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**SOCIAL WELFARE (PAYMENT OF NEW ZEALAND
SUPERANNUATION OVERSEAS)**

ANALYSIS

Title		
1. Short Title and commencement		3. Rates of payment of New Zealand superannuation or veteran's pension payable
2. Payment overseas of New Zealand superannuation and veterans' pensions		

A BILL INTITULED

An Act to amend the Social Welfare (Transitional Provisions) Act 1990

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

- 5 **1. Short Title and commencement**—(1) This Act may be cited as the Social Welfare (Payment of New Zealand Superannuation Overseas) Act 1998, and is part of the Social Welfare (Transitional Provisions) Act 1990 (the “principal Act”).
 (2) This Act comes into force on 1 October 1999.
- 10 **2. Payment overseas of New Zealand superannuation and veterans' pensions**—The principal Act is amended by repealing section 17, and substituting the following section:
- 15 “17. (1) Notwithstanding sections 74 (a) and 77 of the Social Security Act 1964, but subject to the provisions of this section, where a person entitled to receive New Zealand superannuation or a veteran's pension leaves New Zealand to reside in the Cook Islands, Niue, or Tokelau, or in a country with which New Zealand has no agreement relating to reciprocity of social security monetary benefits, that person,
- 20 while residing in any such country, is entitled to be paid New Zealand superannuation or a veteran's pension, as the case may be, which he or she would be entitled to receive if he

or she resided in New Zealand, at a rate calculated in accordance with **section 17B**.

“(2) A person is not entitled to receive payment overseas in accordance with **subsection (1)** unless,—

“(a) On the date of application of such payment, he or she is ordinarily resident and present in New Zealand and is on that date entitled to receive New Zealand superannuation or a veteran’s pension or will be so entitled before leaving New Zealand; or 5

“(b) The applicant intends to reside for more than 26 weeks in the overseas country to which the application relates, being a country with which New Zealand has no agreement relating to reciprocity of social security monetary benefits; or 10

“(c) He or she was receiving New Zealand superannuation or a veteran’s pension while resident in the Cook Islands, Niue, Tokelau, or in a country with which New Zealand has no agreement relating to reciprocity of social security monetary benefits. 15

“(3) Where a person has not made an application under this section because he or she left New Zealand intending to be absent for 26 weeks or less, the Director-General may accept an application by that person for payment in accordance with this section if the Director-General is satisfied that absence for more than 26 weeks is or was due to circumstances beyond the applicant’s control which could not reasonably have been foreseen before leaving New Zealand. 20 25

“(4) The date of commencement of payment overseas of New Zealand superannuation or a veteran’s pension under this section is,— 30

“(a) In the case of a person to whom **subsection 2 (a) and (b)** applies, the first pay day after the date of the applicant’s departure from New Zealand, but in the case of an application under **subsection (3)** of this section, the date of commencement is the first pay day after the date on which the application was received by the Department: 35

“(b) In the case of a person to whom **subsection (2) (c)** applies, the first payday after the date on which this Act comes into force. 40

“(5) Where the Director-General has accepted an application under **subsection (3)** and, after the applicant left New Zealand, the applicant has been paid any instalment of New Zealand superannuation or a veteran’s pension in accordance with

section 17A, no liability to repay any such instalment arises merely because the applicant fails to return to New Zealand within the period allowed for by the said section 17A.

5 “(6) A person who is receiving New Zealand superannuation or a veteran’s pension overseas under this section is not entitled to receive—

10 “(a) Any supplementary or special benefit, lump sum payment, or other assistance whatsoever under the Social Security Act 1964 or under any welfare programme approved by the Minister under section 124 (1) (d) of that Act; or

“(b) A living alone payment under section 18A.

15 “(7) Despite the provisions of section 80 of the Social Security Act 1964, on the death of a person in receipt of New Zealand superannuation or a veteran’s pension overseas under this section, the benefit terminates on a date to be determined by the Director-General, being a date not more than 4 weeks after the date of death.

20 “(8) Except as otherwise provided in this section, the provisions of the Social Security Act 1964 (other than sections 75, 75A, and 76 of that Act) apply in respect of New Zealand superannuation and veterans’ pensions being paid overseas under this section.”

