

Reprint
as at 1 April 2008

**Government Superannuation Fund
Amendment Act 1990**

Public Act 1990 No 30
Date of assent 1 April 1990

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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 Government Superannuation Fund Department.

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An Act to make miscellaneous amendments in relation to government superannuation

BE IT ENACTED by the Parliament of New Zealand as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Government Superannuation Fund Amendment Act 1990, and shall be read together with and deemed part of the Government Superannuation Fund Act 1956 (hereinafter referred to as the principal Act).
- (2) This Act shall come into force on the 1st day of April 1990.

Part 1

Reduction of existing allowances and annuities

2 Application of this Part

This Part of this Act applies to every retiring allowance, annual allowance, and annuity that is, as at the 31st day of March 1990, payable under the principal Act, except—

- (a) Any children's allowance payable under the principal Act; or
- (b) Any allowance or annuity payable in respect of any contributor to the Fund under section 22B or section

22BA or section 50 or section 50A of the principal Act;
or

- (c) Any allowance or annuity to which section 9 of this Act applies.

3 Existing retiring allowances, annual allowances, and annuities to be reduced

Every instalment payable under section 89 of the principal Act after the 31st day of March 1990 of every retiring allowance, annual allowance, and annuity to which this Part applies shall be reduced in accordance with the provisions of this Part of this Act.

4 Amount of reduction

The amount of the reduction to be made in accordance with this Part of this Act to each instalment of a retiring allowance, annual allowance, or annuity that would, but for this Part of this Act, have been payable, shall be a percentage of that instalment where the percentage to apply in respect of that allowance or annuity is calculated at the commencement of this Act in accordance with the following formula:

$$T \ 100 \text{ — } X \text{ — } P \ 1$$

where—

- P is the amount of the first full instalment of the retiring allowance, annual allowance, or annuity that would, but for this Part of this Act, have been payable on and after the 1st day of April 1990:
- T is the amount of the total tax deduction that would have been required to be made in respect of that instalment if,—
- (a) Notwithstanding the enactment of the Income Tax Amendment Act 1989, deductions in respect of income tax were required to be made from those allowances and annuities; and
 - (b) The rates of tax were the rates of tax prescribed in Part B of Schedule 1 to the Income Tax Act 1976 that apply for the tax year commencing on the 1st day of April 1989; and

- (c) The recipient of the allowance or annuity was resident in New Zealand; and
- (d) In the case of a person who is entitled, as at the 31st day of March 1990, to the use of the tax code **T**, that tax code applied to that person; and
- (e) In the case of any other person, the tax code **G** applied to that person.

Section 4 was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “tax year” for the words “income year”.

5 Amount or retiring allowance, etc, to include amount of any cost of living bonus or other adjustment

For the purpose of calculating the amount of any reduction to be made on any date in accordance with this Part of this Act, the amount of any retiring allowance, annual allowance, or annuity shall be taken to include any adjustments as at that date in accordance with the Government Superannuation Fund Amendment Act 1969 or the Government Superannuation Fund Amendment Act 1979 or the principal Act.

6 Suspended allowances, etc

Where any retiring allowance, annual allowance, or annuity that is, before the 1st day of April 1990, payable under the principal Act ceases, or has ceased, to be payable because of any reason and subsequently again becomes payable, this Part of this Act shall apply to that retiring allowance, annual allowance, or annuity and a reduction shall be made pursuant to this Part of this Act as if—

- (a) The allowance or annuity had been payable at the 31st day of March 1990; and
- (b) A full instalment had been payable on the first payment date for allowances and annuities after the 31st day of March 1990.

7 Date on which allowance or annuity becomes payable under section 71N

For the purposes of determining whether any retiring allowance, annual allowance, or annuity is payable as at the 31st day

of March 1990, no account shall be taken of section 71N(6) of the principal Act (which provides that certain contributors under Part 3A shall be deemed to have been receiving an annual retiring allowance from the date of retirement).

8 Amount of annuity payable to spouse or partner

- (1) This section applies to any annuity that becomes payable to the surviving spouse or partner of any contributor—
 - (a)
 - (b) Who was, at the 31st day of March 1990, in receipt of a retiring or annual allowance payable under the principal act.
- (2) The amount of the annuity to which the surviving spouse or partner becomes entitled upon the death of the contributor shall not be less than the amount of the annuity to which the spouse or partner would have been entitled—
 - (a) Had the contributor died on the 31st day of March 1990; and
 - (b) Had that annuity been reduced in accordance with section 4 of this Act.
- (3) No person is entitled, because of the amendments made to this Act by section 6(1) and (2) of the Government Superannuation Fund Amendment Act (No 3) 2005, to any increased payment for any annuity that was paid or is payable for any period before 1 July 2006.

The heading to section 8 was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “or partner” for the word “spouse”.

