

Superannuation Schemes Amendment Act 1982

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An Act to amend the Superannuation Schemes Act 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 Amendment Act 1982, and shall be read together with and deemed part of the Superannuation Schemes Act 1976 (hereinafter referred to as the principal Act).
- (2) This Act shall come into force on the 6th day of August 1982.

2 Interpretation

- (1) Section 2 of the principal Act is hereby amended by inserting, in the appropriate alphabetical order, the following definitions:

“‘Lump sum superannuation scheme’ means any superannuation scheme that is not a pension superannuation scheme:

“‘Pension superannuation scheme’ means a superannuation scheme governed by conditions that require the retirement benefit of every member of the fund to be taken in the form of a pension dependent on the life of the member or of a spouse or dependant of the member, and that do not enable any member to commute for, or capitalise his benefit into, a lump sum which exceeds the greater of—

- “(a) An amount, the payment of which would reduce the pension otherwise payable by 25 percent; or
- “(b) The value of the benefit where the annual pension, before the payment of any amount referred to in paragraph (a) of this definition, would not exceed the amount prescribed for the purposes of this definition,—
excluding any specified lump sum benefit:

“‘Personal’, in relation to any superannuation scheme, means’ a scheme for the benefit of members other than as employees of any employer or class of employers:

“‘Specified lump sum benefit’ means a lump sum benefit recognised by the Government Actuary as arising from contributions paid before the date on which a scheme is classified or deemed to be classified as a pension superannuation scheme under this Act and income arising from those contributions before that date:”.

- (2) Section 2 of the principal Act is hereby amended by inserting in the definition of the term “employee”, after the words “or otherwise”, the words “; but does not include any shareholder-employee as defined in section 150(1)(d) of the Income Tax Act 1976”.

3 Schemes not to be approved between 6 August 1982 and 31 October 1982

Notwithstanding anything in section 13 of the principal Act, the Government Actuary shall not approve any scheme under that section during the period commencing with the 6th day of August 1982 and expiring with the close of the 31st day of October 1982.

4 Classification of schemes

The principal Act is hereby amended by inserting, after section 13, the following section:

“13a

- “(1) Where any scheme has been approved under section 13 of this Act whether before or after the commencement of this Act, the Government Actuary shall, on the application of the trustees or managers of the scheme, or on application

for classification being made to him under section 12(1) of this Act, classify that scheme as—

- “(a) An employee pension superannuation scheme; or
 - “(b) A personal pension superannuation scheme; or
 - “(c) An employee lump sum superannuation scheme; or
 - “(d) A personal lump sum superannuation scheme.
- “(2) Where any change is made to a superannuation scheme, the Government Actuary may change the classification of that scheme accordingly.
- “(3) Any superannuation scheme that has not been classified under this section shall be deemed to be a personal lump sum superannuation scheme.
- “(4) Where an application is made to have a superannuation scheme classified under subsection (1) of this section, and the scheme is so classified, the classification shall be deemed to take effect on the date of application for such classification, whether or not changes to the scheme were necessary to enable that classification to be given.”

5 Suspension and withdrawal of approval or classification where scheme does not comply with Act or regulations

The principal Act is hereby amended by inserting, after section 15, the following section:

“15a

- “(1) The Government Actuary may suspend the approval of any approved scheme in any case where he is satisfied that the scheme does not comply with the requirements then in force for approval under this Act or any regulations made under this Act, notwithstanding that the scheme complied with the requirements for approval at the time it was approved.
- “(2) The Government Actuary may suspend the classification of any approved scheme in any case where he is satisfied that the scheme does not comply with the requirements then in force for that classification under this Act or any regulations made under this Act, notwithstanding that the scheme complied with the requirements for that classification at the time it was classified.
- “(3) Where any approval or classification is suspended under subsection (1) or subsection (2) of this section and the Government Actuary is satisfied on or before the 31st day of March next following the suspension of approval or classification that the scheme meets all the requirements then in force for approval or classification under this Act or any regulations made under this Act, he shall cancel the suspension, and the approval or classification of that scheme shall be deemed to be restored and to have continued throughout the period of suspension.
- “(4) Where any approval is suspended under subsection (1) of this section, and the suspension is not cancelled under subsection (3) of this section, the approval

of the scheme shall be deemed to be cancelled on the 31st day of March next following the date on which it was suspended.

