

# **New Zealand Superannuation Bill**

Government Bill

## **Explanatory Note**

### **General policy statement**

This proposed legislation seeks to establish a New Zealand Superannuation Fund to be administered by an independent Crown entity board, the Guardians of New Zealand Superannuation. The Fund will provide for both current and future payment of New Zealand superannuation entitlements. The entitlement provisions are carried forward and consolidated from existing legislation.

They include the standard and non-standard entitlements, as well as the payment overseas of New Zealand superannuation. Existing eligibility, entitlement provisions, and payment processes are largely unaffected by this legislation. However, the wage floor is restored, for CPI adjustment purposes, to 65% of the average ordinary time weekly wage (instead of the existing 60%). Some changes have been made to clarify the intent of some existing entitlement provisions.

The Fund will be financed by capital contributions from the Crown. The calculation of the level of this contribution each year will be legislated and will be on the basis of a 40-year rolling-horizon of the future cost of New Zealand superannuation. Transparency provisions will surround this process so that successive governments have strong incentives to continue to make adequate contribution to the Fund.

The Guardians of New Zealand Superannuation will be required to have backgrounds in the management of financial investments and will be appointed through an independent nominating committee process. They will be required to manage the Fund independently of the Government, investing the Fund on a prudent commercial basis, consistent with best-practice portfolio management, maximising return without undue risk of loss to the Fund as a whole, and avoiding prejudice to New Zealand's reputation as a responsible member of the world community. The Guardians will be required to produce audited annual financial statements for the Fund, including an analysis and explanation of the performance of the Fund against the expectations that were set out at the start of the financial year, and they will be required to publish, and adhere to, a statement of their investment policies, standards and procedures.

A schedule to the legislation will record the political parties in Parliament that have signalled their agreement to the entitlement provisions or the funding provisions (or both). The Government will be required to consult with these parties in advance of introducing any amendment to the provisions they agree with.

### ***Clause by clause analysis***

Clause 1 relates to the Title.

Clause 2 relates to commencement and application.

Clause 3 sets out the purpose of the Act.

Clause 4 relates to the interpretation of the entitlement provisions. Clause 5 relates to the interpretation of the Fund provisions.

Clause 6 provides that the Act binds the Crown.

Part 1 carries forward the entitlements to New Zealand superannuation that are currently contained in the Social Welfare (Transitional Provisions) Act 1990 and other legislation. Part 1 includes provisions on---

- the age qualification for New Zealand superannuation (65 years) (clause 7):
- the residential qualifications for New Zealand superannuation (clauses 8 to 10):
- the standard rates of New Zealand superannuation (clause 12 and Schedule 1). These rates are the same rates as those currently paid:
- living alone payments for New Zealand superannuitants (clauses 13 and 14):
- annual CPI adjustment of NZ superannuation (clauses 15 and 16): The current rules are carried forward, except that the wage floor is restored to 65% of the average ordinary time weekly wages (instead of the current 60%). For example, the annual adjustments must ensure that the standard weekly amount of New Zealand

superannuation (after the deduction of standard tax) payable to a married couple who are both entitled to New Zealand superannuation is not less than 65% of the average ordinary time weekly wage. There is a similar benchmark for payments to single people, linked to the married couple rate:

- non-standard NZ superannuation entitlements (residential disability services, hospital rates, and disability allowances) (clauses 17 to 20):
- payment overseas of New Zealand superannuation (including rules in respect of certain Pacific countries) (clauses 21 to 35).

Certain other provisions of the Social Welfare (Transitional Provisions) Act 1990 are not included in this draft Bill, and will remain in the 1990 Act. This category includes veteran's pensions and reciprocity agreements with other countries.

The entitlement provisions are carried forward from the 1990 Act with no changes of substance. However, certain drafting changes have been made to align with current drafting styles.

The machinery provisions relating to payments of New Zealand superannuation remain in the Social Security Act 1964. Relevant provisions of that Act continue to apply, such as the way in which the entitlements are administered. Also, certain provisions of the 1964 Act supplement the entitlement rules in this Bill, eg, sections 78 and 79 (about the effect of absence of a beneficiary from New Zealand on residential qualification).

The fact that the entitlement provisions have been moved into the new legislation does not affect their continued administration by the Department of Work and Income.

Part 2---

- establishes the New Zealand Superannuation Fund (clause 37):
- provides that the Fund is the property of the Crown (clause 40):
- limits the payments that may be made out of the Fund. The Fund is to be held for the purpose of paying entitlements to New Zealand superannuation. In addition, money may be paid out of the Fund to pay fees to investment managers or custodians, to meet other obligations directly related to the operation of the Fund, to pay taxation liabilities arising in respect of the Fund, and to meet any capital withdrawals. Payments out of the Fund must be authorised by the Guardians (clause 41):
- provides for the required annual capital contributions payable into the Fund (clause 43). The amounts are calculated as a percentage of gross domestic product, taking into account various factors:
- requires the Minister to ensure that sufficient money is transferred into the Fund in each financial year to meet the net cost of the New Zealand superannuation entitlements that are payable out of the Fund during that year (clause 45). These transfers are additional to the required annual capital contributions. Beyond the year 2020, the transfers will be met partially from a capital withdrawal under clause 47:
- provides for capital withdrawals from the Fund after 1 July 2020, if the required annual capital contribution is less than zero (clause 47):
- establishes a Crown entity called the Guardians of New Zealand Superannuation to manage and administer the Fund (clauses 48 and 51):
- restricts the borrowing powers of the Guardians (clause 50):
- provides for the appointment of the board members of the Guardians (clause 54). There must be at least 5, but not more than 7, board members appointed by the Governor-General on the recommendation of the Minister of Finance:
- requires the Minister to recommend persons for appointment as members who, in the Minister's opinion, have substantial experience, training, and expertise in the management of financial investments and have been nominated by a nominating committee (clause 55):

- provides for the establishment and processes of the nominating committee (clause 56):
- requires the Guardians to invest the Fund on a prudent, commercial basis (clause 58). In doing so, the Guardians 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:
- requires the Guardians to use their best endeavours to ensure that the Fund does not have controlling interests in other entities (clause 59):
- requires the Guardians to establish, and adhere to, investment policies, standards, and procedures for the Fund that are consistent with their duty to invest the Fund on a prudent, commercial basis (clauses 60 and 61):
- allows the Guardians to appoint investment managers and custodians for the Fund or any part of it (clauses 62 and 63):
- empowers the Minister to give directions to the Guardians regarding the Minister's expectations as to the Fund's performance, and requires the Guardians to have regard to those directions (clause 64). However, the Minister must not give a direction that is inconsistent with the Guardians' duty to invest the Fund on a prudent, commercial basis:
- sets out accountability provisions for the Fund and the Guardians, relating to the entity's statement of intent, financial statements, auditor, annual report, and reporting (clauses 65 to 70):
- provides for independent performance reviews of how effectively and efficiently the Guardians are performing their functions (clause 71). The first review must be conducted as soon as practicable after 1 July 2003, and at no less than 5 yearly intervals (to be set by the Minister) after that.

#### Part 3---

- enables leaders of political parties represented in Parliament to notify the Minister of the party's agreement to either Part 1 or Part 2 (or both) (clause 72):
- requires a Government that intends to amend the Act to consult with parties that are in agreement with the Part to be amended (and the Guardians (to the extent that the amendment relates to Part 2)) (clause 73):
- requires the Guardians to report to the Minister of Finance and the Minister of Social Services and Employment on options for converting the balance in the Fund into retirement accounts for eligible individuals, if Parliament passes a resolution to that effect (clause 73(3)):
- adds the Guardians (and any subsidiary of the Guardians) to the Ombudsmen Act:
- adds the Guardians to the Fourth, Fifth, and Sixth Schedules of the Public Finance Act 1989 (clause 75):
- provides that the Fund will be subject to tax on its investment income, may claim a deduction for allowable expenditure incurred in deriving its investment income, and pays tax in respect of its investment activities at the company tax rate (clause 76):
- provides that the Guardians are exempt from income tax (clause 76):
- makes consequential amendments to other Acts:
- revokes the Social Security (Disability Services) Regulations 1993:

- saves the entitlements of people who are already entitled to receive New Zealand superannuation entitlements under the Social Security Act 1964 or the Social Welfare (Transitional Provisions) Act 1990 or the Social Security (Disability Services) Regulations 1993.

Schedule 1 sets out the current rates of New Zealand superannuation. Schedule 2 sets out specified Pacific countries for the purposes of Part 1. Schedule 3 sets out provisions relating to the board of the Guardians, including clauses relating to term of office, removal, liability, remuneration, and procedure. Schedule 4 lists the political parties that have notified agreement to Part 1 or Part 2 (or both). Schedule 5 makes consequential amendments to other Acts.

---

Hon Dr Michael Cullen

## **New Zealand Superannuation Bill**

Government Bill

### **Contents**

1	Title	21	Effect of absence from New Zealand on New Zealand superannuation
2	Commencement	22	First 26 weeks of certain temporary absences
3	Purpose	23	Absences up to 2 years for medical treatment
4	Interpretation of Part 1 and Schedule 1	24	Absences up to 52 weeks with aid agencies
5	Interpretation of Parts 2 and 3 and Schedule 3	25	Date absence commences
Act binds the Crown			
<b>Part 1</b>			
<b>Entitlements to New Zealand Superannuation</b>			
<i>Standard New Zealand superannuation entitlements</i>			
7	Age qualification for New Zealand superannuation	26	Payment overseas of New Zealand superannuation
8	Residential qualification for New Zealand superannuation	27	Applications after leaving New Zealand
9	Periods of absence that are not counted	28	Date of commencement of payment overseas
10	Periods of absence as missionary also not counted	29	Relationship with other benefit provisions
11	Commencement of New Zealand superannuation	30	Specified Pacific country
12	Standard rates of New Zealand superannuation	31	Entitlement to be paid New Zealand superannuation in specified Pacific country
<i>Living alone payments</i>			
13	Living alone payments	32	Rates of payment of New Zealand superannuation payable to people resident in specified Pacific countries
Commencement of living alone payments			
<i>Annual adjustment of New Zealand superannuation</i>			
15	Annual adjustment of standard rates of New Zealand superannuation	33	Commencement and termination of payments
16	Annual adjustment of New Zealand superannuation: relationship to net average wage	34	Effect on other benefits
<i>Non-standard New Zealand superannuation entitlements</i>			
17	Entitlement to benefits for spouses of persons receiving means-tested residential disability services	Application of this Act and Social Security Act 1964	
18	Living alone rate of payment for spouses of persons receiving means-tested residential disability services	<b>Part 2</b>	
19	Hospital rates of New Zealand superannuation	<b>New Zealand Superannuation Fund</b>	
20	Special disability allowance	36	Outline of Part
<i>Payment overseas of New Zealand Superannuation</i>			
<i>New Zealand Superannuation Fund</i>			
37 Establishment of New Zealand Superannuation Fund			
38 Property of Fund			
39 Crown Bank Account			
40 Ownership of Fund			
41 Payments out of Fund			
<i>Required capital contributions to Fund</i>			
42 Process for calculating capital contributions to Fund			
43 Amount of required annual capital contribution			

