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1976, No. 3

An Act to provide for the dissolution of the New Zealand Superannuation Corporation and the New Zealand Superannuation Scheme, and also to provide for the approval of other superannuation schemes

[23 July 1976

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 Superannuation Schemes Act 1976.

(2) Section 10 of this Act shall be deemed to have come into force on the 16th day of December 1975, and the remaining provisions of this Act shall come into force on the 14th day after the date on which this Act receives the Governor-General's assent.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Approved superannuation scheme” means a superannuation scheme that, for the time being, is granted or is deemed to have been granted approval or interim approval under Part II of this Act:

“Benefit” means any annuity, allowance, refund, or other benefit payable under a superannuation scheme:

“Commissioner of Inland Revenue” or “Commissioner” means the Commissioner of Inland Revenue appointed under the State Services Act 1962; and includes any person for the time being authorised (whether by delegation by him or otherwise) to exercise or perform any of his powers or functions:

“Employee” means any person who is engaged to work or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical or professional work, or otherwise:

“Employer” means any person who pays or is liable to pay to any person (being an employee within the meaning of this subsection) any earnings as an employee:

“Fund”, in relation to a superannuation scheme, means the accumulation of assets out of which the benefits arising under the scheme are paid:

“Government Actuary” includes any person for the time being authorised (whether by delegation by him or otherwise) to exercise or perform any of his powers or functions:

“Local authority” means a local authority within the meaning of Part I of the Local Authorities Loans Act 1956, whether by virtue of section 2 of that Act, or of any Order in Council made under that Act, or by virtue of any other Act; and includes any body

that is declared by any enactment to be a local authority for the purposes of this Act or of the National Provident Fund Act 1950:

“Managers”, in relation to any superannuation scheme, means the persons designated as such in the trust deed or other instrument governing the scheme or to whom the trustees of the scheme have delegated some part of the responsibility for the administration of the scheme:

“Minister” means the Minister of Finance:

“Original Annuity Account” means the Annuity Account established under section 21 (a) of the New Zealand Superannuation Act 1974:

“Person”, in relation to an employer, includes a company or other body corporate, whether incorporated in New Zealand or elsewhere, and a public body; and also includes an unincorporated body of persons, a partnership, an association of persons carrying on a joint undertaking, and a Government Department:

“Reconstituted Annuity Account” means the Reconstituted Annuity Account established under section 5 of this Act:

“Superannuation scheme” or “scheme” includes any scheme, fund, or plan for providing retirement and other benefits for employees or other persons or their dependants, whether at or after the retirement or death of the employees or persons or during their service, and whether by means of life insurance or otherwise:

“Trustees”, in relation to any superannuation scheme, means the persons who are designated as such in the trust deed or other instrument governing the scheme and who have the responsibility for the administration of the scheme.

PART I

DISSOLUTION OF NEW ZEALAND SUPERANNUATION CORPORATION AND NEW ZEALAND SUPERANNUATION SCHEME

3. Dissolution of New Zealand Superannuation Corporation and New Zealand Superannuation Scheme—Subject to section 11 (4) of this Act,—

- (a) The New Zealand Superannuation Corporation and the New Zealand Superannuation Scheme established under the New Zealand Superannuation Act 1974 shall cease to exist immediately on the expiration of the 13th day after the date on which this Act receives the Governor-General's assent:
- (b) Liability under the New Zealand Superannuation Act 1974 for payment of employees' contributions and employers' contributions (including amounts payable under section 42 (1) (b) of that Act) in respect of any person's earnings as an employee derived from his employment on or after the 16th day of December 1975 shall be deemed to have ceased on that date.

4. Devolution of assets and liabilities of New Zealand Superannuation Corporation—(1) All real and personal property of whatsoever nature and wheresoever situated vested in the New Zealand Superannuation Corporation immediately before the commencement of this section shall, upon the commencement of this section, vest in the National Provident Fund Board without conveyance or assignment, subject to all charges, encumbrances, estates, and interests affecting the same; and, subject to the provisions of this Part of this Act, all liabilities of the New Zealand Superannuation Corporation shall be deemed to be liabilities of the National Provident Fund Board.

(2) In any case where land vests in the National Provident Fund Board under this section, the District Land Registrar for the land registration district in which the land is situated, on the deposit with him of such plans and documents as he may require, shall make such entries in the register and generally do all such things as may be necessary to give full effect to the provisions of this section.

(3) Subject to the provisions of this Act, the National Provident Fund Board shall—

- (a) Realise in an orderly manner all property that vests in it in accordance with this section:
- (b) Discharge all liabilities and make all payments for which it becomes responsible in accordance with this Act.

