



**SOCIAL WELFARE (TRANSITIONAL PROVISIONS—  
SPECIAL PORTABILITY ARRANGEMENT) AMENDMENT  
BILL**

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EXPLANATORY NOTE

*General Policy Statement*

This Bill amends the Social Welfare (Transitional Provisions) Act 1990 to enhance the Special Portability Arrangement with the Cook Islands, Niue, and Tokelau by increasing the rate of New Zealand superannuation, or veteran's pension, payable and extending the Arrangement to include all Pacific Island countries.

*Background*

Existing legislation provides 2 ways by which people may receive New Zealand superannuation or veteran's pension if they leave New Zealand to reside permanently in a Pacific nation:

(a) Payment under the Special Portability Arrangement with the Cook Islands, Niue, and Tokelau.

(b) Payment under General Portability provisions.

The current Special Portability Arrangement recognises that citizens of these 3 countries are also citizens of New Zealand. It enables Cook Islanders, Niueans, and Tokelauans to receive one-fortieth of the full rate of New Zealand superannuation or veteran's pension for every year they have resided in New Zealand, up to a maximum of 40 years, since the age of 20. Applicants are required to:

- meet the normal New Zealand superannuation or veteran's pension residence qualification of 10 years' residence in New Zealand, 5 of which must be over the age of 50;
- be ordinarily resident and present in New Zealand on the date of application for the payment in the Cook Islands, Niue, or Tokelau (except where already receiving New Zealand superannuation or a veteran's pension in that country under section 17 of the Social Welfare (Transitional Provisions) Act 1990);
- be entitled to receive New Zealand superannuation or a veteran's pension before leaving New Zealand; and
- apply for a portable pension before leaving New Zealand.

The current Arrangement superseded an existing provision for portability of New Zealand superannuation in section 17 of the Social Welfare (Transitional

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Provisions) Act 1990. These general portability provisions provide for a payment of 50% of the gross rate of New Zealand superannuation or a veteran's pension to a person who leaves New Zealand to reside in a country with which New Zealand does not have a social security agreement. While under the general portability provisions people are able to receive 50% of the gross rate of New Zealand superannuation or veteran's pension, the Special Portability Arrangement disadvantages people who have lived in New Zealand between 10 and 20 years as they receive between 25% and 50% of New Zealand superannuation or veteran's pension.

Following representations from Pacific Island leaders, Government reconsidered the scope of the Special Portability Arrangement. Government considered that the representations had merit, and decided, in the context of New Zealand's proximity to, and linkages with, Pacific Island countries, that the payment formula should be enhanced and extended to cover those Pacific Island countries listed in *Schedule 5*.

#### *Main Features of the Bill*

The Bill makes 3 changes to the Special Portability Arrangement:

1. Recipients covered by the Special Portability Arrangement will be eligible for 50% of New Zealand superannuation or veteran's pension after 10 years' residence in New Zealand, rather than the current 25%.
2. The proportion of New Zealand superannuation to which recipients are entitled will increase by 5% for each additional year of residency, rather than the current 2.5%. This means that a person with 20 years' residence in New Zealand will receive 100% of New Zealand superannuation or veteran's pension rather than the current 50%.
3. The scope of countries covered by the Arrangement will be extended to include: American Samoa, Federated States of Micronesia, Fiji, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, Northern Mariana Islands, Palau, Papua New Guinea, Pitcairn Island, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu, and Wallis and Futuna.

#### *Clause by Clause Analysis*

*Clause 1* gives the Bill its name, and says when it comes into force (1 October 1999).

*Clause 2* amends section 17 of the Social Welfare (Transitional Provisions) Act 1990, which deals with the general portability arrangement for New Zealand superannuation and the veteran's pension. The amendment indicates to users that the general and special portability arrangements are 2 different schemes.

