority shall, on being notified by a chargeholder that any charge has been released, or where a charge is deemed to be released under section 92E of this Act, or is released by any order of any Court, remove the charge from the register.

Section 92A was inserted, as from 27 November 1970, by section 3 Superannuation Amendment Act 1970 (1970 No 116). It was renumbered as section 92K, as from 29 March 1985, by section 18(2) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Sections 92A to 92J were inserted, as from 29 March 1985, by section 18(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Section 92A was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47), by substituting the word “Authority” for the word “Superintendent”.

Subsection (3)(b) was amended, as from 1 February 2002, by section 64(2) Property (Relationships) Amendment Act 2001 (2001 No 5) by substituting the expression “Property (Relationships) Act 1976” for the expression “Matrimonial Property Act 1976”.

92B Contributor and chargeholder or potential chargeholder entitled to certain information

- (1) Any contributor may, by written request to the Authority, obtain—
 - (a) a written statement of the amount that the contributor would be entitled to receive if the contributor had withdrawn from the Fund while continuing in Government service at the end of the preceding financial year; and
 - (b) a statement as to whether any charge is currently registered against the contributor’s contributions under section 92A of this Act; and
 - (c) a statement as to whether or not it would be possible for the contributor to grant a charge over the contributor’s contributions that could be registered under this Act, and the reason (if any) why a charge could not be registered.
- (2) The Authority shall inform any person whom the Authority is satisfied is a person who has entered or is about to enter

into any transaction with a contributor whereby the contributor grants a charge over the contributor's contributions as to—

- (a) the amount of the contributor's contributions as at the end of the preceding financial year:
 - (b) whether or not the person is currently contributing to the Fund:
 - (c) whether any notice of withdrawal from the Fund or notice indicating that the contributor is about to cease Government service or cease to be a contributor to the Fund has been received by the Authority:
 - (d) whether any charge is currently registered over the contributions of the contributor:
 - (e) whether or not there is any other reason why a charge could not be registered in favour of that person, but without disclosing the reason.
- (3) The Authority shall not be under any obligation to inform any chargeholder or potential chargeholder of any change in respect of any of the matters specified in subsection (2) of this section after the information has been given.
- (4) Every request under this section shall be signed by the contributor, and if the request is made under subsection (2) of this section shall also be signed by the chargeholder or potential chargeholder, and shall specify—
- (a) the full name and address of the contributor and the chargeholder or potential chargeholder (if any):
 - (b) the department, service, agency, or corporation in which the contributor is employed, and its location:
 - (c) the date of birth of the contributor:
 - (d) the date on which the contributor became a contributor to the Fund.
- (5) The Authority shall decline to give any information under this section where the Authority is not satisfied as to the identity of the contributor concerned.

Sections 92A to 92J were inserted, as from 29 March 1985, by section 18(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word "Authority" for the word "Superintendent".

Subsection (2)(c) was amended, as from 25 December 1986, by section 30 Government Superannuation Fund Amendment Act 1986 (1986 No 132) by omitting the words “under this Part of this Act”.

Subsections (2), (3) and (5) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

92C Procedure where charge notified

- (1) Where the Authority has received notification of a charge under section 92A of this Act and has registered that charge, the Authority shall, as soon as practicable and in any event before making any payment pursuant to the charge, notify the chargeholder and the contributor that the charge has been registered.
- (2) Where the Authority has received notification of a charge under section 92A of this Act and the charge cannot be registered for any reason, the Authority shall forthwith notify the contributor and the chargeholder accordingly.

Sections 92A to 92J were inserted, as from 29 March 1985, by section 18(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Section 92C was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

92D Payment of charge

Where any amount becomes payable to or in respect of any contributor under this Act (including any payment pursuant to an election made under section 61S(1)(c) or section 71K(3) or section 81P(1)(b) of this Act), and a charge is registered over the contributor’s contributions,—

- (a) the entitlements of the contributor, or the contributor’s spouse or partner and any children, or estate, shall be calculated without regard to the charge, but shall not be paid to any person or superannuation scheme until notification from the chargeholder has been received or is deemed to have been received under section 92E of this Act:
- (b) the Authority shall notify the chargeholder that the chargeholder may make an election under section 92E of this Act, and the consequences of the chargeholder’s failure to make an election under that section.

Sections 92A to 92J were inserted, as from 29 March 1985, by section 18(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Section 92D was amended, as from 1 April 1988, by section 19(1) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by omitting the words “this Part of”.

Section 92D was amended, as from 1 April 1988, by section 19(2) Government Superannuation Fund Amendment Act 1988 (1988 No 19) by inserting the expression “or section 71K(3)”

Section 92D was amended, as from 1 April 1988, by section 5 Government Superannuation Fund Amendment Act 1989 (1989 No 23) by inserting the expression “or section 81P(1)(b)”.

Paragraph (a) was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by inserting the words “or partner” after the word “spouse”.