(4) The National Provident Fund Board may purchase any real or personal property to which this section applies at a valuation approved by the Minister. After any such purchase this Part of this Act shall apply to the proceeds of the property purchased, but not to that property.

(5) No stamp duty shall be payable on any instrument required for any purpose in relation to the vesting of any real or personal property in the National Provident Fund Board under this section.

5. Reconstituted Annuity Account—(1) The National Provident Fund Board shall establish a Reconstituted Annuity Account within the National Provident Fund Account.

(2) There shall be credited to the Reconstituted Annuity Account—

(a) An amount equal to the amount of the balance to the credit of the original Annuity Account (established under section 21 (a) of the New Zealand Superannuation Act 1974) immediately before the commencement of this section:

(b) Interest at the rates for the time being determined by the Minister on the balance of the Reconstituted Annuity Account.

(3) There shall be charged to the Reconstituted Annuity Account:

(a) All superannuation annuities, superannuation allowances, annuities, and amounts that had become payable, whether immediately or in future, out of the original Annuity Account in respect of amounts received by the New Zealand Superannuation Corporation for credit to that Account under paragraphs (a) and (b) of section 54 (5) of the New Zealand Superannuation Act 1974 before the repeal of that Act:

(b) All expenses incurred in paying the said superannuation annuities, superannuation allowances, annuities, and amounts, as determined by the National Provident Fund Board.

(4) All superannuation annuities, superannuation allowances, annuities, and amounts that are charged on the Reconstituted Annuity Account shall be payable and adjusted as if—

(a) The New Zealand Superannuation Act 1974 continued in force; and

(b) References in that Act to the Annuity Account were references to the Reconstituted Annuity Account; and

(c) Section 87 of that Act (which relates to inalienability of benefits) continued in force and extended to the said superannuation annuities, superannuation allowances, annuities, and amounts.

(5) The Reconstituted Annuity Account, and all superannuation annuities, superannuation allowances, annuities, and amounts that are charged thereon are hereby guaranteed by the Government of New Zealand.

(6) The National Provident Fund Board shall—

(a) At any time pay to the Consolidated Revenue Account any amount to the credit of the Reconstituted Annuity Account that it considers to be in excess of the amount required to meet all payments that it expects will become charged to the Reconstituted Annuity Account:

(b) When it considers that no further amounts will become charged to the Reconstituted Annuity Account, pay to the Consolidated Revenue Account the balance to the credit of the Reconstituted Annuity Account.

6. New Zealand Superannuation Scheme Disposal Account—(1) The National Provident Fund Board shall establish a New Zealand Superannuation Scheme Disposal Account within the National Provident Fund Account.

(2) Subject to section 5 of this Act,—

(a) There shall be credited to the New Zealand Superannuation Scheme Disposal Account—

(i) All money that vested in the National Provident Fund Board under section 4 of this Act:

(ii) All amounts arising from the realisation of property that vested in the National Provident Fund Board under section 4 of this Act:

(iii) All amounts advanced by the Minister of Finance out of the Consolidated Revenue Account under section 7 (9) of this Act:

(iv) All amounts received by the National Provident Fund Board after the commencement of this section in respect of contributions and contribution deductions under the New Zealand Superannuation Act 1974 that had not been paid into the New Zealand Superannuation Fund:

(v) All amounts recovered by the National Provident Fund Board pursuant to section 7 (8) of this Act:

(vi) All interest, profits, and other earnings arising from property that vested in the National Provident Fund Board under section 4 of this Act:

- (b) All other real and personal property that vested in the National Provident Fund Board under section 4 of this Act shall be held in respect of the New Zealand Superannuation Scheme Disposal Account:
- (c) There shall be charged to the New Zealand Superannuation Scheme Disposal Account—
 - (i) All amounts paid in discharge of the liabilities that devolved on the National Provident Fund Board under section 4 of this Act and of the liabilities of the National Provident Fund Board in relation to the property that vested in it under that section:
 - (ii) All amounts paid, transferred, credited, or refunded under section 7 of this Act:
 - (iii) All amounts paid into the Consolidated Revenue Account in reimbursement of advances made from that Account for the purposes of this Act:
 - (iv) All amounts paid under section 7 (12) of this Act in respect of the remuneration of the Commissioner for his services under this Act:
 - (v) All expenses incurred by the National Provident Fund Board in the administration of this Part of this Act, as determined by the National Provident Fund Board.