*Clause 3* repeals section 17B, the provision that establishes the special portability arrangement under which New Zealand superannuation and the veteran's pension can be paid in the Cook Islands, Niue, and Tokelau. The clause substitutes 2 new provisions:

- *new section 17B*, which describes the Pacific countries to which the special portability arrangement applies, unless displaced by an agreement with a particular country (see the third change described above under the heading *Main Features of the Bill*)
- *new section 17BA*, which describes the persons to whom the special portability arrangement is available.

*Clause 4* amends section 17C, the provision that sets the rates at which New Zealand superannuation and veteran's pensions are paid in specified Pacific

countries. The *new subsection (1)* inserted in the section contains the first 2 changes described above under the heading *Main Features of the Bill*.

*Clause 5* inserts *new sections 17D to 17F*, which deal with the administration of the special portability arrangement.

*Clause 6* adds a *new Schedule 5* to the Act. The new schedule lists specified Pacific countries for the purposes of *new section 17B*.

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*Hon Roger Sowry*

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ANALYSIS

Title	
1. Short Title and commencement	17D. Commencement and termination of payments
2. Payment overseas of New Zealand superannuation and veteran's pension	17E. Effect on other benefits
3. New heading and sections substituted	17F. Application of this Act and Social Security Act 1964
<i>Special Portability Arrangement with Specified Pacific Countries</i>	<i>Other Provisions on Payment of Benefits Overseas</i>
17B. Specified Pacific country	
17BA. Entitlement to be paid New Zealand superannuation and veteran's pension in specified Pacific country	6. Schedule 5 added
4. Rates of payment	
5. New sections and heading inserted	

SCHEDULE

New Schedule 5 of Principal Act

A BILL INTITULED

5 **An Act to amend the Social Welfare (Transitional Provisions) Act 1990 to enhance the special portability arrangement for New Zealand superannuation and the veteran's pension that applies to certain Pacific countries**

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

10 **1. Short Title and commencement**—(1) This Act may be cited as the Social Welfare (Transitional Provisions—Special Portability Arrangement) Amendment Act 1999, and is part of the Social Welfare (Transitional Provisions) Act 1990 (“the principal Act”).

(2) This Act comes into force on 1 October 1999.

15 **2. Payment overseas of New Zealand superannuation and veteran's pension**—Section 17 (1) of the principal Act is

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amended by inserting, after the words “this section” in the first place where they appear, the words “and **sections 17B to 17F**”.

**3. New heading and sections substituted**—The principal Act is amended by repealing section 17B, and substituting the following heading and sections:

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*“Special Portability Arrangement with Specified Pacific Countries*

**“17B. Specified Pacific country**—(1) In **sections 17BA to 17F**, ‘specified Pacific country’ means a country or territory—

“**(a)** That is listed in **Schedule 5**; and

“**(b)** That is not a country with which New Zealand has a reciprocal agreement in force under section 19 relating to the portability of New Zealand superannuation and the veteran’s pension.

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“(2) The Governor-General may from time to time, by Order in Council, amend **Schedule 5** by—

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“**(a)** Adding the name of any Pacific country or territory; or

“**(b)** Omitting the former name of a country or territory and substituting its new name.

“(3) Every such Order in Council must state the date from which it has effect, which may be a date before the date on which it is made.

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“(4) Every such Order in Council applies to payments of New Zealand superannuation or the veteran’s pension under **section 17BA** payable on or after the date on which the order has effect.

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“(5) Section 61H (3) to (6) of the Social Security Act 1964 applies to every Order in Council made under **subsection (2) (a)** as if it had been made under that section.

**“17BA. Entitlement to be paid New Zealand superannuation and veteran’s pension in specified Pacific country**—(1) A person entitled to receive New Zealand superannuation or a veteran’s pension is entitled to be paid the benefit in a specified Pacific country at a rate calculated under section 17C, if **subsection (2) or subsection (3)** applies to the person.

