

New Zealand Superannuation and Retirement Income (Pro Rata Entitlement) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill proposes a pro rata entitlement (**PRE**) to New Zealand superannuation (**NZS**) based on residence and presence in New Zealand between the ages of 20 and 65 years; a period of 45 years, or 540 months.

The Bill confronts the demographic realities of an increasingly ageing and mobile New Zealand population and its impact on NZS. These global trends require fair policies for the New Zealand taxpayer, the migrant, and the expatriate Kiwi who return to New Zealand to retire.

Within the OECD, NZS is unusually generous in terms of residency requirements. For example, a migrant who lives in New Zealand for 10 years may make little or no contribution to the New Zealand economy, yet is entitled to full NZS. Under the PRE system, this migrant is entitled to 120/540 of NZS, but retains any overseas government pension which is currently deducted from his or her NZS under the direct deduction policy (**DDP**).

Another example is an expatriate Kiwi who has worked overseas for 30 years, contributing to another economy, and has most likely earned an overseas pension. On returning to New Zealand to retire, he or she is also entitled currently to full NZS. Under PRE, with 15 years' New Zealand residency, this returning Kiwi is entitled to 180/540 of NZS, but will also retain his or her overseas pension, which is currently deducted.

Within the age period between 20 and 65 years, the Bill disregards up to 2 months' overseas travel per calendar year. The Bill also exempts an aggregate period of 5 years' absence for New Zealand residents born in New Zealand, whose rite of passage may cover their overseas experience, education and training (often bringing back exceptional skills), and, of course, the well-earned extended world cruise.

A person receiving PRE to NZS has spent some part of his or her working life overseas. Currently, under section 70 of the Social Security Act 1964, those with overseas pensions from reciprocal agreement countries, and those with other overseas government pensions, have their overseas pension deducted from their NZS under the DDP.

As a consequence of PRE to NZS, the DDP provisions are repealed, so that all these overseas pensions will be retained by migrants and expatriate Kiwis, which is their fair proportional entitlement from their contribution to those overseas countries.

Consequently, there is no further need for the reciprocal agreements pertaining to pensions that New Zealand has with 9 countries. With each reciprocal agreement, there is a 12 month termination period available to each country of each reciprocal agreement on request.

The NZ diaspora is estimated at 1 million people, of whom 500 000 are in Australia. As overseas governments raise the age of eligibility, and tighten pensions and health-care, New Zealand becomes a more preferred retirement destination.

This Bill addresses the gross unfairness on future New Zealand taxpayers by introducing a pro rata entitlement to New Zealand superannuation based on residence and presence. This legislation positively distinguishes those Kiwis who choose to stay and work in New Zealand between the ages of 20 and 65 years.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. It provides for the Bill to come into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the New Zealand Superannuation and Retirement Income Act 2001 (the **principal Act**).

Part 1

Amendments to principal Act

Clause 4 amends section 7 to clarify that the entitlement to receiving New Zealand superannuation on attaining the age of 65 years is also dependent upon meeting the age qualification in section 8.

Clause 5 amends section 8 by removing the requirements for a person to have been present and resident in New Zealand for at least 10 years since attaining the age of 20, including at least 5 years since attaining the age of 50, and replacing it with a requirement that the person have at least 10 years' residence and presence since attaining the age of 20 and before attaining the age of 65.

Clause 6 repeals a reference in section 11 to a provision in the Social Security Act 1964 that is repealed by *clause 12*.

Clause 7 inserts references in section 12 to *new section 12A*.

Clause 8 inserts *new section 12A*, which provides for the pro rata modification of the standard rates of New Zealand superannuation, in accordance with the formulae set out in *new section 12A*.

Part 2

Consequential amendments to Social Security 1964

Clause 9 states that *Part 2* amends the Social Security Act 1964.

Clause 10 amends section 3 by repealing the definitions of terms relating to the overseas pensions provisions that are repealed by *clause 12*.

Clause 11 amends section 69C by repealing a reference to overseas pensions.

Clause 12 amends Part 1P to remove references to overseas pensions. The repealed references relate to the “direct deduction policy” provisions that are no longer required, as a consequence of the pro rata deduction scheme in *Part 1* of the Bill.

