

Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Bill

Government Bill

Explanatory note

General policy statement

The Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Bill is introduced under Standing Order 260(a), which provides that an omnibus Bill to amend more than 1 statute may be introduced if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy.

This Bill will give effect to the Government's policy on portability of New Zealand superannuation and the veteran's pension to the Cook Islands, Niue, and Tokelau. Eligible New Zealanders can currently receive their New Zealand superannuation and veteran's pension in the Cook Islands, Niue, and Tokelau under the Special Portability Arrangement (the **Arrangement**). However, under the Arrangement they must be resident and present in New Zealand on the date of application for either of those benefits. The Bill will amend the Arrangement to allow eligible residents of the Cook Islands, Niue, and Tokelau to apply from either of those countries or that territory for their New Zealand superannuation and veteran's pension at age 65. The changes take into account New Zealand's close constitutional ties with the Cook Islands, Niue, and Tokelau and are part of New Zealand's commitment to support their ongoing economic and social

viability. The changes will allow the Cook Islands, Niue, and Tokelau to attract capital and skills from their citizens who have moved to New Zealand, as well as other New Zealanders who may choose to spend their retirement years in either of those countries or that territory.

**Minister of Finance’s statement on
consultation process followed in
formulation of amendment to New Zealand
Superannuation and Retirement Income
Act 2001 included in Social Assistance
(Portability to Cook Islands, Niue, and
Tokelau) Bill**

Introduction

Section 73 of the New Zealand Superannuation and Retirement Income Act 2001 (the **Act**) provides that the Minister must, on introduction into the House of Representatives of a Government Bill that proposes an amendment to the Act, bring to the attention of the House the consultation process followed in formulating the proposed amendment. The term Minister, for the purposes of section 73, is defined in section 5 of the Act as the Minister of Finance. The statement must include (without limitation)—

- whether consultation has taken place with the parties that are in agreement with the Part proposed to be amended (as listed in Schedule 4 of the Act):
- whether consultation has taken place with the Guardians of New Zealand Superannuation (to the extent that the amendment relates to Part 2 of the Act):
- the results of the consultation.

This Bill proposes amendments to Part 1 of the Act. The Bill also proposes amendments to the Social Security Act 1964 and the War Pensions Act 1954.

Consultation process

The amendments in the Bill have been the subject of a long-standing request from the leaders of the Cook Islands, Niue, and Tokelau, who view greater flexibility around pension portability as a driver for increased economic activity in those countries and that territory.

The proposed amendments are clearly beneficial for people who wish to move permanently to the Cook Islands, Niue, or Tokelau and therefore consultation has not been undertaken with the parties that are in agreement with the Part proposed to be amended (as listed in Schedule 4 of the Act). These are the Green Party, the New Zealand Labour Party, the Progressive Coalition Party (which was deregistered as a political party in 2012), and United Future New Zealand.

The Ministry of Foreign Affairs and Trade, Veterans' Affairs New Zealand, and the Ministry for Pacific Island Affairs support the proposed amendments to the Act.

No consultation was undertaken with the Guardians of New Zealand Superannuation, as the Bill does not propose to amend Part 2 of the Act.

Departmental disclosure statement

The Ministry of Social Development is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2014&no=233&>.

Regulatory impact statement

The Ministry of Social Development produced a regulatory impact statement on 26 April 2013 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/regulatory-impact-statements/portability-of-new-zealand-superannuation.html>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

It is intended that the Bill will be divided into the following 3 separate Bills at the committee of the whole House stage:

- New Zealand Superannuation and Retirement Income (Portability to Cook Islands, Niue, and Tokelau) Amendment Bill:
- War Pensions (Portability to Cook Islands, Niue, and Tokelau) Amendment Bill:
- Social Security (Portability to Cook Islands, Niue, and Tokelau) Amendment Bill.

Clause 2 provides that the Bill comes into force on 1 July 2015.

Part 1

Preliminary provisions

Clause 3 states the purpose of the Bill, which is to allow eligible persons who reside in the Cook Islands, Niue, or Tokelau to be able to apply from either of those countries or that territory for New Zealand superannuation or a veteran's pension and be paid these benefits in either of those countries or that territory or in other specified Pacific countries.

Part 2

Amendments to enactments

Subpart 1—Amendments to New Zealand Superannuation and Retirement Income Act 2001

Clause 4 provides that *subpart 1* amends the New Zealand Superannuation and Retirement Income Act 2001 (the **principal Act**).

