



Social Assistance (Living Alone Payments) Amendment Act 2013

Public Act 2013 No 11
Date of assent 5 April 2013
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Social Assistance (Living Alone Payments) Amendment Act 2013.

2 Commencement

This Act comes into force on the earlier of—

- (a) a date appointed by the Governor-General by Order in Council:
- (b) 2 September 2013.

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

3 Principal Act amended

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

Amendments to principal Act

4 Interpretation of Part 1 and Schedule 1

Section 4(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**living alone**, in relation to a single person, has the meaning given to it by section 4A

“**single living alone rate** means the rate of New Zealand superannuation specified in clause 1(a) of Schedule 1 that is payable to a single person who is living alone

“**single sharing accommodation rate** means the rate of New Zealand superannuation specified in clause 1(b) of Schedule 1 that is payable to a single person who is not living alone”.

5 New section 4A inserted

The following section is inserted after section 4:

“4A Meaning of living alone

- “(1) A single person (**person A**) is **living alone** only if he or she meets the 2 conditions specified in subsections (2) and (3).
- “(2) The first condition is that person A occupies a principal place of residence of a kind described in subsection (6).
- “(3) The second condition is that person A does not share that residence with any person 18 years old or older, except a person to whom subsection (4) or (5) applies.

- “(4) This subsection applies to person A’s dependent child—
- “(a) who—
 - “(i) is 18 years old (despite the definition of child in section 3(1) of the Social Security Act 1964); and
 - “(ii) is not financially independent; and
 - “(iii) is attending a school or a tertiary educational establishment; but
 - “(b) only until the close of 31 December in the year in which the child turns 18 years old.
- “(5) This subsection applies to a temporary visitor to person A’s residence who stays there less than 13 weeks in any period of 26 weeks.
- “(6) The place of residence referred to in subsection (2) is—
- “(a) a house or flat; or
 - “(b) a boat or craft moored within any of the following sea or waters, whether or not it is from time to time travelling within that sea or any of those waters:
 - “(i) the territorial sea of New Zealand or any internal waters of New Zealand; or
 - “(ii) any waters within New Zealand, being any lake, estuary, lagoon, river, stream, creek, or other waters; or
 - “(c) a hotel room, motel unit, a room in a boarding house, or a unit of accommodation in a caravan park.
- “(7) In this section,—
- “**boarding house** has the same meaning as in section 66B of the Residential Tenancies Act 1986
- “**territorial sea of New Zealand** and **internal waters** have the same meanings as in the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977.”

- 6 Heading above section 13 and sections 13 and 14 repealed**
The heading above section 13 and sections 13 and 14 are repealed.

- 7 Annual adjustment of New Zealand superannuation: relationship to net average wage**
- (1) Section 16(1)(b) is amended by omitting “has been granted a living alone payment” and substituting “is living alone”.
 - (2) Section 16(1)(c) is amended by omitting “has not been granted a living alone payment” and substituting “is not living alone”.
- 8 Living alone rate of payment for spouses or partners of persons in long-term residential care in hospital or rest home**
- (1) The heading to section 18 is amended by omitting “**Living alone rate of payment**” and substituting “**Single living alone rate**”.
 - (2) Section 18 is amended by omitting “appropriate rate stated in clause 1(a) of Schedule 1 if the person has been granted a living alone payment under section 13” and substituting “single living alone rate if the person is living alone”.
- 9 Relationship with other benefit provisions**
- Section 29(2) is amended by omitting “living alone payment”.
- 10 Effect on other benefits**
- (1) Section 34(a) is amended by omitting “; or”.
 - (2) Section 34(b) is repealed.
- 11 Schedule 1 amended**
- (1) Clause 1(a) of Schedule 1 is amended by omitting “single person who has been granted a living alone payment under section 13” and substituting “person at the single living alone rate”.
 - (2) Clause 1(b) of Schedule 1 is amended by omitting “single person who has not been granted a living alone payment under section 13” and substituting “person at the single sharing accommodation rate”.

