

Reprint  
as at 1 August 2020



**New Zealand Superannuation and Veteran's Pension  
Legislation Amendment Act 2020**

Public Act      2020 No 36  
Date of assent    24 July 2020  
Commencement    see section 2

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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Social Development, Treasury, New Zealand Defence Force  
and Inland Revenue Department.**

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**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020.

**2 Commencement**

This Act comes into force on 9 November 2020.

**Part 1****Amendments to New Zealand Superannuation and Retirement Income Act 2001****3 Amendments to New Zealand Superannuation and Retirement Income Act 2001**

This Part amends the New Zealand Superannuation and Retirement Income Act 2001.

**4 Section 4 amended (Interpretation of Part 1 and Schedule 1)**

In section 4(1), insert in its appropriate alphabetical order:

**charitable entity** has the same meaning as in the Charities Act 2005

**5 New section 4AA inserted (Relationship of Part 1 and Schedule 1 with Social Security Act 2018)**

After section 4, insert:

**4AA Relationship of Part 1 and Schedule 1 with Social Security Act 2018**

The Social Security Act 2018 contains provisions relating to the administration, and other aspects, of New Zealand superannuation.

**6 Section 4A amended (Meaning of living alone)**

(1) Replace section 4A(2) with:

- (2) The first condition is that person A occupies any of the following kinds of accommodation as person A's principal residence:
- (a) a house or flat:
  - (b) a boat or craft moored within the following sea or waters (whether or not it travels within that sea or any of those waters from time to time):
    - (i) the territorial sea of New Zealand or any internal waters of New Zealand:
    - (ii) any waters within New Zealand that are a lake, estuary, lagoon, river, stream, creek, or other waters:
  - (c) a hotel room or motel unit:
  - (d) a room in a boarding house:
  - (e) a unit of accommodation in a caravan park:
  - (f) a mobile home (whether or not it is in a caravan park and whether or not it travels from time to time) that the chief executive is satisfied is sufficiently self-contained to be reasonably habitable as a residence:
  - (g) any other accommodation of a kind prescribed by regulations made under section 35A(1).

(2) Repeal section 4A(6).

(3) In section 4A(7), after “waters”, insert “of New Zealand”.

## **7 Cross-heading above section 7 replaced**

Replace the cross-heading above section 7 with:

*Preliminary and general provisions*

## **8 Section 8 amended (Residential qualification for New Zealand superannuation)**

In section 8(c), delete “also”.

## **9 Section 9 replaced (Periods of absence that are not counted)**

Replace section 9 with:

### **9 Treatment of various periods of absence**

- (1) For the purposes of section 8(b) and (c)(i), a person must be treated as having been both resident and present in New Zealand during a period of absence from New Zealand if the chief executive is satisfied that—
- (a) the person was ordinarily resident in New Zealand during the period; and
  - (b) the person—
    - (i) was absent for the purpose of obtaining special medical or surgical treatment or vocational training and that there were good and

- sufficient reasons for the person leaving New Zealand to obtain that special treatment or training; or
- (ii) while absent, served as a mariner on board a ship registered or owned in New Zealand and engaged in trading to and from New Zealand; or
  - (iii) while absent, served in any capacity as a member of any naval, military, or air force of any Commonwealth country or served in connection with any war in which New Zealand forces were involved as a member of any organisation attached to any of those forces; or
  - (iv) while absent, was engaged in eligible charitable work.
- (2) For the purposes of this section, a person is engaged in **eligible charitable work** if the person is engaged in—
- (a) full-time voluntary work that—
    - (i) is humanitarian work; and
    - (ii) is carried out for an entity that is, or is affiliated with or closely related to, a charitable entity that has as its principal function the giving of aid and assistance to less advantaged communities in 1 or more countries; and
  - (b) any capacity as an accredited volunteer appointed by Volunteer Services Abroad Incorporated.
- (3) In this section,—
- entity** has the same meaning as in the Charities Act 2005
- voluntary work** includes work that the chief executive is satisfied is remunerated by nothing more than an insubstantial allowance or a token payment
- Volunteer Service Abroad Incorporated** means the body incorporated under the Incorporated Societies Act 1908 on 8 April 1963 as Volunteer Service Abroad Inc.

#### **10 Section 10 amended (Periods of absence as missionary also not counted)**

- (1) Replace the heading to section 10 with “**Treatment of periods of absence as missionary**”.
- (2) Replace section 10(1) and (2) with:
  - (1) For the purposes of section 8(b) and (c)(i), a person must be treated as having been both resident and present in New Zealand during a period of absence from New Zealand if the chief executive is satisfied that—
    - (a) immediately before the period, the person was ordinarily resident in New Zealand (*see* clause 5 of Schedule 1AA in relation to absences commencing before 9 November 2020); and
    - (b) one or both of the following apply in relation to the person’s absence:

- (i) while absent, the person was engaged in missionary work:
  - (ii) the person was absent with the person's spouse or partner who was engaged in missionary work; and
  - (c) the missionary work was carried out for a charitable entity affiliated with a religious body (*see* clause 5 of Schedule 1AA in relation to the application of this paragraph to missionary work that began before 9 November 2020).
- (2) A person is not to be regarded as ending a period of absence referred to in this section merely because the person visited New Zealand during the absence if the arrangement under which the person, or the person's spouse or partner, was engaged in missionary work continued during the visit.

