



**BUSINESS SCHOOL**

**Retirement Policy and Research Centre**

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**The Committee Secretariat**

Parliament Buildings

Wellington

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**Submission to the Social Services and Community Committee:**

**“New Zealand Superannuation and Veteran’s Pension Legislation  
Amendment Bill”**

This submission is on behalf of The Retirement Policy and Research Centre (RPRC). The RPRC is an independent, academically focused centre specialising in the economic issues of demographic change.

**We wish to make an oral submission.**

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## Summary

- The RPRC welcomes the removal of the spousal deduction, the direct deduction of government-administered overseas pensions received by a qualifying superannuitant's partner. We note the long-term failure to address this inequity and urge the select committee to recognise that there is a strong case in justice for compensation paid to those who have been affected.
- RPRC also welcomes many aspects of this bill that will improve the design of NZS. For example, it is pleasing to see that "any portion of a government-administered overseas pension that derived from voluntary contributions will be exempted from the 'direct deduction' policy.
- However the RPRC recommends that there is an extension of the approach under section 70 to abolish the deduction of those parts of an overseas pension that are the equivalent of KiwiSaver contributions, from the recipient's entitlement to a New Zealand benefit or pension.
- The RPRC supports the intention of the bill "to modernise and simplify New Zealand Superannuation (NZS) [...] by shifting toward an assessment of entitlement on an individual basis". But this does not go far enough. In the interests of simplicity, equity and modernisation we urge an amendment to this bill to align the married person and single sharing rates over time.
- The RPRC urges removal of the potential criminalisation of superannuitants and older New Zealanders on long-term welfare benefits when they are deemed to commit 'relationship fraud' by failing to declare relationships deemed to be 'in the nature of marriage'.
- The RPRC cautions that the proposed NQP policy does not protect underage spouses who are not in paid work and may be carers. At very least to protect the NQP in a relationship with an NZS recipient, the RPRC recommends individualising the Supported Living Payment and the Jobseekers Benefit, even if it is confined at first to people over 60 years and under 65.
- The RPRC does not support auto-enrolment for NZS, as the current system offers the wealthy the opportunity to not apply. Evidence from the Winter Energy Payment suggest under "opt out" virtually no one will opt out with fiscal and equity consequences.

## Spousal deduction

The RPRC considers this bill to be a much-needed step in the direction of fairness. All aspects of NZS design must be made consistent with social and economic conditions of the 21<sup>st</sup> century and currently they are not. The **spousal deduction**, the direct deduction of government-administered overseas pensions received by a qualifying superannuitant's partner, has been a weeping sore and while it is good to see that it will be fixed after the passage of this bill, it has taken too long at too great a cost.

This submission notes there is a very good case for back pay to those affected by the spousal deduction to remedy the grave injustice identified formally in the 2019 budget.

It is important to remember that this injustice was the subject of a long Human Rights Review Tribunal (HRRT) case heard in March 2018. One of the three superannuitants who took the case has since died. There has been no decision announced from the HRRT yet. The extent and duration of the suffering caused by the spousal deduction to people who are not at all wealthy has been immense.

At the very least the remedy could be backdated to the May 2019 budget announcement. Another approach might be to offer special compensation to those who have been affected for a long time - for example a payment on a sliding scale. Many superannuitants who have been affected for a long time have already died.

Removing the spousal deduction policy is welcome progress in the direction of treating all superannuitants as individuals.

## Remaining inconsistency in individualisation policy

A glaring inconsistency remains however and that is the reduction to a couple rate for two people simply because they are deemed to be in a relationship in the nature of marriage.

For many years now the only rationale that has been advanced from MSD is this:

*Couples living together in a married, civil union or de facto relationship are paid less than double the single rate because it is considered that they can take advantage of certain economies of scale that individuals in shared accommodation cannot. Thus, the rate paid to a married person is less than that paid to a single person. For example, a married couple:*

- could be able to enjoy lower accommodation costs than two single people*
- could be able to have their personal household effects on one insurance policy whereas two single people who are sharing accommodation would be more likely to have separate insurance costs totalling a higher amount*

- *could share vehicle expenses, while two single people may be more likely to have their own individual transport and vehicle costs*
- *could generally share meals, while two single people sharing accommodation may not have merged their lives to that extent.*