44 Lesser amounts of annual capital contribution

*Other contributions to Fund*

45 Annual expense payments

46 Additional contributions to Fund

*Withdrawals from Fund*

47 Withdrawals from Fund after 2020

*Guardians of New Zealand Superannuation*

48 Establishment of Guardians of New Zealand Superannuation

49 Body corporate status and powers

50 Borrowing

51 Functions

52 Expenses of Guardians

*Board of Guardians*

53 Role of board

54 Membership of board

*Members' appointments*

55 Criteria for appointments

56 Nominating committee

57 Further provisions applying to board

*Investment of Fund*

58 Investment of Fund

59 No controlling interests

60 Establishment of investment policies, standards, and procedures

61 Contents of statements of investment policies, standards, and procedures

62 Investment management

63 Custodianship of Fund

*Ministerial directions*

64 Ministerial directions

*Accountability*

65 Statement of intent

66 Financial statements of Fund

67 Audit Office to be auditor of Fund

68 Annual report

69 Reporting by Guardians on Fund

70 Audit Office to be auditor of Guardians

*Performance reviews*

71 Performance reviews

**Part 3  
Miscellaneous provisions**

*Political commitment to New Zealand Superannuation*

72 Political commitment

73 Amendments to Act

*Amendments to other Acts*

74 Amendment to Ombudsmen Act 1975

75 Amendments to Public Finance Act 1989Taxation

76 Taxation of Fund and Guardians

*Consequential amendments and revocation*

77 Consequential amendments to other Acts

78 Consequential revocation

*Transitional and savings provision*

79 Transitional provision for existing New Zealand superannuation entitlements

---

**Schedule 1New Zealand Superannuation entitlements**

**Schedule 2Specified Pacific countries**

**Schedule 3Further provisions relating to board of Guardians of New Zealand Superannuation**

**Schedule 4Political parties in agreement with Act**

**Schedule 5Consequential amendments to other Acts**

## **The Parliament of New Zealand enacts as follows:**

1 Title This Act is the New Zealand Superannuation Act 2000.

### 2 Commencement

(1) This Act comes into force on the day after the date on which it receives the Royal assent.

(2) Sections 42 to 45 (capital and other contributions to the Fund) apply in relation to the financial year commencing on 1 July 2001 and every subsequent financial year.

### 3 Purpose The purpose of this Act is---

(a) to continue current entitlements to New Zealand superannuation:

(b) to establish a New Zealand Superannuation Fund with sufficient resources to meet the present and future cost of New Zealand superannuation:

(c) to provide for Government contributions to the Fund:

(d) to establish a Crown entity to manage and administer the Fund called the Guardians of New Zealand Superannuation:

(e) to establish a process for signalling political agreement on the parameters for New Zealand superannuation entitlements and funding:

(f) to bring together in 1 Act all of the provisions for each of those matters.

### 4 Interpretation of Part 1 and Schedule 1

(1) In Part 1 and Schedule 1, unless the context otherwise requires,---

chief executive means the chief executive of the Department

department means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of Part 1

funder has the same meaning as it has in the Health and Disability Services Act 1993

New Zealand superannuation means the entitlements under Part 1, including both the standard and non-standard entitlements.

(2) In this Act, unless the context otherwise requires, any expression used in Part 1 or Schedule 1 but not defined in this Act has the same meaning as it has in the Social Security Act 1964.

### 5 Interpretation of Parts 2 and 3 and Schedule 3

(1) In Parts 2 and 3 and Schedule 3, unless the context otherwise requires,---

board means the Guardians of New Zealand Superannuation board referred to in section 53

board member means a member of the Guardians of New Zealand Superannuation board

custodian means a person appointed under section 63(1) to act as custodian of the Fund, or any part of the Fund

entity means any person, whether corporate or unincorporate

Fund means the New Zealand Superannuation Fund established under section 37

Guardians means the entity called the Guardians of New Zealand Superannuation established under section 48

invest means to carry on any activity, do any act, or enter into any transaction that the Guardians consider 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

Minister means the Minister of Finance, or other Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of Parts 2 and 3 or particular provisions of this Act

net cost, in relation to New Zealand superannuation entitlements, has the same meaning as in section 43 (required annual capital contributions)

New Zealand superannuation---

(a) means the entitlements to New Zealand superannuation under Part 1, including both the standard and non-standard entitlements; and

(b) includes, for the avoidance of doubt in Part 2 and Schedule 3, entitlements to New Zealand superannuation under Part 1 as modified under section 19 of the Social Welfare (Transitional Provisions) Act 1990 (adoption of reciprocity agreement with other countries)

required annual capital contribution has the same meaning as in section 43 subsidiary---

(a) means a subsidiary within the meaning of section 5 to 8 of the Companies Act 1993; and

(b) includes an entity that is classified as a subsidiary in any relevant approved financial reporting standard (within the meaning of section 2(1) of the Financial Reporting Act 1993).

(2) In this Act, unless the context otherwise requires, the terms contingent liability, Crown, expenses, financial year, Government, and Treasury have the meanings given to them by section 2(1) of the Public Finance Act 1989.

6 Act binds the Crown This Act binds the Crown.

Part 1

Entitlements to New Zealand Superannuation

Standard New Zealand superannuation entitlements

7 Age qualification for New Zealand superannuation

(1) Every person is entitled to receive New Zealand superannuation who attains the age of 65 years.

(2) However, a person is not entitled to receive New Zealand superannuation in respect of any period for which he or she has made an election under any of clauses 25, 68, or 72 of Schedule 1 of the Accident Insurance Act 1998 to be entitled to weekly compensation under that Act rather than to New Zealand superannuation.

(3) Subsection (1) applies subject to the provisions of this Part and of the Social Security Act 1964.

Compare: 1990 No 26 s 3



8 Residential qualification for New Zealand superannuationNo person is entitled to New Zealand superannuation unless the person---

- (a) is ordinarily resident in New Zealand on the date of application for New Zealand superannuation; and
- (b) has been both resident and present in New Zealand for a period or periods aggregating not less than 10 years since attaining the age of 20 years; and
- (c) has also been both resident and present in New Zealand for a period or periods aggregating not less than 5 years since attaining the age of 50 years. Compare: 1990 No 26 s 4(1)

#### 9 Periods of absence that are not counted

(1) In determining the period an applicant has been present in New Zealand, no account is taken of,---

- (a) in the case of any applicant, any period of absence for the purpose of obtaining any special medical or surgical treatment or vocational training if the chief executive is satisfied that there were good and sufficient reasons for the person leaving New Zealand to obtain that special treatment or training;
- (b) in the case of a mariner, any period of absence while serving on board any ship registered or owned in New Zealand, and engaged in trading to and from New Zealand;
- (c) in the case of any applicant, any period of absence while serving in any capacity as a member of any naval, military, or air force of any Commonwealth country or serving in connection with any war in which New Zealand forces were involved as a member of any organisation attached to any of those forces;
- (d) in the case of any applicant, any period of absence while serving in any capacity as an accredited volunteer appointed by Volunteer Service Abroad Incorporated.

(2) Subsection (1) applies only if the chief executive is satisfied that during the absence of the applicant he or she remained ordinarily resident in New Zealand.  
Compare: 1990 No 26 s 4(2)(a)-(d)

#### 10 Periods of absence as missionary also not counted

(1) In determining the period an applicant has been present in New Zealand, no account is taken of any period of absence while engaged in missionary work outside New Zealand as a member of, or on behalf of, any religious body or, as the case may be, during any period that the applicant was absent from New Zealand with her or his spouse while that spouse was engaged in that missionary work.

(2) Subsection (1) applies only if the chief executive is satisfied that the applicant was either born in New Zealand or was ordinarily resident in New Zealand immediately before leaving New Zealand to engage in the missionary work or, as the case may be, to accompany or join her or his spouse.

(3) Unless otherwise expressly provided in the agreement, the provisions of subsection (1) are not modified by the provisions of any agreement entered into by the Government of New Zealand with the Government of any other country, whether before or after the commencement of this section, providing for reciprocity in social security benefits between their respective countries or the provisions of any Act or Order in Council giving effect to the agreement.

(4) In this section, missionary work includes the advancement of religion or education and the maintenance, care, or relief, of orphans, or the aged, infirm, sick, or needy.  
Compare: 1990 No 26 s 4(2)(e), (3), (4)

11 Commencement of New Zealand superannuationNew Zealand superannuation commences on the date on which the applicant becomes entitled to receive it or the date on which the application for it is received by the Department, whichever is the later date.  
Compare: 1990 No 26 s 5

## 12 Standard rates of New Zealand superannuation

(1) The rate of New Zealand superannuation payable to any person is the appropriate rate stated in clause 1 or clause 2 of Schedule 1.

(2) A married person whose spouse is not entitled to receive New Zealand superannuation may elect to receive the appropriate rate stated in either clause 1 or clause 2 of that schedule.

(3) However, an election to receive New Zealand superannuation under clause 2 of Schedule 1 does not take effect until the employment has ceased in a case where---

(a) that married person's spouse is or was in employment under a contract of service; and

(b) the combined income of the married person and his or her spouse, during that employment, is or was enough to prevent receipt of New Zealand superannuation under clause 2 of that schedule.

(4) A person who has made an election under subsection (2) may at any time change that election.  
Compare: 1990 No 26 s 6

## Living alone payments

### 13 Living alone payments

(1) Any unmarried person who receives New Zealand superannuation and who is living alone in his or her principal place of residence is entitled to receive a living alone payment.

(2) The living alone payment is included in the appropriate rate stated in clause 1(a) of Schedule 1.

(3) A person is considered to be living alone only if he or she---

(a) occupies a principal place of residence that is referred to in subsection (4); and

(b) does not share that residence or household expenses (including accommodation expenses) with any person of or over the age of 18 years other than---

(i) a dependent child of or over that age; or

(ii) a temporary visitor who stays less than 13 weeks in any period of 26 weeks.

(4) The places referred to in this subsection are---

(a) a house or flat; or

(b) a boat or craft moored within---

(i) the territorial sea of New Zealand or any internal waters of New Zealand; or

(ii) any waters within New Zealand, being any lake, estuary, lagoon, river, stream, creek, or other waters,--- whether or not it is from time to time travelling within that sea or any of those waters; or

(c) a hotel room, motel unit, a room in a licensed boardinghouse, or a unit of accommodation in a caravan park.

