

## SOCIAL SECURITY (OVERSEAS PENSIONS) AMENDMENT BILL

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### EXPLANATORY NOTE

#### *General Policy Statement*

##### *Objectives of key measures:*

The measures in this Bill will amend the provisions in the Social Security Act 1964 relating to special banking arrangements for overseas pensions.

The Bill is intended to:

- give the Director-General of Social Welfare express power to enter into contracts with banks to implement special banking arrangements. The implicit power which the Director-General currently possesses to enter into contracts for these purposes will be confirmed and made explicit.
- prevent creditors from taking enforcement action against moneys held in special bank accounts. Those accounts will be exempt from the application of attachment orders and deduction notices.
- enable amendments to associated regulations to apply to existing arrangements. Unless otherwise provided in the regulations, amendments to the regulations for the implementation of special banking arrangements will apply to existing arrangements.

##### *Summary of key measures*

The main measures are:

1. *Contractual arrangements:* The powers of the Director-General of Social Welfare to enter into contracts with banks for the purposes of implementing special banking arrangements made pursuant to section 70 (3) of the Social Security Act 1964, at present, are implicit. Confirming those powers expressly will clarify the law. Westpac Banking Corporation, which has already entered into a contract with the Director-General to provide banking services to implement special banking arrangements, requested the Director-General seek this amendment.

2. *Exemption from attachment orders and deduction notices:* The special bank accounts held by overseas pensioners who have elected to be paid under special banking arrangements will not be subject to attachment orders or deduction notices. These exemptions will ensure the integrity of special banking arrangements, and prevent over-payments of New Zealand benefits paid to overseas pensioners who elect to be paid under special banking arrangements.

3. *Amended regulations and existing arrangements:* Any amendment to regulations made under section 132C of the Social Security Act which confers regulation making powers for the purposes of implementing special banking arrangements will apply to existing arrangements unless otherwise provided for under the regulations.

*Clause by Clause Analysis*

*Clause 1* relates to the Short Title and commencement. Except for *clause 2 (1)*, the Bill will come into force on the day after it receives the Royal assent. *Clause 2 (1)*, which relates to contracts between the Director-General of Social Welfare and registered banks, is deemed to have come into force on 7 November 1996, the date on which the relevant regulations\* providing for the maintenance of special bank accounts for the receipt of overseas pensions came into force.

\*Social Security (Alternative Arrangement for Overseas Pensions) Regulations 1996 (S.R. 1996/317)

*Clause 2 (1)* amends section 70 of the principal Act by inserting a *new subsection (3A)*. The new subsection authorises the Director-General to enter into contracts with registered banks to assist with the implementation of arrangements for the payment of overseas pensions to the Director-General in exchange for a New Zealand benefit.

*Clause 2 (2)* amends section 70 of the principal Act by inserting a *new subsection (3B)*. The new subsection protects overseas pensions banked into special-purpose bank accounts maintained under the principal Act from enforcement actions and remedies otherwise available to creditors of the pensioners. The protection also extends to deduction notices issued under any enactment.

*Clause 3* amends section 132C, which empowers the making of regulations relating to overseas pensions, by repealing paragraphs (g) to (j), and substituting a *new paragraph (g)*. The new paragraph re-enacts, with some changes, existing provisions authorising the making of regulations governing arrangements for the payment of overseas pensions to the Director-General in exchange for a New Zealand benefit. The new paragraph makes 3 changes. First, it provides general authority to regulate the making, implementation, and variation of such arrangements. Second, it authorises regulations prescribing requirements that have to be fulfilled before arrangements can be concluded. Third, it provides that regulations will apply to arrangements already in existence when the regulations are made. However, particular regulations may provide that existing arrangements are not affected by the regulations.

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*Hon Roger Sowry*

**SOCIAL SECURITY (OVERSEAS PENSIONS)  
AMENDMENT**

ANALYSIS

Title	
1. Short Title and commencement	2. Rate of benefits if overseas pension payable 3. Regulations relating to overseas pensions

A BILL INTITULED

**An Act to amend the Social Security Act 1964 to make further provision concerning arrangements between the Director-General and overseas pensioners relating to the payment of overseas pensions**

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Social Security (Overseas Pensions) Amendment Act 1997, and is part of the Social Security Act 1964\* (“the principal Act”).

(2) This Act (except **section 2 (1)**) comes into force on the day after the date on which it receives the Royal assent.

(3) **Section 2 (1)** is deemed to have come into force on 7 November 1996.

**2. Rate of benefits if overseas pension payable**—(1) Section 70 of the principal Act is amended by inserting, after subsection (3) (as added by section 4 (2) of the Social Security Amendment Act (No. 6) 1996), the following subsection:

“(3A) The Director-General may from time to time, on behalf of the Crown, enter into contracts with 1 or more registered

\*R.S. Vol. 32, p. 625

Amendments: 1994, Nos. 86, 142; 1996, Nos. 20, 42, 49, 145, 155, 157; 1997, Nos. 21, 22, 23

banks for the purpose of implementing arrangements under subsection (3) (a).”

(2) Section 70 of the principal Act is amended by inserting, after **subsection (3A)** (as inserted by **subsection (1)**), the following subsection:

“(3B) No money in a bank account maintained, in accordance with regulations made under section 132C, to implement an arrangement under subsection (3) (a) can—

“(a) Be attached or taken in execution under any order or process of any court:

“(b) Be made the subject of any set-off, charge, or assignment:

“(c) Be claimed or deducted under any notice or other instrument issued under any enactment (other than under regulations made under section 132C).”

**3. Regulations relating to overseas pensions**—(1) Section 132C of the principal Act (as inserted by section 5 of the Social Security Amendment Act (No. 6) 1996) is amended by repealing paragraphs (g) to (j), and substituting the following paragraph:

“(g) Regulating the making, implementation, and variation of arrangements under section 70 (3) (a), including (without limitation)—

“(i) Prescribing the categories of overseas pensioners with whom the Director-General may make such arrangements:

“(ii) Prescribing requirements that must be fulfilled before such arrangements can be entered into:

“(iii) Prescribing conditions to be included in such arrangements:

“(iv) Prescribing methods that may be specified in such arrangements for payment to the Director-General, and receipt by the Director-General, of an amount equivalent to the amount of the overseas pension that the overseas pensioner receives, including (without limitation) direct deduction from the overseas pensioner’s bank account:

“(v) Providing, in relation to any such arrangements that are in force when regulations under this section are made, that the regulations do not apply (in whole or in part) to those arrangements:

“(vi) Providing for the Director-General to terminate an arrangement if the overseas pensioner fails to comply with any condition prescribed under **subparagraph (iii).**”

5 (2) Section 132C of the principal Act (as so inserted) is amended by adding the following subsection:

“(2) Unless regulations made under **paragraph (g) of subsection (1)** provide otherwise, any regulations made under that paragraph apply to arrangements under section 70 (3) (a) that are in force  
10 when the regulations are made and, in that case,—

“(a) The regulations prevail over the arrangements to the extent that there is any inconsistency between the regulations and the arrangements; and

15 “(b) The arrangements are taken to be modified to the extent necessary to give effect to the regulations.”