MSD Description of New Zealand's current retirement income policies (2019)

None of the MSD justifications make sense in a world of fluid and changing types of relationships. For older people particularly the boundary between flatmate and partner is very unclear with many older people living together for companionship but with separate finances. Some are caught out with the very punitive approach that is taken if a relationship is detected that the MSD deem 'in the nature of marriage'. A recent tragic case is that of Shirley and Karel as outlined in the NZ herald November 26th:

'You can't be friends with anybody any more': Flatmates say Winz thought they were lovers and cut their welfare

*Two Auckland flatmates claim they were hounded by fraud investigators who were convinced they were a couple.*

*Karel Modderman, 68, said he had his pension cut as a result of the Ministry of Social Development investigation earlier this year. And Shirley Eyre, 61, said her welfare entitlements were reduced.*

*Investigators said they lived together, went on holidays together and emotionally supported each other, which made them a de facto couple - a finding that the two strenuously reject.*

*Advocates say the case highlights the harmful and intrusive nature of many welfare fraud investigations.<sup>1</sup>*

Not covered in this NZH story is that these good friends, now deemed to be a couple, have been told they owe WINZ \$150,000 in overpayments.

The MSD are a semi judicial body who make profound decisions that have a lifechanging effect. Karel and Shirley can challenge this assessment, but the road of appeal is daunting, and rarely successful.

Current policy also criminalises those who commit 'relationship fraud' by failing to declare relationships 'in the nature of marriage'. The definition of, and the proof required, for such a relationship are flimsy at best. An Official Information Act request showed that 122 superannuitants were prosecuted in 2017/18.

While the MSD do not as aggressively pursue superannuitants as they do other welfare beneficiaries for this so-called crime, aligning the rates will eliminate the anxiety many may feel around their relationship or living alone status.

That there is a difference in the single sharing and the married person rate is poorly understood especially where there is an underage spouse. Moreover, even if people realise it, they can't see the reason for it. New Zealand would have been spared the recent Winston Peters' court case had he understood it.<sup>2</sup>

<sup>1</sup> [https://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=12288255](https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12288255).

<sup>2</sup> See St John, S (2019) The real problem in Winston's case, Newsroom, 13 November 2019. At <https://www.newsroom.co.nz/@ideasroom/2019/11/13/907031/susan-st-john-the-real-problem-in-peters-case>.

It is therefore disappointing to see that the much-needed alignment of rates is not being considered. It is stated on page 23 of the NZS reform package that:

*Entitlement to NZS/VP is affected in a number of ways if someone has a partner. Someone's entitlement may be influenced by the particular person with whom they have a relationship – through the NQP provision, or the application of spousal deduction to qualifying superannuitants. Most prominently, relationship status affects what rate someone gets.<sup>12</sup> It is not proposed to adopt an approach that is purely about individuals by removing the link between relationship status and rates of NZS and VP. That link remains necessary (in a non income-tested system) to provide an adequate income to single superannuitants. This means that rates of NZS/VP will still be based on living situations to reflect people's living costs and needs. Rather, we propose to remove the ways in which the characteristics of a partner can influence entitlement.*

This background material confuses two issues: the adequacy of NZS for a person living on their own, and the impact of their marital status. It is a separate exercise to assess the appropriateness of the living alone rate as a way to target need.

The RPRC urges an amendment to this bill to align the married and single sharing rates. This argument is more fully presented in St John, S., & Dale, M. C. (2019). Intergenerational impacts: the sustainability of New Zealand Superannuation Retirement Policy and Research Centre, prepared for the Commission for Financial Capability:<sup>3</sup>

*There is a case therefore to pay the same flat rate to everyone, set somewhere between the married person and single sharing rate. As shown in Table 4, around 25% of superannuitants live alone and possibly the majority of these would need accommodation assistance. The elimination of the living alone rate would require an additional needs-based payment where high housing costs are demonstrated. The means-tested AS is currently already accessed by 42,000 of those over 65 (Table 3). This payment could be further adapted for the over 65 group to assist with high housing costs, independently of whether superannuitants are sharing, married or living alone.*

*Using the data in Table 4 and the rates of NZS in 2019 (Table 1), paying all NZS recipients the married rate reduces the gross cost by around \$1.3 billion (8.5%). If all were paid the single sharing rate, the gross cost increases by around \$1.3 billion and by \$2.6 billion if all were paid the living alone rate.*