**11 New section 10A inserted (Treatment of periods of absence if New Zealand income tax withheld on overseas earnings)**

After section 10, insert:

**10A Treatment of periods of absence if New Zealand income tax withheld on overseas earnings**

- (1) For the purposes of section 8(b) and (c)(i), a person must be treated as having been both resident and present in New Zealand during a period of absence from New Zealand if the chief executive is satisfied that one or both of the following apply in relation to the person's absence:
- (a) while absent, the person was employed outside New Zealand and the person's employer (or any other relevant person) made specified payments with respect to the person's period of employment:
  - (b) the person was absent with the person's spouse or partner who was employed outside New Zealand and the spouse's or partner's employer (or any other relevant person) made specified payments with respect to the spouse's or partner's period of employment.
- (2) This section applies in relation to a person's period of employment, whether or not the person's employer (or any other relevant person) failed to pay to the Commissioner of Inland Revenue a deducted or withheld amount of tax, if the chief executive is satisfied that—
- (a) the person's employer (or any other relevant person) deducted or withheld tax from specified payments with respect to the person's period of employment; and
  - (b) the person did not contribute to the employer's (or any other relevant person's) failure to pay that tax to the Commissioner.
- (3) For the purposes of this section, an employer (or any other relevant person) makes a **specified payment** with respect to a person's period of employment if the employer (or any other relevant person) makes—

- (a) PAYE income payments (as that term is used in the Income Tax Act 2007) from which the person, the person's employer, or any other relevant person must withhold an amount of tax under the PAYE rules as defined in that Act; or
  - (b) source deduction payments (as that term is used in the Income Tax Act 2004) from which the person, the person's employer, or any other relevant person must withhold an amount of tax under the PAYE rules as defined in that Act; or
  - (c) source deduction payments (as that term is used in the Income Tax Act 1994) from which the person, the person's employer, or any other relevant person must make a tax deduction under the PAYE rules as defined in that Act; or
  - (d) source deduction payments (as that term is used in the Income Tax Act 1976) from which the person, the person's employer, or any other relevant person must make a tax deduction under Part 11 of that Act; or
  - (e) source deduction payments (as that term is used in the Income Tax Assessment Act 1957) from which the person, the person's employer, or any other relevant person must make a tax deduction under Part 2 of that Act.
- (4) *See* clause 6 of Schedule 1AA in relation to the application of this section before 9 November 2020.

## 12 Section 12 replaced (Standard rates of New Zealand superannuation)

Replace section 12 with:

### 12 Rates of New Zealand superannuation

The rate of New Zealand superannuation payable to a person is the appropriate rate specified in Schedule 1.

## 13 Section 15 amended (Annual adjustment of standard rates of New Zealand superannuation)

- (1) Replace the heading to section 15 with “**Annual adjustment of rates**”.
- (2) In section 15(2), replace “paragraphs (a), (b), and (c) of clause 1 and paragraph (b) of clause 2 of Schedule 1” with “clause 1 of Part 1 of Schedule 1, and clause 1(b) of Part 2 of that schedule,”.
- (3) Replace section 15(3)(b) with:
  - (b) so that the rate of New Zealand superannuation specified in clause 1(b) of Part 2 of Schedule 1 preserves its proportional relationship (after the deduction of standard tax) to the rates specified in clause 1 of Part 1 of that schedule.
- (4) After section 15(6), insert:



(7) See section 452 of the Social Security Act 2018, under which rates of New Zealand superannuation may be adjusted by Order in Council (including rates not required to be adjusted under this section).

**14 Section 16 amended (Annual adjustment of New Zealand superannuation: relationship to net average wage)**

- (1) In section 16(1)(a), replace “65%” with “66%”.
- (2) In section 16(2), replace “Injury Prevention, Rehabilitation, and Compensation Act 2001” with “Accident Compensation Act 2001”.

**15 Cross-heading above section 17 replaced**

Replace the cross-heading above section 17 with:

*Effect of long-term residential care or hospitalisation*

**16 Section 17 amended (Entitlement to benefits for spouses or partners of persons in long-term residential care in hospital or rest home)**

- (1) After section 17(2), insert:
- (2A) See section 89 of the Social Security Act 2018, under which a person to whom this section applies may be entitled to a special disability allowance for the purpose of assisting with expenses arising from the hospitalisation of the person's spouse or partner.
- (2) After section 17(3), insert:
- (4) This section applies despite anything to the contrary in this Act (except sections 19 and 21 to 35).