(5) In this section, territorial sea of New Zealand and internal waters have the same meanings as in the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977.

Compare: 1990 No 26 s 18A

### 14 Commencement of living alone payments

(1) Every living alone payment commences on the later of---

(a) the date on which the applicant becomes entitled to receive it; or

(b) the date on which the application is received.

(2) However, if an application for a living alone payment is made as a result of the death of the spouse of the applicant, the living alone payment commences on---

(a) the date on which the applicant becomes entitled to receive it if the application is received within 28 days after the date of entitlement; or

(b) the date on which the application is received if it is received 28 days or more after the date of entitlement.  
Compare: 1990 No 26 s 18B

#### Annual adjustment of New Zealand superannuation

##### 15 Annual adjustment of standard rates of New Zealand superannuation

(1) In this section,---

CPI means the consumers price index-all groups published by the Department of Statistics

earner premium means the levy and premium payable under subsections (1) and (2) of section 283 of the Accident Insurance Act 1998

standard tax means the amount of tax reckoned on a weekly basis that would be deductible in accordance with the tax code "M" stated in section NC 8 of the Income Tax Act 1994.

(2) Subject to subsection (3), the rates of New Zealand superannuation stated in paragraphs (a), (b), and (c) of clause 1 and paragraph (b) of clause 2 of Schedule 1 must be adjusted, by Order in Council, as at 1 April each year so that in each case the new rate (after the deduction of standard tax) is the rate at that date (after the deduction of standard tax and before the adjustment under this section is made) adjusted by any percentage movement upwards in the CPI between the CPI for the quarter ended with 31 December 1 year before the immediately preceding 31 December and the CPI for the quarter ended with the immediately preceding 31 December.

(3) Every Order in Council made under subsection (2) must adjust the rates of New Zealand superannuation, subject to subsection (4),---

(a) so that the weekly amounts referred to in section 16 are set in accordance with that section; and

(b) so that the rate of New Zealand superannuation stated in paragraph (b) of clause 2 of the Schedule 1 preserves its proportional relationship (after the deduction of standard tax) to the rates stated in paragraphs (a), (b), and (c) of clause 1 of that schedule.

(4) An adjustment under this section must not reduce the weekly amounts payable under this section.

(5) Subsections (3) to (6) of section 61H of the Social Security Act 1964 apply to every Order in Council made under subsection (2) as if that Order in Council were made under that section.

(6) Every Order in Council made under subsection (2) comes into force or is considered to come into force on 1 April of the calendar year in which it is made, and applies to New Zealand superannuation payable on and after that date.

Compare: 1990 No 26 s 13A(1), (2), (3)(d), (3A), (4), (5)

##### 16 Annual adjustment of New Zealand superannuation: relationship to net average wage

The annual adjustment of New Zealand superannuation under section 15 must ensure that---

(a) the standard weekly amount of New Zealand superannuation (after the deduction of standard tax) payable to a married couple, both of whom are qualified to receive New Zealand superannuation, is not less than 65% or more

than 72.5% of the average ordinary time weekly earnings (males and females combined) as determined by the last Quarterly Employment Survey of wages published by the Department of Statistics before 1 March in each year (after the deduction of standard tax and the earner premium payable on those earnings):

(b) the standard weekly amount of New Zealand superannuation (after the deduction of standard tax) payable to a single person who has been granted a living alone payment is 65% of the weekly amount of New Zealand superannuation (after the deduction of standard tax) payable to a married couple, both of whom are qualified to receive New Zealand superannuation:

(c) the standard weekly amount of New Zealand superannuation (after the deduction of standard tax) payable to a single person who has not been granted a living alone payment is 60% of the weekly amount of New Zealand superannuation (after the deduction of standard tax) payable to a married couple, both of whom are qualified to receive New Zealand superannuation.

Compare: 1990 No 26 s 13A(3)(a)-(c)

#### Non-standard New Zealand superannuation entitlements

##### 17 Entitlement to benefits for spouses of persons receiving means-tested residential disability services

(1) This section applies to the spouse of a person---

(a) who is receiving residential care disability services funded wholly or partly by a funder; and

(b) whose financial means to pay or contribute to the cost of those services has been assessed under section 69F of the Social Security Act 1964; and

(c) who commenced receiving those services, as so funded, or as purchased by or with the assistance of a purchaser (as that term was formerly defined in the Health and Disability Services Act 1993), on or after 1 July 1993---

if that spouse is not receiving residential care disability services.

(2) Every person to whom this section applies is entitled to receive---

(a) New Zealand superannuation at the appropriate rate payable to a person who is unmarried, in any case where that person is entitled to receive New Zealand superannuation in his or her own right; or

(b) New Zealand superannuation at the appropriate rate payable to a person who is unmarried, in any case where---

(i) that person is not entitled to New Zealand superannuation in his or her own right; but

(ii) his or her spouse is entitled to New Zealand superannuation and was entitled to make and had made an election under section 6(2) or section 11(2) of the Social Welfare (Transitional Provisions) Act 1990 before 1 October 1991; or

(c) an emergency benefit under section 61 of the Social Security Act 1964 at the appropriate rate of an invalid's benefit payable to a person who is unmarried or is unmarried with 1 or more dependent children, as the case may be, in any other case.

(3) Any benefit payable to a person to whom this section applies is not subject to abatement in respect of any income of that person that has been included in the annual income of that person and his or her spouse for the purpose of assessing financial means under section 69F(3) of the Social Security Act 1964.

Compare: SR 1993/250 cl 3

18 Living alone rate of payment for spouses of persons receiving means-tested residential disability services  
However, every person to whom section 17(2)(a) or (b) applies is entitled to receive New Zealand superannuation at the appropriate rate stated in clause 1(a) of Schedule 1 if the person has been granted a living alone payment under section 13.

Compare: SR 1993/250 cl 4

## 19 Hospital rates of New Zealand superannuation

(1) For the purposes of this section, hospital means a hospital provided by a hospital and health service (within the meaning of the Health and Disability Services Act 1993).

(2) This section applies to a married person with no dependent children and an unmarried person who receives New Zealand superannuation, or who becomes entitled to receive New Zealand superannuation.

(3) The rate of New Zealand superannuation payable to a person who is a patient in a hospital for a period of 13 weeks or less is not affected.

(4) The rate of New Zealand superannuation payable to a person who is a patient in a hospital for more than 13 weeks is, on and after the commencement of the 14th week of hospitalisation, the rate stated in clause 3 of Schedule 1.

(5) Subsection (3) does not apply to a person who is a patient in a hospital and who is receiving residential care disability services that have been funded wholly or partly by a funder, and whose financial means to pay for those services have been assessed under section 69F of the Social Security Act 1964.

(6) However, the chief executive may, at the chief executive's discretion,---

(a) pay to any patient to whom subsection (3) applies a higher rate than the rate stated in clause 3 of Schedule 1 after having regard to the patient's personal financial circumstances; or

(b) pay to any of those patients a lower rate than the rate so stated after having regard to the patient's capacity to appreciate the payments.

(7) If, after 13 weeks' hospitalisation, a married person's New Zealand superannuation is reduced under subsection (4) or subsection (5), and that person's spouse is either not in hospital or has been in hospital for less than 13 weeks, any New Zealand superannuation payable to or for the spouse must be increased, on the same date as the effective date of that reduction, by an amount equal to the difference between the maximum rate of New Zealand superannuation payable to an unmarried person and the maximum rate of New Zealand superannuation payable to a married person whose spouse is receiving New Zealand superannuation.

(8) In any case where the rate of New Zealand superannuation has been reduced in accordance with this section and the superannuitant in hospital is absent from the hospital for not more than 28 days, the rate of New Zealand superannuation payable on return to hospital must be determined as if that absence has not occurred.

(9) This section does not entitle an unmarried person or a married couple to receive a greater amount of New Zealand superannuation, as a result of hospitalisation, than would otherwise have been payable.

(10) This section applies despite anything to the contrary in the Social Security Act 1964 or in the Social Welfare (Transitional Provisions) Act 1990.

Compare: 1964 No 136 s 75

## 20 Special disability allowance

(1) This section applies if---

(a) a person receives New Zealand superannuation; and

(b) the person's spouse is either---

(i) a patient in a hospital as defined in section 19; or

(ii) a person receiving residential care disability services funded wholly or partly by a funder, and has had his or her financial means assessed under section 69F of the Social Security Act 1964; and

(c) that spouse receives a reduced benefit under section 19(4) or (5).

(2) The chief executive must grant a special disability allowance at the rate stated in clause 4 of Schedule 1, for the purpose of defraying expenses arising from the spouse's hospitalisation.

(3) This section applies despite anything in section 69C of the Social Security Act 1964 but subject to section 68A of that Act.

Compare: 1964 No 136 s 69C(5)

#### Payment overseas of New Zealand Superannuation

##### 21 Effect of absence from New Zealand on New Zealand superannuation

A person is not entitled to New Zealand superannuation while that person is absent from New Zealand except as provided in sections 22 to 29 or in any agreement or convention adopted under section 19 of the Social Welfare (Transitional Provisions) Act 1990.

Compare: 1990 No 26 s 17A(1)

##### 22 First 26 weeks of certain temporary absences

New Zealand superannuation that would otherwise be payable to a person is payable in respect of the first 26 weeks of any absence from New Zealand if---

(a) the person's absence does not exceed 30 weeks; or

(b) the person's absence exceeds 30 weeks and the chief executive is satisfied that the absence beyond 30 weeks is due to circumstances beyond that person's control that he or she could not reasonably have foreseen before departure.

Compare: 1990 No 26 s 17A(2)

##### 23 Absences up to 2 years for medical treatment

The chief executive may pay New Zealand superannuation to any person who would otherwise be entitled to receive it, but who is absent from New Zealand for any period or periods not exceeding 2 years in total because that person or his or her spouse, dependent child, or sibling is receiving medical treatment overseas for which the Ministry of Health is granting assistance.

Compare: 1990 No 26 s 17A(3)

##### 24 Absences up to 52 weeks with aid agencies

(1) The chief executive may pay New Zealand superannuation to any person who---

(a) is otherwise entitled to receive it; and

(b) is absent from New Zealand for a period not exceeding 52 weeks; and

(c) is engaged, while absent from New Zealand, in full-time voluntary and unpaid humanitarian work for a recognised aid agency that---

(i) has, as its principal function, the giving of aid and assistance to less advantaged communities in 1 or more other countries; and

(ii) has not deprived another person of paid employment to engage the person to do that work on an unpaid basis.