Paragraph (b) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

92E Rights of chargeholder

- (1) Where any chargeholder receives any notice under section 92D(b) of this Act the chargeholder shall, subject to the terms of the charge, have the right to elect, by written notice to the Authority,—
 - (a) to receive the amount secured by the charge or the total amount of the contributor’s contributions, without interest, whichever is the lesser, in which case the charge shall be released on payment of such amount; or
 - (b) to release the charge without receiving payment of any amount secured by it.
- (2) Where no election is made by a chargeholder within 28 days after notice has been given to the chargeholder under subsection (1) of this section the chargeholder shall be deemed to have elected to release the charge without receiving payment of any amount secured by it.

Sections 92A to 92J were inserted, as from 29 March 1985, by section 18(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

92F Procedure for Payment of charge

- (1) Where any chargeholder gives written notice to the Authority that the chargeholder wishes to claim from the Fund any specified amount in respect of any charge registered under section 92A of this Act, the Authority shall, within 14 days after he receives the notice, give written notice to the contributor or, if the contributor is deceased, to the contributor's personal representative, that the Authority has received such a notice.
- (2) Where any notice has been given to the Authority under subsection (1) of this section and the Authority has no reason to believe that there is any dispute or doubt as to the amount that should be paid to the chargeholder, the Authority shall, on the expiration of a period of 60 days commencing with the date on which the Authority received the notice, or such lesser period as is agreed to by the contributor or, if the contributor is deceased, the contributor's personal representative, pay the amount demanded by the chargeholder or the total amount of the contributor's contributions without interest, whichever is the lesser, to the chargeholder.
- (3) The Authority may require any chargeholder to produce such documents as are in the chargeholder's possession or under the chargeholder's control relating to the charge in order to satisfy the Authority as to the terms of the charge and any amount payable to the chargeholder under it, and, for that purpose, may require the chargeholder to make a statutory declaration as to any matter relating to the charge.
- (4) Where any notice has been given to the Authority under subsection (1) of this section and the Authority has reason to believe that there is a genuine dispute or doubt as to the amount that should be paid to the chargeholder, the Authority shall not make any payment to the chargeholder unless that payment is—
 - (a) agreed to by the contributor or, if the contributor is deceased, the contributor's personal representative; or
 - (b) made pursuant to an order of the Court under section 92J of this Act.

Sections 92A to 92J were inserted, as from 29 March 1985, by section 18(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Section 92F was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

92G Effect on contributor of payment to chargeholder

- (1) Where any payment is made to any chargeholder from the Fund under section 92F of this Act the contributor shall, if the contributor is then a contributor to the Fund, cease to be a contributor to the Fund and the contributor shall be entitled to receive from the Fund a refund of the total amount of the contributor’s contributions to the Fund, less any amount already received by the contributor from the Fund and any amounts paid from the Fund to the chargeholder.
- (2) The payments to the contributor shall be without interest, but shall be increased,—
 - (a) in accordance with paragraph (a) of section 61S(1) or paragraph (a) of section 81P(1) of this Act, if the contributor is entitled to make and has made an election under that paragraph; or
 - (b) in accordance with paragraph (a) of section 71K (1) of this Act, if that paragraph applies to the contributor.
- (3) Where any person who is required to be a contributor under this Act ceases to be a contributor to the Fund by virtue of subsection (1) of this section, that person shall forthwith again become a contributor to the Fund as if that person had not previously been a contributor to the Fund.

Sections 92A to 92J were inserted, as from 29 March 1985, by section 18(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (2) was substituted, as from 1 April 1988, by section 20 Government Superannuation Fund Amendment Act 1988 (1988 No 19).

Subsection (2)(a) was amended, as from 1 April 1988, by section 5 Government Superannuation Fund Amendment Act 1989 (1989 No 23) by inserting the expression “or paragraph (a) of section 81P (1)”.

92H Effect on annuities, allowances, and other payments of payment to chargeholder

- (1) Subject to subsection (2) of this section, where any payment is made to any chargeholder from the Fund under section 92F of this Act and any retiring allowance, annuity, other allowance, or payment is payable in respect of the contributor’s contribu-

tions, the amount paid to the chargeholder shall be deducted from any such retiring allowance, annuity, other allowance, or payment either in total before any such benefit is paid or from such benefits at such rate as the Authority may determine.

- (2) No deduction shall be made under subsection (1) of this section from any allowance payable to any child under section 61Q or section 81O of this Act.

Sections 92A to 92J were inserted, as from 29 March 1985, by section 18(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (2) was amended, as from 1 April 1988, by section 5 Government Superannuation Fund Amendment Act 1989 (1989 No 23) by inserting the expression “or section 81O”.

