

The Treasury

EXP-24-SUB-0013 Order in Council Under the Government Superannuation Fund Act 1956 Information Release

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Office of the Minister of Finance

Cabinet Expenditure and Regulatory Review Committee

Order in Council for the Government Superannuation Fund Act 1956

Proposal

- 1 This paper seeks authorisation for an Order in Council (OIC) to allow members of the Reserve Bank of New Zealand Superannuation and Provident Fund Scheme (RBNZ Scheme) to opt to transfer into the Government Superannuation Fund (GSF) new general scheme upon the wind up of the RBNZ Scheme.

Relation to government priorities

- 2 This Order in Council enables operational efficiencies and cost savings due to an outdated scheme and regulatory system.

Executive Summary

- 3 The RBNZ Scheme Board of Trustees is currently considering winding up the RBNZ Scheme due to the low number of remaining members and the high costs associated with the Scheme. Under the RBNZ Scheme's Trust Deed, if the Scheme is wound up then the Trustees must purchase, for every pensioner who does not consent to receiving their wind-up benefit entirely as a lump sum, an external annuity on equivalent terms to their RBNZ Scheme pension.
- 4 As there is no functioning annuities market in New Zealand, I recommend allowing a transfer of members from the Defined Benefit section of the RBNZ Scheme to the Government Superannuation Fund (GSF) new general scheme. The GSF is a closed defined benefit scheme, governed by the Government Superannuation Fund Act 1956 (the Act). The GSF is administered by the Government Superannuation Fund Authority (the GSFA), an autonomous Crown entity with a Board appointed by the Minister of Finance.
- 5 Agreeing to the transfer will essentially allow members to purchase an annuity from the GSF, fulfilling the requirements of the RBNZ Trust deed to enable a wind up of the RBNZ Scheme. The future liability to ongoing pensioners of the RBNZ Scheme, together with assets to match that liability (i.e. fully funded), would be transferred to the GSF. Any shortfall in the RBNZ Scheme to meet the liabilities at the time of the transfer would need to be met by the RBNZ. Acceptance of the assets would be subject to GSFA's approval based on actuarial advice.

- 6 Currently the Act prohibits new entrants to the GSF. However, on consideration of the provisions of the RBNZ Scheme trust deed and the history to the schemes I propose to allow the transfer of members in order to effect cost savings to the RBNZ.
- 7 An Order in Council, under section 98 of the Act, will allow an arrangement, relating to superannuation, between the GSFA, and the Trustees of the Reserve Bank Fund to be made. Thereby allowing the transfer to occur.

Background

- 8 The GSF is a closed defined benefit scheme, governed by the GSF Act. It was set up in 1948 to provide superannuation for public servants. Members receive an annuity for life when they retire. There are only two other similar Government defined benefit schemes - the RBNZ Scheme and the National Provident Fund DBPA (NPF DBPA Scheme). All three schemes were closed to new members in the early 1990s. However, prior to the closure members could transfer between schemes as they shifted employment.

GSF Scheme

- 9 At 30 June 2023, the GSF had 47,040 members of whom 41,710 were pensioners, liabilities of \$12.63 billion and assets of \$5.1 billion (a deficit of \$7.5 billion). It is expected the GSF will continue to pay annuities to members for at least the next 40 years and is underwritten by the Crown and funded through Vote Finance (via Permanent Legislative Authority).

RBNZ Scheme

- 10 The RBNZ Scheme has around 55 remaining members and \$26.1 million in assets. The most recent annual operating and administration costs were \$167k with an additional \$96k for investment management and other expenses. In aggregate \$263k. The costs associated with maintaining the running of the RBNZ Scheme are disproportionate to the number of remaining members, meaning the management expense ratio will continue increasing over the coming years. Due to this the RBNZ Scheme's Board of Trustees is currently considering winding up the RBNZ Scheme. There are also concerns that due to the low number of remaining members there will continue to be difficulties in fulfilling the membership requirements of the Trustees Board.

