

Regulatory Impact Statement

Portability of New Zealand Superannuation to the Realm of New Zealand

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Ministry of Social Development. It provides an analysis of the proposal to allow eligible residents of Niue, Tokelau and the Cook Islands (the Realm countries) to apply for New Zealand Superannuation (NZS) or Veteran's Pension (VP) from those countries at age 65. Alternative proposals to extend the provision to a wider group of people, for example people residing in other Pacific countries, or to limit the provision to a smaller group of people, for example only applying the provision to people leaving New Zealand after the amendments have taken effect, were not considered as this proposal was the preferred approach of Ministers.

Currently, eligible New Zealanders can receive their NZS or VP in the Realm countries under the Special Portability Arrangement that New Zealand has with 22 specified Pacific countries. However, under the current Arrangement, people aged 65 years or older can only apply by being resident and present in New Zealand on the date they apply for New Zealand Superannuation or a Veteran's Pension.

The proposal to allow otherwise eligible residents of the Realm countries to apply for NZS or VP from those countries at age 65 would require amendments to the New Zealand Superannuation and Retirement Income Act 2001 and the War Pensions Act 1954. The Special Portability Arrangement would also need to be amended to remove the requirement for Realm country residents to be resident and present in New Zealand at the time of application for NZS or VP.

The proposal will not impose additional costs on businesses, impair private property rights, restrict market competition, or the incentives on businesses to innovate and invest, or override fundamental common law principles.

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Status quo and problem definition

1. The Ministry of Social Development (MSD) administers NZS and the Special Portability Arrangement with Pacific countries.
2. NZS is payable to eligible New Zealand residents who are aged 65 years or older. Veteran's Pension is payable to New Zealand residents aged 65 years or over who have served in a recognised war or emergency and are in receipt of a War Disablement Pension of at least 70 per cent. To be eligible for New Zealand Superannuation (NZS) or a Veteran's Pension (VP)¹ a person must:
 - be a New Zealand citizen or permanent resident;
 - have been resident and present in New Zealand for not less than 10 years since the age of 20, of which five years or more must be since the age of 50; and
 - be **ordinarily resident**² in New Zealand on the date of application for NZS.
3. People who qualify for NZS and wish to receive NZS while living in one of 22 Pacific countries, including Niue, Tokelau and the Cook Islands (the Realm countries), are presently covered by the Special Portability Arrangement. Under the Arrangement, NZS is paid at a minimum of 50% after 10 years residence in New Zealand, rising to 100% after 20 years residence. To be eligible under the Arrangement a person must:
 - intend to leave New Zealand to reside for more than 52 weeks in a specified Pacific country;
 - be **resident and present** in New Zealand on the date of his or her application;
 - be entitled to receive NZS on the date of application, or will be entitled to receive NZS before leaving New Zealand; and
 - be resident in a specified Pacific country when each payment of NZS is due to be made to him or her.
4. The combined effect of the requirements that a person must be **ordinarily resident** in New Zealand on the date that they apply for NZS and **resident and present** in New Zealand when applying for NZS under the Special Portability Arrangement means that people who wish to move permanently to the Realm countries prior to the age of 65 are not eligible for NZS once they turn 65. Even if the person returned from one of the Realm countries at age 65 and was **present** in New Zealand when they applied for NZS, it is unlikely that they would be considered as being **resident and ordinarily resident** in New Zealand on this date.
5. The proposal that otherwise eligible persons should be able to apply for their NZS from one of the Realm countries has been around for some time. Pacific Island leaders have sought changes to the NZS scheme for many years and this issue continues to be raised at senior government levels, particularly by the Cook Islands.
6. Depopulation, and its related social and economic consequences, is a long-standing issue for Niue and the Cook Islands. The current 'resident and present' requirement has been described as a disincentive for Niueans, Tokelauans and Cook Islanders established in New Zealand to return home before retirement age.

¹ Many Veteran's Pension provisions under the War Pensions Act 1954 mirror NZS provisions under the New Zealand Superannuation and Retirement Income Act 2001. For ease of reading, any reference to NZS in this paper is also a reference to Veteran's Pension

² A person who is ordinarily resident is someone who is lawfully able to reside in New Zealand, normally resides here and intends to remain here ie. they consider New Zealand to be their home.

Objectives

7. The objective of the proposal is to allow people to 'retire' to the Realm countries after attaining the age of 55 (having met the residence requirement for NZS eligibility of five years after the age of 50), and apply for their NZS from these countries at age 65. This will have the effect of:
 - removing the disincentive to return to the Realm countries prior to the age of 65 which could potentially help boost economic development and human resource capacity, through an increased return of experienced persons able to apply skills acquired in New Zealand effectively in their "home" communities. Many people returning to the Realm countries at age 55 would have the capacity to contribute to the work force ten years in advance of the age of eligibility for NZS.
 - better reflecting New Zealand's close constitutional relationships with the Realm countries as people born in these three countries are New Zealand citizens.