Clause 13 repeals section 132C, the regulation-making power in relation to the overseas pensions provisions repealed by *clause 12*.

Clause 14 repeals a reference in Schedule 27 to overseas pensions.

Denis O'Rourke

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The Parliament of New Zealand enacts as follows:

1	Title	
	This Act is the New Zealand Superannuation and Retirement Income (Pro Rata Entitlement) Amendment Act 2015 .	
2	Commencement	5
	This Act comes into force on the day after the date on which it receives the Royal assent.	
3	Principal Act	
	This Act amends the New Zealand Superannuation and Retirement Income Act 2001 (the principal Act).	10

Part 1

Amendments to principal Act

4	Section 7 amended (Age qualification for New Zealand superannuation)	
	In section 7(1), after “who”, insert “meets the residential qualification under section 8 and”.	15
5	Section 8 amended (Residential qualification for New Zealand superannuation)	
(1)	In section 8, replace paragraph (b) with:	
	(b) has been both resident and present in New Zealand for a period or periods aggregating not less than 10 years—	20
	(i) since attaining the age of 20 years; and	
	(ii) before attaining the age of 65 years.	
(2)	Repeal section 8(c).	
6	Section 11 amended (Commencement of New Zealand superannuation)	
	Repeal section 11(2).	25
7	Section 12 amended (Standard rates of New Zealand superannuation)	
(1)	In section 12(1), after “Schedule 1”, insert “, modified in accordance with section 12A ”.	
(2)	In section 12(2), after “schedule”, insert “, modified in accordance with section 12A ”.	30

8 New section 12A inserted (Pro rata modification of New Zealand superannuation entitlement)

After section 12, insert:

12A Pro rata modification of New Zealand superannuation entitlement

(1) In this section,— 5

age period, in relation to a person, means the period between the person's attaining the age of 20 years and before he or she attained the age of 65 years

exempt months, in relation to a person who is a New Zealand resident born in New Zealand,—

(a) means the number of months during the age period— 10

(i) when the person has not been resident in, or has been absent from, New Zealand; and

(ii) that are not short-absence months; or

(b) is 60, if the number of months calculated under **paragraph (a)** is 60 or more 15

month includes a part of a month

qualifying months, in relation to a person, means the lesser of—

(a) the number of the person's qualifying months as calculated under **subsection (2)**; or

(b) 540 20

short-absence months, in relation to a person, means the months in any calendar year, during the age period, when the person has been resident in, but absent from, New Zealand for 2 months or less.

(2) The number of **qualifying months**, in relation to a person, is calculated in accordance with the following formula: 25

$$A = (B - C) + D$$

where—

A is the person's qualifying months

B is 540

C is the number of months (excluding short-absence months), if any, during the age period that the person has not been resident in, or has been absent from, New Zealand 30

D is the person's exempt months, if any.

- (3) The rate of New Zealand superannuation payable to a person as stated in clause 1 or clause 2 of Schedule 1 is modified in accordance with the following formula:

$$X = \frac{A}{B} \times F$$

where—

- | | | |
|---|---|---|
| X | is the person's superannuation entitlement amount | 5 |
| A | is the number of the person's qualifying months | |
| B | is 540 | |
| F | is the person's appropriate rate as stated in clause 1 or clause 2 of Schedule 1. | |

Part 2

10

Consequential amendments to Social Security 1964

9 Social Security Act 1964 amended

This **Part** amends the Social Security Act 1964.

10 Section 3 amended (Interpretation)

In section 3(1), repeal the definitions of **overseas pension** and **overseas pensioner**. 15

11 Section 69C amended (Disability allowance)

In section 69C(4), delete “or an overseas pension”.

12 Part 1P heading amended, cross-heading above section 69G repealed, and sections 69G to 70 repealed

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- (1) In the heading to Part 1P, delete “**overseas pensions**”.
- (2) Repeal the cross-heading above section 69G.
- (3) Repeal sections 69G to 70.

13 Section 132C repealed (Regulations relating to overseas pensions)

Repeal section 132C. 25

14 Schedule 27 amended

- (1) In Schedule 27, clause 5(c)(ii), replace “superannuation; and” with “superannuation.”
- (2) In Schedule 27, clause 5(c), repeal subparagraph (iii).

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Wellington, New Zealand:

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