Analysis

- 11 Under the RBNZ Scheme Trust Deed, if the Fund is wound up then the Trustees must purchase, for every pensioner who does not consent to receiving their wind up benefit entirely as a lump sum, an external annuity on Fund pension – equivalent terms.
- 12 Allowing the transfer of members in this way will ensure that the RBNZ Scheme ceases being one of the many small stand-alone schemes incurring increasingly disproportionate costs and risks, in the current absence of any functioning annuities market in New Zealand.

There are two options to allow the transfer of members from the RBNZ Scheme to the GSF

Option 1 – section 98 Order in Council

- 13 The first option would use an Order in Council via section 98 of the GSF Act. The Order in Council would enable a reciprocal arrangement to be made between the GSFA and RBNZ Scheme to transfer members over to the GSF, notwithstanding anything contrary in the Act. In this instance we are primarily looking to override section 61A which provides that no person can elect to become a contributing member after 30 June 1992, and the provisions of the Act that link GSF entitlements to GSF contributory service.
- 14 Under Section 98 of the GSF Act (among other things) the Governor-General may declare by Order in Council that:
- 14.1 arrangements that have been made ... with any institution or body in New Zealand ... with a view to providing reciprocity in matters relating to superannuation;
- 14.2 shall have effect notwithstanding anything to the contrary in the GSF Act or any other enactment.
- 15 An Order in Council would allow for an arrangement, relating to superannuation, made between the GSFA and the Trustees of the Reserve Bank Scheme, essentially overriding section 61A, and the provisions of the Act that link GSF entitlements to GSF contributory service.

[Legally privileged]

16 [36]

17 [36]

18 [36]

- 19 The GSFA have been consulted and are currently supportive of the transfer, however once an Order in Council is in place and the RBNZ members have agreed the terms of the transfer the GSFA board will still need to approve the transfer. It is their prerogative to consider any adverse impacts to the GSF at the time of the transfer, and to ensure that the RBNZ will fully fund the cost of any members who elect a pension through the GSF at the time of the transfer.

Option 2 – legislative amendment

- 20 The second option is to amend the GSF Act to allow for ongoing pensioners of the RBNZ Scheme to transfer to and become pensioner members of the GSF new general scheme.

Status quo

- 21 The third option is for the RBNZ Scheme to continue in its current form. However, I note risks in doing so, including:
- 21.1 Member numbers will continue to decline over the next 25 years or so and the management expense ratio will continue to increase.
- 21.2 Trust Deed amendments will also be required. The current Trust Deed requires a certain number of the Trustees to be member-elected. With the dwindling and ageing membership base, the pool of members available and willing to stand as Trustees is dwindling.

I recommend Option 1 (Order in Council)

- 22 Without a legal amendment to allow the transfer of members from the RBNZ Scheme to the GSF, the RBNZ Scheme will not be able to be wound up. RBNZ will therefore remain liable to meet the ongoing administrative costs. Due to the costs being largely fixed, they do not decrease in line with reducing scheme size. I therefore recommend the use of an Order in Council to allow the transfer.

Allowing the transfer will provide cost savings to the RBNZ

- 23 One benefit of transfer includes cost and time efficiency gains by removing dual governance, service provision and asset management fees. By allowing the transfer of members to the GSF I expect savings to the RBNZ of around \$263,127 per annum (total cost for 2023) for administration and management expenses. I am informed that the investment and administration costs to GSF of assuming the liability for the pensioners is expected to be negligible.
- 24 I note that the Crown's liability to the GSF will not be negatively impacted at the time of the transfer. An actuarial assessment will determine the total cost

at a point in time, thereby, at that time there is no additional liability placed on the Crown. Due to the nature of investing it is not possible to determine whether the value of the underlying assets would increase or decrease to a point that officials could determine future impacts on the actual liability to the Crown.

- 25 The admin costs to the GSFA are negligible and I would not expect the GSFA to require additional funding through the PLA at this stage as a result of the proposed transfer.