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“(2) This subsection applies to a person—

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“**(a)** Who intends to leave New Zealand to reside for more than 52 weeks in a specified Pacific country; and

“**(b)** Who is resident and present in New Zealand on the date of his or her application to be paid New Zealand

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superannuation or a veteran's pension in a specified Pacific country; and

“(c) Who—

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“(i) Is entitled to receive New Zealand superannuation or a veteran's pension on the date of the application; or

“(ii) Will be entitled to receive New Zealand superannuation or a veteran's pension before leaving New Zealand; and

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“(d) Who is resident in a specified Pacific country when each payment of New Zealand superannuation or the veteran's pension is due to be made to him or her.

“(3) This subsection applies to a person—

“(a) Who—

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“(i) Was being paid New Zealand superannuation or a veteran's pension while resident in a specified Pacific country immediately before **1 October 1999** under section 17; or

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“(ii) Was being paid New Zealand superannuation or a veteran's pension while resident in the Cook Islands, Niue, or Tokelau immediately before **1 October 1999** under section 17B as it was immediately before that date; and

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“(b) Who is resident in a specified Pacific country when each payment of New Zealand superannuation or the veteran's pension is due to be made to him or her.”

**4. Rates of payment**—Section 17C of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

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“(1) The rate of New Zealand superannuation or veteran's pension payable under **section 17BA** is,—

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

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“(b) In the case of a person who has resided in New Zealand for 10 or more years but fewer than 20 years since turning 20 years, an amount calculated using the following formula:

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$$\frac{a \times b}{20}$$

where—

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a is the base rate

b is the whole number of years the person has  
resided in New Zealand since turning 20 years:

“(c) In the case of a person who is resident in a specified  
Pacific country and was being paid New Zealand  
superannuation or a veteran’s pension immediately  
before 1 October 1999 under section 17 or section 17B  
as it was immediately before that date, the higher  
of— 5

“(i) The amount he or she was being paid 10  
immediately before that date; and

“(ii) The appropriate amount calculated under  
paragraph (a) or paragraph (b).”

**5. New sections and heading inserted**—The principal Act  
is amended by inserting, after section 17C, the following 15  
sections and heading:

“17D. **Commencement and termination of payments**—

(1) The commencement date of payment of a benefit under  
section 17BA is,—

“(a) In the case of a person to whom section 17BA (2) applies, the  
first pay day after the date of the person’s departure  
from New Zealand: 20

“(b) In the case of a person to whom section 17BA (3) applies, the  
first pay day after the date on which this section  
comes into force. 25

“(2) When a person being paid a benefit under section 17BA  
dies, the benefit terminates on a date, not more than 4 weeks  
after the date of death, determined by the chief executive.

“17E. **Effect on other benefits**—A person being paid a  
benefit under section 17BA is not entitled to receive— 30

“(a) Any supplementary or special benefit, lump sum  
payment, payment under a welfare programme  
approved under section 124 (1)(d) of the Social  
Security Act 1964, or any other assistance under  
that Act; or 35

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

“17F. **Application of this Act and Social Security Act  
1964**—(1) Sections 17 and 17A do not apply in respect of New  
Zealand superannuation and the veteran’s pension being paid  
in a specified Pacific country under section 17BA. 40



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“(2) The Social Security Act 1964, except sections 74 (a), 75, 75A, 76, 77, and 80, applies in respect of New Zealand superannuation and the veteran’s pension being paid in a specified Pacific country under **section 17BA**.

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*“Other Provisions on Payment of Benefits Overseas”.*

**6. Schedule 5 added**—The principal Act is amended by adding the **Schedule 5** set out in the Schedule.

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6                    *Social Welfare (Transitional Provisions—  
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Section 6

SCHEDULE

NEW SCHEDULE 5 OF PRINCIPAL ACT

Section 17b

“SCHEDULE 5

“SPECIFIED PACIFIC COUNTRIES

American Samoa  
Cook Islands  
Federated States of Micronesia  
Fiji  
French Polynesia  
Guam  
Kiribati  
Marshall Islands  
Nauru  
New Caledonia  
Niue  
Northern Mariana Islands  
Palau  
Papua New Guinea  
Pitcairn Island  
Samoa  
Solomon Islands  
Tokelau  
Tonga  
Tuvalu  
Vanuatu  
Wallis and Futuna”