- “(5) Where any classification is suspended under subsection (2) of this section, and the suspension is not cancelled under subsection (3) of this section, the classification shall be deemed to be cancelled on the 31st day of March next following the date on which it was suspended, and the scheme shall be deemed to be classified as a personal lump sum superannuation scheme.”

6 Regulations

- (1) Section 18 of the principal Act is hereby amended by omitting paragraph (b), and substituting the following paragraph:

“(b) Prescribing, or providing for the Government Actuary to prescribe, the dates by which reports and annual returns shall be made to the Government Actuary, the information to be included in those reports and returns, and the audit requirements relating to them:”.

- (2) Section 18 of the principal Act is hereby further amended by omitting paragraphs (d) and (e), and substituting the following paragraphs:

“(d) Prescribing conditions and requirements in respect of the granting, continuation, and withdrawal of approval or classification of schemes or change of classification of schemes by the Government Actuary under this Part of this Act, including conditions and requirements in respect of constitution, management, trustees (including conditions prohibiting approval or any particular classification of any scheme where there is any specified family, business, or employment relationship between any trustee or trustees or any manager or managers and any member or members of that scheme), the powers that may or may not be conferred on trustees and managers, membership, contributions, retiring ages, retirement benefits, death benefits, withdrawal benefits, reserve funds, variations of benefits, inalienability of benefits, holding of specified benefits at specified levels, investments, actuarial examination, termination of schemes, overseas schemes, amendment of schemes, advice and regular reporting to members, preservation of existing rights, and other related matters:

“(e) Providing that changes to approved superannuation schemes shall not be made without the approval of the Government Actuary, and that such changes shall not take effect until that approval has been granted:”.

- (3) Section 18 of the principal Act is hereby further amended by inserting, after paragraph (f), the following paragraphs:

“(fa) Prescribing the fees payable for an application for approval of a superannuation scheme, or the rate at which such fees are to be calculated:

“(fb) Prescribing, or providing for the Government Actuary to prescribe, the method and time within which any approved scheme shall be amended so as to comply with the requirements of this Act or any regulations from time to time in force under this Act relating to the approval or classification of the scheme; and

providing for the continuation of approval or classification of any such scheme pending such amendments:

“(fc) Exempting any approved scheme from any requirements of this Act or any regulations from time to time in force under this Act relating to the approval or classification of the scheme, if those requirements were not in force at the time when the scheme was approved or classified; and providing that any such scheme may retain its existing approval or classification.”

7 Consequential amendments

(1) Section 12 of the principal Act is hereby amended by inserting, after the word “approval”, the words “and classification”.

(2) Section 16(1) of the principal Act is hereby amended by omitting paragraph (a), and substituting the following paragraph:

“(a) Relates to—

“(i) The approval, continued approval, or classification of that scheme; or

“(ii) The suspension of the approval or classification of that scheme.”

(3) Section 19(1)(a) of the principal Act is hereby amended by inserting, after the word “approval”, the words “or continued approval”.

(4) Section 19(1) of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) In order to have the scheme classified under section 13a of this Act in accordance with the classification sought or sought to be retained by the trustees or managers for the scheme.”

(5) Section 19(2)(a) of the principal Act is hereby amended by omitting the words “to be given”, and substituting the words “or classification to be given or continued”.

(6) Section 19(4) of the principal Act is hereby amended by omitting paragraph (b), and substituting the following paragraph:

“(b) Requiring the Government Actuary to advise the person objecting whether he intends to approve or continue the approval of the scheme, or give the scheme the classification sought or sought to be retained by the trustees or managers, 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 approval or continued approval, or the classification sought or sought to be retained by the trustees or managers.”

(7) Section 19(5) of the principal Act is hereby amended by omitting the words “approve the scheme”, and substituting the words “approve or continue the approval of the scheme, or give the scheme the classification sought or sought to be retained by the trustees or managers”.

(8) Section 20(1) of the principal Act is hereby amended by inserting in paragraph (c) of the proviso, after the word “approval”, the words “and classification”.

This Act is administered in the Treasury.