(2) The chief executive of the Ministry of Foreign Affairs and Trade must determine any question that arises as to whether an aid agency fulfils the qualifications set out in subsection (1).

Compare: 1990 No 26 s 17A(3A), (3B)

##### 25 Date absence commences

If a person who is absent from New Zealand would have become entitled to New Zealand superannuation during his or her absence but for section 21, the person's absence is to be regarded as having commenced on the day he or she would have become entitled to New Zealand superannuation.

Compare: 1990 No 26 s 17A(4)

#### 26 Payment overseas of New Zealand superannuation

(1) A person who is entitled to receive New Zealand superannuation and who leaves New Zealand to reside in a country with which New Zealand has no agreement relating to reciprocity of social security monetary benefits is entitled, while residing in that country, to be paid 50% of the gross rate of New Zealand superannuation (excluding any living alone payment), as the case may be, that he or she would be entitled to receive if he or she resided in New Zealand.

(2) However, if a married person whose spouse is not entitled to receive New Zealand superannuation has made or is entitled to make an election under section 12, that married person is only entitled to be paid under this section 50% of the gross rate payable under clause 1(c) of Schedule 1.

(3) A person is not entitled to receive payment overseas under this section unless,---

(a) on the date of application for the payment, he or she is ordinarily resident and present in New Zealand and is on that date entitled to receive New Zealand superannuation or will be so entitled before leaving New Zealand; and

(b) the applicant intends to reside for more than 26 weeks in the overseas country to which the application relates, being a country with which New Zealand has no agreement relating to reciprocity of social security monetary benefits.

Compare: 1990 No 26 s 17(1), (2)

#### 27 Applications after leaving New Zealand

(1) This section applies if a person did not make an application for payment under section 26 while ordinarily resident and present in New Zealand because he or she left New Zealand intending to be absent for 26 weeks or less.

(2) The chief executive may accept an application for payment in accordance with section 26 if satisfied that the absence for more than 26 weeks is or was due to circumstances beyond the applicant's control that could not reasonably have been foreseen before leaving New Zealand.

(3) If the chief executive has accepted an application under subsection (2) and, after the applicant left New Zealand, the applicant has been paid any instalment of New Zealand superannuation in accordance with sections 21 to 25, no liability to repay any of those instalments arises merely because the applicant fails to return to New Zealand within the period allowed for by those sections.

Compare: 1990 No 26 s 17(3), (4)

#### 28 Date of commencement of payment overseas

(1) The date of commencement of payment overseas of New Zealand superannuation under section 26 is the first pay day after the date of the applicant's departure from New Zealand.

(2) However, in the case of an application under section 27, the date of commencement is the first pay day after the date on which the application was received by the Department.

Compare: 1990 No 26 s 17(4)

#### 29 Relationship with other benefit provisions

(1) If New Zealand superannuation payable overseas in accordance with section 26 is directly reduced under section 70 of the Social Security Act 1964, the amount payable is 50% of the reduced gross rate that would be payable in New Zealand.

(2) A person who is receiving New Zealand superannuation overseas under section 26 is not entitled to receive any supplementary or special benefit, lump sum payment, or any other assistance under the Social Security Act 1964 or under any welfare programme approved under section 124(1)(d) of that Act.

(3) Despite the provisions of section 80 of the Social Security Act 1964, on the death of a person who receives New Zealand superannuation overseas under section 26, the benefit terminates on a date to be determined by the chief executive, being a date not more than 4 weeks after the date of death.

(4) Except as otherwise provided in this section, the provisions of the Social Security Act 1964 (other than sections 75, 75A, and 76) apply to New Zealand superannuation being paid overseas under section 26.

(5) This section and sections 26 to 28 apply despite sections 74(a) and 77 of the Social Security Act 1964, but subject to the provisions of this section and of sections 26 to 28 and 30 to 35.  
Compare: 1990 No 26 s 17(1), (6)-(9)

### 30 Specified Pacific country

(1) In sections 31 to 35, specified Pacific country means a country or territory---

(a) that is listed in Schedule 2; and

(b) that is not a country with which New Zealand has a reciprocal agreement in force under section 19 of the Social Welfare (Transitional Provisions) Act 1990, which relates to the portability of New Zealand superannuation.

(2) The Governor-General may from time to time, by Order in Council, amend Schedule 2 by---

(a) adding the name of any Pacific country or territory; or

(b) omitting the former name of a country or territory and substituting its new name.

(3) The Order in Council must state the date on which it takes effect, which may be a date before the date on which it is made.

(4) The Order in Council applies to payments of New Zealand superannuation under section 31 payable on or after the date on which the order takes effect.

(5) Section 61H(3) to (6) of the Social Security Act 1964 applies to every Order in Council made under subsection (2)(a) as if it had been made under that section.

Compare: 1990 No 26 s 17B

### 31 Entitlement to be paid New Zealand superannuation in specified Pacific country

(1) A person entitled to receive New Zealand superannuation is entitled to be paid the benefit in a specified Pacific country at a rate calculated under section 32 if subsection (2) or subsection (3) applies to the person.

(2) This subsection applies to a person---

(a) who intends to leave New Zealand to reside for more than 52 weeks in a specified Pacific country; and

(b) who is resident and present in New Zealand on the date of his or her application to be paid New Zealand superannuation in a specified Pacific country; and

(c) who---

(i) is entitled to receive New Zealand superannuation on the date of the application; or

(ii) will be entitled to receive New Zealand superannuation before leaving New Zealand; and

(d) who is resident in a specified Pacific country when each payment of New Zealand superannuation is due to be made to him or her.



(3) This subsection applies to a person---

(a) who---

(i) was being paid New Zealand superannuation while resident in a specified Pacific country immediately before 1 October 1999 under section 17 of the Social Welfare (Transitional Provisions) Act 1990; or

(ii) was being paid New Zealand superannuation while resident in the Cook Islands, Niue, or Tokelau immediately before 1 October 1999 under section 17B of the Social Welfare (Transitional Provisions) Act 1990 as it was immediately before that date; and

(b) who is resident in a specified Pacific country when each payment of New Zealand superannuation is due to be made to him or her.

Compare: 1990 No 26 s 17BA

### 32 Rates of payment of New Zealand superannuation payable to people resident in specified Pacific countries

(1) The rate of New Zealand superannuation payable under section 31 is,---

(a) in the case of a person who has resided in New Zealand for 20 or more years since turning 20 years, the base rate:

(b) in the case of a person who has resided in New Zealand for 10 or more years but fewer than 20 years since turning 20 years, an amount calculated using the following formula:

$$a \times b \quad \text{-----} \quad 20$$

where---

a is the base rate b is the whole number of years the person has resided in New Zealand since turning 20 years:

(c) in the case of a person who is resident in a specified Pacific country and was being paid New Zealand superannuation immediately before 1 October 1999 under section 17 or section 17B of the Social Welfare (Transitional Provisions) Act 1990 as it was immediately before that date, the higher of---

(i) the amount he or she was being paid immediately before that date; and

(ii) the appropriate amount payable under paragraph (a) or paragraph (b).

(2) For the purposes of this section, the base rate is,---

(a) in the case of a single person, the amount stated in clause (1)(b) of Schedule 1; and

(b) in the case of a married person, the amount stated in clause (1)(c) of that schedule.

(3) However, if section 70 of the Social Security Act 1964 applies, that amount must be reduced by the amount deducted in accordance with that section.

Compare: 1990 No 26 s 17C

### 33 Commencement and termination of payments

(1) The commencement date of payment of a benefit under section 31 is the first pay day after the date of the person's departure from New Zealand.

(2) When a person being paid a benefit under section 31 dies, the benefit terminates on a date to be determined by the chief executive, being a date not more than 4 weeks after the date of death.

Compare: 1990 No 26 s 17D

### 34 Effect on other benefits

A person being paid a benefit under section 31 is not entitled to receive---

(a) any supplementary or special benefit, lump sum payment, payment under a welfare programme approved under section 124(1)(d) of the Social Security Act 1964, or any other assistance under that Act; or

(b) a living alone payment under section 13.

Compare: 1990 No 26 s 17E

### 35 Application of this Act and Social Security Act 1964

(1) Sections 21 to 29 do not apply in respect of New Zealand superannuation being paid in a specified Pacific country under section 31.

(2) The Social Security Act 1964, except sections 74(a), 75, 75A, 76, 77, and 80, applies to New Zealand superannuation being paid in a specified Pacific country under section 31.

Compare: 1990 No 26 s 17F

## Part 2

### New Zealand Superannuation Fund

#### 36 Outline of Part

This Part---

(a) establishes the New Zealand Superannuation Fund:

(b) provides for payments into and out of the Fund:

(c) establishes the Guardians of New Zealand Superannuation to manage and administer the Fund:

(d) requires the Guardians to invest the Fund on a prudent, commercial basis:

(e) empowers the Minister to give directions to the Guardians regarding the Minister's expectations as to the Fund's performance, and requires the Guardians to have regard to those directions:

(g) provides for other matters relating to the Fund and the Guardians.

### New Zealand Superannuation Fund

#### 37 Establishment of New Zealand Superannuation Fund

This section establishes the New Zealand Superannuation Fund (the Fund).

#### 38 Property of Fund

The Fund consists of---

(a) the capital contributions payable under this Act:

(b) money payable under section 45 to cover the expected net cost of New Zealand superannuation entitlements that are payable in the current year:

(c) Fund investments:

(d) money accruing from the investment of the Fund:

(e) any other money that may be lawfully payable into the Fund:

(f) money in the Crown Bank Account opened under section 39.

#### 39 Crown Bank Account

- (1) The Treasury must open a Crown Bank Account for the Fund at any bank or banks that the Minister may direct.
- (2) The Guardians must maintain and operate the accounts in accordance with any directions given by the Minister or the Treasury.
- (3) The Guardians must ensure that the accounts are not overdrawn at any time.
- (4) The Public Finance Act 1989 (except sections 23, 24, 25, 79, and 80) apply to the accounts with necessary modifications.
- (5) Money in the accounts is public money for the purpose of the Public Finance Act 1989. Other Fund money is not public money for that purpose.

#### 40 Ownership of Fund

The Fund is the property of the Crown.

#### 41 Payments out of Fund

- (1) The Fund must be held for the purpose of paying entitlements to New Zealand superannuation.
- (2) In addition, money may be paid out of the Fund---
  - (a) to pay any fee that is payable to an investment manager or custodian in respect of the Fund:
  - (b) to meet any other obligation that is directly related to the operation of the Fund:
  - (c) to pay the taxation liabilities arising in respect of the Fund:
  - (d) to meet any capital withdrawal under section 47.
- (3) No payment may be made out of the Fund except in accordance with subsection (1) or (2) and unless it has been authorised by the Guardians.