*Transitional and savings provisions***12 Transitional provision for living alone payment**

- (1) This section applies to a person who is receiving a living alone payment under section 13 of the principal Act immediately before the commencement of this Act.
- (2) On or after the commencement of this Act, the person is entitled to receive the single living alone rate of New Zealand superannuation specified in clause 1(a) of Schedule 1 of the principal Act (as amended by this Act) if, and so long as, he or she continues to be living alone within the meaning of section 13 of the principal Act (as it read immediately before the commencement of this Act).

13 Transitional provision for living alone payment on basis of Social Security Appeal Authority's decision

- (1) This section applies to a person who is receiving a living alone payment under section 13 of the principal Act immediately before the commencement of this Act on the basis of the Social Security Appeal Authority's decision reported in [2009] NZS-SAA 38 (19 June 2009).
- (2) On or after the commencement of this Act, the person is entitled to receive the single living alone rate of New Zealand superannuation specified in clause 1(a) of Schedule 1 of the principal Act (as amended by this Act) if, and so long as, there is no change in the person's circumstances affecting the person's entitlement to the living alone payment under section 13 of the principal Act (as it read immediately before the commencement of this Act).
- (3) This section overrides section 12.

14 References to living alone payment

- (1) A reference to a living alone payment under the principal Act in any agreement, deed, instrument, application, notice, or other document must, unless the context otherwise requires, be read as a reference to either of the following, as the context requires:
 - (a) the single living alone rate of New Zealand superannuation; or

- (b) the difference between the single living alone rate and single sharing accommodation rate of New Zealand superannuation.
- (2) In this section,—
- living alone** has the meaning given to it by section 4A of the principal Act (as amended by this Act)
- single living alone rate** means the rate of New Zealand superannuation specified in clause 1(a) of Schedule 1 of the principal Act (as amended by this Act) that is payable to a single person who is living alone
- single sharing accommodation rate** means the rate of New Zealand superannuation specified in clause 1(b) of Schedule 1 of the principal Act (as amended by this Act) that is payable to a single person who is not living alone.

15 Savings provision for person whose spouse or partner dies before commencement of this Act

- (1) This section applies if—
- (a) a person's spouse or partner dies before the commencement of this Act; and
 - (b) the person does not apply for a living alone payment under the principal Act before that commencement; and
 - (c) the department receives information about the death of the person's spouse or partner (whether the information is received before or after the commencement of this Act).
- (2) If the person applies for a living alone payment, the person's entitlement to receive the payment under the principal Act must be determined under that Act (as it read immediately before the commencement of this Act) and, despite sections 6 and 11(1) of this Act, sections 13 and 14 and clause 1(a) of Schedule 1 of the principal Act (as they read immediately before the commencement of this Act) continue in force and apply to the person for that purpose.
- (3) If the person is granted a living alone payment,—
- (a) the payment—
 - (i) commences on—

- (A) the date on which it would have commenced under section 14 of the principal Act (as it read immediately before the commencement of this Act); or
 - (B) any earlier date determined under section 80AA of the Social Security Act 1964 (if applicable); and
 - (ii) continues until the commencement of this Act if, and so long as, there is no change in the person's circumstances affecting the person's entitlement to the living alone payment under section 13 of the principal Act (as it read immediately before the commencement of this Act); and
 - (b) on or after the commencement of this Act, the person is entitled to receive the single living alone rate of New Zealand superannuation specified in clause 1(a) of Schedule 1 of the principal Act (as amended by this Act) if, and so long as, he or she continues to be living alone within the meaning of section 13 of the principal Act (as it read immediately before the commencement of this Act).
- (4) If the person does not apply for a living alone payment, then on or after the commencement of this Act, the person is entitled to receive the single living alone rate of New Zealand superannuation specified in clause 1(a) of Schedule 1 of the principal Act (as amended by this Act) if, and so long as, he or she continues to be living alone within the meaning of section 4A of the principal Act (as so amended).

Consequential amendments

16 Consequential amendments

- (1) The Acts listed in the Schedule are consequentially amended in the manner indicated in that schedule.
- (2) The amendments to the Income Tax Act 2007 set out in the Schedule apply for the 2011–12 tax year and later tax years.