7. Refunds—(1) Subject to the provisions of this section, refunds of amounts held in the New Zealand Superannuation Fund under the New Zealand Superannuation Act 1974 immediately before the commencement of this section, or paid to the National Provident Fund Board after the commencement of this section, in respect of contributions (being employees' contributions, contribution deductions, and employers' contributions, and including amounts paid under section 42 (1) (b) of the New Zealand Superannuation Act 1974), and in respect of transfer values, shall, on application made in writing to the National Provident Fund Board or the Commissioner of Inland Revenue, be made by that Board or by the Commissioner as agent for that Board as follows:

- (a) All amounts so held in respect of employee's contributions in respect of any person's earnings as an employee shall be refunded to that person:
- (b) All amounts so held in respect of employer's contributions in respect of any person's earnings as an employee and derived from his employment on and

after the 16th day of December 1975 shall, if his employer so requests in writing not later than the 15th day of August 1976, be refunded to that employer or that person, as may be specified in the request:

Provided that—

(i) An employer may at any time waive his right to make any such request:

(ii) Where any such amount has been shown in a New Zealand Superannuation contribution deduction certificate, or in such other evidence in writing as the Commissioner may require, being a certificate or evidence in writing that has been delivered by that person to the Commissioner, the employer by whom that certificate was signed or that evidence in writing was provided shall be deemed to have so waived that right:

(c) All amounts so held in respect of employer's contributions in respect of any person's earnings as an employee that are not required to be refunded to the employer in accordance with paragraph (b) of this subsection shall be refunded to that person:

(d) All amounts so held in respect of contributions that were made under section 34 (3) of the New Zealand Superannuation Act 1974 and were not paid or deemed to have been paid to the Commissioner of Inland Revenue as agent for the New Zealand Superannuation Board shall be paid to the person in respect of whom they were paid or his legal personal representative:

(e) All amounts so held in respect of transfer values paid into the New Zealand Superannuation Fund under section 75 of the New Zealand Superannuation Act 1974 shall be paid to the person in respect of whom they were paid or his legal personal representative.

(2) If the person entitled to any such refund so requests before the refund is made, the amount that would otherwise be refunded to that person shall, instead of being refunded to him, be transferred or paid in respect of him to the National Scheme of the National Provident Fund or to another approved superannuation scheme.

(3) Any person who desires to obtain a refund of contributions to which he is entitled in accordance with any of the provisions of paragraphs (a), (b), and (c) of subsection (1) of this section, being contributions paid or deemed to be paid

to the Commissioner of Inland Revenue as agent for the New Zealand Superannuation Board, in respect of earnings as an employee derived by that person, may, at any time after the 31st day of March in the year ending with that date in which those earnings as an employee were so derived, make application to the Commissioner for a refund of those contributions, and such application—

- (a) May be made when the return of income of that person for the year that ended with that 31st day of March is furnished under and for the purposes of the Land and Income Tax Act 1954:
 - (b) Shall be accompanied by a New Zealand Superannuation contribution deduction certificate relating to the contributions in respect of which that application is made or by such other evidence in writing of those contributions as the Commissioner may require.
- (4) Where such an application is made and in any other case where the Commissioner thinks fit to do so, the Commissioner shall give, to the person entitled to the refund, credit for the amount of those contributions as if that person had paid that amount on account of income tax payable by him pursuant to the Land and Income Tax Act 1954, and—
- (a) The Commissioner shall thereupon deduct from the amount of the credit so given, so far as that credit extends, the amount (if any) of income tax assessed by the Commissioner in respect of that person and not already paid; and
 - (b) To the extent (if any) that the amount of the credit so given exceeds that amount of income tax, an amount equal to that excess shall be paid by the Commissioner as agent for the National Provident Fund Board to that person; and
 - (c) The deduction (if any) and the payment (if any) so made by the Commissioner shall, for the purposes of this Part of this Act, be together deemed to be, and to constitute the making of, the refund for which that application was or could have been made; and
 - (d) The National Provident Fund Board shall from time to time, without further appropriation than this section, pay to the Commissioner amounts equal to the amounts for which he has given credit to any persons under this section, and for the purposes of

this section such payments shall be deemed to have been or to be payments to enable refunds to be made under this section.

(5) The Commissioner of Inland Revenue or the National Provident Fund Board may, in his or its discretion, refrain from making a refund to any person under this section if the total amount that would otherwise be refunded to that person does not exceed 50 cents.

(6) Where any person who is entitled to a refund of any amount under this section (not being an amount for which credit has been given under subsection (4) of this section) fails to make application therefor by the 31st day of March 1984, the amount of the refund to which he is entitled shall be paid into the Consolidated Revenue Account.

(7) Notwithstanding sections 5 (4) (c) and 11 (4) of this Act, section 87 of the New Zealand Superannuation Act 1974 shall not apply after the commencement of this Part of this Act to amounts refunded or to be refunded under this section.

(8) Subject to section 94B of the Judicature Act 1908, as inserted by section 2 of the Judicature Amendment Act 1958, any amounts paid, transferred, or credited to or in respect of any person under this section without that person being lawfully entitled thereto may be recovered by the National Provident Fund Board or by the Commissioner as agent for that Board as a debt due to that Board or the Commissioner.