Regulatory impact analysis

8. Only one proposal was considered – removal of the requirements for Realm country residents to be **ordinarily resident** in New Zealand when applying for NZS and **resident and present** when applying under the Special Portability Arrangement.
9. The objective cannot be met without legislative change to the New Zealand Superannuation and Retirement Income Act 2001 and the War Pensions Act 1954. These Acts would need to be amended to allow people to move to one of the Realm Countries after the age of 55 and apply for NZS from those countries once they reached the age of 65. The amendments would remove the requirements for Realm country residents:
 - to be ordinarily resident in New Zealand at the time of application for NZS, and
 - to be resident and present in New Zealand at the time of application under the Special Portability Arrangement.
10. The requirement to have been resident and present in New Zealand for not less than 10 years since the age of 20, of which five years or more must be since the age of 50, would remain. This requirement is not unique to those receiving NZS in the Realm countries or other Pacific Island countries. It applies to all New Zealand citizens or permanent residents and it would not be appropriate to create an exemption for a particular group.

Legislation required

11. Legislation will be required to give effect to the extension to the Special Portability Arrangement. A bid will be sought in the 2014 legislation programme for legislation to amend the New Zealand Superannuation and Retirement Income Act 2001 and the War Pensions Act 1954.
12. Section 73 of the New Zealand Superannuation and Retirement Income Act 2001 requires the Minister for Social Development, on introducing a Government Bill that proposes an amendment to that Act, to bring to the attention of the House of Representatives the consultation process that was followed in the formulation of the proposed amendment.
13. Because legislative amendments are required, the option will not come into effect until the 2015/16 year.

Numbers affected

14. The Special Portability Arrangement currently provides payments to 579 people residing in one of the 22 specified Pacific countries to which this Arrangement applies at an annual cost of \$9.494 million. Should this be extended to allow people to apply for NZS from the three Realm countries, immigration data provided by Statistics New Zealand shows that 245 people who migrated from New Zealand to Realm countries after the age of 55 would become newly eligible for NZS in 2015/16, rising by around 16 additional people in each subsequent year.³
15. All eligible New Zealand residents would be able to apply for their NZS under the proposed policy, but only those eligible for residency in one of the Realm countries will be able to benefit from the scheme. New Zealand citizens do not currently have full reciprocal rights to immigrate, live, work and invest in the Realm countries.⁴

Costs

16. The costs of the increased NZS payments arising from the proposal are estimated at \$4.587 million in 2015/2016 rising to \$5.007 million in 2016/2017.
17. The administration costs of the proposal, including implementation costs, are estimated at \$70,000 in 2014/2015 and \$137,000 in 2015/16. Ongoing administration costs after this are estimated at \$66,000. These costs reflect the cost of amending the MSD computer system and the establishment of new procedures to enable people to apply and receive NZS and VP from the Realm countries, as well as the ongoing operational costs of processing applications from off-shore and paying NZS and VP to people in the Realm countries, including the auditing of procedures.
18. There may be some offsetting savings to the New Zealand Government if the proposal proceeds – for example, reduced health costs and a reduction in the amount spent on residential care. However, any savings would need to be offset by potential reductions in tax revenue from workers leaving New Zealand to go back to Pacific countries.

Consultation

19. The Ministry for Foreign Affairs and Trade and MSD have consulted the Treasury, the Ministry of Justice, the Ministry of Pacific Island Affairs and Veterans' Affairs New Zealand. The Department of Prime Minister and Cabinet has been informed.

Conclusions and recommendations

20. The proposal will achieve the objective of allowing people to retire to the Realm countries after attaining the age of 55 (having met the residence requirement for NZS eligibility of five years after the age of 50), and apply for their NZS from these countries at age 65.
21. This could potentially help boost economic development and human resource capacity, through an increased return of experienced persons able to apply skills acquired in

³ This number is quite small compared with the overall number of superannuitants and veterans paid by MSD. The MSD Annual Report for 2011-2012 noted that in that year MSD “delivered New Zealand Superannuation to over 598,000 New Zealanders and the Veterans’ Pension to around 9,500 New Zealanders”.

⁴ Niue requires applicants to have resided continuously in Niue on a temporary permit for a period of not less than 10 years; in the Cook Islands a period of five years is required for residency; and in Tokelau residency is not available beyond one year except through specific approval from Tokelau authorities.

New Zealand effectively in their “home” communities. Many people returning to the Realm countries at age 55 would have the capacity to contribute to the work force ten years in advance of the age of eligibility for NZS.

Implementation

22. Under the Special Portability Arrangement, people currently have to apply before they leave New Zealand which means the usual application processes for NZS, including verification of the applicant’s identity, residence and determination of entitlement, are dealt with under normal MSD processing standards in New Zealand. The New Zealand Government will need to work with the governments of Niue, Tokelau, and the Cook Islands in order to establish new processes for receiving applications for NZS in these countries. It will be important to ensure the integrity of processing standards are upheld, specifically in relation to the verification of client identity and periods of residence in New Zealand on which the rate of payment will be based.

Monitoring, evaluation and review

23. MSD will assess the implementation of the proposal and monitor the ongoing operation of the proposal against the projected costs and numbers affected. Once operational, the proposal will be reviewed to identify any opportunities for improvement in the processes used for receiving applications from the Realm countries.