92I Giving of notices

- (1) Any notification of a charge required to be given to the Authority under section 92A of this Act, and any notice given to the Authority under section 92E or section 92F of this Act shall be sufficiently given—
- (a) if it is delivered to the office of the Authority at Wellington and accepted on the Authority’s behalf; or
 - (b) if it is posted in a registered letter addressed to the Authority at its postal address at Wellington.
- (2) Any notice required to be given to a chargeholder or a contributor or the personal representative of any contributor under section 92C, section 92D, or section 92F of this Act shall be sufficiently given—
- (a) if it is delivered to that person; or
 - (b) if it is posted in a registered letter addressed to that person at the address given in the notice of charge or subsequently given to the Authority as the address at which such notices may be given to that person, or by such a letter addressed to the person at the person’s usual or last known place of abode, business, or employment.
- (3) Where any notice is posted in accordance with subsection (1) or subsection (2) of this section it shall, in the absence of evidence to the contrary, be deemed to have been given and received,—

- (a) in the case of a letter posted to an address within New Zealand, on the fourth day after the day on which the letter was posted:
 - (b) in the case of a letter posted to an address outside New Zealand, at the time at which the letter would have been delivered in the ordinary course of post.
- (4) Notwithstanding anything in subsections (1) to (3) of this section, a District Court Judge may in any case make an order directing the manner in which any notice under section 92C, section 92D, section 92E, or section 92F of this Act is to be given to any person, and specifying the date or method of determining the date on which the notice shall be deemed to have been given and received.

Sections 92A to 92J were inserted, as from 29 March 1985, by section 18(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Section 92I was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

92J Authority may apply to Court for directions

Without limiting any right of any person to take any action in any Court, the Authority or any contributor or chargeholder, or any person claiming to be a chargeholder may apply to any Court of competent jurisdiction for an order—

- (a) as to whether or not any charge should be or should have been registered in respect of any contributor or chargeholder; or
- (b) as to whether any payment is to be made to any chargeholder or person claiming to be a chargeholder; or
- (c) as to the amount of any payment to be made to any chargeholder or person claiming to be a chargeholder; or
- (d) as to the release of any charge.

Sections 92A to 92J were inserted, as from 29 March 1985, by section 18(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Section 92J was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

92K Person not to become a contributor while a contributing employee under National Provident Fund Act 1950

Notwithstanding anything to the contrary in Part 2 or Part 3 of this Act or in section 18 of the Government Superannuation Fund 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 3 of the National Provident Fund Act 1950.

Section 92K was inserted (originally numbered section 92A), as from 27 November 1970, by section 3 Government Superannuation Fund Amendment Act 1970 (1970 No 116).

Section 92K was renumbered, as from 29 March 1985, by section 18(2) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

93 Financial statements

- (1) The Authority shall ensure that financial statements for the Fund are prepared in respect of each financial year.
- (2) The annual financial statements shall be prepared in accordance with generally accepted accounting practice (as defined in section 3 of the Financial Reporting Act 1993) and shall include—
 - (a) a statement of the financial position of the Fund at its balance date:
 - (b) an operating statement reflecting the revenues and expenses of the Fund for the financial year:
 - (c) a statement of cash flows reflecting cash flows of the Fund for the financial year.

Compare: 1956 No 47 s 93; 1989 No 44 s 41(1), (2); 1992 No 61 s 23; 1992 No 142 s 31

The original section 93 was substituted, as from 1 July 1992, by section 23 Government Superannuation Fund Amendment Act (No 2) 1992 (1992 No 61).

Section 93 was substituted, as from 1 October 1995, by section 16 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsection (1) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

93A Audit

- (1) The Authority shall, not later than 90 days after the end of the financial year, forward the annual financial statements to the Audit Office.

- (2) The Audit Office shall issue an audit report within 30 days of receipt of the financial statements and return the annual financial statements with audit report attached to the Authority.
- (3) The Fund is 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.
- (4) This section applies to the financial statements for the Fund referred to in section 93B.

Compare: 1989 No 44 ss 38, 41(3); 1992 No 142 s 31

Sections 93A and 93B were inserted, as from 1 October 1995, by section 16 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsections (1) and (2) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3) was substituted, as from 1 July 2001, by section 53 Public Audit Act 2001 (2001 No 10).

Subsection (4) was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

93B Annual report

- (1) The Authority must include, in its annual report required under section 150 of the Crown Entities Act 2004, a report on matters affecting the Fund during that year, which report must include—
 - (a) the financial statements, together with the audit report and management statement relating to those financial statements; and
 - (b)
 - (c) the name and address of the person to whom all correspondence from the members should be sent.
- (1A) The annual report must also include (in addition to any other requirements)—
 - (a) a statement of responsibility for the financial statements of the Fund, signed by the chairperson of the board and the chief executive of the Authority (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
 - (b) an analysis and explanation of the performance of the Fund over that financial year, including a comparison

- with the Authority's expectations about the performance of the Fund that were set out in the statement of intent relating to that financial year; and
- (c) a statement of the investment policies, standards, and procedures for the Fund established by the Authority under section 15L; and
 - (d) a statement, signed by the chairperson of the board and the chief executive of the Authority (if any), certifying whether or not the investment policies, standards, and procedures for the Fund have been complied with throughout that financial year; and
 - (e) a schedule of—
 - (i) the investment managers, administration managers, and any other service providers used under section 19, and custodians used under section 19A, during that financial year; and
 - (ii) the classes of investments for which each investment manager was responsible; and
 - (iii) any changes since the last annual report in those persons.
- (2)
- (3)

Compare: 1956 No 47 s 93; 1989 No 10 s 14; 1989 No 44 s 44A; 1994 No 18 s 40

Sections 93A and 93B were inserted, as from 1 October 1995, by section 16 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsection (1)(b) was repealed, and subsection (1A) was inserted, as from 2 October 2001, by section 17 Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 of that Act, which allows the minister to enter into transitional agreements, and Part 2 of that Act as to various miscellaneous provisions.