Part 2

Amendments to War Pensions Act 1954

17 Principal Act amended

This Part amends the War Pensions Act 1954.

Amendments to principal Act

18 Interpretation

Section 67(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**living alone**, in relation to a single person, has the meaning given to it by section 67A

“**single living alone rate** means the rate of a veteran’s pension specified in clause 1(a) of Schedule 11 that is payable to a single person who is living alone

“**single sharing accommodation rate** means the rate of a veteran’s pension specified in clause 1(b) of Schedule 11 that is payable to a single person who is not living alone”.

19 New section 67A inserted

The following section is inserted after section 67:

“67A Meaning of living alone

- “(1) A single person (**person A**) is **living alone** only if he or she meets the 2 conditions specified in subsections (2) and (3).
- “(2) The first condition is that person A occupies a principal place of residence of a kind described in subsection (6).
- “(3) The second condition is that person A does not share that residence with any person 18 years old or older, except a person to whom subsection (4) or (5) applies.
- “(4) This subsection applies to person A’s dependent child—
- “(a) who—
- “(i) is 18 years old (despite the definition of child in section 3(1) of the Social Security Act 1964); and
- “(ii) is not financially independent; and
- “(iii) is attending a school or a tertiary educational establishment; but
- “(b) only until the close of 31 December in the year in which the child turns 18 years old.

- “(5) This subsection applies to a temporary visitor to person A’s residence who stays there less than 13 weeks in any period of 26 weeks.
- “(6) The place of residence referred to in subsection (2) is—
- “(a) a house or flat; or
 - “(b) a boat or craft moored within any of the following sea or waters, whether or not it is from time to time travelling within that sea or any of those waters:
 - “(i) the territorial sea of New Zealand or any internal waters of New Zealand; or
 - “(ii) any waters within New Zealand, being any lake, estuary, lagoon, river, stream, creek, or other waters; or
 - “(c) a hotel room, motel unit, a room in a boarding house, or a unit of accommodation in a caravan park.
- “(7) In this section,—
- “**boarding house** has the same meaning as in section 66B of the Residential Tenancies Act 1986
- “**territorial sea of New Zealand** and **internal waters** have the same meanings as in the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977.”

20 Entitlement to veteran’s pension for spouses or partners of persons in long-term residential care in hospital or rest home

- (1) Section 74BA(2)(a) is amended by omitting “has been granted a living alone payment under section 74U” and substituting “is living alone”.
- (2) Section 74BA(2)(b) is amended by omitting “has not been granted a living alone payment under section 74U” and substituting “is not living alone”.

21 Annual adjustment of rates of veterans’ pensions

- (1) Section 74C(3)(b) is amended by omitting “has been granted a living alone payment” and substituting “is living alone”.
- (2) Section 74C(3)(c) is amended by omitting “has not been granted a living alone payment” and substituting “is not living alone”.

22 Relationship with other benefit provisions

Section 74M(3) is amended by omitting “living alone payment,”.

23 Effect on other benefits

- (1) Section 74R(a) is amended by omitting “; or”.
- (2) Section 74R(b) is repealed.

24 Sections 74U and 74V repealed

Sections 74U and 74V are repealed.

25 Schedule 11 amended

- (1) The heading to Schedule 11 is amended by omitting “ss 74, 74U” and substituting “s 74”.
- (2) Clause 1(a) of Schedule 11 is amended by omitting “single person who has been granted a living alone payment under section 74U” and substituting “person at the single living alone rate”.
- (3) Clause 1(b) of Schedule 11 is amended by omitting “single person who has not been granted a living alone payment under section 74U” and substituting “person at the single sharing accommodation rate”.

*Transitional and savings provisions***26 Transitional provision for living alone payment**

- (1) This section applies to a person who is receiving a living alone payment under section 74U of the principal Act immediately before the commencement of this Act.
- (2) On or after the commencement of this Act, the person is entitled to receive the single living alone rate of the veteran’s pension specified in clause 1(a) of Schedule 11 of the principal Act (as amended by this Act) if, and so long as, he or she continues to be living alone within the meaning of section 74U of the principal Act (as it read immediately before the commencement of this Act).