The heading to section 8 was amended, as from 1 July 2006, by section 6(1) Government Superannuation Fund Amendment Act (No 3) 2005 (2005 No 105) by omitting the words “where contributor dies before 1 April 1996”.

Section 8 was amended, as from 26 April 2005, by section 4(1) Government Superannuation Fund Amendment Act 2005 (2005 No 10) by substituting the words “or partner” for the word “spouse” wherever it appears.

Subsection (1)(a) was repealed, as from 1 July 2006, by section 6(2) Government Superannuation Fund Amendment Act (No 3) 2005 (2005 No 105).

Subsection (3) was inserted, as from 1 July 2006, by section 6(3) Government Superannuation Fund Amendment Act (No 3) 2005 (2005 No 105).

9 Part not to apply to pensioners and annuitants who are resident overseas as at 31 March 1990

This Part of this Act does not apply to any retiring allowance, annual allowance, or annuity that is, as at the 31st day of March 1990, being paid by the Board to an address outside New Zealand in respect of a person whom the Board is satisfied is not resident in New Zealand within the meaning of the Income Tax Act 1976.

10 Reduction of pensions on return to New Zealand

- (1) Notwithstanding anything in section 9 of this Act, every retiring allowance, annual allowance, or annuity that is payable under the principal Act to any person—
- (a) To whom section 9 of this Act refers, or who is the spouse or partner of any such person who becomes entitled to an annuity on the death of that person; and
 - (b) Who becomes resident in New Zealand within the meaning of the Income Tax Act 2007—
- shall be reduced, as from the date on which the person becomes so resident, in accordance with this Part of this Act.
- (2) Any reduction required to be made under this section shall be calculated—
- (a) As if, for the purposes of section 4 of this Act, the item **P** is the amount of the first full instalment of the retiring allowance, annual allowance, or annuity that would, but for this section, have been payable on and after the date on which the person becomes so resident; and
 - (b) As if, for the purposes of calculating the item **T** in that section, the tax code **G** that was in force for the tax year commencing on the 1st day of April 1989 applied to that person.
- (3) Every person to whom subsection (1) of this section refers shall, within 20 days of becoming resident in New Zealand within the meaning of the Income Tax Act 2007, notify the board that that person has become so resident.
- (4) The Board may deduct, from any payments due under the principal Act to any person who fails to comply with subsection (3) of this section, the amount of any overpayment caused by

any reduction not having been made on time in accordance with this section.

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

Section 10(1)(b): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsections (1)(b) and (3) were amended, as from 1 April 1995, by section YB1 Income Tax Act 1994 (1994 No 164) by substituting the words “Income Tax Act 1994” for the words “Income Tax Act 1976”.

Section 10 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” in all places in which they appear.

Subsection (2)(b) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “tax year” for the words “income year”.

Section 10(3): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Part 2

Amendments to principal Act in respect of allowances, annuities, and payments commencing on and after 1 April 1990

11 Retiring allowance under Part 2

- (1) *This subsection substituted s 35(1), and inserted s 35(1A) to (1E) of the principal Act.*
- (2) *This subsection amended s 35(6) of the principal Act.*

12 Computation of retiring allowances under Part 2 on average salary for last 5 years of service

This section amended s 38(1) of the principal Act.

13 Computation of retiring allowance under Part 2A

- (1) *This subsection substituted s 61L(1), and inserted s 61L(1A) of the principal Act.*
- (2) *This subsection amended s 61L(3) of the principal Act.*
- (3) *This subsection amended s 61L(6) of the principal Act.*
- (4) *This subsection amended s 61R(9)(c) of the principal Act.*
- (5) *This subsection amended s 61S(7)(c) of the principal Act.*

- 14 Entitlement to retiring allowance under Part 3A**
This section substituted s 71G(1) and inserted s 71G(1A) of the principal Act.
- 15 Retiring allowance under Part 3A where retirement on grounds of disability**
This section substituted s 71H(1) of the principal Act.
- 16 Election under Part 3A to surrender portion of retiring allowance and receive cash payment**
This section amended s 71M(1) of the principal Act.
- 17 Right under Part 3A to defer retiring allowance to age 55 or 60 in return for lump sum at retirement**
(1) *This subsection amended s 71N(1) of the principal Act.*
(2) *This subsection amended s 71N(6), and inserted s 71N(7) and (8) of the principal Act.*
- 18 Computation of retiring allowance under Part 5A**
This section substituted s 81I of the principal Act.
- 19 Minimum retiring allowance for Judge who resigns on grounds of incapacity**
This section repealed s 81J of the principal Act.
- 20 Certain Judges or surviving spouses to be entitled to minimum payments**
This section repealed s 81V of the principal Act.
- 21 Taxation exemption in respect of contributions under Part 6**
This section repealed s 83A of the principal Act.