Subsections (1), (2) and (3) were amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (1) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “The Authority must include, in its annual report required under section 150 of the Crown Entities Act 2004, a report on matters affecting the Fund during that year, which report must include” for the words “The Authority shall, as soon as practicable after the end of each financial year, supply to the Minister a report on matters affecting the Fund during that year, which report shall include”.

Subsections (2) and (3) were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

94 Actuarial examinations of Fund

- (1) The Authority must obtain a report from an actuary that examines the financial position of the Fund as at dates determined by the Minister, being dates that are no more than 3 years apart.
- (2) The report in respect of each such examination must—
 - (a) show the state of the Fund as at the date on which the financial position of the Fund was examined, having regard to the prospective liabilities and assets of, and the probable annual sums required by, the Fund to provide benefits falling due within the ensuing 3 years without affecting or having recourse to the actuarial reserve appertaining to the contributor's contributions; and
 - (b) be received by the Authority no later than 7 months after the date the Fund was examined.
- (3) The Authority must send a copy of the report to the Minister within 28 days after the date that the Authority receives it.
- (4) Each contributor and each beneficiary shall have the right, upon request to the Authority,—
 - (a) to look at, at any reasonable time, a copy of the report:
 - (b) to receive, upon payment of a reasonable fee, a copy of the report.
- (5) A copy of each report shall be laid before the House of Representatives by the Minister not later than 6 sitting days after receiving it.
- (6) Where the report has not been laid before the House of Representatives within 3 weeks after the Minister receives it, the Minister shall—
 - (a) cause the report to be published not later than 3 weeks after receiving it; and
 - (b) arrange for the publication in the *Gazette* of a notice indicating that the report has been so published.

Compare: 1956 No 47 s 94; 1989 No 10 s 15; 1989 No 44 s 44A; 1994 No 18 s 40

Section 94 was substituted, as from 1 October 1995, by section 16 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Section 94(1): substituted, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

Section 94(2): substituted, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

Section 94(3): substituted, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

95 Annual subsidies up to 1 July 1991 from Government and from funds or accounts out of which contributors' salaries are paid

- (1) During each financial year the Minister of Finance shall pay into the Fund out of public money, without further appropriation than this Act, the amount by which the amounts of the benefits estimated to be payable out of the Fund during that year in respect of contributors who are—

- (a) employees or former employees of Departments, Crown entities, or Offices of Parliament (as those terms are defined in the Public Finance Act 1989); or
- (b) employees or former employees of such other entities as the Minister may direct—

exceeds the sum of the proportion of those benefits certified by the Authority, after receiving advice from an actuary, as having been provided by the contributions paid in respect of those benefits and the amounts estimated to be paid into the Fund during that year under subsection (2) of this section.

- (2) Where—

- (a) subsection (1) of this section does not apply in respect of any contributor; or
- (b) the salaries of any contributors to the Fund are payable out of money that is not public money,—

there shall be paid out of the money from which the salaries of those contributors are paid and into the Government Superannuation Fund in each financial year, at such time or times during the year as may be reasonably specified by the Authority, the amount by which the contributions estimated to be paid during that year by those contributors is less than the amount certified by the Authority, after receiving advice from an actuary, as the total amount of contributions that would require to be so paid if the contributions of contributors provided the

total cost of the benefits to which the contributors may become entitled under this Act:

Provided that, if the Minister of Finance so directs, the amount to be paid into the Government Superannuation Fund out of any such money in any specified financial year shall be such lesser amount as that Minister may specify.

(3)

(4) This section shall expire with the close of such date as may be appointed by the Governor-General by Order in Council.

Section 95(1): amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

The original subsection (1)(a) was substituted, as from 20 November 1979, by section 20(1) Government Superannuation Fund Amendment Act (1979 No 46).

The original subsection (2) proviso was inserted, as from 27 October 1965, by section 3 Superannuation Amendment Act 1965 (1965 No 116).

Section 95(2): amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

The original subsection (4) was substituted, as from 1 November 1976, by section 34 Government Superannuation Amendment Act 1976 (1976 No 30).

The original subsection (4) was substituted, as from 20 November 1979 by section 20(2) Government Superannuation Fund Amendment Act 1979 (1979 No 46).

The original subsection (4) was substituted, as from 29 March 1985, by section 7 Government Superannuation Fund Amendment Act (No 2) 1985 (1985 No 63).

Section 95 was substituted, as from 1 August 1990, by section 11(1) Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77)

Section 95 (referring to annual subsidies after 1 July 1991) is to be substituted, on a date to be appointed by Order in Council, by section 12 Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77). *See* section 4 Government Superannuation Fund Amendment Act (No 2) 1991.

Subsection (1)(a) was amended, as from 21 December 1992, by section 42 Public Finance Amendment Act 1992 (1992 No 142) by substituting the word “entities” for the word “agencies”.

Subsection (2) was amended, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28) by substituting the words “as may be reasonably specified by the Superintendent” for the words “as may be approved by the Board”.