(9) The Minister of Finance may, without further appropriation than this section, make advances out of the Consolidated Revenue Account on such terms as he thinks fit to the National Provident Fund Board to enable refunds, transfers, and payments to be made under this section without waiting for realisation of the property that vests in that Board under section 4 of this Act. All amounts so advanced shall, as soon as practicable, be reimbursed to the Consolidated Revenue Account by the National Provident Fund Board from money in the New Zealand Superannuation Scheme Disposal Account.

(10) Where any payment, deduction, or transfer has been made, or any credit has been given, by the New Zealand Superannuation Board or the Commissioner before the commencement of this section and could have been made or given by the National Provident Fund Board or the Commissioner under this section if it had not been so made or given, the payment, deduction, transfer, or credit shall be deemed to have been made or given pursuant to this section; and any advances

made from the Consolidated Revenue Account in respect thereof shall be deemed to have been or to be advances to the National Provident Fund Board made pursuant to this section.

(11) Any amount paid, credited, or transferred to or in respect of an employee pursuant to this section, being an amount in respect of contributions on earnings as an employee derived by that employee during the year that ended with the 31st day of March 1976 and not being an amount paid to an employer, shall be exempt from income tax:

Provided that this subsection shall not apply to any amount that, under section 88 (1) (eee) of the Land and Income Tax Act 1954, has been included in the assessable income of any employee.

(12) The Commissioner shall be entitled to receive appropriate remuneration from the National Provident Fund Board for his services under this Act.

8. Delegation of powers by National Provident Fund Board to Commissioner—(1) The National Provident Fund Board may from time to time in writing, either generally or particularly, delegate to the Commissioner of Inland Revenue all or any of the powers of that Board under this Act:

Provided that the powers that may be so delegated shall not include the power to delegate under this section.

(2) Subject to any general or special conditions attached by the National Provident Fund Board, the Commissioner may exercise any powers delegated to him as aforesaid in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Unless and until any such delegation is revoked, it shall continue in force according to its tenor notwithstanding that all or any of the members of the National Provident Fund Board or the Commissioner at the time when the delegation was made have ceased to hold office, and shall continue to have effect as if made by or to their successors.

(4) Where the Commissioner purports to act pursuant to any delegation under this section, he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(5) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the National Provident Fund Board.

9. Reports by National Provident Fund Board—(1) The National Provident Fund Board, in making its annual report under section 69 of the National Provident Fund Act 1950 for the year ending with the 31st day of March 1977, shall include in the report:

- (a) A statement as to the property and liabilities that vested in it in accordance with section 4 of this Act:
- (b) Such statements of account, duly audited by the Audit Office, as are necessary to show fully the financial results of the operations of the New Zealand Superannuation Corporation during the period that commenced on the 1st day of April 1976 and ended at the time of the repeal of the New Zealand Superannuation Act 1974:
- (c) A statement, duly audited by the Audit Office, as to the disposal during that year of the property and the satisfaction of the liabilities that vested in or passed to the National Provident Fund Board as aforesaid.

(2) The National Provident Fund Board, in making its annual report under section 69 of the National Provident Fund Act 1950 for each subsequent year ending with the 31st day of March until, and including that in which, both the Reconstituted Annuity Account and the New Zealand Superannuation Scheme Disposal Account are closed, shall include in the report a statement, duly audited by the Audit Office, as to the disposal during that year of the property and the satisfaction of the liabilities that vested in or passed to it as aforesaid.

10. Protection against action—Notwithstanding the provisions of the New Zealand Superannuation Act 1974 or any other Act or any rule of law, no action or other proceedings, whether civil or criminal, shall lie in any Court against—

- (a) Any employer or employee or the Accident Compensation Commission for—

- (i) Failing to make or deduct any contributions under the New Zealand Superannuation Act 1974 by or in respect of any person's earnings as an employee derived from his employment on and after the 16th day of December 1975, or in respect of earnings related compensation payable to the person for any period commencing on or after that date:

- (ii) Failing to deliver or give or furnish any statement, certificate, copy of certificate, or return to the New Zealand Superannuation Corporation or the New Zealand Superannuation Board or the Commissioner or the Post Office in respect of any period commencing on or after the 16th day of December 1975 during which no contributions to which the statement, certificate, copy of certificate, or return would relate have been made or deducted under the New Zealand Superannuation Act 1974:
- (b) The New Zealand Superannuation Corporation or the New Zealand Superannuation Board or the Commissioner of Inland Revenue or the Post Office or any other body or person for failing to take steps to enforce the making or deduction of any contributions, or the delivery or giving or furnishing of any statement, certificate, copy of certificate, or return, to which paragraph (a) of this section relates:
- (c) The trustees or managers of any superannuation scheme for making or permitting, whether by an amendment of the instrument or conditions governing the scheme or otherwise, refunds of contributions in respect of any members' earnings as an employee derived from his employment during the year that commenced on the 1st day of April 1975 up to the extent to which a refund would have been made under section 7 of this Act if those contributions had been made to the New Zealand Superannuation Fund.