**17 Section 18 replaced (Single living alone rate for spouses or partners of persons in long-term residential care in hospital or rest home)**

Replace section 18 with:

**18 Appropriate rate for spouses or partners of persons in long-term residential care in hospital or rest home**

The appropriate rate of New Zealand superannuation to which a person who is living alone is entitled under section 17(2)(a) or (b) is the single living alone rate.

**18 Section 19 amended (Hospital rates of New Zealand superannuation)**

- (1) In section 19(1), replace “provided” with “operated”.
- (2) In section 19(4), replace “stated” with “specified”.
- (3) After section 19(4), insert:
- (4A) The chief executive may pay to any patient referred to in subsection (4) a higher rate than the rate specified in clause 3 of Part 1 of Schedule 1 after having regard to the patient's personal financial circumstances.

- (4) In section 19(5), replace “22(2)” with “24”.
- (5) Replace section 19(6) with:
- (6) *See* section 89 of the Social Security Act 2018, under which the spouse or partner of a patient referred to in subsection (4) or (5) may be entitled to a special disability allowance for the purpose of assisting with expenses arising from the patient’s hospitalisation.
- (6) Replace section 19(7) with:
- (7) If the New Zealand superannuation of a person who is married or in a civil union or in a de facto relationship is reduced under this section, any specified benefit of the person’s spouse or partner must be increased, starting on the date on which the person’s New Zealand superannuation is reduced, by the amount specified in subsection (7A).
- (7A) The amount by which the specified benefit of the person’s spouse or partner must be increased is an amount equal to the difference between—
- (a) the maximum rate of that benefit payable to a single person; and
  - (b) the maximum rate of that benefit payable to a person who is married or in a civil union or in a de facto relationship and whose spouse or partner is receiving New Zealand superannuation.
- (7B) *See* section 207 of the Social Security Act 2018, under which the specified benefit of a person’s spouse or partner is similarly increased when the person is the beneficiary of a main benefit that is payable, as a result of the person’s hospitalisation, at a reduced rate.
- (7C) Subsection (7) does not apply if the person’s spouse or partner is also in hospital and has been for more than 13 weeks.
- (7) In section 19(9), after “New Zealand superannuation”, insert “or of another specified benefit”.
- (8) In section 19(10), replace “the Social Security Act 2018 or in the Residential Care and Disability Support Services Act 2018” with “this Act (other than sections 21 to 35), the Social Security Act 2018, or the Residential Care and Disability Support Services Act 2018”.
- (9) After section 19(10), insert:
- (11) In this section, **specified benefit** means—
- (a) New Zealand superannuation; or
  - (b) a veteran’s pension; or
  - (c) a main benefit.

## 19 Section 20 repealed (Special disability allowance)

Repeal section 20.

**20 Section 26A amended (Calculation of amount of New Zealand superannuation payable overseas)**

Replace section 26A(2) to (4) with:

- (2) For the purposes of subsection (1), a person must be treated as having resided in New Zealand during a period of absence from New Zealand if section 9, 10, or 10A requires the person to be treated as having been resident and present in New Zealand during the period.

**21 New section 35A and cross-heading inserted**

After section 35, insert:

*Miscellaneous provisions*

**35A Regulations**

- (1) The Governor-General may, by Order in Council, make regulations for the purposes of section 4A(2)(g).
- (2) The Governor-General may, by Order in Council, make regulations providing for any other matters contemplated by this Part, necessary for its administration, or necessary for giving it full effect.

**22 Schedule 1AA amended**

In Schedule 1AA, after Part 2, insert:

**Part 3**

**Provisions relating to New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020**

**4 Definitions**

In this Part,—

**amending Act** means the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020

**commencement date** means 9 November 2020

**non-standard couple rate** means either of the following kinds of rate:

- (a) a rate specified in clause 2 of Schedule 1 before the commencement date (which is the date on which that clause is repealed);
- (b) the relationship (partner not receiving superannuation or pension) rate

**old law relating to employment of a person's spouse or partner** means—

- (a) section 12(3) of this Act (as in force immediately before the commencement date); or
- (b) section 172(4) and (5) of the Veterans' Support Act 2014 (as in force immediately before the commencement date)

**relationship (partner not receiving superannuation or pension) rate** means the relationship (partner not receiving superannuation or pension) rate specified in regulations referred to in section 169 of the Veterans' Support Act 2014.

*Treatment of periods of absence for purposes of residential qualification*

**5 Residence and presence when engaged in missionary work**

- (1) For the purposes of section 10(1)(a) (as inserted by the amending Act), a person who was absent from New Zealand for a period that began before the commencement date is taken to have been ordinarily resident in New Zealand immediately before that period if the person was born in New Zealand.
- (2) Section 10(1)(c) (as inserted by the amending Act) does not apply to missionary work that began before the commencement date.