27 References to living alone payment

(1) A reference to a living alone payment under the principal Act in any agreement, deed, instrument, application, notice, or other document must, unless the context otherwise requires, be read as a reference to either of the following, as the context requires:

- (a) the single living alone rate of a veteran's pension; or
- (b) the difference between the single living alone rate and single sharing accommodation rate of a veteran's pension.

(2) In this section,—

living alone has the meaning given to it by section 67A of the principal Act (as amended by this Act)

single living alone rate means the rate of a veteran's pension specified in clause 1(a) of Schedule 11 of the principal Act (as amended by this Act) that is payable to a single person who is living alone

single sharing accommodation rate means the rate of a veteran's pension specified in clause 1(b) of Schedule 11 of the principal Act (as amended by this Act) that is payable to a single person who is not living alone.

28 Savings provision for person whose spouse or partner dies before commencement of this Act

(1) This section applies if—

- (a) a person's spouse or partner dies before the commencement of this Act; and
- (b) the person does not apply for a living alone payment under the principal Act before that commencement; and
- (c) the department receives information about the death of the person's spouse or partner (whether the information is received before or after the commencement of this Act).

(2) If the person applies for a living alone payment, the person's entitlement to receive the payment under the principal Act must be determined under that Act (as it read immediately before the commencement of this Act) and, despite sections 24 and 25(2) of this Act, sections 74U and 74V and clause 1(a)

of Schedule 11 of the principal Act (as they read immediately before the commencement of this Act) continue in force and apply to the person for that purpose.

- (3) If the person is granted a living alone payment,—
- (a) the payment—
 - (i) commences on—
 - (A) the date on which it would have commenced under section 74V of the principal Act (as it read immediately before the commencement of this Act); or
 - (B) any earlier date determined under section 80AA of the Social Security Act 1964 (if applicable); and
 - (ii) continues until the commencement of this Act if, and so long as, there is no change in the person's circumstances affecting the person's entitlement to the living alone payment under section 74U of the principal Act (as it read immediately before the commencement of this Act); and
 - (b) on or after the commencement of this Act, the person is entitled to receive the single living alone rate of the veteran's pension specified in clause 1(a) of Schedule 11 of the principal Act (as amended by this Act) if, and so long as, he or she continues to be living alone within the meaning of section 74U of the principal Act (as it read immediately before the commencement of this Act).
- (4) If the person does not apply for a living alone payment, then on or after the commencement of this Act, the person is entitled to receive the single living alone rate of the veteran's pension specified in clause 1(a) of Schedule 11 of the principal Act (as amended by this Act) if, and so long as, he or she continues to be living alone within the meaning of section 67A of the principal Act (as so amended).
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Schedule
Consequential amendments

s 16

Accident Compensation Act 2001 (2001 No 49)

Section 11(1)(a): omit “living alone payment.”.

Section 11(2): omit “**living alone payment**.”.

Income Tax Act 2007 (2007 No 97)

Section CF 1(1)(d): repeal.

Section CF 1: list of defined terms after subsection (2): omit “living alone payment.”.

Section RD 5(6)(bd): repeal.

Section RD 5: list of defined terms after subsection (9): omit “living alone payment.”.

Definition of **living alone payment** in section YA 1: repeal.

Paragraph (b)(i) of the definition of **New Zealand superannuation** in section YA 1: repeal.

Social Security Act 1964 (1964 No 136)

Paragraph (b)(ii) of the definition of **benefit** in section 3(1): repeal.

Legislative history

16 November 2010	Introduction (Bill 244–1)
14 December 2010	First reading and referral to Social Services Committee
15 April 2011	Reported from Social Services Committee (Bill 244–2)
11 December 2012	Second reading
20 March 2013	Committee of the whole House (Bill 244–3)
28 March 2013	Third reading
5 April 2013	Royal assent

This Act is administered by the Ministry of Social Development.