Clause 5 amends section 8(a) to include 2 exceptions to the requirement that a person be ordinarily resident in New Zealand on the date of application for New Zealand superannuation or a veteran's pension for residents of the Cook Islands, Niue, or Tokelau who meet the criteria in *new section 31(4)* of the principal Act or *new section 74O(4)* of the War Pensions Act 1954.

Clause 6 inserts *new section 31(4)*, which sets out the criteria for residents of the Cook Islands, Niue, or Tokelau who have departed from New Zealand before reaching the age of eligibility for New Zealand superannuation, but who will be able to apply for the benefit in either

of those countries or that territory and be paid the benefit in a specified Pacific country under one of the exceptions in *new section 8(a)*. *Clause 6* also inserts *new section 31(5)*, which provides that an application to be paid New Zealand superannuation in a specified Pacific country under *new section 31(4)* must be made in addition to an application to be paid New Zealand superannuation under section 11D of the Social Security Act 1964. *Clause 6* also inserts *new section 31(6)*, which provides that the 2 applications referred to in *new section 31(5)* may be made together or separately and may be made before the applicant meets the age qualification for New Zealand superannuation or when or after the applicant meets the age qualification. *Clause 7* inserts *new section 33(1A)* to include an exception to the usual commencement date of payment of New Zealand superannuation in specified Pacific countries for those to whom *new section 31(4)* applies. The usual commencement date is the first pay day after the person's departure from New Zealand. Because those to whom *new section 31(4)* applies will depart New Zealand before reaching the age of eligibility for New Zealand superannuation, the applicable commencement date is the later of the date the applicant reaches that age and the date the application for that benefit is made.

Subpart 2—Amendments to War Pensions Act 1954

Clause 8 provides that *subpart 2* amends the War Pensions Act 1954 (the **principal Act**).

Clause 9 inserts *new section 740(4)*, which sets out the criteria for residents of the Cook Islands, Niue, or Tokelau who have departed from New Zealand before reaching the age of eligibility for New Zealand superannuation, but who will be able to apply for a veteran's pension in either of those countries or that territory and be paid that benefit in a specified Pacific country under one of the exceptions in *new section 8(a)* of the New Zealand Superannuation and Retirement Income Act 2001. *Clause 9* also inserts *new section 740(5)*, which provides that an application to be paid a veteran's pension in a specified Pacific country under *new section 740(4)* must be made in addition to an application to be paid a veteran's pension under section 11D of the Social Security Act 1964. *Clause 9* also inserts *new section 740(6)*, which provides that the 2 applications referred to in *new*

section 74O(5) may be made together or separately and may be made before the applicant meets the age qualification for New Zealand superannuation or when or after the applicant meets the age qualification.

Clause 10 inserts *new section 74Q(1)(c)* to include an exception to the usual commencement date of payment of the veteran's pension in specified Pacific countries for those to whom *new section 74O(4)* applies. The usual commencement date is the first pay day after the person's departure from New Zealand. Because those to whom *new section 74O(4)* applies will depart New Zealand before reaching the age of eligibility for New Zealand superannuation, the applicable commencement date is the later of the date the applicant reaches that age and the date the application for a veteran's pension is made.

Subpart 3—Amendment to Social Security Act 1964

Clause 11 provides that *subpart 3* amends the Social Security Act 1964 (the **principal Act**).

Clause 12 inserts *new section 11D(9A)* to include an exception to section 11D(8) for residents of the Cook Islands, Niue, or Tokelau who meet the criteria in *new section 31(4)* of the New Zealand Superannuation and Retirement Income Act 2001 or *new section 74O(4)* of the War Pensions Act 1954. Section 11D(8) provides that an application for a benefit lapses 20 working days after first contact if the requirements in section 11D(2) (application form and supporting evidence have been received by the department) have not been met within that time. Section 11D(8) will not apply to those to whom *new section 31(4)* of the New Zealand Superannuation and Retirement Income Act 2001 or *new section 74O(4)* of the War Pensions Act 1954 applies.

Hon Paula Bennett

**Social Assistance (Portability to
Cook Islands, Niue, and Tokelau)
Bill**

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The Parliament of New Zealand enacts as follows:

1 Title
This Act is the Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Act **2014**.

2 Commencement 5
This Act comes into force on 1 July 2015.

**Part 1
Preliminary provisions**

3 Purpose 10
The purpose of this Act is to allow eligible persons who reside in the Cook Islands, Niue, or Tokelau to be able to apply from either of those countries or that territory for New Zealand superannuation or a veteran’s pension and be paid these benefits in either of those countries or that territory or in other specified Pacific countries. 15

**Part 2
Amendments to enactments**

Subpart 1—Amendments to New Zealand Superannuation and Retirement Income Act 2001 20

4 Principal Act
This subpart amends the New Zealand Superannuation and Retirement Income Act 2001 (the **principal Act**).