Subsection (2) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Subsection (3) was repealed, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsection (4) was inserted, as from 30 June 1991, by section 3 Government Superannuation Fund Amendment Act (No 2) 1991 (1991 No 59).

Subsection (4) was repealed, as from 1 October 1995, by section 30 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

95AA Authority to incur certain expenses

- (1) The Crown may incur expenses relating to its liability under this Act in respect of contributors and beneficiaries.
- (2) Without limiting subsection (1), expenses may be incurred under the authority of subsection (1) without further appropriation than this section.
- (3)

Section 95AA was inserted, as from 28 July 1997, by section 3 Government Superannuation Fund Amendment Act 1997 (1997 No 47).

Subsection (3) was repealed, as from 2 October 2001, by section 7(2) Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 Government Superannuation Fund Amendment Act 2001, which allows the minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

95A Timing of transfer of employee contributions to Fund

Every person who deducts contributions to the Fund from remuneration or other money payable to another person, or who otherwise receives contributions payable to the Fund by any person, shall pay those contributions into the Fund at such time or times as are reasonably specified by the Authority in a written notice to the person or in a notice in the *Gazette*.

Sections 95A to 95D were inserted, as from 1 October 1995, by section 17 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Section 95A was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

95B Interest payable on overdue amounts

Where a person who is required to pay an amount into the Fund under any provision of this Act fails to do so at the time required by this Act, the person shall pay into the Fund on demand by the Authority, in addition to that amount, interest on that amount—

- (a) for the period from the time required by this Act for payment (or the date of commencement of this section, whichever is the later) until the time at which the amount is paid into the Fund; and
- (b) at a rate calculated using a method that has been determined by the Authority, approved by the Minister, and published in the *Gazette*.

Sections 95A to 95D were inserted, as from 1 October 1995, by section 17 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Section 95B (that part before paragraph (a)) was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

Paragraph (b) was substituted, as from 2 October 2001, by section 18 Government Superannuation Fund Amendment Act 2001 (2001 No 47). See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 Government Superannuation Fund Amendment Act 2001, which allows the minister to enter into transitional agreements. See Part 2 of that Act as to various miscellaneous provisions.

95C Recovery of debts

Every amount payable by a person into the Fund under any provision of this Act shall constitute a debt due by the person to the Authority, and—

- (a) may be recovered accordingly by the Authority; and
- (b) following such recovery, shall be paid into the Fund.

Sections 95A to 95D were inserted, as from 1 October 1995, by section 17 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Section 95C was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

95D Information to be provided by controlling authorities

- (1) Every controlling authority in relation to a contributor must ensure that there is provided to the Authority, at such time or times as are reasonably specified by the Authority, such information as the Authority may reasonably require of that controlling authority for the purpose of administering this Act in relation to that contributor.

- (2) The Authority must not require a controlling authority to provide information under this section unless the Authority has first consulted the controlling authority about the requirement.
- (3) Every requirement under this section shall be set out in a written notice to the controlling authority concerned or in a notice in the *Gazette*.

Sections 95A to 95D were inserted, as from 1 October 1995, by section 17 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Subsections (1) and (2) were substituted, as from 2 October 2001, by section 19 Government Superannuation Fund Amendment Act 2001 (2001 No 47). See section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. See section 28 Government Superannuation Fund Amendment Act 2001, which allows the minister to enter into transitional agreements. See Part 2 of that Act as to various miscellaneous provisions.

96 Offences

Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding 12 months who for the purpose of obtaining any payment or benefit or avoiding any obligation for himself or for any other person under this Act makes any false statement to or otherwise misleads or attempts to mislead any person concerned in the administration of this Act or any other person whomsoever.

Compare: 1947 No 57 s 87

97 Regulations

The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a)
- (b) prescribing, for the purposes of all or any of sections 28(1)(b), 61R(1)(b), 71JA, 81OA, 86FA, and 88HA of this Act,—
 - (i) terms and conditions in relation to any election under any of those sections:
 - (ii) requirements relating to the contributors who are eligible to make any such election, such as a re-

- quirement that the contributor has been accepted for membership of another scheme:
- (iii) restrictions on the period during which any such election may be made:
 - (iv) the way in which any deferred benefit or deferred lump sum or refund is to be determined:
- (ba) prescribing, for the purposes of section 88HA, the way in which any transfer value is to be determined and paid:
 - (c) prescribing money that may be lawfully payable into the Fund under section 14(d):
 - (d) prescribing money that may be lawfully payable out of the Fund under section 15(b):
 - (e) prescribing requirements in relation to the making of any election or application, or the giving of any notice, under this Act, including the evidence required in support of any election, application, or notice:
 - (f) prescribing requirements in relation to the supply by contributors or beneficiaries of such information as may reasonably be required for the purpose of administering this Act:
 - (g) prescribing the manner in which contributions are to be computed in the case of contributors whose salary—
 - (i) is computed at an hourly or daily rate; and
 - (ii) does not include payment for the time during which the contributor is not actually employed:
 - (h) prescribing the persons, or class of persons, who may make deductions from the salaries of contributors for payment into the Fund, and the time at which deductions shall cease in respect of contributors who retire, die, or cease to be contributors:
 - (i) providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

Compare: 1947 No 57 s 88

Subsection (2)(ba) and (bb) were inserted, as from 1 August 1990, by section 13 Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77).