**6 Residence and presence when in overseas employment**

- (1) Section 10A (as inserted by the amending Act) extends to a person who made an application for New Zealand superannuation or a veteran's pension, before the commencement date, that is finally determined on or after that date.
- (2) Anything done during the period of validation (for example, the granting or payment of New Zealand superannuation or a veteran's pension) that was not validly done, but would have been validly done had section 10A (as inserted by the amending Act) been in force when the thing was done is validated.
- (3) In this clause, **period of validation** means the period beginning on 26 November 2018 and ending with the close of 8 November 2020.

*Generally abolished rate for person with non-qualifying spouse or partner*

**7 General**

- (1) A rate specified in clause 1 of Part 2 of Schedule 1 is the appropriate rate of New Zealand superannuation payable to a person only if—
  - (a) the person is married or in a civil union or in a de facto relationship; and
  - (b) immediately before the commencement date, an election of the person to receive New Zealand superannuation, or a veteran's pension, at a non-standard couple rate was in effect (*see* clauses 8 to 10); and
  - (c) the person is not barred from receiving New Zealand superannuation at a rate specified in clause 1 of Part 2 of Schedule 1.
- (2) A person is **barred** from receiving New Zealand superannuation at a rate specified in clause 1 of Part 2 of Schedule 1 if,—
  - (a) at any time on or after the commencement date, the person's spouse or partner is entitled to receive New Zealand superannuation or a veteran's pension; or

- (b) at any time on or after the commencement date, the person elects to no longer receive—
    - (i) New Zealand superannuation at the rate specified in that clause and does not elect, on the same date, to receive a veteran's pension at the relationship (partner not receiving superannuation or pension) rate; or
    - (ii) a veteran's pension at the relationship (partner not receiving superannuation or pension) rate and does not elect, on the same date, to receive New Zealand superannuation at the rate specified in that clause; or
  - (c) at any time on or after the commencement date, the person who was the person's spouse or partner immediately before the commencement date—
    - (i) ceases to be the person's spouse and does not, on the date of ceasing to be the person's spouse, become the person's civil union partner; or
    - (ii) ceases to be the person's civil union partner and does not, on the date of ceasing to be the person's civil union partner, become the person's spouse; or
    - (iii) ceases to be the person's de facto partner and does not, on the date of ceasing to be the person's de facto partner, become the person's spouse or civil union partner; or
  - (d) on a specified date, the person was or is absent from New Zealand and, because of that absence,—
    - (i) is not authorised under Part 1 of this Act or Part 6 of the Veterans' Support Act 2014 to be paid New Zealand superannuation or a veteran's pension for that date; or
    - (ii) is authorised to be paid New Zealand superannuation or a veteran's pension for that date but only at a reduced rate; or
  - (e) on a specified date, the person was or is in custody in prison, in custody on remand, or an escapee from prison, and both of the following apply:
    - (i) because of the operation of section 217 of the Social Security Act 2018, New Zealand superannuation or a veteran's pension is not payable to the person for that date:
    - (ii) the person, the person's spouse or partner, or another person is not authorised under section 218 of the Social Security Act 2018 to be paid all or any part of the New Zealand superannuation or veteran's pension for that date.
- (3) In this clause,—

**non-standard couple rate** means any of the following kinds of rate:

- (a) a rate specified in clause 2 of Schedule 1 before the commencement date (which is the date on which that clause was repealed):
- (b) the relationship (partner not receiving superannuation or pension) rate:
- (c) a rate specified in clause 2 of Schedule 1 of the Social Welfare (Transitional Provisions) Act 1990 before the repeal of that schedule on 15 April 2003:
- (d) a rate specified in clause 2(b) of Schedule 11 of the War Pensions Act 1954 before the repeal of that schedule on 7 December 2014

**specified date** means the close of 8 November 2020 or any time after that date.

## 8 Treatment of elections

- (1) For the purposes of clause 7(1)(b) of this schedule and clause 22(1)(d) of Schedule 1 of the Veterans' Support Act 2014, an election of a person to receive New Zealand superannuation, or a veteran's pension, at a non-standard couple rate must be treated as being in effect immediately before the commencement date if—
  - (a) an election to receive New Zealand superannuation, or a veteran's pension, at the non-standard couple rate was made before the commencement date; and
  - (b) the person who made the election did not, after making it,—
    - (i) cease to be entitled to receive New Zealand superannuation at a non-standard couple rate or a standard couple rate because the person ceased to be married or in a civil union or in a de facto relationship; or
    - (ii) cease to be entitled to receive New Zealand superannuation at a non-standard couple rate because the person's spouse or partner became entitled to receive New Zealand superannuation or a veteran's pension; or
    - (iii) elect to receive New Zealand superannuation, or a veteran's pension, at a standard couple rate; and
  - (c) the old law relating to employment of the person's spouse or partner did not operate to prevent the election being in effect immediately before the commencement date.
- (2) Nothing in this clause limits clause 9 or 10.
- (3) In this clause,—

**non-standard couple rate** has the same meaning as in clause 7(3)

**standard couple rate** means a rate, other than a non-standard couple rate, of New Zealand superannuation or of a veteran's pension prescribed before the

commencement date for a person who is married or in a civil union or in a de facto relationship.