25 **3. Rates of payment of New Zealand superannuation or veteran’s pension payable**—The principal Act is amended by repealing sections 17B and 17C, and substituting the following section:

“17B. (1) The rate of New Zealand superannuation or veteran’s pension payable under this section is,—

30 “(a) In the case of a person who has resided in New Zealand for 40 or more years since the age of 20, the base rate:

35 “(b) In the case of a person who has resided in New Zealand for more than 10 but less than 40 years since the age of 20, 50% of the base rate and a further $1\frac{2}{3}\%$ of the base rate for every year’s residence until 100% of the base rate is reached:

40 “(c) In the case of a person who has resided in New Zealand for 10 years since the age of 20, 50% of the base rate.

“(2) For the purpose of this section, the base rate is,—

“(a) In the case of a single person, the amount specified in clause (1) (b) of the First Schedule; and

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Superannuation Overseas)*

“(b) In the case of a married person, the amount specified in
clause (1) (c) of the First Schedule,—
but where section 70 of the Social Security Act 1964 applies,
that amount is reduced by the amount deducted in accordance
with that section.”

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PAID PARENTAL LEAVE BILL

EXPLANATORY NOTE

General Policy Statement

The Parental Leave and Employment Protection Act 1987 provides 14 weeks unpaid maternity leave, 2 weeks unpaid paternity leave, 10 days leave during pregnancy and up to 52 weeks unpaid extended leave on the birth or adoption of a child.

This bill amends the current legislation by providing that the first 12 weeks of maternity leave are paid. The right to paid leave can be transferred by a female employee to her spouse in full or in part. The 2 weeks paternity leave available to a male employee will be paid where his spouse is not entitled to paid leave. In essence, that means the spouse either does not work or works less than 10 hours per week.

Leave from work because of the birth or adoption of a child is a legitimate reason for being temporarily absent from the workforce. It should be treated in the same way as other forms of paid leave. Payment for leave should therefore be related to earnings and not be a flat amount or benefit, as this is not a hand-out.

The bill provides for an employee to be paid at 80% of his or her earnings out of a central fund, with a proviso that no employee is to be paid more than the average male weekly wage.

The central fund, called the Parental Leave Fund, will consist of payments, collected from all employers at a prescribed rate based on the total payroll of the employer, to employees. Every employer will have the right to claim from this fund for any paid maternity leave or paternity leave taken by an employee under the Act.

The detailed administration of the Act is to be governed by regulation, which includes prescribing the procedures for the collection and the rates of premiums, and the requirements for the lodging and payment of claims.

Clause by Clause Analysis

Clause 1 is the Short Title and commencement provision.

Clause 2 entitles female employees to 12 weeks paid maternity leave and the right to transfer that entitlement to her spouse in full or in part.

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Clause 3 in effect entitles a male employee to 12 weeks paid parental leave where this entitlement has been transferred to him by his spouse, and 2 weeks paid leave where his spouse does not receive any entitlement under the Act.

Clause 4 requires a woman named in a medical certificate to provide details relating to her maternity leave circumstances.

Clause 5 places an obligation on an employer to pay earnings remuneration at the rate of 80% weekly earnings to an employee who has taken paternity or maternity leave, up to the average male weekly wage, and gives the employer the right to claim from the Parental Leave Fund to meet this obligation.

Clause 6 establishes a Parental Leave Fund which is financed by premiums paid by all employers at such rate prescribed on the amount of earnings paid or deemed to have been paid by employers to their employees.

Clause 7 ensures that an employer cannot contract out of the obligations under the Act.

Clause 8 relates to the regulation-making powers necessary for the administration of the Act.

Laila Harré

PAID PARENTAL LEAVE

ANALYSIS

Title	5. Employer's obligations in respect of remuneration and holiday pay
1. Short Title and commencement	6. Parental Leave Fund
2. Right of female employee to 12 weeks paid maternity leave	7. Relationship of this Act to contracts of employment
3. Right of male employee to paid leave	8. Regulations
4. Obligation to notify employer	

A BILL INTITULED

An Act to amend the Parental Leave and Employment Protection Act 1987 to provide 12 weeks paid parental leave

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

1. Short Title and commencement—(1) This Act may be cited as the Paid Parental Leave Act 1998, and is part of the Parental Leave and Employment Act 1987 (“the principal Act”).

10 (2) This Act comes into force on the day after the date on which it receives the Royal assent.

2. Right of female employee to 12 weeks paid maternity leave—The principal Act is amended by inserting, after section 10, the following section:

15 “10A. (1) The first 12 weeks from the date of commencement of maternity leave shall be paid in accordance with section 42.

20 “(2) All or part of the paid period may, at the option of the female employee, be transferred to her spouse, and her spouse must receive remuneration as provided by section 42:

Provided that the spouse is entitled to leave under the Act and has given notice of his intention to take leave.”