Section 97 was substituted, as from 1 October 1995, by section 18 Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Paragraph (a) was repealed, as from 2 October 2001, by section 20 Government Superannuation Fund Amendment Act 2001 (2001 No 47).

Paragraph (ba) was inserted, as from 17 May 2005, by section 4 Government Superannuation Fund Amendment Act (No 2) 2005 (2005 No 55).

Paragraphs (c) and (d) were substituted, as from 2 October 2001, by section 20 Government Superannuation Fund Amendment Act 2001 (2001 No 47). *See* section 2(3) and 2(4) of that Act for transitional provisions relating to the period between 21 August 2001 (the date the Government Superannuation Fund Amendment Act 2001 was assented) and 2 October 2001. *See* section 28 Government Superannuation Fund Amendment Act 2001, which allows the minister to enter into transitional agreements. *See* Part 2 of that Act as to various miscellaneous provisions.

98 Reciprocal arrangements with other Commonwealth Governments or other bodies

- (1) The Governor-General may from time to time, by Order in Council, declare that arrangements that have been made with the Government of any part of the Commonwealth outside New Zealand, or with any institution or body in New Zealand or any other part of the Commonwealth, with a view to providing reciprocity in matters relating to superannuation, shall have effect notwithstanding anything to the contrary in this Act or any other enactment; and every such Order in Council shall, subject to the provisions of this section, have effect according to its tenor.
- (2) Any Order in Council under this section may be at any time amended or revoked by a subsequent Order in Council; and any such amending or revoking Order in Council may contain such transitional provisions as appear to the Governor-General to be necessary or expedient.
- (3) Every Order in Council made under this section shall be laid before Parliament within 28 days after the date of the making thereof if Parliament is then in session and, if not, shall be laid before the Parliament within 28 days after the date of the commencement of the next ensuing session.

Compare: 1947 No 57 s 89

99 Repeals and savings

- (1) The enactments specified in Schedule 2 to this Act are hereby repealed.

- (2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or anything whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act, and as if that provision had been in force when the document was made or the thing was done.
- (3) All matters and proceedings commenced under any such enactment and pending or in progress at the commencement of this Act may be continued and completed under this Act.
- (4) Nothing in this Act shall be construed to reduce the retiring allowance or annuity to which any person may have become entitled at any time before the commencement of this Act.
- (5) No person who is a contributor at the commencement of this Act shall on his retirement at any time thereafter be granted a retiring allowance at a rate less than the rate that would have been granted if this Act had not been passed.
- (6) Where under Part 4 of the Public Service Superannuation Act 1927 any period has been included in the length of service of any contributor and he is contributing to the Fund at a percentage fixed by reference to his age at any date after the commencement of that period, his contributions to the Fund shall, on and after the 1st day of April 1948, be fixed by reference to his age at the commencement of that period:
Provided that that period shall be deemed to be a continuous period immediately preceding the contributor's current period of contributory service, and that the current period of contributory service shall be deemed to include any period to which subsection (5) of section 26 of this Act applies.
- (7) The repeal of the following enactments shall not affect the amendments made by those enactments, namely:
 - (a) subsections (1), (3), and (4) of section 90 of the Superannuation Act 1947:

(b) subsection (2) of section 3 of the Superannuation Amendment Act 1948.

Compare: 1947 No 57 ss 39(2), 70(3), (4), 91; 1948 No 79 ss 3(2), 21; 1950 No 94 s 15; 1955 No 107 ss 6(3), (4), 7(4), (5), (6)

Subsection (1) was amended, as from 29 March 1985, by section 22(1) Government Superannuation Fund Amendment Act 1985 (1985 No 62) by inserting the word “Second”.

Schedule 1

Notice of charge

s 92A(4)

Schedule 1 was inserted, as from 29 March 1985, by section 18(3) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Schedule 1 was amended, as from 2 October 2001, by section 21 Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the word “Authority” for the word “Superintendent”.

To: The Superintendent of the Government Superannuation Fund

From [Name] CONTRIBUTOR

Date of birth

Employed at

Employed by

Address for giving of notices

AND [Name] CHARGEHOLDER

Address for giving of notices

This is to inform you that [Name], a contributor to the Fund, has granted a charge over his or her contributions to the Fund in favour of [Name], chargeholder.

It is accepted that the charge is of no effect until it has been registered in the register of charges maintained under of the Government Superannuation Fund Act 1956.

The contributor and the chargeholder each agree that notices under section 92C, section 92D(b), section 92E, or section 92F of the Government Superannuation Fund Act 1956 may be given by registered post addressed to them at their respective addresses given above, or such other address as may from time to time be notified by them to the [Authority].

Signature of contributor.

Signature of chargeholder.

Schedule 2

s 99(1)

Enactments repealed

Schedule 2, originally the only Schedule to the Act, was renumbered, as from 29 March 1985, as Schedule 2 by section 18(3) Government Superannuation Fund Amendment Act 1985 (1985 No 62).