**9 When elections included in pending applications take effect**

- (1) This clause applies to an election of a person to receive New Zealand superannuation, or a veteran's pension, at a non-standard couple rate that is included in a pending application for New Zealand superannuation or a veteran's pension.
- (2) For the purposes of clause 7(1)(b) of this schedule and clause 22(1)(d) of Schedule 1 of the Veterans' Support Act 2014, the election may be treated as being in effect immediately before the commencement date only if the New Zealand superannuation or veteran's pension commences on or before that date. (*See* section 11 of this Act, section 168 of the Veterans' Support Act 2014, and section 317 of the Social Security Act 2018.)
- (3) The election must be treated as taking effect,—
  - (a) except as provided by paragraph (b), on the date on which the New Zealand superannuation or veteran's pension commences; or
  - (b) if the old law relating to employment of the person's spouse or partner applied to the election, on the date on which the New Zealand superannuation or veteran's pension commences or the date determined under that old law (whichever is the later).
- (4) Subclause (3) applies only to the extent that it treats the election as taking effect before the commencement date.
- (5) In this clause, **pending application** means an application for New Zealand superannuation or a veteran's pension that,—
  - (a) immediately before the commencement date, had not been finally determined or withdrawn; and
  - (b) on or after the commencement date, is finally determined by granting the application.

**10 When other elections not processed before commencement date take effect**

- (1) This clause applies to an election of a person to receive New Zealand superannuation, or a veteran's pension, at a non-standard couple rate (other than an election to which clause 9 applies) that, immediately before the commencement date, had been received but not yet processed by the department.
- (2) For the purposes of clause 7(1)(b) of this schedule and clause 22(1)(d) of Schedule 1 of the Veterans' Support Act 2014, the election is to be treated as taking effect,—
  - (a) except as provided by paragraph (b), on the date on which the election was received by the department; or

- (b) if the old law relating to employment of the person's spouse or partner applied to the election, on the date on which the election was received by the department or the date determined under that old law (whichever is the later).
- (3) In this clause, **department**,—
- (a) in the case of an election to receive New Zealand superannuation, has the same meaning as in section 4; and
- (b) in the case of an election to receive a veteran's pension,—
- (i) except as provided by subparagraph (ii), means Veterans' Affairs New Zealand; or
- (ii) has the same meaning as in section 4 if an applicable delegation is in force under section 160 of the Veterans' Support Act 2014.

### 23 Schedule 1 amended

- (1) In the Schedule 1 heading, delete "20".
- (2) In the Schedule 1 heading, after "32", insert ", cl 7 of Sch 1AA".
- (3) After the Schedule 1 heading, insert:

#### Part 1 Rates generally

- (4) In Schedule 1, clause 1(a), replace "person at the single living alone rate" with "single person who is living alone".
- (5) In Schedule 1, clause 1(b), replace "person at the single sharing accommodation rate" with "single person who is not living alone".
- (6) In Schedule 1, repeal clauses 2 and 4.
- (7) In Schedule 1, after clause 3, insert:

#### Part 2 Rates saved by Schedule 1AA

The following rates are before deduction of tax:

- 1 Rate payable under clause 7 of Schedule 1AA to a person who is married or in a civil union or in a de facto relationship and whose spouse or partner is not entitled to receive New Zealand superannuation or a veteran's pension—
- |  |  |
|--|--|
| <p>(a) if, before 1 October 1991, the person was receiving (or had applied for and was entitled to</p> | <p>\$744.54 a week (subject to Income Test 3) or the rate specified in paragraph (b), whichever is the greater</p> |
|--|--|



receive) New Zealand superannuation, or a veteran's pension, at the alternative rate specified in clause 2 of Schedule 1 of the Social Welfare (Transitional Provisions) Act 1990

- (b) in any other case \$705.26 a week (subject to Income Test 3)

## **Part 2 Amendments to Veterans' Support Act 2014**

### **24 Amendments to Veterans' Support Act 2014**

This Part amends the Veterans' Support Act 2014.

### **25 Section 158 amended (Interpretation)**

In section 158(1), repeal the definition of **relationship (partner not receiving superannuation or pension) legacy rate**.

### **26 New section 158A inserted (Relationship of this Part with Social Security Act 2018)**

After section 158, insert:

#### **158A Relationship of this Part with Social Security Act 2018**

The Social Security Act 2018 contains provisions relating to the administration, and other aspects, of the veteran's pension.