#### Required capital contributions to Fund

#### 42 Process for calculating capital contributions to Fund

- (1) The Treasury must, each financial year, calculate the amount of the annual capital contribution to the Fund required under section 43.
- (2) The Treasury must include, in the economic and fiscal update prepared under section 8(1) of the Fiscal Responsibility Act 1994,---
  - (a) the amount of the required annual capital contribution so calculated for the financial year; and
  - (b) a statement of the assumptions and judgements on which the calculations are based.
- (3) The Fiscal Responsibility Act 1994 (including, without limitation, section 12) applies to the matters that are included in the economic and fiscal update under this section as if they were required to be included under that Act.

#### 43 Amount of required annual capital contribution

The required annual capital contribution for each financial year is---

a --- x that year's GDP - b 100

where--- a is the percentage of that year's GDP that, if the same percentage of the GDP that is projected for each of the next 40 years were contributed (byway of either or both of annual required capital contributions and annual expense payments under section 45) each year for the next 40 years, would be just sufficient, taking into account the Fund balance at the start of that year and projected Fund investment income over the next 40 years, to enable the Fund to meet the expected net cost of the New Zealand superannuation entitlements payable out of the Fund over the next 40 years

GDP is the projected annual gross domestic product of New Zealand

b is the expected net cost of the New Zealand superannuation entitlements payable out of the Fund in the year

net cost is the cost of New Zealand superannuation entitlements net of any tax deduction made or required to be made under the PAYE rules in the Income Tax Act 1994

next 40 years means the financial year for which the required annual capital contribution is being calculated plus each of the following 39 financial years.

#### 44 Lesser amounts of annual capital contribution

(1) If the Government intends to pay less into the Fund in any financial year than the required annual capital contribution, the Minister must include, in the fiscal strategy report prepared under section 7 of the Fiscal Responsibility Act 1994,---

(a) the amount of the required annual capital contribution stated in the economic and fiscal update under section 42 in respect of the financial year; and

(b) a statement of the amount of annual capital contribution actually to be paid into the Fund in that year; and

(c) a statement of the reasons for the Government's departure from the required annual capital contribution; and

(d) a statement of the Government's intentions regarding future contributions to the Fund; and

(e) a statement of the approach the Government intends to take to ensure that the Fund will be sufficient to meet the payments of New Zealand superannuation entitlements expected to be made over the next 40 year period.

(2) The requirements of this section do not apply if the required annual capital contribution is less than zero.

#### Other contributions to Fund

##### 45 Annual expense payments

(1) The Minister must ensure that sufficient money is transferred into the Fund in each financial year to meet the net cost of the New Zealand superannuation entitlements that are payable out of the Fund during that year.

(2) The requirement in subsection (1) is additional to, and separate from, the obligation to make required annual capital contributions.

##### 46 Additional contributions to Fund

The Minister may pay any money into the Fund that is additional to that required under this Act.

#### Withdrawals from Fund

##### 47 Withdrawals from Fund after 2020

(1) If the required annual capital contribution is less than zero, the Minister may require a capital withdrawal to be made from the Fund up to that amount and paid into the Crown Bank Account.

(2) However, no capital withdrawal is allowed from the Fund in any financial year commencing before 1 July 2020.

#### Guardians of New Zealand Superannuation

##### 48 Establishment of Guardians of New Zealand Superannuation

(1) This section establishes the Guardians of New Zealand Superannuation (the Guardians).

(2) The Guardians are a Crown entity for the purposes of the Public Finance Act 1989.

##### 49 Body corporate status and powers

(1) The Guardians are a body corporate with perpetual succession.

(2) The Guardians have---

(a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and

(b) for the purposes of paragraph (a), full rights, powers, and privileges.

(3) There are no restrictions on the Guardians' investment powers, other than as provided by sections 58, 59, and 64.

(4) This section is subject to section 50 (borrowing).

Compare: 1993 No 105 s 16(1)

##### 50 Borrowing

(1) The Guardians may not, except with the approval of the Minister of Finance,---

(a) borrow money (neither on behalf of the Guardians 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) hold any financial instrument that places or may place a liability or a contingent liability on the Guardians, the Fund, or the Crown.

(2) The Minister's approval may be given for any transaction or class of transactions in subsection (1)(a) to (c).

##### 51 Functions

(1) The functions of the Guardians are to manage and administer the Fund in accordance with this Act.

(2) The Guardians are not a trustee, or a constructive trustee, in relation to the exercise of their functions or any other matter.

##### 52 Expenses of Guardians

The expenses of the Guardians must be met out of money appropriated by Parliament for the purpose.

### 53 Role of board

(1) All decisions relating to the business of the Guardians are to be made by or under the authority of a board called the Guardians of New Zealand Superannuation board (the board).

(2) The board has all the powers necessary for managing, and for directing or supervising the management of, the business of the Guardians.

### 54 Membership of board

The board must consist of at least 5, but not more than 7, board members appointed by the Governor-General on the recommendation of the Minister.

## Members' appointments

### 55 Criteria for appointments

The Minister must only recommend a person for appointment as a board member who,---

(a) in the Minister's opinion, has substantial experience, training, and expertise in the management of financial investments; and

(b) has been nominated by the nominating committee.

### 56 Nominating committee

(1) The Minister must establish a committee to nominate candidates to the Minister for appointment as members of the board.

(2) The nominating committee must comprise not less than 4 persons with proven skills or relevant work experience that will enable them to identify candidates for appointment to the board who are suitably qualified.

(3) The expenses of the nominating committee must be met out of money appropriated by Parliament for the purpose.

(4) The Minister must notify the nominating committee of persons who the Minister considers to have an interest in appointments to the board, and the nominating committee must consult with those persons or representatives of those persons.

(5) Subsection (4) does not limit consultation or the calling for expressions of interest in appointments.

(6) After receiving nominations for appointment from the nominating committee, the Minister must consult with representatives of other political parties in Parliament before recommending that the Governor-General appoints a person to the board.

### 57 Further provisions applying to board

Schedule 3 applies to the board and its members.

## Investment of Fund

### 58 Investment of Fund

(1) The Guardians are responsible for investing the Fund.

(2) The Guardians 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.

#### 59 No controlling interests

(1) The Guardians must use their 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 Guardians 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 approved 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 does not prevent the board establishing a subsidiary of the Guardians.

#### 60 Establishment of investment policies, standards, and procedures

(1) The Guardians must establish, and adhere to, investment policies, standards, and procedures for the Fund that are consistent with their duty to invest the Fund on a prudent, commercial basis, in accordance with section 58.

(2) The Guardians must review those investment policies, standards, and procedures for the Fund at least annually.

#### 61 Contents of statements of investment policies, standards, and procedures

A statement of the investment policies, standards, and procedures must include (but is not limited to) the policies, standards, and procedures relating to---

(a) the categories of assets in which the Fund is to be invested and the criteria for choosing individual investments; and

(b) the determination of benchmarks or standards against which the performance of the Fund as a whole, and individual investments, and classes of investments, will be assessed; and

(c) standards for reporting the investment performance of the Fund; and

(d) ethical investment; 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.

## 62 Investment management

- (1) The Guardians may appoint, on any terms and conditions that the Guardians think fit, 1 or more persons (including any department) to undertake the investment of any part of the Fund.
- (2) Different persons may be appointed for different parts of the Fund.
- (3) The Guardians must state, 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 49.

## 63 Custodianship of Fund

- (1) The Guardians 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 for which they have been appointed, in their name, or, if the Guardians authorise it, in the name of 1 or more nominees.
- (3) An appointment may be on any terms and conditions that the Guardians think fit.
- (4) The Guardians 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 49.

## Ministerial directions

### 64 Ministerial directions

- (1) The Minister may, after consultation with the Guardians, give directions to the Guardians regarding the Government's expectations as to the Fund's performance, including the Government's expectations as to risk and return.
- (2) The Minister must not give a direction that is inconsistent with the Guardians' duty to invest the Fund on a prudent, commercial basis, in accordance with section 58.
- (3) Any direction must be given in writing, dated, and be signed by the Minister.
- (4) As soon as practicable after giving the direction, the Minister must---
  - (a) present a copy of it to the House of Representatives; and
  - (b) publish a copy of it in the Gazette.
- (5) The Guardians must have regard to any direction given by the Minister.
- (6) The Guardians must notify the Minister of how the entity proposes to have regard to any direction.
- (7) The Guardians' annual report must include a statement of how the entity is having regard, or has had regard, during the year to any Ministerial directions given under this section.

## Accountability

### 65 Statement of intent

The statement of intent of the Guardians prepared each financial year under Part V of the Public Finance Act 1989 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.

#### 66 Financial statements of Fund

(1) The Guardians must ensure that financial statements for the Fund are prepared for each financial year.

(2) The annual financial statements must be prepared in accordance with generally accepted accounting practice (as defined in section 3 of the Financial Reporting Act 1993) as if the Fund were a reporting entity.

#### 67 Audit Office to be auditor of Fund

(1) The Audit Office is the auditor of the Fund.

(2) The Guardians must, not later than 90 days after the end of the financial year, forward the annual financial statements of the Fund to the Audit Office.

(3) The Audit Office must issue an audit opinion within 30 days of receipt of the annual financial statements and must return the annual financial statements, with the audit report attached, to the Guardians.

(4) For the purposes of issuing an audit opinion, the Audit Office has and may exercise all of the powers that it has under Part II of the Public Finance Act 1977.

#### 68 Annual report

The annual report of the Guardians prepared each financial year under Part V of the Public Finance Act 1989 must include (in addition to any other requirements, such as the entity's own financial statements)---

(a) the financial statements of the Fund for that financial year prepared under section 66; and

(b) a statement of responsibility for the financial statements of the Fund, signed by the chairperson of the board and the chief executive of the board, 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

(c) the audit report on the financial statements; and

(d) an analysis and explanation of the performance of the Fund over that financial year, including a comparison with the Guardians' expectations about the performance of the Fund that were set out in the statement of intent relating to that financial year; and

(e) a statement of the investment policies, standards, and procedures for the Fund established by the Guardians under section 60; and

(f) a statement signed by the chairperson of the board and the chief executive of the board certifying whether or not the investment policies, standards, and procedures for the Fund have been complied with throughout that financial year; and

(g) a schedule of the investment managers and custodians used by the Guardians during that financial year and the classes of investments for which each was responsible.

#### 69 Reporting by Guardians on Fund

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

#### 70 Audit Office to be auditor of Guardians

- (1) The Audit Office is the auditor of the Guardians and any subsidiary of the Guardians.
- (2) For that purpose, the Audit Office has and may exercise all of the functions, duties, and powers that the Audit Office has under the Public Finance Act 1977 in respect of public money and public stores.