***Whether or not there is a separate rate for living alone, the alignment of the married and single rates appears justified.<sup>4</sup> To save costs without direct cuts, the single sharing rate could be***

<sup>3</sup> See: <https://cffc-assets-prod.s3.ap-southeast-2.amazonaws.com/public/Uploads/Retirement-Income-Policy-Review/2019-RRIP/Research-docs/Who-Gets-What/Ak-Uni-RPRC-Report-Sustainability-of-NZ-Super.pdf>

<sup>4</sup> The Retirement Commissioner's Review (2010, p. 13) endorsed the alignment of the single sharing and married person rates. In the interests of simplicity it suggested that the living alone rate remained unchanged.

**frozen until the married rate catches up with normal annual adjustments. Alternatively the single rate could be CPI indexed until the married rate indexed to wages catches up.**

## Under-age spouse provisions

We note that there are some unresolved issues that surround the removal of the inclusion of an underage thus non-qualifying spouse (NQP).

Currently, in summary, the MSD guidelines for the [Supported Living Payment](#)<sup>5</sup> state:

*If you're caring for your partner at home and they would otherwise need hospital-level care or residential care (or the equivalent), they may be able to get a Supported Living Payment. They will need to apply for this benefit and you can be included in it. We'll need to see a medical certificate from their health practitioner.*

If the person is on NZS then the MSD have not allowed individual entitlement for the underage spouse to be supported by a supported living payment as Shirley and Karel's case (above) shows.

The bill fails to grapple with the needs of the underage spouse who in future will not be included in the partner's superannuation.

The solution is to individualise the supported living payment and the jobseekers benefit even if it is confined at first to people over 60 years and under 65.

## Further proposed changes to NZ Superannuation

The reform package says:

*Together, removing spousal deduction and the NQP provision will significantly simplify the superannuation policy settings, and will move superannuation towards an assessment of entitlement based on the individual, potentially providing an opportunity to introduce autoenrolment to NZS/VP (with an opt-out provision) of people turning 65 in the future. The package will also streamline the application process for NZS/VP applicants. For example, with the removal of spousal deduction, less information about a qualifying superannuitant's spouse/partner will need to be collected. Simplifying New Zealand retirement income policy will provide greater clarity and certainty for older people and those planning for their older years.*<sup>6</sup>

The RPRC does not support auto-enrolment for NZS. There are already many concerns with how much NZS is spent on the very wealthy. The experience of

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<sup>5</sup> See: <https://www.workandincome.govt.nz/products/a-z-benefits/supported-living-payment.html#null>.

<sup>6</sup> See: <https://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/information-releases/nzs-vp-modernisation-and-simplification/superannuation-reform-regulatory-impact-assessment.pdf>.

the Winter Energy payment shows that only 1,000 out of 780,000 opted out. Opt-out is an unnecessarily expensive policy and a peculiar use of nudge theory. See St John, S (2018) [Use of Nudge theory: The Winter Energy Payment](#) Daily Blog 17th January 2018.<sup>7</sup>

## Adapting NZS for fiscal sustainability

The RPRC submits that reducing NZS expenditure on the very well-off is necessary for intergenerational equity and for modest fiscal savings.

The reform packages states on page 13:

*The current policy settings for NZS reflect, for the most part, the August 1993 Accord on Retirement Income Policies. It is opportune to identify those features of NZS that can be adapted to ensure a modern and simple retirement income system.*

The RPRC reminds the select committee that the Accord was held together by the glue provided by the surcharge. It is time to revisit that concept and do it more simply as outlined in St John, S., & Dale, M. C. (2019). [Intergenerational impacts: the sustainability of New Zealand Superannuation](#) Retirement Policy and Research Centre, prepared for the Commission for Financial Capability.<sup>8</sup>

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<sup>7</sup> See: <https://thedailyblog.co.nz/2018/01/17/use-of-nudge-theory-the-winter-energy-payment/>.

<sup>8</sup> See: <https://cdn.auckland.ac.nz/assets/business/about/our-research/research-institutes-and-centres/RPRC/OtherPapers/ToR%206%20FINAL%20St%20John%20and%20Dale%204%20Oct%20revised.pdf>.