



ANALYSIS

<p>Title</p> <p>1. Short Title</p> <p style="padding-left: 40px;"><i>Application of Principal Act and Human Rights Commission Act 1977 to Superannuation Schemes</i></p> <p>2. Application of principal Act to superannuation schemes providing benefits on account of marital status</p>	<p>3. Application of principal Act to superannuation schemes providing benefits for children and dependants</p> <p>4. Savings in respect of certain superannuation schemes</p> <p>5. Application of Human Rights Commission Act 1977 to superannuation schemes</p> <p style="padding-left: 40px;"><i>Amendments to Principal Act</i></p> <p>6. Superannuation schemes</p> <p>7. Power to vary trust deeds</p>
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1994, No. 138

An Act to amend the Human Rights Act 1993

[9 December 1994

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

1. Short Title—This Act may be cited as the Human Rights Amendment Act 1994, and shall be read together with and deemed part of the Human Rights Act 1993 (hereinafter referred to as the principal Act).

*Application of Principal Act and Human Rights Commission Act
1977 to Superannuation Schemes*

2. Application of principal Act to superannuation schemes providing benefits on account of marital status—(1) Notwithstanding any rule of law, nothing in section 22 or section 44 or section 70 of the principal Act shall prevent, or be taken ever to have prevented, the provisions of a superannuation scheme, or the trustees of the scheme, from providing, on the death of a member of the scheme, a benefit for either—

- (a) The spouse of that member; or
- (b) The spouse of that member or a person with whom that member was living in a relationship in the nature of a marriage,—

without providing a similar or corresponding or equivalent benefit on the death of other members of the scheme.

(2) Subject to subsection (5) of this section, this section applies in respect of superannuation schemes established before or after the commencement of this Act.

(3) This section applies notwithstanding any judgment, decision, or order of any Court or tribunal given or made before or after the commencement of this Act in proceedings commenced before the commencement of this Act.

(4) Nothing in section 153 (1) of the principal Act limits or affects this section.

(5) Nothing in this section applies to the provision of benefits under a superannuation scheme or by the trustees of a scheme in respect of any person who, at any time on or after the 1st day of January 1996, becomes a member of the scheme unless,—

(a) Immediately before becoming a member, that person was a member of another superannuation scheme that provides or provided, or the trustees of which provide or provided, benefits of a kind referred to in paragraph (a) or paragraph (b) of subsection (1) of this section; and

(b) That person became a member of the first-mentioned scheme as a result of a requirement, or the exercise of a right, to leave that other scheme by reason of any merger, takeover, or restructuring of, or reorganisation of the business of, that person's employer.

(6) Nothing in this section affects the validity of any amendment to the instrument or conditions governing a superannuation scheme made pursuant to section 72 of the principal Act before the commencement of this Act.

3. Application of principal Act to superannuation schemes providing benefits for children and dependants—

(1) For the avoidance of doubt, it is hereby declared that nothing in section 22 or section 44 or section 70 of the principal Act shall prevent, or be taken ever to have prevented, the provisions of a superannuation scheme, or the trustees of the scheme, from providing, on the death of a member of the scheme, a benefit for a child or dependant of that member's family, including a child or dependant belonging to a particular class determined by reference to age, disability, or employment status without providing a similar or

corresponding or equivalent benefit on the death of other members of the scheme.

(2) This section applies in respect of superannuation schemes established before or after the commencement of this Act.

(3) This section applies notwithstanding any judgment, decision, or order of any Court or tribunal given or made before or after the commencement of this Act in proceedings commenced before the commencement of this Act.

4. Savings in respect of certain superannuation schemes—(1) For the avoidance of doubt, it is hereby declared that nothing in section 22 or section 44 of the principal Act relating to different treatment on the ground of sex or marital status shall apply, or be taken ever to have applied, to—

(a) A superannuation scheme to which subsection (2) of section 88 of the Human Rights Commission Act 1977 applied, except in respect of a person who became a member of the scheme on or after the 1st day of April 1980 or to whom amendments to the scheme were applied pursuant to subsection (4) of that section; or

(b) A superannuation scheme established as an alternative to making amendments of the kind referred to in subsection (4) of section 88 of the Human Rights Commission Act 1977 to an existing scheme, except in respect of a person who became a member of the scheme by virtue of subsections (4) and (5) of that section.

(2) For the avoidance of doubt, it is hereby further declared that where any superannuation scheme was amended for the purpose of ensuring that its operation did not involve a breach of section 15 (1) or section 24 (1) of the Human Rights Commission Act 1977, nothing in the principal Act, and nothing in those amendments, shall deprive, or be taken ever to have deprived, any person who joined the scheme before the date on which those amendments came into force of any right or option to retire at a particular age or on a particular date or to become entitled under the scheme to a pension or other benefit, unless that person relinquishes that right or option.

5. Application of Human Rights Commission Act 1977 to superannuation schemes—(1) Notwithstanding any rule of law, nothing in section 15 (1) or section 24 (1) or section 88 of the Human Rights Commission Act 1977 shall be taken ever to have prevented the provisions of a superannuation scheme, or

the trustees of the scheme, from providing, on the death of a member of the scheme, a benefit for either—

- (a) The spouse of that member; or
- (b) The spouse of that member or a person with whom that member was living in a relationship in the nature of a marriage,—

without providing a similar or corresponding or equivalent benefit on the death of other members of the scheme.

(2) This section applies notwithstanding any judgment, decision, or order of any Court or tribunal given or made before or after the commencement of this Act in proceedings commenced before the commencement of this Act.

(3) Nothing in section 153 (1) of the principal Act limits or affects this section.

(4) Nothing in this section affects the validity of any amendment to the instrument or conditions governing a superannuation scheme made pursuant to section 90 of the Human Rights Commission Act 1977.

Amendments to Principal Act

6. Superannuation schemes—Section 70 (1) of the principal Act is hereby amended by omitting the words “1st day of January 1995”, and substituting the words “1st day of January 1996”.

7. Power to vary trust deeds—The principal Act is hereby amended by repealing section 72, and substituting the following section:

“72. (1) Notwithstanding any Act or rule of law or the provisions of the instrument or conditions governing any superannuation scheme, the trustees of the scheme may make such amendments to that instrument or those conditions as are necessary or desirable to give effect to the provisions of sections 22, 44, and 70 of this Act.

“(2) Every amendment to the provisions of an instrument or conditions governing any superannuation scheme made under subsection (1) of this section on or after the commencement of the Human Rights Amendment Act 1994 must be made by deed.”