### Performance reviews

#### 71 Performance reviews

- (1) From time to time, there must be conducted a review of how effectively and efficiently the Guardians are performing their functions.
- (2) The first performance review must be conducted as soon as practicable after 1 July 2003, and at no less than 5-yearly intervals (to be set by the Minister) after that.
- (3) 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 Guardians are appropriate to the Fund; and
  - (b) whether or not the investment policies, standards, and procedures, established by the Guardians have been complied with in all material respects; and
  - (c) the investment performance of the Fund.
- (4) Every performance review must be conducted by an independent person appointed by the Minister.
- (5) 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 Guardians.
- (6) The Minister must present a copy of the report to the House of Representatives as soon as practicable after receiving it.
- (7) The costs of conducting a performance review must be met out of money appropriated by Parliament for the purpose.

### Part 3

#### Miscellaneous provisions

##### Political commitment to New Zealand Superannuation

#### 72 Political commitment

- (1) A leader of a political party represented in Parliament may notify the Minister, in writing,---
  - (a) of the party's agreement to either Part 1 or Part 2 (or both); or

(b) of the withdrawal of that party's agreement to either Part 1 or Part 2 (or both).

(2) The Minister must, as soon as practicable after receiving a notification, make a recommendation to the Governor-General for an Order in Council to add or omit the name of the party to or from the relevant part or parts of Schedule 4, as the case may be.

(3) The Minister must also make a recommendation to the Governor-General for an Order in Council to omit the name of a political party from Schedule 4 if the party is no longer represented in Parliament.

(4) The Governor-General may, by Order in Council made on the recommendation of the Minister under subsection (2) or subsection (3), add names to, and omit names from, Schedule 4 in accordance with this section.

### 73 Amendments to Act

(1) If a Government intends to introduce a Bill into the House of Representatives to amend this Act, it must consult with---

(a) parties that are in agreement with the Part to be amended (as listed in Schedule 4); and

(b) the Guardians (to the extent that the amendment relates to Part 2).

(2) The Government must start the consultation process at least 90 days before introducing the amending Bill.

(3) If the House of Representatives resolves that consideration should be given to converting the balance in the Fund into retirement accounts for eligible individuals, the Guardians must report to the Minister and the Minister of Social Services and Employment, within 24 months of the date of the resolution, on options for doing so.

### Amendments to other Acts

74 Amendment to Ombudsmen Act 1975The Ombudsmen Act 1975 is amended by inserting in Part II of the First Schedule, in its appropriate alphabetical order, the item "The Guardians of New Zealand Superannuation and any subsidiary of the Guardians of New Zealand Superannuation."

75 Amendments to Public Finance Act 1989The Public Finance Act 1989 is amended by inserting in the Fourth, Fifth, and Sixth Schedules, in its appropriate alphabetical order, the item "The Guardians of New Zealand Superannuation."

### Taxation

#### 76 Taxation of Fund and Guardians

(1) The Fund is subject to income tax on any income derived from the Fund's investments, and that income is to be treated as gross income of the Fund under the Income Tax Act 1994.

(2) The Fund may claim allowable deductions under section BD 2 of the Income Tax Act 1994.

(3) The Fund is treated as if it were a body corporate for tax purposes.

(4) The Fund is not required to establish and maintain an imputation credit account under section ME 1 of the Income Tax Act 1994.

(5) The Guardians are a public authority for the purposes of the Inland Revenue Acts.

(6) In subsection (5), Inland Revenue Acts has the same meaning as in section 3(1) of the Tax Administration Act 1994.

### Consequential amendments and revocation

77 Consequential amendments to other Acts  
The Acts specified in Schedule 5 are consequentially amended in the manner set out in that schedule.

78 Consequential revocation  
The Social Security (Disability Services) Regulations 1993 (SR 1993/250) are consequentially revoked.

#### Transitional and savings provision

79 Transitional provision for existing New Zealand superannuation entitlements  
Every person who, immediately before the commencement of this section, was entitled to receive New Zealand superannuation entitlements under the Social Security Act 1964 or the Social Welfare (Transitional Provisions) Act 1990 or the Social Security (Disability Services) Regulations 1993 is entitled to receive the corresponding New Zealand superannuation entitlements under Part 1.  
Compare: 1990 No 26 s 7

### **Schedule 1 ss 12, 19, 20, 26, 32**

#### **New Zealand Superannuation entitlements**

- The following rates are before deduction of tax: \$
- 1 (a) to an unmarried person who has been granted a living alone payment under section 13 271.49 a week  
(b) to an unmarried person who has not been granted a living alone payment under section 13 249.52 a week  
(c) to a married person 205.58 a week
- 2 Alternative rate for a married person whose spouse is not entitled to receive New Zealand superannuation or a veteran's pension--- (a) to a married person who was receiving, or had applied for and was entitled to receive, New Zealand superannuation or a veteran's pension at the alternative rate before 1 October 1991  
411.16 a week subject to Income Test 3, or the rate for the time being stated in paragraph (b) of this clause, whichever is the greater (b)  
to any other married person 390.80 a week, subject to Income Test 3
- 3 Hospital rate payable under section 19 to a married person with no dependent children, or an unmarried person, who receives New Zealand superannuation An amount that, after income tax is deducted under tax code G (as stated in section NC 8 of the Income Tax Act 1994) is equal to \$27.22 a week
- 4 Rate of special disability allowance under section 20 27.22 a week

### **Schedule 2 s 30**

#### **Specified Pacific countries**

American Samoa Cook Islands Federated States of Micronesia Fiji French Polynesia Guam Kiribati Marshall Islands Nauru New Caledonia Niue Northern Mariana Islands Palau Papua New Guinea Pitcairn Island Samoa Solomon Islands Tokelau Tonga Tuvalu Vanuatu Wallis and Futuna

### **Schedule 3 s 57**

#### **Further provisions relating to board of Guardians of New Zealand Superannuation**

1 Application

This schedule applies to the board and its members.

## 2 Interpretation

In this schedule, unless the context otherwise requires,---board means the board of the Guardians

entity means the Crown entity known as the Guardians of New Zealand Superannuation

member means a member of the board

quorum means a majority of board members as provided for in clause 31.

## 3 Method of appointment

The Governor-General appoints a member by sending written notice to the member and a copy to the entity.

## 4 When appointment takes effect

Every member takes office from the date stated in the notice of appointment.

## 5 Position where concurrent office

A person appointed as a member may hold that office concurrently with any other office.

## Term of office

### 6 Term of office

Except as otherwise provided in this Act, a member---

- (a) holds office for a term not exceeding 5 years; and
- (b) may be reappointed; and
- (c) continues in office after the expiry of his or her term of office (unless the member resigns or is removed from office) until---
  - (i) the member is reappointed; or
  - (ii) the member's successor is appointed; or
  - (iii) the member is informed in writing by the Minister that the member is not to be reappointed.

## Duties of board members

### 7 Duties of members

- (1) A member, when exercising powers or performing duties as a member, must act---
  - (a) in good faith; and
  - (b) with reasonable care, diligence, and skill; and
  - (c) with honesty and integrity; and
  - (d) in accordance with any code of conduct issued by 1 or more Ministers of the Crown that applies to Crown entities generally.
- (2) The board---
  - (a) must ensure that the entity, and any subsidiary of the entity, acts in a manner consistent with the functions and powers of the entity, and with the entity's statement of intent and purchase agreement, and any directions given under section 64; and
  - (b) must ensure that the activities of the entity, and those of its subsidiaries, are conducted efficiently and effectively; and

(c) must have regard to the interests of creditors of the entity, and endeavour to ensure that the entity operates in a financially responsible manner.

#### Liability of members

##### 8 Liability of members and committee members

(1) A member, and a member of any committee of the board, is not personally liable, in any action taken against him or her by the entity, for any liability of the entity, or for any act done or omitted to be done by the entity or the board or by any person acting under a delegation of the entity's functions and powers, provided the member acted in good faith in pursuance or intended pursuance of the functions or powers of the entity.

(2) Every member, and every member of any committee of the board, is indemnified by the entity---

(a) for costs and damages for any civil liability arising from any action brought by a third party, provided the member was acting in good faith and in pursuance or intended pursuance of the functions or powers of the entity; and

(b) for costs arising from any successfully defended criminal action.

(3) The Crown must meet any costs and damages arising from this indemnity out of money appropriated by Parliament.

#### Resignation and removal of members

##### 9 Resignation

A member may resign from office by sending a written notice to the Minister and a copy to the entity.

##### 10 Removal from office

(1) The Minister may, at any time and for any reason that in the Minister's opinion justifies the removal, remove a member from office by written notice to the member (with a copy to the entity).

(2) A member is not entitled to any compensation or other payment relating to his or her removal from office.

#### Vacancies in the entity's membership

##### 11 Effect of vacancy in membership

The functions and powers of the entity are not affected by any vacancy in the board's membership.

#### Remuneration

##### 12 Remuneration

The Minister must approve payments to, or for, the members of the board, being remuneration for services as members of the board or reimbursement of expenses incurred by board members in carrying on the affairs of the board.

#### Chairperson and deputy chairperson

##### 13 Appointment

(1) The Governor-General, on the recommendation of the Minister, may appoint 1 of the members as the chairperson and another member as the deputy chairperson.

(2) However, no person may, at the same time, hold the office of both chairperson and deputy chairperson.

(3) The Governor-General appoints a chairperson or deputy chairperson by sending written notice to the member and a copy to the entity.

(4) The person takes office as chairperson or deputy chairperson from the date stated in the notice of appointment.

##### 14 Term of office

Every person appointed as chairperson or deputy chairperson holds that office until the person---

- (a) resigns from that office; or
- (b) is removed from it by the Minister; or
- (c) ceases to be a member.

#### 15 Resignation

(1) A chairperson or deputy chairperson may resign from that office by sending written notice to the Minister and a copy to the entity stating the date on which the resignation takes effect.

(2) A chairperson or deputy chairperson who resigns from that office continues to be a member of the board unless he or she also resigns from that office under clause 9.

**16 Exercise of chairperson's functions, duties, and powers during vacancy, etc**  
During a vacancy in the office of chairperson, or while the chairperson is for any reason unable to perform the functions, duties, and powers of the chairperson, the deputy chairperson has and may exercise all of the functions, duties, and powers of the chairperson.

#### Acts not to be called into question

##### 17 Acts not to be called into question

No one may question the following in any proceedings on the grounds that the occasion for the appointment had not arisen or had ceased:

- (a) an appointment of a member to act as chairperson:
- (b) an act done by that member while acting as chairperson:
- (c) an act done by the board while any member is acting as chairperson:
- (d) an act done by the board or any member while the member continues to hold office under clause 14(c).

