



**BUSINESS SCHOOL**

## Retirement Policy and Research Centre

**[www.rprc.auckland.ac.nz](http://www.rprc.auckland.ac.nz)**

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### **To: Social Services and Community Committee**

Committee Secretariat: [ssc@parliament.govt.nz](mailto:ssc@parliament.govt.nz)

### **Submission: Social Assistance (Residency Qualification) Legislation Bill**

The Retirement Policy and Research Centre thanks the Social Services and Community Committee for the opportunity to submit on this Bill.

**Contact:**

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**Background:**

This Bill changes the residential qualifications for New Zealand Superannuation (NZS) and the veterans' pension for eligible New Zealanders in the Cook Islands, Niue, and Tokelau. People born in the Cook Islands, Niue, and Tokelau are New Zealand citizens, and the Bill reflects the relationship those citizens have with New Zealand, and New Zealand's constitutional responsibility for its citizens living in those Pacific countries and that territory.

Changes made by the New Zealand Superannuation and Retirement Income Act 2001 and Veterans' Support Act 2014, mean eligible New Zealanders can receive their NZS and veteran's pension in the Cook Islands, Niue, and Tokelau. A 2015 amendment allows people aged 65 years or over to apply for NZS from these islands, provided they have spent 10 years in New Zealand since the age of 20, and five years since the age of 50.

The changes proposed under this Bill would not affect the special rules relating to qualifying for NZS apply to the Cook Islands, Niue and Tokelau:

*"What NZS a person receives depends on how long they have lived in New Zealand since the age of 20: if they have lived in New Zealand for 20 years or more, they would qualify for the full appropriate rate (single or married rate); if they have lived in New Zealand for fewer than 20 years, they would qualify for a rate of NZS calculated on the number of years they have lived in New Zealand.*

*Also, what they get may be affected if they receive or qualify for a social security benefit, pension or allowance from a country other than New Zealand.”<sup>1</sup>*

The purpose of this Bill is to alter the residential qualifications for NZS and the veteran’s pension so that the requirement that a person also have 5 years residence and presence in New Zealand over the age of 50 years can be met with residence and presence in New Zealand, the Cook Islands, Niue, or Tokelau, or any combination of these.

In the Impact Summary, Ministry of Social Development estimates that approximately 200 people may delay their departure to the Cook Islands, Niue and Tokelau until they reach the age of 65, or return to New Zealand after the age of 50 to ensure they meet the five over 50 residence requirement. This means less pension funds flow into these islands, and valuable skills are lost when people return to New Zealand in order to qualify for NZS.

The issue has urgency because at a meeting with the Cook Islands government on 15 January 2018, the Prime Minister and the Minister of Foreign Affairs clearly indicated that New Zealand would be proactive in considering options to better address pension portability criteria for the Cook Islands, Niue and Tokelau. Inaction could thus have some negative consequences for the bilateral relationship with the Cook Islands, Niue and Tokelau.

The Retirement Policy and Research Centre (RPRC) notes that this Bill shows that government can act quickly to address anomalies or problems with current retirement legislation.

**Submission 1.** The RPRC submits that the residential qualifications for NZS and the veteran’s pension be altered so that a citizen of New Zealand, the Cook Islands, Niue, or Tokelau can meet the requirement of 5 years residence and presence in New Zealand over the age of 50 years with residence and presence in New Zealand, the Cook Islands, Niue, or Tokelau, or any combination of these.

The following problems with current retirement legislation are not so easily addressed, but require urgent consideration.

The RPRC, with the Human Rights Commission, has produced numerous publications backgrounding the history, context, issues and inequities in current policy and legislation surrounding the treatment of overseas pensions.<sup>2</sup> Current interpretation and practise of legislation imposes injustice and inequities and consequent hardship on many older returning or new New Zealand citizens who, during their employment overseas, saved for their retirement, only to find that the New Zealand Government would capture those private and employer-contributed savings under section 70 of the Social Security Act 1964. For immigrants and returning citizens, private retirement savings are too often lumped in with public provision and the New Zealand government uses section 70 to capture those private savings.

**Submission 2:** Introduce clarity, consistency and transparency regarding equivalent or analogous ‘state’ pensions to be deducted from a qualifying person’s New Zealand Superannuation (NZS) entitlement.

The so-called ‘spousal deduction’, or family status discrimination, a particularly egregious aspect of the current DDP practice, occurs when a spouse loses some or all of their NZS if the partner’s overseas pension income exceeds their own NZS entitlement. Since

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<sup>1</sup> See Ministry of Social Development information on Rules that came into effect from 1 July 2015 at <https://www.workandincome.govt.nz/eligibility/seniors/superannuation/cook-islands-niue-and-tokelau-portability.html#null>.

<sup>2</sup> See Background Papers at the end of this submission.

2010, Retirement Commissioners have challenged this unfair policy in their retirement incomes reviews.<sup>3</sup>

**Submission 3:** The provision that allows for abatement of a person's NZS by reason of their partner's overseas pension is immediately removed from the social security legislation.

**Retirement Policy and Research Centre Background Papers:**

- [New Zealand Superannuation policy and overseas state pensions](#), 2016
- [2014 Forum Proceedings: Overseas pensions: a fairer future](#)
- [PensionBriefing 2014-3 New Zealand's treatment of pensioners whose spouses have overseas state pensions](#)
- [2013 RPRC Forum Proceedings: Overseas pensions: Justice delayed?](#)
- [New Zealand's overseas pensions policy - Enduring anomalies and inequalities](#) 2012
- [Working Paper 2012-1 New Zealand Superannuation and Overseas Pensions: Reform Option 2](#)
- [Working Paper 2011-1: Overseas pensions: the next steps](#)
- [Working Paper 2010-4: New Zealand Superannuation and Overseas Pensions](#)
- [Working Paper 2010-3: Reforming New Zealand Superannuation for a mobile trans-Tasman population](#)
- [Working Paper 2009-2: New Zealand superannuation and overseas pensions: Issues and principles for reform](#)
- [Working Paper 2009-1: Literature review: New Zealand superannuation and overseas pensions](#)
- [PensionDiscussion 2007. Passing the buck.](#)