Crown Proceedings Act 1950 (1950 No 54)

Amendment(s) incorporated in the Act(s).

Estate and Gift Duties Act 1955 (1955 No 105)

Amendment(s) incorporated in the Act(s).

Finance Act 1948 (1948 No 35)

Amendment(s) incorporated in the Act(s).

Public Revenues Act 1953 (1953 No 73)

Amendment(s) incorporated in the Act(s).

Statutes Amendment Act 1949 (1949 No 51)

Amendment(s) incorporated in the Act(s).

Superannuation Act 1947 (1947 No 57)**Superannuation Amendment Act 1948 (1948 No 79)****Superannuation Amendment Act 1950 (1950 No 94)****Superannuation Amendment Act 1951 (1951 No 65)****Superannuation Amendment Act 1953 (1953 No 61)****Superannuation Amendment Act 1954 (1954 No 45)****Superannuation Amendment Act 1955 (1955 No 107)**

Schedule 3

s 12D

Further provisions relating to Appeals Board

Schedule 3 was inserted, as from 1 October 1995, by section 3(2) Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Schedule 3 heading was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

1 Absent members

- (1) The Minister may at any time appoint any person to act for any member of the Appeals Board at any meeting or meetings in the event of that member’s absence.
- (2) While any person is attending any meeting of the Appeals Board pursuant to this section, that person shall be deemed for all purposes to be a member of the Appeals Board, and the fact that any person so attends shall be sufficient evidence of that person’s authority to do so.

Subclauses (1) and (2) were amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

2 Acts not invalidated because of vacancy, etc

No act or proceeding of the Appeals Board, or of any person acting as a member of the Appeals Board, shall be invalidated because—

- (a) there was a vacancy in the membership of the Appeals Board; or
- (b) it is subsequently discovered, in relation to a person acting as a member of the Appeals Board, that—
 - (i) there was a defect in the appointment of that person; or
 - (ii) that person was incapable of being a member of the Appeals Board; or
 - (iii) that person had ceased to be a member of the Appeals Board.

Clause 2 was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

3 Fees and travelling allowances

- (1) The Appeals Board is hereby declared to be a **statutory Board** within the meaning of the Fees and Travelling Allowances Act 1951.
- (2) The members of the Appeals Board may be paid fees and allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

Clause 3 was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

4 Meetings of Appeals Board

- (1) The Appeals Board shall meet for the conduct of its business at such times and places as it considers necessary.
- (2) The quorum for a meeting of the Appeals Board shall be 3 members of the Board.
- (3) The Appeals Board shall decide every question before it at a meeting by a majority of members.
- (4) The Chairperson shall preside at every meeting of the Appeals Board at which he or she is present. If the Chairperson is not present at a meeting the members present shall appoint one of them to preside at that meeting.
- (5) A resolution signed, or assented to by letter, facsimile transmission, telex, or other method of communication, by not less than 3 members shall have the same effect as a resolution duly passed at a meeting of the Appeals Board.
- (6) Subject to the provisions of this Act, the Appeals Board shall determine its own procedure.

Clause 4 was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

5 Provision of assistance to Appeals Board

The Minister shall ensure that the Appeals Board is provided with such secretarial, legal, and other services as may be necessary to enable the Appeals Board to carry out its function and exercise its powers.

Clause 5 was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

6 Protection of members

No member of the Appeals Board who does any act in pursuance or intended pursuance of the function of the Appeals Board shall be under any civil or criminal liability in respect of the act, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he or she has acted in bad faith.

Clause 6 was amended, as from 2 October 2001, by section 4(3)(a) Government Superannuation Fund Amendment Act 2001 (2001 No 47) by substituting the words “Appeals Board” for the word “Board”.

Schedule 4

s 151

**Further provisions relating to board
of government superannuation fund
authority**

Schedule 4 was inserted, as from 2 October 2001, by section 7(3) Government Superannuation Fund Amendment Act 2001 (2001 No 47).

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1 Interpretation

[Repealed]

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Members' appointments

2 Criterion for appointments

[Repealed]

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

3 Method of appointment*[Repealed]*

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

4 When appointment takes effect*[Repealed]*

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

5 Position where concurrent office*[Repealed]*

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Term of office

6 Term of office*[Repealed]*

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Duties of board members

7 Duties of members*[Repealed]*

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Liability of members

8 Liability of members and committee members*[Repealed]*

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Resignation and removal of members

9 Resignation*[Repealed]*

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

10 Removal from office

[Repealed]

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Vacancies in Authority's membership

11 Effect of vacancy in membership

[Repealed]

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Remuneration

12 Remuneration

[Repealed]

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Chairperson and deputy chairperson

13 Appointment

[Repealed]

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

14 Term of office

[Repealed]

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

15 Resignation

[Repealed]

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

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

[Repealed]

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Acts not to be called into question

17 Acts not to be called into question

[Repealed]

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

18 Validity of members' acts

[Repealed]

Clauses 1 to 18 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Disclosure of interest

19 Obligation to disclose interests

Section 66 of the Crown Entities Act 2004 does not apply to a person who is interested in a matter only because he or she is a member of a company referred to in section 15B(6).