#### Disclosure of interest

##### 18 Obligation to disclose interest

(1) A member who (except as a member) is interested, directly or indirectly, in any of the matters listed in subclause (2) must, as soon as practicable after the member knows about the relevant facts, disclose the nature of the interest in accordance with clause 20.

(2) The matters are---

- (a) the entity's performance of its functions or exercise of a power:
- (b) an arrangement, agreement, or contract, made or entered into, or proposed to be made or entered into, by the entity.

##### 19 Meaning of interested

A member is interested in a transaction to which the board is a party if, and only if, the member---

- (a) is a party to, or will or may derive a material financial benefit from, the transaction; or
- (b) has a material financial interest in another party to the transaction; or
- (c) is a director, officer, member, or trustee of another party to, or person who will or may derive a material financial benefit from, the transaction; or
- (d) is the parent, child, or spouse of another party to, or person who will or may derive a material financial benefit from, the transaction; or

(e) is otherwise directly or indirectly materially interested in the transaction.

#### 20 Disclosure of interest

(1) A member must, immediately after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the entity, cause to be entered in the interests register, and disclose to the board,---

(a) the nature and monetary value of the member's interest, if the monetary value is able to be quantified; or

(b) the nature and extent of the member's interest, if the monetary value cannot be quantified.

(2) A general notice entered in the interests register or disclosed to the board to the effect that a member is a shareholder, director, officer, member, or trustee, of another named company or other person and is to be regarded as interested in any transaction that may, after the date of the entry or disclosure, be entered into with that company or person is a sufficient disclosure of interest for that transaction.

#### 21 Consequences of disclosure

A member who discloses his or her interest under clause 20---

(a) must not take part in any deliberation or decision of the board concerning the matter; and

(b) is to be disregarded for the purpose of forming a quorum for a meeting of the board during which a deliberation or decision relating to the matter occurs or is made.

#### 22 Matters to be delegated to committee

The board must delegate a deliberation or decision to a committee if the effect of clause 21 is that there is not a quorum of members able to take part in the deliberation or decision, or to form a quorum.

#### 23 Members of committee to which matters delegated

A committee to which a deliberation or decision is delegated under clause 22 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.

#### 24 Effect of non-compliance

The validity of a transaction entered into by the entity is not affected by the fact that a member fails to comply with the disclosure requirements in clauses 18 to 23.

### Use of information

#### 25 Restrictions on disclosure or use of entity's information

(1) A member must not disclose to any person, or make use of, or act on, any information that is only available to the member in that capacity.

(2) Subclause (1) does not prevent a member---

(a) being required or authorised by this Act or any other Act to disclose, use, or act on, the information; or

(b) disclosing, using, or acting on the information for the purposes of the entity or the requirements of the law;  
or

(c) disclosing the information to the Minister.

#### 26 When member may rely on certain information and advice



(1) A member, when exercising powers or performing duties as a member, may rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the persons listed in subclause (2).

(2) The persons are---

(a) any person who the member believes on reasonable grounds is reliable and competent in relation to the matters concerned; or

(b) any other member or committee on which the member did not serve concerning matters within the member's or committee's designated authority; or

(c) the Minister.

27 When clause 26 applies

Clause 26 applies to a member only if the member---

(a) acts in good faith; and

(b) makes proper inquiry if the need for inquiry is indicated by the circumstances; and

(c) has no knowledge that the reliance is unwarranted.

Procedure of board: general

28 Procedure generally

Except as otherwise provided in this Act, the board may regulate its own procedure.

Procedure of board: meetings

29 Times and places of meetings

(1) The board or the chairperson must appoint the times and places for meetings of the board.

(2) The chairperson, or any 2 members, may at any time call a special meeting of the board by giving not less than 7 days' notice of the special meeting, and of the business to be transacted at the meeting, to each member for the time being in New Zealand.

(3) The notice must be sent to the member's last known address in New Zealand.

(4) No business other than that stated in a notice of special meeting may be transacted at that meeting.

30 Methods of holding meetings

A meeting of the board may be held either---

(a) by a number of the members who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or

(b) by means of audio, or audio and visual, or electronic communication, by which all members participating and constituting a quorum can simultaneously communicate with each other throughout the meeting.

31 Quorum

(1) A quorum for a meeting of the board is a majority of the members at the time the meeting is held.

(2) No business may be transacted at a meeting of the board if a quorum is not present.

32 Who presides at meetings

(1) The chairperson must preside at all meetings of the board at which he or she is present.

(2) If the chairperson is not present, or if there is no chairperson, the deputy chairperson, if present, must preside.

(3) The members present must appoint 1 of their number to be the chairperson for the meeting if---

- (a) the chairperson or the deputy chairperson is not present; or
- (b) there is no chairperson and no deputy chairperson.

(4) The elected person has and may exercise all the powers, duties, and functions of the chairperson for the purposes of the meeting.

### 33 Voting at meetings

All resolutions of the board must be decided by a majority of the votes cast.

### 34 Resolutions

(1) A resolution in writing, signed or assented to by letter, facsimile message, or electronic message by all members, is as valid and effectual as if it had been passed at a meeting of the board duly called and constituted.

(2) The resolution may consist of several documents in the same form, each signed or appearing to have been sent by 1 or more members.

### 35 Method of contracting

(1) A contract or other enforceable obligation may be entered into by the entity as stated in subclauses (2) to (5).

(2) An obligation that, if entered into by an individual, would be required to be by deed, may be entered into on behalf of the entity in writing, signed under the name of the entity by---

- (a) 2 or more of its members; or
- (b) 1 or more attorneys appointed by the entity in accordance with clause 36.

(3) An obligation that, if entered into by an individual, is required to be in writing, may be entered into on behalf of the entity in writing by a person acting under the entity's express or implied authority.

(4) An obligation that, if entered into by an individual, is not required to be in writing, may be entered into on behalf of the entity in writing or orally by a person acting under the entity's express or implied authority.

(5) The entity may, in addition to complying with subclauses (2) to (4), affix its common seal, if it has one, to the contract or document containing the enforceable obligation.

(6) This clause applies to a contract or other obligation---

- (a) whether or not that contract or obligation was entered into in New Zealand; and
- (b) whether or not the law governing the contract or obligation is the law of New Zealand.

### 36 Attorneys

(1) The entity may, by an instrument in writing executed in accordance with clause 35(2), appoint a person as its attorney either generally or for a specified matter.

(2) An act of the attorney in accordance with the instrument binds the entity.

## Delegations

### 37 Ability for board to delegate functions and powers

The board may by writing, either generally or specifically, delegate any of the functions or powers of the entity to a committee of the board or to any person.

### 38 Certain powers must not be delegated

The board must not delegate any of the following powers:

- (a) the power of delegation in clause 37:
- (b) the power to grant a power of attorney:
- (c) the power to appoint an investment manager in section 62:
- (d) the power to appoint a custodian in terms of section 63.

#### 39 Effect of delegation

(1) A person to whom any functions or powers are delegated under clause 37 may carry out those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on the person directly by this Act and not by delegation.

(2) Subclause (1) is subject to any direction given or condition imposed by the board.

#### 40 Presumption of acting in accordance with delegation

A person who appears to act under a delegation under clause 37 is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

#### 41 Other matters relating to delegation

A delegation under clause 37---

- (a) is revocable at will, but the revocation does not take effect until it is communicated to the delegate; and
- (b) continues in force according to its terms until it is revoked; and
- (c) does not prevent the board from performing the functions or exercising the power.

### Subsidiaries

#### 42 Subsidiaries

(1) The board must ensure that---

- (a) the functions and powers of any subsidiary of the entity are no broader than those of the entity; and
- (b) the entity controls the composition of the board of the subsidiary at all times; and
- (c) the entity holds more than 50% of the voting shares of the subsidiary at all times.

(2) Clauses 44 to 51 apply to any subsidiary of the entity.

### Committees

#### 43 Committees

(1) The board may, by writing, appoint a committee to---

(a) advise the board on any matters concerning the entity's functions or powers that are referred to a committee by the board; or

(b) exercise any of the entity's functions or powers that are delegated to the committee under clause 22 or clause 37.

(2) The board may, by resolution, alter, discharge, continue, or reconstitute a committee appointed under subclause (1).

(3) Committee members may be members of the board or other persons.

(4) A committee may regulate its own procedure, subject to any direction from the board.

(5) Clauses 13 to 35 apply to the committee.

#### Employees

##### 44 Appointment of chief executive officer

- (1) The board may from time to time appoint a chief executive officer.
- (2) The conditions of employment of a chief executive officer must be determined by the board.
- (3) The board must not agree to any conditions of employment for a chief executive officer without---

(a) consulting the State Services Commissioner; and

(b) having regard to all recommendations the Commissioner makes to the board within a reasonable time of being consulted.

##### 45 Appointment of other employees

(1) The chief executive officer may appoint those employees, including employees on secondment from other organisations, that he or she thinks necessary for the efficient performance of the entity's functions, and may negotiate the terms and conditions of employment of those employees.

(2) Subject to the terms and conditions of employment, the chief executive officer may at any time terminate or suspend the employment of any of the entity's employees.

##### 46 Personnel policy

(1) The board must, if it appoints employees, operate a personnel policy that complies with the principle of being a good employer.

(2) For the purposes of this clause, a good employer is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring---

(a) good and safe working conditions; and

(b) an equal employment opportunities programme; and

(c) the impartial selection of suitably qualified persons for appointment; and

(d) recognition of---

(i) the aims and aspirations of Maori; and

(ii) the employment requirements of Maori; and

(iii) the need for involvement of Maori as employees of the board; and

(e) opportunities for the enhancement of the abilities of individual employees; and

(f) recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and

(g) recognition of the employment requirements of women; and

(h) recognition of the employment requirements of persons with disabilities.

##### 47 Equal employment opportunities

(1) The board must, if it appoints employees,---

(a) develop and publish in each year an equal employment opportunities programme; and

(b) ensure in each year that the programme for that year is complied with and reported on within the board's annual report.

(2) An equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality concerning the employment of any persons or group of persons.

#### 48 Choice of procedure

If the circumstances giving rise to a personal grievance by a person employed by the board are also those that the person would be entitled to make a complaint under the Human Rights Act 1993, that person may take 1, but not both, of the following steps:

(a) the person may invoke, for those circumstances, the procedures applicable to personal grievances under the Employment Contracts Act 1991 or the relevant award or agreement; or

(b) the person may make, in relation to those circumstances, a complaint under the Human Rights Act 1993.