### **27 Section 159 amended (Meaning of living alone)**

(1) Replace section 159(2) with:

(2) The first condition is that person A occupies any of the following kinds of accommodation as person A's principal residence:

- (a) a house or flat:
- (b) a boat or craft moored within the following sea or waters (whether or not it travels within that sea or any of those waters from time to time):
  - (i) the territorial sea of New Zealand or any internal waters of New Zealand:
  - (ii) any waters within New Zealand that are a lake, estuary, lagoon, river, stream, creek, or other waters:
- (c) a hotel room or motel unit:
- (d) a room in a boarding house:
- (e) a unit of accommodation in a caravan park:

- (f) a mobile home (whether or not it is in a caravan park and whether or not it travels from time to time) that VANZ is satisfied is sufficiently self-contained to be reasonably habitable as a residence:
- (g) any other accommodation of a kind prescribed by regulations made under section 265.

- (2) Repeal section 159(6).
- (3) In section 159(7), after “waters”, insert “of New Zealand”.

### **28 Section 169 amended (Rates of veteran's pension)**

- (1) Repeal section 169(2)(e).
- (2) Replace section 169(3) with:
- (3) The relationship (partner not receiving superannuation or pension) rate is the appropriate rate of veteran's pension payable to a person only in the circumstances specified in clause 22 of Schedule 1.

### **29 Section 170 amended (Annual adjustment of rates of veteran's pension)**

In section 170(6)(a), replace “65%” with “66%”.

### **30 Section 171 amended (Abatement of veteran's pension)**

In section 171(2)(b)(ii), delete “or the relationship (partner not receiving superannuation or pension) legacy rate”.

### **31 Section 172 repealed (Election if spouse or partner not entitled to superannuation or veteran's pension)**

Repeal section 172.

### **32 Section 185 replaced (Certain absences excluded from calculation)**

Replace section 185 with:

#### **185 Treatment of certain absences for purposes of calculation**

For the purposes of section 184, a person must be treated as having resided in New Zealand during a period of absence from New Zealand if section 9, 10, or 10A of the New Zealand Superannuation and Retirement Income Act 2001 requires the person to be treated as having been resident and present in New Zealand during the period.

### **33 Section 265 amended (Regulations)**

After section 265(1)(27), insert:

- (27A) section 159 (forms of accommodation linked to meaning of living alone):

### **34 Schedule 1 amended**

In Schedule 1, after Part 4, insert:

## Part 6

### Provision relating to New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020

#### 23 Generally abolished rate for veterans with non-qualifying spouse or partner

- (1) The relationship (partner not receiving superannuation or pension) rate is the appropriate rate of veteran's pension payable to a person only if—
- (a) the person is a veteran; and
  - (b) the person is married or in a civil union or in a de facto relationship; and
  - (c) the person's spouse or partner is not entitled to New Zealand superannuation or a veteran's pension; and
  - (d) immediately before 9 November 2020, an election of the person to receive a veteran's pension, or New Zealand superannuation, at a non-standard couple rate was in effect (*see* clauses 8 to 10 of Schedule 1AA of the New Zealand Superannuation and Retirement Income Act 2001); and
  - (e) the person is not barred under clause 7 of Schedule 1AA of the New Zealand Superannuation and Retirement Income Act 2001 from receiving New Zealand superannuation at the rate specified in clause 1(b) of Part 2 of Schedule 1 of that Act.
- (2) In this clause,—
- non-standard couple rate** has the same meaning as in clause 7(3) of Schedule 1AA of the New Zealand Superannuation and Retirement Income Act 2001
- relationship (partner not receiving superannuation or pension) rate** means the rate of that name referred to in section 169.

## Part 3

### Amendments to Social Security Act 2018

#### 35 Amendments to Social Security Act 2018

This Part amends the Social Security Act 2018.

#### 36 Section 89 amended (Special disability allowance: entitlement in special circumstances)

- (1) Replace section 89(1)(c) with:
- (c) has a spouse or partner who is—
    - (i) a patient in a hospital and receiving a reduced benefit under section 19 of the New Zealand Superannuation and Retirement Income Act 2001 or under section 206; or

- (ii) a qualifying person or a special case person, and in respect of whom a funder is paying some or all of the cost of contracted care services under section 18, 24, 26, 54, or 55 of the Residential Care and Disability Support Services Act 2018.

(2) After section 89(2), insert:

(3) In this section, **qualifying person** and **special case person** have the same meanings as in section 5 of the Residential Care and Disability Support Services Act 2018.

### 37 Section 169 amended (Interpretation)

In section 169, definition of **specified beneficiary**, replace paragraphs (b) and (c) with:

- (b) New Zealand superannuation paid at a rate specified in clause 1 of Part 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001; or
- (c) a veteran's pension at the relationship (partner not receiving superannuation or pension) rate specified in regulations referred to in section 169 of the Veterans' Support Act 2014.

### 38 Section 187 amended (Interpretation)

In section 187, definition of **overseas pension**, after paragraph (d), insert:

- (e) is not determined by MSD to be attributable to any voluntary contributions made by or on behalf of the person to whom it is granted or the person's spouse, partner, or parent.