3. Right of male employee to paid leave—The principal Act is amended by inserting, after section 20, the following section:

“20A. (1) Where a male employee gives notice to his employer that his spouse is not entitled to 12 weeks paid maternity leave as provided in section 10A, he must receive remuneration in accordance with section 42 for any paternity leave taken under this Act. 5

“(2) Where a male employee has had all or part of the entitlement to 12 weeks paid maternity leave transferred to him by his spouse as provided in section 10A, he must receive remuneration in accordance with section 42 for any transferred maternity leave taken.” 10

4. Obligation to notify employer—Section 31 (3)(c) of the principal Act is amended by adding the following subparagraph: 15

“(iii) A written assurance from the woman named in the medical certificate of—

“(A) The period of maternity leave she is entitled to, if any; and 20

“(B) The period of maternity leave she intends to take herself; and

“(C) The period of maternity leave she intends to transfer to her spouse.”

5. Employer’s obligations in respect of remuneration and holiday pay—(1) Section 42 of the principal Act is amended by repealing subsection (1), and substituting the following subsections: 25

“(1) The employer of an employee taking parental leave in accordance with this Act is obliged to pay the following remuneration: 30

“(a) The employer of a female employee who is entitled under this Act to take maternity leave and does so in accordance with this Act, is obliged to pay that employee remuneration of 80% of the employee’s weekly earnings for every week of maternity leave up to a total of 12 weeks: 35

“(b) The employer of a male employee who has had the 12 weeks maternity leave entitlement transferred to him by his spouse is obliged to pay that employee remuneration of 80% of the employee’s weekly earnings for every week of maternity leave taken up to a total of 12 weeks: 40

5 “(c) The employer of a male employee who receives notice that the employee’s spouse is not entitled to paid maternity leave under this Act is obliged to pay that employee remuneration of 80% of the employee’s weekly earnings for every week of paternity leave taken up to a total of 2 weeks.

“Provided that no employee may receive remuneration under any of the paragraphs of this subsection which is more than the average male weekly wage.

10 “(1A) For the purposes of this Act, weekly earnings of an employee means the total earnings of that employee from the employment which leave has been taken under the Act during the period of 52 weeks prior to leave taken divided by 52, or if the period is less than 52 weeks, the total earnings from that
15 employment divided by the total number of weeks of that employment.

“^(1B) Every employer who receives notice from an employee seeking maternity leave, or paternity leave may make a claim in the manner prescribed by this Act and regulations made
20 under this Act to enable the employer to meet the obligation prescribed in subsection (1).”

6. Parental Leave Fund—The principal Act is amended by inserting, after section 42, the following section:

25 “42A. (1) For the purpose of financing maternity leave and paternity leave a Parental Leave Fund must be established with funds derived from premiums payable by employers at the rate set by regulations made under this Act, on the amount of earnings paid or deemed to have been paid by employers to their employees.

30 “(2) No employer shall charge to any employee payable by that employer or deduct from any payment to any employee any amount representing the amount of premium payable by that employer in respect of that employee under this Act, whether or not such charging or deduction is authorised by any
35 contract between the employer and the employee.

“⁽³⁾ Every employer who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.”

40 **7. Relationship of this Act to contracts of employment**—(1) Section 72 (2) (d) of the principal Act is amended by omitting the words “or lack of an obligation”.

(2) Section 72 (3) of the principal Act is amended by inserting, before paragraph (a), the words “resulting in the

employee being in a worse position in relation to rights and benefits under this Act”.

8. Regulations—Section 73 of the principal Act is repealed, and the following section substituted:

“73. (1) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations for all or any of the following purposes: 5

“(a) Prescribing the procedures for the collection of premiums and the rates of premiums for the establishment and maintenance of the Parental Leave Fund: 10

“(b) Prescribing the forms to be used to lodge a claim for maternity or paternity leave under this Act:

“(c) Prescribing the form of certificates and other information required to be submitted in respect of claims lodged under this Act: 15

“(d) Prescribing the collection fee or rate of collection fee, not exceeding the estimated true cost of collection, that may be paid to or retained by the agent responsible for the collection of premiums: 20

“(e) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act or any requirement or direction made or given under any such regulation, and prescribing penalties not exceeding \$500 in respect of any offences prescribed under this paragraph: 25

“(f) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

“(2) The Minister must not make any recommendation in respect of regulations to be made under all or any of the paragraphs of **subsection (1)** without first consulting such persons or organisations as the Minister considers appropriate having regard to the subject-matter of the proposed regulations.” 30