#### 49 Superannuation or retiring allowances

For the purpose of providing a superannuation fund or retiring allowances for its employees, the board may from time to time pay sums by way of subsidy or contribution into any superannuation scheme that is registered under the Superannuation Schemes Act 1989.

#### 50 Application of certain Acts to members and employees

No person is deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason only of that person's appointment under clause 44 or clause 45.

#### 51 Existing Government Superannuation Fund members

(1) Despite clause 50, a person who, immediately before becoming an employee of the board, was a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 is, for the purposes of that Act, considered 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, for that employee, means the board.

## **Schedule 4      s 72**

### **Political parties in agreement with Act**

#### Part 1

Political parties that are in agreement with Part 1 of Act

#### Part 2

Political parties that are in agreement with Part 2 of Act

## **Schedule 5      s 77**

### **Consequential amendments to other Acts**

Accident Insurance Act 1998 (1998 No 114) Repeal the definition of New Zealand superannuation qualification age in section 13 and substitute:

"New Zealand superannuation qualification age,---

"(a) for a person born before 1 April 1936, means the appropriate age set out in section 4 of the Social Welfare (Transitional Provisions) Act 1990 (before its repeal):

"(b) for any other person, means the age specified in section 7 of the New Zealand Superannuation Act 2000,--- irrespective of whether or not the particular person qualifies for New Zealand superannuation at that or any other age.

"Repeal so much of Schedule 7 as relates to section 3(1A) of the Social Welfare (Transitional Provisions) Act 1990.

Child Support Act 1991 (1991 No 142)

Insert in section 131, after the words "or under the Social Welfare (Transitional Provisions) Act 1990", the words "or the New Zealand Superannuation Act 2000".

Insert in section 240(2)(d), after the words "or the Social Welfare (Transitional Provisions) Act 1990", the words "or the New Zealand Superannuation Act 2000".

Insert in section 263(2)(b)(iii), after the words "or the Social Welfare (Transitional Provisions) Act 1990", the words "or the New Zealand Superannuation Act 2000".

Employment Services and Income Support (Integrated Administration) Act 1998(1998 No 96)

Repeal so much of the Schedule as relates to section 4 of the Social Welfare (Transitional Provisions) Act 1990.

Family Proceedings Act 1980 (1980 No 94)

Insert in section 101A (as saved by section 259 of the Child Support Act 1991), after the words "or the Social Welfare (Transitional Provisions) Act 1990", the words "or the New Zealand Superannuation Act 2000".

Housing Restructuring Act 1992 (1992 No 76)

Insert in section 46(6), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "and the New Zealand Superannuation Act 2000".

Omit from clause 2(a) of Schedule 2 the expression "clause 1(a) of the First Schedule of the Social Welfare (Transitional Provisions) Act 1990" and substitute the expression "clause 1(a) of Schedule 1 of the New Zealand Superannuation Act 2000".

Omit from clause 2(b) of Schedule 2 the expression "clause 1(c) of the First Schedule of the Social Welfare (Transitional Provisions) Act 1990" and substitute the expression "clause 1(c) of Schedule 1 of the New Zealand Superannuation Act 2000".

Repeal clause 9(a)(ii) of Schedule 2 and substitute:

"(ii) New Zealand superannuation under the New Zealand Superannuation Act 2000 or a veteran's pension under the Social Welfare (Transitional Provisions) Act 1990; or".

Human Rights Act 1993 (1993 No 82)

Omit from section 21(1)(i)(i) the words "under section 3 of the Social Welfare (Transitional Provisions) Act 1990" and substitute the words "under section 7 of the New Zealand Superannuation Act 2000".

Omit from section 70(5)(d) the words "under section 3 of the Social Welfare (Transitional Provisions) Act 1990" and substitute the words "under section 7 of the New Zealand Superannuation Act 2000".

Income Tax Act 1994(1994 No 164) Repeal the definition of living alone payment in section OB 1 and substitute:

"living alone payment means a living alone payment paid or payable under section 18A of the Social Welfare (Transitional Provisions) Act 1990 or section 13 of the New Zealand Superannuation Act 2000".

Repeal the definition of New Zealand superannuation in section OB 1 and substitute:

"New Zealand superannuation---

"(a) means New Zealand superannuation paid or payable under Part I of the Social Welfare (Transitional Provisions) Act 1990 or under Part 1 of the New Zealand Superannuation Act 2000:

"(b) includes---

"(i) any living alone payment paid or payable to a New Zealand superannuitant under section 18A of the Social Welfare (Transitional Provisions) Act 1990 or under section 13 of the New Zealand Superannuation Act 2000; and

"(ia) any amount paid under section 70(3)(b) of the Social Security Act 1964; and

"(ii) any national superannuation paid or payable, before 1 April 1994, under Part I of the Social Welfare (Transitional Provisions) Act 1990; but

"(c) does not include---

"(i) portable New Zealand superannuation; or

"(ii) any transitional retirement benefit paid or payable under Part I of the Social Welfare (Transitional Provisions) Act 1990; or

"(iii) any supplement or benefit paid or payable under any of sections 61DB, 61DC, 61DD, 61DE, 61E, 61EA, 61FC, 61G, and 69C of the Social Security Act 1964".

Repeal the definition of New Zealand superannuitant in section OB 1 and substitute:

"New Zealand superannuitant, in relation to any income year,---

"(a) means a person who receives New Zealand superannuation in the income year; but

"(b) does not include a person who receives New Zealand superannuation at a rate specified in clause 2 of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990 or under clause 2 of Schedule 1 of the New Zealand Superannuation Act 2000". Repeal the definition of portable New Zealand superannuation in section OB 1 and substitute:

"portable New Zealand superannuation means New Zealand superannuation paid or payable overseas under any provision of sections 17, 17BA, and 19 of the Social Welfare (Transitional Provisions) Act 1990 or under any provision of sections 26 to 29 and 31 of the New Zealand Superannuation Act 2000".

Social Security Act 1964 (1964 No 136) Add to paragraph (b)(i) of the definition of benefit in section 3(1) the words "and New Zealand superannuation payable under the New Zealand Superannuation Act 2000". Add to paragraph (b)(ii) of the definition of benefit in section 3(1) the words "and a living alone payment payable under the New Zealand Superannuation Act 2000".

Insert in paragraph (f)(i) of the definition of income in section 3(1), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or the New Zealand Superannuation Act 2000". Add to paragraph (f) of the definition of income-tested benefit in section 3(1) the words "or at the rate in clause 2 of Schedule 1 of the New Zealand Superannuation Act 2000". Repeal the definition of New Zealand superannuation in section 3(1) and substitute:

"New Zealand superannuation means New Zealand superannuation payable under the New Zealand Superannuation Act 2000".

Insert in section 3(3), after the expression "Social Welfare (Transitional Provisions) Act 1990" the first time that it appears, the words "or the New Zealand Superannuation Act 2000". Repeal section 3(3)(a) and substitute:

"(a) meets the residential qualification for New Zealand superannuation set out in the New Zealand Superannuation Act 2000; and".

Insert in section 5(1), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or the New Zealand Superannuation Act 2000".

Insert in section 11(2)(a), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or under the New Zealand Superannuation Act 2000".

Insert in section 11(2)(f), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or under the New Zealand Superannuation Act 2000".

Insert in section 12J(1), after paragraph (c):

"(ca) Part 1 of the New Zealand Superannuation Act 2000; or".

Insert in section 61G(1), after the expression "Social Welfare (Transitional Provisions) Act 1990" in both places where it appears, the words "or the New Zealand Superannuation Act 2000".

Insert in section 61H(1), after paragraph (c):

"(ca) amend Schedule 1 of the New Zealand Superannuation Act 2000; and".

Insert in section 64(1), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or in the New Zealand Superannuation Act 2000".

Insert in section 64(2A), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or in the New Zealand Superannuation Act 2000".

Omit from section 66(1) the words "under section 16 of this Act".

Insert in paragraph (a)(i) of the definition of income in section 69FA, after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or the New Zealand Superannuation Act 2000".

Insert in section 69G(1), (2)(a) to (d), and (3)(a) and (b), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or under the New Zealand Superannuation Act 2000".

Insert in section 69H(1) and (3), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or under the New Zealand Superannuation Act 2000".

Insert in section 70(1), (1)(a) and (b), (3)(a) and (b), and (4)(a), after the expression "Social Welfare (Transitional Provisions) 1990", the words "or under the New Zealand Superannuation Act 2000".

Insert in section 70, after subsection (3B), the following subsection:

"(3C) If the benefit referred to in an arrangement made under subsection (3)(a) is New Zealand superannuation, the chief executive must pay any amount received from the overseas pensioner under the arrangement into the New Zealand Superannuation Fund established under the New Zealand Superannuation Act 2000, in accordance with arrangements made from time to time by the chief executive with the Guardians of New Zealand Superannuation."

Insert in section 71(1), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or the New Zealand Superannuation Act 2000".

Insert in section 74, after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or the New Zealand Superannuation Act 2000".

Insert in section 74A(2), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or the New Zealand Superannuation Act 2000".

Add to section 75:

"(8) Nothing in this section applies to New Zealand superannuation under the New Zealand Superannuation Act 2000."

Insert in section 77(1), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or in sections 21 to 29 of the New Zealand Superannuation Act 2000".

Insert in section 80(1), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or the New Zealand Superannuation Act 2000".

Insert in section 86(2), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or under the New Zealand Superannuation Act 2000".

Insert in section 127(a), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or the New Zealand Superannuation Act 2000".

Insert in section 132B(2)(c), after the expression "Social Welfare (Transitional Provisions) Act 1990", the words "or of the New Zealand Superannuation Act 2000".

Social Security Amendment Act 1998 (1998 No 19) Repeal so much of Part A of Schedule 1 as relates to the Social Welfare (Transitional Provisions) Act 1990.

Social Welfare (Transitional Provisions) Act 1990 (1990 No 26) Repeal sections 3 to 7.

Omit from sections 13A, 17 to 17C, and 18A the words "New Zealand superannuation or" in every place that they appear.

Omit from sections 13A, 17 to 17C, and 17F the words "New Zealand superannuation and" in every place that they appear.

Amend section 19(1)(b) by inserting, after the expression "Social Security Act 1964", the words "and of Part 1 of the New Zealand Superannuation Act 2000".

Social Welfare (Transitional Provisions) Amendment Act (No 2) 1990 (1990 No 133) Repeal section 2.

Social Welfare (Transitional Provisions) Amendment Act (No 2) 1991 (1991 No 77) Repeal section 3.



Social Welfare (Transitional Provisions) Amendment Act 1993 (1993 No 58) Repeal section 2.

Taxation (Remedial Provisions) Act 1996 (1996 No 159) Repeal section 30(1)(j) and (k).