5 Section 8 amended (Residential qualification for New Zealand superannuation)

Replace section 8(a) with:

“(a) is ordinarily resident in New Zealand on the date of application for New Zealand superannuation, unless **section 31(4)** of this Act or **section 740(4)** of the War Pensions Act 1954 applies; and”.

6 Section 31 amended (Entitlement to be paid New Zealand superannuation in specified Pacific country)

(1) In section 31(1), after “subsection (3)”, insert “or **subsection (4)**”.

(2) After section 31(3), insert:

“(4) This subsection applies to a person—

“(a) who, on or after the date this subsection comes into force, makes an application to be paid New Zealand superannuation in a specified Pacific country; and

“(b) who is resident in the Cook Islands, Niue, or Tokelau on the date of the application; and

“(c) who, before he or she left New Zealand to reside in one of the countries or in the territory specified in **paragraph (b)**, met the residential qualifications for New Zealand superannuation set out in section 8(b) and (c); and

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

“(5) If **subsection (4)** applies, an application to be paid New Zealand superannuation in a specified Pacific country must be made in addition to an application to be paid New Zealand superannuation under section 11D of the Social Security Act 1964.

“(6) The applications referred to in **subsection (5)** may be made together or separately, and may be made—

“(a) before an applicant meets the age qualification for New Zealand superannuation in section 7, in anticipation of becoming entitled to be paid that benefit on reaching the qualifying age; or

“(b) when or after the applicant meets the age qualification.”

7 Section 33 amended (Commencement and termination of payments)

(1) Replace section 33(1) with:

“(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, unless **subsection (1A)** applies.” 5

(2) After section 33(1), insert:

“(1A) The commencement date of payment of a benefit to a person to whom **section 31(4)** applies is the later of— 10

“(a) the date that the person meets the age qualification for New Zealand superannuation in section 7; and

“(b) the date that the application referred to in **section 31(4)** is made.”

Subpart 2—Amendments to War Pensions Act 1954 15

8 Principal Act

This subpart amends the War Pensions Act 1954 (the **principal Act**).

9 Section 74O amended (Entitlement to be paid veteran’s pension in specified Pacific country) 20

(1) In section 74O(1), after “subsection (3)”, insert “or **subsection (4)**”.

(2) After section 74O(3), insert:

“(4) This subsection applies to a person— 25

“(a) who, on or after the date this subsection comes into force, makes an application to be paid a veteran’s pension in a specified Pacific country; and

“(b) who is resident in the Cook Islands, Niue, or Tokelau on the date of the application; and 30

“(c) who, before he or she left New Zealand to reside in one of the countries or in the territory specified in **paragraph (b)**, met the residential qualifications for New Zealand superannuation set out in section 8(b) and (c)

- of the New Zealand Superannuation and Retirement Income Act 2001; and
- “(d) who is resident in a specified Pacific country when each payment of the veteran’s pension is due to be paid to him or her. 5
- “(5) If **subsection (4)** applies, an application to be paid a veteran’s pension in a specified Pacific country must be made in addition to an application to be paid a veteran’s pension under section 11D of the Social Security Act 1964.
- “(6) The applications referred to in **subsection (5)** may be made together or separately, and may be made— 10
- “(a) before an applicant meets the age qualification for New Zealand superannuation in section 7 of the New Zealand Superannuation and Retirement Income Act 2001, in anticipation of becoming entitled to be paid a veteran’s pension on reaching the qualifying age; or 15
- “(b) when or after the applicant meets the age qualification.”
- 10 Section 74Q amended (Commencement and termination of payments)**
- (1) In section 74Q(1)(b), after “into force”, insert “; and”. 20
- (2) After section 74Q(1)(b), insert:
- “(c) in the case of a person to whom **section 740(4)** applies, the later of—
- “(i) the date that the person meets the age qualification for New Zealand superannuation in section 7 25 of the New Zealand Superannuation and Retirement Income Act 2001; and
- “(ii) the date that the application referred to in **section 740(4)** is made.”
- Subpart 3—Amendment to Social Security Act 1964 30
- 11 Principal Act**
This subpart amends the Social Security Act 1964 (the **principal Act**).

12 Section 11D amended (Application process for benefits)

After section 11D(9), insert:

- “(9A) Subsection (8) does not apply to an application for—
- “(a) New Zealand superannuation, if **section 31(4)** of the New Zealand Superannuation and Retirement Income Act 2001 applies; or
 - “(b) a veteran’s pension, if **section 740(4)** of the War Pensions Act 1954 applies.”
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