11. Repeal, revocations, amendments, and savings—

- (1) The New Zealand Superannuation Act 1974 is hereby repealed.
- (2) The following regulations are hereby revoked:
- (a) The New Zealand Superannuation Regulations 1974 (S.R. 1974/228):
- (b) The New Zealand Superannuation Regulations 1974, Amendment No. 1 (S.R. 1974/316):
- (c) The New Zealand Superannuation Regulations 1974, Amendment No. 2 (S.R. 1975/66).
- (3) The enactments specified in the Schedule to this Act are hereby consequentially amended in the manner indicated in that Schedule.

(4) Notwithstanding section 3 of this Act and the foregoing provisions of this section, but without restricting section 10 of this Act,—

- (a) Section 18 of the New Zealand Superannuation Act 1974 shall continue in force so far as may be necessary to give exclusion of personal liability in the circumstances contemplated in that section:
- (b) Section 41 of the New Zealand Superannuation Act 1974 shall continue in force so far as may be necessary to ensure the keeping and retention of records required to be kept and retained under that section:
- (c) Section 92 of the New Zealand Superannuation Act 1974 shall continue in force so far as may be necessary to preserve secrecy and confer privilege and enable the taking of proceedings in respect of offences in the circumstances provided or contemplated in that section:
- (d) All other enactments repealed or revoked or amended by subsections (1) to (3) of this section shall continue in force, as if those subsections had not been passed, so far as they relate to—
 - (i) Liability for contributions on any person's earnings as an employee derived from his employment on or before the 15th day of December 1975:
 - (ii) Liabilities and obligations in relation to contribution deductions whenever made:
 - (iii) Liability to deliver, give, or furnish statements, certificates, copies of certificates, returns, forms, and information in respect of contributions and contribution deductions to which the foregoing provisions of this paragraph relate:
 - (iv) Offences and penalties in relation to those liabilities and obligations, and powers and procedure in relation to the ascertainment and enforcement thereof:
 - (v) Objections and appeals:
 - (vi) Determination of the nature of earnings and the assessment of contributions:
 - (vii) Investigations:
- (e) So far as the enactments to which paragraph (d) of this subsection applies continue in force as provided in that paragraph, they shall be read, in relation to matters occurring or to be done after the commencement of this section, as if—

(i) References to the New Zealand Superannuation Corporation, and references to the New Zealand Superannuation Board, were references to the National Provident Fund Board:

(ii) References to the New Zealand Superannuation Fund were references to the New Zealand Superannuation Scheme Disposal Account or the Reconstituted Annuity Account, as the context may require.

PART II

APPROVAL OF SUPERANNUATION SCHEMES

12. Approval of superannuation schemes—(1) At any time after the commencement of this Part of this Act, any local authority, company, body, or person may seek the approval of the Government Actuary for any superannuation scheme established for the benefit of persons in its or his service, self-employed persons, or other persons.

(2) Nothing in this section shall affect section 25 of the Finance Act (No. 2) 1942.

13. Requirements for approval—Where the approval of the Government Actuary is so sought, he shall approve the scheme if—

- (a) The scheme meets all the requirements for approval prescribed by this Act and any regulations made thereunder; and
- (b) The Government Actuary is satisfied that, having regard to all the circumstances, the interests of persons who may be expected to become entitled to benefits under the scheme will be secured.

14. Transitional arrangements for existing schemes—(1) Notwithstanding section 13 of this Act, any superannuation scheme (including any part of such a scheme) that is in existence at the commencement of this Part of this Act, and had the provisional or formal approval of the Government Actuary under Part III of the New Zealand Superannuation Act 1974 immediately before the repeal of that Act, shall be deemed to be approved by the Government Actuary under this Part of this Act, as follows:

- (a) A scheme that had such provisional approval under that Part of that Act, whether as an alternative scheme or a restricted scheme, shall be deemed to have been granted interim approval under this Part of this Act until the date on which that provisional approval would have expired if this Act had not been passed or until the 31st day of March 1977, whichever is the later:
- (b) A scheme that had such formal approval under that Act, whether as an alternative scheme or a restricted scheme, shall be deemed to have been granted interim approval under this Part of this Act until the 31st day of March 1980.