22

Section 22 was repealed, as from 8 May 1992, by section 3(2) Government Superannuation Fund Amendment Act 1992 (1992 No 40).

23 Election under Part 6 to surrender portion of retiring allowance and receive cash payment

This section amended s 84A(1) of the principal Act.

24 Special right of member who has not attained 45 years to elect to surrender proportion of retiring allowance and receive cash payment

This section amended s 84AA(2)(b) of the principal Act.

25

Section 25 was repealed, as from 8 May 1992, by section 5(2) Government Superannuation Fund Amendment Act 1992 (1992 No 40).

26 Election under Part 6 to surrender proportion of annuity and receive cash payment

This section amended s 86F(2) of the principal Act.

27 Computation of retiring allowance under Part 6A

This section substituted s 88F(1) and (2), and inserted s 88F(2A) and (2B) of the principal Act.

28 Calculation of retiring allowance under Part 6B

This section substituted s 88T(1) and (2), and inserted s 88T(2A) and (2B) of the principal Act.

29 Election to surrender proportion of retiring allowance and receive cash payment

(1) *This subsection amended s 91(1) of the principal Act.*

(2) *This subsection amended s 91(1) of the principal Act.*

30 Election to surrender proportion of annuity and receive cash payment

(1) *This subsection amended s 91A(2)(a) of the principal Act.*

(2) *This subsection amended s 91(1) of the principal Act.*

31 Savings in respect of certain overseas staff

For the purpose of calculating any retiring allowance, annual allowance, annuity, or other payment payable in respect of any contributor to the Fund under section 22B or section 22BA or

section 50 or section 50A or section 50B of the principal Act, the provisions of the principal Act shall apply as if this Part of this Act had not been enacted.

Section 31 was amended, as from 1 August 1990, by section 15(1) Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 77) by inserting the words “or section 50B”.

32 Savings in respect of pensions that become payable before 1 October 1990 to overseas residents

- (1) This section applies to every retiring allowance, annual allowance, annuity, or other payment that commences, on or after the 1st day of April 1990 and before the 1st day of October 1990, to be payable under the principal Act to an address outside New Zealand in respect of a person—
- (a) Who was a contributor, or who is the surviving spouse or partner of any deceased contributor; and
 - (b) Who is not resident in New Zealand within the meaning of the Income Tax Act 2007.
- (2) Every retiring allowance, annual allowance, annuity, or other payment to which this section applies—
- (a) Shall be calculated in accordance with the provisions of the principal act as if those provisions had not been amended by this Part and as if Part 3 of this Act had not been enacted; and
 - (b) Shall be payable at that rate as from the first payment date after the date on which the Board is notified that the payment is to be made to an address outside New Zealand.

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

Section 32(1)(b): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (1)(b) was amended, as from 1 April 1995, by section YB1 Income Tax Act 1994 (1994 No 164) by substituting the words “Income Tax Act 1994” for the words “Income Tax Act 1976”.

Subsection (1)(b) 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”.

33 Reduction of pensions on return to New Zealand

- (1) Notwithstanding anything in section 32 of this Act, every retiring allowance, annual allowance, or annuity that is payable under the principal Act to any person—
- (a) To whom section 32 of this Act refers, or who is the spouse or partner of any such person who becomes entitled to an annuity of the death of that person; and
 - (b) Who becomes resident in New Zealand within the meaning of the Income Tax Act 2007—
- shall be reduced, as from the date on which the person becomes so resident, in accordance with the provisions of Part 1 of this Act.
- (2) Any reduction required to be made under this section shall be calculated—
- (a) As if, for the purposes of section 4 of this Act, the item **P** is the amount of the first full instalment of the retiring allowance, annual allowance, or annuity that would, but for this section, have been payable on and after the date on which the person becomes so resident; and
 - (b) As if, for the purposes of calculating the item **T** in that section, the tax code **G** that was in force for the tax year commencing on the 1st day of April 1989 applied to that person.
- (3) Every person to whom subsection (1) of this section refers shall, within 20 days of becoming resident in New Zealand within the meaning of the Income Tax Act 2007, notify the Board that that person has become so resident.
- (4) The Board may deduct, from any payments due under the principal Act to any person who fails to comply with subsection (3) of this section, the amount of any overpayment caused by any allowance or annuity not having been reduced on time in accordance with this section.

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

Section 33(1)(b): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (1)(b) was amended, as from 1 April 1995, by section YB1 Income Tax Act 1994 (1994 No 164) by substituting the words “Income Tax Act 1994” for the words “Income Tax Act 1976”.

Subsection (2)(b) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “tax year” for the words “income year”.

Section 33(3) was amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (3) was amended, as from 1 April 1995, by section YB1 Income Tax Act 1994 (1994 No 164) by substituting the words “Income Tax Act 1994” for the words “Income Tax Act 1976”.