There is a potential risk the pensioners of the RBNZ Scheme disagree that the benefits offered by the RBNZ Scheme and the GSF are equivalent

- 26 The pensioner members of the RBNZ Scheme will have the option of taking a lump sum amount or an ongoing pension from the GSF.

- 27 [33]

- 28 [33]

However, the Order in Council is intended to be enabling, without it in place the trustees cannot make an offer to the pensioners of the RBNZ Scheme.

Allowing the transfer is in the best interest of the members of the RBNZ Scheme

- 29 Should members elect a pension through the GSF, the costs (both financial and non-financial, i.e. time and capacity) associated with maintaining a Trustee Board will cease, and be replaced by the professional administration of the GSF. Officials consider this to be in the best interests of members of the RBNZ Scheme over time.

The proposed Order in Council is a faster mechanism to administer the change

- 30 I consider that using an Order in Council (Option 1) to allow the transfer of members is the most cost-effective way to allow the transfer.
- 31 In comparison legislative change (Option 2) would take significantly longer, and there would need to be a legislative vehicle to enable the amendment, likely not being possible until 2025 due to the current legislative programme for 2024 having been already considered. I consider that this policy does not warrant the significant time and cost requirements of legislative amendment. I therefore recommend the use of an Order in Council (Option 1).

Financial Implications

- 32 This proposal is expected to lead to savings of approximately \$263k per annum for the RBNZ.

Legislative Implications

- 33 The proposal will be implemented by an OIC under section 98 of the GSF Act.
- 34 The proposed OIC directly affects, and will be implemented by, the GSFA and the RBNZ. It will be beneficial for both parties to comment on the contents of the draft OIC. I recommend authorising the Treasury to consult with both the GSFA and RBNZ on the drafting of the OIC.

Impact Analysis

Regulatory Impact Statement

- 35 The Treasury's Regulatory Impact Analysis team has determined that this proposal to allow the GSF to accept the transfer of existing members of other government superannuation schemes is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.

Climate Implications of Policy Assessment

- 36 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that CIPA requirements do not apply to this proposal as it is not expected to result in any significant, direct emissions impacts.

Population Implications

- 37 The proposal only have minor impacts on a small subset of members of the schemes being wound up.

Human Rights

- 38 The proposals in this paper do not have any human rights implications and are not inconsistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

- 39 The Government Superannuation Fund Authority, Financial Markets Authority, Parliamentary Counsel Office, and the Reserve Bank of New Zealand have been consulted on this paper. The Department of Prime Minister and Cabinet has been informed.

Communications

- 40 This proposal will be communicated to the RBNZ Scheme members at the appropriate time.

Proactive Release

- 41 I intend to release this paper within 30 working days subject to appropriate redactions under the Official Information Act 1982.

Recommendations

The Minister of Finance recommends that the Committee:

- 1 note that there are three Government defined benefit schemes still in existence (the Government Superannuation Fund, the Reserve Bank of New Zealand Superannuation and Provident Fund Scheme, and the National Provident Fund DBPA Scheme) and that these schemes are all closed to new members;
- 2 note that the Reserve Bank of New Zealand Superannuation and Provident Fund Scheme has only around 55 members remaining, and the Scheme's trust deed envisions the purchase of annuities for ongoing pensioners from GSF to allow the wind up of the RBNZ Scheme;
- 3 agree to the preparation of an Order in Council under the Government Superannuation Fund Act 1956 to allow defined benefit members of the RBNZ Scheme to elect to transfer to the GSF upon windup of the RBNZ scheme;

Drafting instructions

- 4 authorise the Minister of Finance to issue drafting instructions to the Parliamentary Counsel Office to give effect to the proposal set out in 3 above;
- 5 authorise the Minister of Finance to make decisions on any further policy matters that arise as part of the implementation of the Order in Council recommended above, provided those decisions are consistent with the recommendations in this paper;
- 6 agree that the Treasury may consult the Government Superannuation Authority and the Reserve Bank of New Zealand on the drafting of the Order in Council:

Authorised for lodgement

Hon Nicola Willis

Minister of Finance