(2) Notwithstanding section 13 of this Act, any scheme approved as a supplementary fund or scheme, in terms of paragraph (e) of the definition of the term "superannuation fund" in section 2 of the Land and Income Tax Act 1954 (as amended by section 38 of the Land and Income Tax Amendment Act (No. 2) 1974), shall be deemed to have been granted interim approval under this Part of this Act until the 31st day of March 1980.

(3) In any case where a superannuation scheme is deemed to have been granted interim approval as aforesaid, application for the approval of the scheme may be made under sections 12 and 13 of this Act at any time before the expiration of that interim approval, and the Government Actuary may—

- (a) Grant an extension of the interim approval for such period as he considers necessary for the determination of the application:
- (b) Grant approval of the scheme in accordance with those sections.

(4) Where a superannuation scheme is deemed to have been granted interim approval, and approval under subsection (3) (b) of this section is not granted before the expiry of the period of interim approval and any extension thereof, the scheme shall cease to be approved upon that expiry.

15. Reports on and certificates for schemes—(1) The trustees or managers of every superannuation scheme that has been granted or is deemed to have been granted the approval or interim approval of the Government Actuary under this Part of this Act shall report annually thereon to the Government Actuary by such date, and in such manner, as may be prescribed by regulations made under this Act.

(2) The Government Actuary may require the trustees or managers of any such scheme to furnish him with such further information in respect of the scheme as he may require.

(3) If the Government Actuary is not satisfied with the security of the benefits or the adequacy of the management of any approved scheme, he may withdraw his approval of the scheme or order the scheme to be wound up.

16. Objections and appeals against decisions—(1) Any person who is dissatisfied with a decision made by the Government Actuary in the exercise of his powers, functions, and discretions under this Act may object to that decision to the Government Actuary in any case where the decision—

- (a) Relates to the agreement or refusal of the Government Actuary to give or continue approval to any superannuation scheme; or
- (b) Is an order of the Government Actuary to wind up any superannuation scheme.

(2) Any objection under this section shall be made and considered in accordance with regulations made under this Act, and in the absence of any such regulations, or so far as any such regulations do not extend, in such manner as the Government Actuary may determine.

(3) Any person whose objection is disallowed by the Government Actuary may appeal against that disallowance to the Supreme Court.

(4) Every appeal under this section shall be heard and determined by the Administrative Division of the Supreme Court.

(5) Every such appeal shall be by notice of appeal in writing, and shall be lodged with the Registrar of the Supreme Court, together with a duplicate of that notice, within 28 days after the date on which the appellant was notified of the disallowance of the objection or within such further time as the Supreme Court may allow on application made either before or after the expiration of those 28 days.

(6) In its determination of any appeal, the Supreme Court may confirm, modify, or reverse the order or decision appealed against.

(7) Subject to the provisions of this section, the procedure in respect of any such appeal shall be in accordance with the rules of the Supreme Court.

17. Offences—(1) Every person commits an offence against this Act who—

- (a) Refuses or fails to deliver any statement or report or copy or certificate or to furnish any return or to give any certificate as and when required under this Part of this Act; or
- (b) Fails to comply with any conditions subject to which approval or interim approval of a scheme is given.

(2) Every person who commits an offence against this Act or any regulations made thereunder for which no penalty is provided in this Act or in any regulations made under this Act is liable on summary conviction to a fine not exceeding \$500.

(3) Where a company commits an offence against this Act, every officer of the company who knowingly and wilfully authorises or permits the offence himself commits an offence against this Act.

18. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing requirements as to information to be given in or in connection with statements, returns, certificates, reports, applications, notices, and documents delivered, given, furnished, or made for the purposes of this Act, and the evidence to be supplied in support thereof:
- (b) Prescribing the dates by which reports and annual returns on schemes shall be made to the Government Actuary and the information to be included therein:
- (c) Prescribing the manner in which statements, returns, certificates, reports, applications, notices, and documents under this Act may be made, given, served, delivered, or furnished:
- (d) Prescribing conditions and requirements in respect of the granting of approval or interim approval by the Government Actuary under this Part of this Act, including conditions and requirements in respect of constitution, membership, contributions, retiring ages, retirement benefits, death benefits, leaving benefits, reserve funds, variations of benefits, inalienability of benefits, investments, actuarial examination, termination of schemes, overseas

schemes, amendment of schemes, advice to members, preservation of existing rights, and other related matters:

- (e) Providing that changes shall not be made to superannuation schemes for the time being in existence if the changes will conflict with the conditions and requirements for approval thereof:
- (f) Prescribing the information to be supplied to the Government Actuary by a person who seeks approval of a superannuation scheme:
- (g) Providing for and securing the winding up of superannuation schemes in any case where an order is made under section 15 (3) of this Act requiring the scheme to be wound up:
- (h) Providing for the dissemination of information regarding the general principles governing the granting by the Government Actuary of approval under this Part of this Act:
- (i) Prescribing offences in respect of contravention of or non-compliance with any regulations made under this Act or any requirement or direction made or given pursuant to any such regulation, and prescribing penalties not exceeding \$2,000 in respect of any offences so prescribed:
- (j) Prescribing the procedure to be followed in connection with objections and appeals under this Act, and the making, consideration, hearing, and determination of those objections and appeals:
- (k) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

PART III

MISCELLANEOUS PROVISIONS

19. Power to vary trust deeds—(1) Notwithstanding any Act or rule of law or the provisions of the instrument or conditions governing any superannuation scheme, the trustees or managers of the scheme may make such amendments to that instrument or those conditions as are necessary—

- (a) In order to make the scheme eligible for approval by the Government Actuary; or

- (b) To enable the trustees or managers of the scheme to make or allow refunds of contributions up to the extent to which a refund would have been made under section 7 of this Act if those contributions had been made to the New Zealand Superannuation Fund:

Provided that no such amendment shall be made or allowed until the trustees or managers have taken all reasonable steps to give at least 28 days' notice of their intention to make or allow the amendment to all members of the scheme and all objections and appeals in relation thereto under the following provisions of this section have been disposed of.

(2) Where any such notice of intention is so given to any member of the scheme, he may, within the period of 28 days commencing on the date on which the notice is so given to him, object in writing to the trustees or managers of the scheme regarding the intention as so stated in the notice, on the ground,—

(a) In the case of an objection to any amendments made under paragraph (a) of subsection (1) of this section, that the amendments intended to be made are more extensive in relation to any member than are necessary to enable the approval to be given:

(b) In the case of an objection to any amendments made under paragraph (b) of subsection (1) of this section, that the scheme should be continued unaltered and the proposed refunds should not be made.

(3) Where any objection to a notice of intention is made to the trustees or managers of the scheme in accordance with this section, they shall consider the objection within a period of 28 days from the date on which they received it.

(4) Any person whose objection to any amendments made under paragraph (a) of subsection (1) of this section is disallowed by the trustees or managers may, within 28 days after the date on which he is notified of the disallowance or such further time as the Government Actuary may allow on application made either before or after the expiration of those 28 days, give to the Government Actuary notice—

(a) Stating his intention to appeal to the Supreme Court against the disallowance; and

(b) Requiring the Government Actuary to advise the person objecting whether he intends to approve the scheme if all the intended amendments are not

made, or to what extent the amendments to which the objection relates are necessary in order to make the scheme eligible for his approval.

(5) As soon as practicable after receiving any such notice of intention to appeal and reaching a decision regarding the matters on which he is required to advise under subsection (4) (b) of this section, the Government Actuary shall, by notice in writing, advise the person objecting regarding his decision, and shall post a copy of that notice to the trustees or managers of the scheme. If the Government Actuary advises the person objecting that he intends to approve the scheme notwithstanding that all or any of the intended amendments to which the objection relates are not made, and if, after the expiration of 14 days after the date on which the person objecting has received the said notice from the Government Actuary, the trustees or managers of the scheme have not notified the person objecting that they intend to modify the intended amendments to meet all his objections, that person may appeal to the Supreme Court within the time prescribed by or under subsection (8) of this section against the intended amendment of the scheme.

(6) Any person whose objection to any amendments made under paragraph (b) of subsection (1) of this section is disallowed by the trustees or managers may appeal to the Supreme Court within the time prescribed by or under subsection (8) of this section against the intended amendment of the scheme.

(7) Every appeal under this section shall be heard and determined by the Administrative Division of the Supreme Court.

(8) Every such appeal shall be made by notice of appeal in writing, and shall be lodged with the Registrar of the Supreme Court, together with a duplicate of that notice, within 28 days after the date on which the appellant was advised of the intention of the Government Actuary in the case of an appeal against the disallowance of an objection to any amendments made under paragraph (a) of subsection (1) of this section, or within 28 days after the appellant is notified of the disallowance in the case of the disallowance of an objection to any amendments made under paragraph (b) of subsection (1) of this section, or in either case within such further time as the Supreme Court may allow on application made either before or after the expiration of those 28 days.

(9) In its determination of any appeal, the Supreme Court may confirm or disallow the intended amendment.

(10) If an objection to an intended amendment to a scheme is allowed by the Supreme Court on an appeal, the provisions of subsection (1) of this section shall not apply in relation to that intended amendment.

(11) Subject to the provisions of this section, the procedure in respect of any such appeal shall be in accordance with the rules of the Supreme Court.