Section 33 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” in all places in which they appear.

Part 3

Further variation of allowances and annuities commencing between 1 April 1990 and 31 March 1996

34 Application of this Part

This Part of this Act applies to every retiring allowance, annual allowance, and annuity that commences, on or after the 1st day of April 1990 and before the 1st day of April 1996, to be payable under the principal Act, except—

- (a) Any annuity that commences to be payable upon the death of a person who is in receipt of a retiring allowance or annual allowance payable under the principal Act; or
- (b) Any children’s allowance payable under the principal Act; or
- (c) Any allowance payable to an assignee under section 91B of the principal Act in circumstances where an instalment of the contributor’s basic allowance in respect of which a portion is surrendered became payable before the date from which the portion is surrendered; or
- (d) Any allowance or annuity payable in respect of any contributor to the Fund under section 22B or section 22BA or section 50 or section 50A or section 50B of the principal Act.

Paragraph (d) was amended, as from 1 August 1990, by section 15(2) Government Superannuation Fund Amendment Act (No 2) 1990 (1990 No 30) by inserting the words “or section 50B”.

35 Retiring allowances, annual allowances, and annuities to be varied

Every instalment payable under section 89 of the principal Act of every retiring allowance, annual allowance, and annuity to which this Part applies shall be varied in accordance with this Part of this Act, but such variation shall be ignored for the purposes of determining any lump sum benefit payable under the principal Act.

36 Amount of varied retiring allowance, etc

- (1) The amount of each instalment of any retiring allowance, annual allowance, or annuity that is varied in accordance with this Part of this Act shall be the amount of the instalment of that allowance or annuity that would, but for this Part of this Act, have been payable, multiplied by the appropriate factor determined in accordance with subsection (3) of this section at the commencement of the retiring allowance, annual allowance, or annuity.
- (2) In subsection (3) of this section,—
- AP** means the annual rate of the retiring allowance, annual allowance, or annuity that would, but for this Part of this Act, have been payable on the first instalment of the retiring allowance, annual allowance, or annuity
- F** means the factor for the purpose of subsection (1) of this section
- FO** means NP divided by AP
- GP** means $AP \times 1.2$
- n** means the number of years (including fractions of a year) between the 1st day of April 1990 and the date on which the retiring allowance, annual allowance, or annuity commences to be payable
- NP** means GP less T
- T** means the amount of the total annual tax deduction that would have been required to be made in respect of a retiring allowance, annual allowance, or annuity of an annual amount equal to GP if,—
- (a) Notwithstanding the enactment of the Income Tax Amendment Act 1989, deductions in respect of income

- tax were required to be made from those allowances and annuities; and
- (b) The rates of tax were the rates of tax prescribed in Part B of Schedule 1 to the Income Tax Act 1976 that apply for the tax year commencing on the 1st day of April 1989; and
 - (c) The recipient of the allowance or annuity was resident in New Zealand; and
 - (d) Tax code **G** applied to the recipient of the allowance or annuity.
- (3) For the purpose of determining the appropriate factor in subsection (1) of this section,—
- (a) In a case where AP is less than or equal to \$9,081,—
$$F = FO - 0.02n, \text{ with a minimum of } 1:$$
 - (b) In a case where AP is greater than \$9,081,—
$$F = FO + 0.02n, \text{ with a maximum of } 1.$$

Subsection (2)(b) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “tax year” for the words “income year”.

37 Amount of retiring allowance, etc, to include amount of any cost of living bonus or other adjustment

For the purpose of calculating the amount of any variation of a retiring allowance, annual allowance, or annuity to be made on any date in accordance with this Part of this Act, the amount of any retiring allowance, annual allowance, or annuity shall be taken to include any adjustments as at that date in accordance with the Government Superannuation Fund Amendment Act 1969 or the Government Superannuation Fund Amendment Act 1979 or the principal Act.

38 Amount of retiring allowance, etc, to mean amount as reduced under Part 2

For the avoidance of doubt, it is hereby declared that any reference in section 36 of this Act to the amount of an instalment of any retiring allowance, annual allowance, or annuity that would, but for this Part of this Act, have been payable, is a

reference to any such amount that is payable after taking account of Part 2 of this Act.

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Notes

1 *General*

This is an eprint of the Government Superannuation Fund Amendment Act 1990. It incorporates all the amendments to the Government Superannuation Fund Amendment Act 1990 as at 1 April 2008. 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 are also included, after the Principal enactment, in chronological order.

2 *About this eprint*

This eprint has not been officialised. For more information about officialisation, please see "Making online legislation official" under "Status of legislation on this site" in the About section of this website.

3 *List of amendments incorporated in this eprint (most recent first)*

Income Tax Act 2007 (2007 No 97): section ZA 2(1)