Clause 19 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

20 Meaning of interested

[Repealed]

Clauses 20 to 22 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

21 Disclosure of interest

[Repealed]

Clauses 20 to 22 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

22 Consequences of disclosure

[Repealed]

Clauses 20 to 22 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

23 Matters to be delegated to committee

- (1) The board must delegate a deliberation or decision to a committee if the effect of section 66 of the Crown Entities Act 2004 is that there is not a quorum of members able to take part in the deliberation or decision, or to form a quorum.

- (2) The committee 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.

- (3) Subclause (1) is subject to clause 24.

Clause 23 was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “section 66 of the Crown Entities Act 2004” for the expression “clause 22”.

24 Exceptions

- (1) Section 66 of the Crown Entities Act 2004 does not apply—
 - (a) to any deliberation or decision of the board that is made in accordance with any existing contract that governs the way in which the deliberation or decision is to be made; or
 - (b) to any deliberation or decision of the board to establish a committee, and to delegate the matter to a committee of the board, under clause 23.
- (2) **Existing contract** means a contract—
 - (a) that was entered into by or on behalf of the Authority; and
 - (b) in respect of which the person, or a majority of the persons, making the decision by or on behalf of the Authority were not interested in the transaction.

Clause 24 was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “Section 66 of the Crown Entities Act 2004” for the expression “Clause 22”.

25 Effect of non-compliance

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Use of information

26 Restrictions on disclosure or use of Authority's information

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

27 When member may rely on certain information and advice

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

28 When clause 27 applies

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Procedure of board: general

29 Procedure generally

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Procedure of board: meetings

30 Ordinary meetings

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

31 Special meetings

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

32 Methods of holding meetings

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

33 Quorum

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

34 Who presides at meetings

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

35 Voting at meetings

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

36 Resolutions

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

37 Method of contracting

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

38 Attorneys

[Repealed]

Clauses 25 to 38 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Delegations

39 Additional persons to whom delegation may be made

The board may delegate any of the functions or powers of the board or the Authority to all or any of the following, despite section 73(1)(d) of the Crown Entities Act 2004:

- (a) an administration manager:
- (b) an investment manager:
- (c) a custodian:
- (d) a company established under section 15B(6) and to any employee of that company.

Clause 39 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

40 Certain powers must not be delegated

- (1) The board must not delegate any of the following powers:
- (a)
 - (b) the power to grant a power of attorney:
 - (c) the power of appointment in section 19 or section 19A.
- (2) Neither this clause nor section 73(4) of the Crown Entities Act 2004 limits sections 19 and 19A of this Act or clauses 23 and 24 of this schedule.

Subclause (1)(a) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subclause (2) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “Neither this clause nor section 73(4) of the Crown Entities Act 2004 limits” for the words “This clause does not limit”.

41 Effect of delegation

[Repealed]

Clauses 41 to 49 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

42 Presumption of acting in accordance with delegation

[Repealed]

Clauses 41 to 49 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

43 Other matters relating to delegation

[Repealed]

Clauses 41 to 49 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsidiaries

44 Subsidiaries

[Repealed]

Clauses 41 to 49 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Committees

45 Committees

[Repealed]

Clauses 41 to 49 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Employees

46 Appointment of chief executive officer

[Repealed]

Clauses 41 to 49 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

47 Appointment of other employees

[Repealed]

Clauses 41 to 49 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

48 Personnel policy

[Repealed]

Clauses 41 to 49 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

49 Equal employment opportunities

[Repealed]

Clauses 41 to 49 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

50 Choice of procedure

[Repealed]

Clause 50 was repealed, as from 1 December 2004, by section 72 Employment Relations Amendment Act (No 2) 2004 (2004 No 86). *See* section 73 of that Act for the transitional provisions.

51 Superannuation or retiring allowances

[Repealed]

Clauses 51 and 52 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

52 Application of certain acts to members and employees*[Repealed]*

Clauses 51 and 52 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

53 Existing Government Superannuation Fund members

- (1) A person who, immediately before becoming an employee of the board, was a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 is, for the purposes of that Act, deemed 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**, in relation to that employee, means the board.
- (4) In this section, references to the board include references to a company referred to in section 15B(5)(a) or (c).

Subclause (1) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by omitting the words "Despite clause 52,".

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Notes

1 *General*

This is an eprint of the Government Superannuation Fund Act 1956. The eprint incorporates all the amendments to the Act as at 30 August 2011. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the eprint are also included, after the principal enactment, in chronological order.

2 *About this eprint*

This eprint has not been officialised. For more information about eprints and officialisation, please *see* <http://www.pco.parliament.govt.nz/eprints/>.

3 *List of amendments incorporated in this eprint (most recent first)*

Education Amendment Act 2011 (2011 No 66): section 48(2)

Financial Reporting Amendment Act 2011 (2011 No 22): section 12

Financial Markets Authority Act 2011 (2011 No 5): section 82

Government Superannuation Fund Amendment Act 2009 (2009 No 2): section 5(2)

Policing Act 2008 (2008 No 72): section 130(1)

Income Tax Act 2007 (2007 No 97): section ZA 2(1)