(12) In any case where, after the 15th day of December 1975 and before this section came into force, any superannuation scheme has been amended as contemplated in paragraph (b) of subsection (1) of this section, the amendment shall be deemed to have been validly made in accordance with the power conferred by this section.

(13) In any case where any amount that has been paid in respect of contributions to a superannuation scheme is refunded by the trustees or managers of the scheme (whether pursuant to an amendment to the scheme made under this section or otherwise), if the amount refunded would have been exempt from income tax under subsection (11) of section 7 of this Act if the refund had been made by the National Provident Fund Board under that section that amount shall be exempt from income tax.

20. Secrecy—(1) Every person, either while he is or after he ceases to be the Government Actuary or a member of the National Provident Fund Board or an officer or employee in the service of the Government Actuary or the National Provident Fund Board, shall maintain and aid in maintaining the secrecy of all matters relating to the administration of this Act that come to his knowledge and shall not communicate any such matters to any person except for the purposes of carrying this Act into effect:

Provided that:

- (a) The members of the National Provident Fund Board and officers and employees in its service may consult the Commissioner of Inland Revenue on matters relating to Part I of this Act:
- (b) The Government Actuary may supply or publish statistical information regarding schemes:
- (c) The Government Actuary may advise the Commissioner of Inland Revenue regarding all matters relating to or affecting the approval of any scheme and the provisions of the scheme:
- (d) The Government Actuary may advise the Reserve Bank of New Zealand as to the designation of all superannuation schemes to which applications for

approval relate, and may supply such further information regarding the schemes as may properly be required pursuant to the Reserve Bank of New Zealand Act 1964 and any regulations made under that Act.

(2) Without limiting the generality of subsection (1) of this section, it is hereby declared that no person to whom that subsection applies shall be required to produce in any Court or tribunal any book or document or to divulge or communicate to any Court or tribunal any matter or thing coming under his notice in the performance of his duties, except when it is necessary to do so for the purpose of carrying into effect any provision of this Act.

(3) Every person to whom this section applies who wilfully acts in contravention of the provisions of this section commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$2,000.

21. Personal liability—Neither the Government Actuary nor the Commissioner nor any member of the National Provident Fund Board nor any person in the service of the Government Actuary or the Commissioner or the National Provident Fund Board shall be personally liable for any act done or omitted by the Government Actuary or the Commissioner or the National Provident Fund Board or any such person in good faith in pursuance or intended pursuance of the functions or powers of the Government Actuary or the Commissioner or the National Provident Fund Board under this Act.

Section 11 (3)

SCHEDULE

CONSEQUENTIAL AMENDMENTS

Enactment Amended	Amendment
1969, No. 52—The Administration Act 1969	By omitting from subsections (2) and (3) of section 65 (as amended by section 58 (7) of the New Zealand Superannuation Act 1974) the words “the New Zealand Superannuation Board” in each place where they occur.
1968, No. 35—The Estate and Gift Duties Act 1968	By repealing paragraph (d) of the definition of the expression “group superannuation scheme” in subsection (1) of section 2 (as amended by section 97 (1) of the New Zealand Superannuation Act 1974).

SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS—*continued*

Enactment Amended	Amendment
1964, No. 47—The Perpetuities Act 1964	By omitting from subsection (1) of section 19 (as amended by section 97 (2) of the New Zealand Superannuation Act 1974) the words “to the New Zealand Superannuation Scheme established under section 33 of the New Zealand Superannuation Act 1974 or”.
1959, No. 98—The Public Bodies Contracts Act 1959	By repealing so much of Part II of the First Schedule (as amended by section 19 of the New Zealand Superannuation Act 1974) as relates to the New Zealand Superannuation Board.
1964, No. 134—The Reserve Bank of New Zealand Act 1964	By repealing subparagraph (i) of paragraph (fa) of the definition of the term “financial institution” (as inserted by section 2 (1) of the Reserve Bank of New Zealand Amendment Act 1973 and amended by section 2 of the Reserve Bank of New Zealand Amendment Act 1975), and substituting the following subparagraph: “(i) Is approved by, or is deemed to have been granted the interim approval of, the Government Actuary under the Superannuation Schemes Act 1976; or”.
1971, No. 51—The Stamp and Cheque Duties Act 1971	By repealing paragraph (a) of section 49A (as inserted by section 5 of the Reserve Bank of New Zealand Amendment Act 1975), and substituting the following paragraph: “(a) Of all funds and schemes to which he has given his approval under Part II of the Superannuation Schemes Act 1976; and”.
	By repealing paragraph (g) of subsection (1) of section 80 (as added by section 31 (2) of the New Zealand Superannuation Act 1974). By adding to the First Schedule the following item: “1976, No. 3—The Superannuation Schemes Act 1976: Section 4 (5)”.

This Act is administered in the Treasury.