### 39 Section 189 amended (Benefit of person affected is reduced by amount of overseas pension)

Replace section 189(2) with:

- (2) The rate of New Zealand superannuation or a veteran's pension that a person is qualified to receive must not be reduced under this section by any amount of an overseas pension if the New Zealand superannuation or veteran's pension is payable to the person overseas under section 26 of the New Zealand Superannuation and Retirement Income Act 2001 or section 182 of the Veterans' Support Act 2014.
- (3) The rate of New Zealand superannuation or a veteran's pension, or related winter energy payment, that a person is qualified to receive must not be reduced under this section by any amount of an overseas pension that—
  - (a) the person is entitled to receive or receives in respect of the person's spouse or partner (as referred to in section 188(a)(ii)); or
  - (b) the person's spouse or partner is entitled to receive or receives (as referred to in section 188(b)).

- (4) *See* clause 82 of Schedule 1 in relation to the application of subsection (3) to persons who are qualified to receive New Zealand superannuation or a veteran's pension at certain grandparented rates.
- (5) The rate of New Zealand superannuation or a veteran's pension, or related winter energy payment, that a person is qualified to receive must not be reduced under this section by any amount of an overseas pension that—
  - (a) the person is entitled to receive or receives in respect of any of the person's dependants (as referred to in section 188(a)(iii)); or
  - (b) any of the person's dependants is entitled to receive or receives (as referred to in section 188(c)).
- (6) In this section, a person is qualified to receive a **related winter energy payment** if the person is entitled to receive a winter energy payment under section 72 because New Zealand superannuation or a veteran's pension is payable to the person.

#### **40 Section 207 amended (Benefit of spouse or partner increased after 13th week of hospitalisation)**

- (1) In section 207(1)(c), replace “main benefit under this Act” with “specified benefit”.
- (2) Replace section 207(2) with:
  - (2) The specified benefit of P's spouse or partner must be increased, starting on the date on which P's main benefit is reduced, by an amount equal to the difference between—
    - (a) the maximum rate of that specified benefit that is payable to a single person; and
    - (b) the maximum rate of that specified benefit that is payable to a person who has a spouse or partner and whose spouse or partner is receiving a main benefit of the kind reduced.
- (2A) *See* section 19 of the New Zealand Superannuation and Retirement Income Act 2001, under which a spouse's or partner's specified benefit is similarly increased when P is the beneficiary of New Zealand superannuation that is payable, as a result of P's hospitalisation, at a reduced rate.
- (3) After section 207(3), insert:
- (4) In this section, **specified benefit** means—
  - (a) a main benefit under this Act; or
  - (b) New Zealand superannuation; or
  - (c) a veteran's pension.

#### **41 Schedule 1 amended**

In Schedule 1, after Part 4, insert:

**Part 5****Provision relating to New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020****82 Effect of partner's or spouse's overseas pension on New Zealand superannuation and veteran's pension**

Section 189(3), as inserted by the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020, does not apply in relation to a person who is qualified to receive (subject to the appropriate income test)—

- (a) New Zealand superannuation at a rate specified in clause 1 of Part 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001; or
- (b) a veteran's pension at the relationship (partner not receiving superannuation or pension) rate specified in regulations referred to in section 169 of the Veterans' Support Act 2014.

**42 Schedule 2 amended**

- (1) In Schedule 2, definition of **Income Test 3**, paragraph (a), replace "clause 2" with "clause 1 of Part 2".
- (2) In Schedule 2, definition of **specified benefit**, after paragraph (a), insert:  
(aa) is defined in section 207(4) for the purposes of section 207; and

**43 Schedule 4 amended**

- (1) In Schedule 4, Part 1, clause 1(h), after "superannuation", insert "or a veteran's pension".
- (2) In Schedule 4, Part 1, repeal clause 1(i).
- (3) In Schedule 4, Part 3, clause 1(e), after "superannuation", insert "or a veteran's pension".
- (4) In Schedule 4, Part 3, repeal clause 1(f).
- (5) In Schedule 4, Part 3, clause 5, delete "(f)".
- (6) In Schedule 4, Part 3, clause 7, delete "(f)".

**Part 4****Amendments to other enactments**

## Subpart 1—Amendments to other Acts

*Amendments to Income Tax Act 2007***44 Amendments to Income Tax Act 2007**

Sections 45 and 46 amend the Income Tax Act 2007.

**45 Section RD 11 amended (Reduction in certain circumstances)**

- (1) Replace the heading to section RD 11 with “**Amount of tax in certain circumstances**”.
- (2) Replace section RD 11(3) and the heading above section RD 11(3) with:

*Income-tested benefits, New Zealand superannuation, and veteran's pension*

- (3) Despite section RD 10(1), the amount of tax for a PAYE income payment that is a payment of any of the following benefits must be determined by the Commissioner in consultation with the chief executive of the administering department:
- (a) an income-tested benefit:
  - (b) New Zealand superannuation:
  - (c) a veteran's pension.

*Education allowances*

- (3B) Despite section RD 10(1), the amount of tax for a PAYE income payment that is a payment of an allowance under regulations made under section 645 of the Education and Training Act 2020 must be determined by the Commissioner in consultation with the Secretary for Education.

Section 45(2): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

**46 Section YA 1 amended (Definitions)**

In section YA 1, definition of **New Zealand superannuitant**, replace paragraph (b) with:

- (b) does not include a person who receives New Zealand superannuation—
- (i) before 9 November 2020 (which is the commencement date of the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020) at a rate specified in clause 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001; or
  - (ii) on or after 9 November 2020 at a rate specified in clause 1 of Part 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001

*Amendment to Tax Administration Act 1994*

**47 Consequential amendment to Tax Administration Act 1994**

Section 48 amends the Taxation Administration Act 1994.

**48 Section 24B amended (PAYE tax codes)**

Replace section 24B(3) and the heading above section 24B(3) with:

*Income-tested benefits, New Zealand superannuation, and veteran's pension*

- (3) The amount of tax for a payment of any of the following is determined under section RD 11(3) of the Income Tax Act 2007:
- (a) an income-tested benefit:
  - (b) New Zealand superannuation:
  - (c) a veteran's pension.

*Education allowances*

- (3B) The amount of tax for a payment of an allowance under regulations made under section 645 of the Education and Training Act 2020 is determined under section RD 11(3B) of the Income Tax Act 2007.

Section 48: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

## Subpart 2—Consequential amendments to legislative instruments

*Amendments to Health Entitlement Cards Regulations 1993***49 Amendments to Health Entitlement Cards Regulations 1993**

Section 50 amends the Health Entitlement Cards Regulations 1993.

**50 Regulation 8 amended (Eligibility for community services cards)**

- (1) Replace regulation 8(1)(d)(vi) with:
- (vi) is not the spouse or partner of a person who is eligible to receive (before any reduction or apportionment under the Social Security Act 2018) New Zealand superannuation or a veteran's pension at a grandparented rate:
- (2) After regulation 8(7), insert:
- (8) In this regulation, **grandparented rate** means—
- (a) a rate specified in clause 1 of Part 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001; or
  - (b) the relationship (partner not receiving superannuation or pension) rate specified in regulations referred to in section 169 of the Veterans' Support Act 2014.

*Amendments to Social Security Regulations 2018***51 Amendments to Social Security Regulations 2018**

Sections 52 to 54 amend the Social Security Regulations 2018.

**52 Regulation 236 amended (Non-qualifying spouses or partners of recipients of New Zealand superannuation or veteran's pension)**

- (1) Replace regulation 236(1) with:



- (1) This regulation applies to a person (**person A**) who is the spouse or partner of another person (**person B**) who is receiving, in person B's own right, the whole or a portion of New Zealand superannuation or a veteran's pension paid at a grandparented rate.
- (2) Replace regulation 236(3) and (4) with:
- (3) Person A must instead be treated for the purposes of this subpart as a person who was receiving a working-age benefit that has now been cancelled if—
  - (a) person B elects to no longer receive New Zealand superannuation or a veteran's pension paid at a grandparented rate (as referred to in clause 7(2)(b) of Schedule 1AA of the New Zealand Superannuation and Retirement Income Act 2001); and
  - (b) because of that election, the appropriate rate of benefit payable to person B is the whole or a portion of New Zealand superannuation or a veteran's pension paid at a couple rate other than a grandparented rate.
- (4) In this regulation,—

**couple rate** means a rate prescribed for a person who is in a relationship

**grandparented rate** means—

  - (a) a rate specified in clause 1 of Part 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001; or
  - (b) the relationship (partner not receiving superannuation or pension) rate specified in regulations referred to in section 169 of the Veterans' Support Act 2014.

**53 Regulation 287 amended (Eligibility for SuperGold Card)**

Replace regulation 287(b) and (c) with:

- (b) is under the age of 65 years and, in accordance with regulation 191, is receiving the whole or a portion of one of the following benefits as the spouse or partner of a beneficiary of the benefit:
  - (i) New Zealand superannuation paid at a rate specified in clause 1 of Part 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001;
  - (ii) a veteran's pension paid at the relationship (partner not receiving superannuation or pension) rate specified in regulations referred to in section 169 of the Veterans' Support Act 2014; or

**54 Schedule 6 amended (Number of weeks for calculating weekly income)**

In Schedule 6, item 1, replace the item relating to New Zealand superannuation and veteran's pension with:

New Zealand superannuation, in respect of any rate set out in clause 1 of Part 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001

Veteran's pension, in respect of the relationship (partner not receiving superannuation or pension) rate specified in regulations referred to in section 169 of the Veterans' Support Act 2014

## **Reprints notes**

### **1    *General***

This is a reprint of the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### **2    *Legal status***

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3    *Editorial and format changes***

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4    *Amendments incorporated in this reprint***

Education and Training Act 2020 (2020 No 38): section 668