

Chair
Cabinet Social Development Committee

REVIEW OF TREATMENT OF OVERSEAS PENSIONS AND PAYMENT OF NEW ZEALAND SUPERANNUATION AND VETERAN'S PENSION OVERSEAS: PAPER ONE - OVERVIEW

Proposal

- 1 This paper provides Cabinet with information on the Review of Treatment of Overseas Pensions and Payment of New Zealand Superannuation and Veteran's Pension Overseas (the Review), which has been conducted by Treasury and the Ministry of Social Development. This paper is being submitted concurrently with a separate paper *Review of Treatment of Overseas Pensions and Payment of New Zealand Superannuation and Veteran's Pension Overseas: Paper Two – Proposals*, which seeks your agreement to a suite of proposals emanating from the Review.

Executive Summary

- 2 This paper presents the findings of the Review of Treatment of Overseas Pensions and Payment of New Zealand Superannuation and Veteran's Pension Overseas (the Review), which has been conducted by Treasury and the Ministry of Social Development. The issues canvassed in the Review are also the subject of a commitment in the Government's Confidence and Supply Agreement with New Zealand First. The agreement sets out a commitment to "investigate ways to improve options for senior citizens who may be eligible for foreign pensions as well as New Zealand Superannuation".
- 3 The Review has been undertaken in two parts. The first part, which was completed in 2005, identified packages of options that were wide-ranging in scope and required fundamental changes to core New Zealand Superannuation (NZS) policy. The second part of the Review focussed on options that were narrower in scope and did not require fundamental change to core NZS policy. In general, the Review found that, on the whole, the current policies operate well. The policies reflect the universal nature of the New Zealand system and provide very good protection for most New Zealanders. Consequently I do not propose making any fundamental changes current policy settings, which in my view are broadly appropriate for New Zealand's circumstances.
- 4 While the Review found that the current policies are broadly adequate, it did nevertheless identify a number of aspects of the policies which could be improved. A range of proposals have been developed that would make improvements to policies covering treatment of overseas pensions paid in New Zealand and the payment of NZS overseas, particularly in Pacific countries.
- 5 The proposals would ensure that the fundamental NZS settings and the current policy on treatment of overseas pensions are retained. I have decided not to pursue one proposal from Part 2 which would have given superannuitants with overseas pensions the choice of receiving a proportional payment of NZS based on their years of residence in New Zealand between the ages of 20 and 65, or having their pensions treated under the existing policy.

This proposal would have made the NZS entitlement criteria more complex and less equitable.

- 6 I am bringing forward the remainder of the proposals from Part 2 of the Review for Cabinet's approval in the accompanying paper *Review of Treatment of Overseas Pensions and Payment of New Zealand Superannuation and Veteran's Pension Overseas: Paper Two – Proposals*.
- 7 In this paper I report on the broad findings of both parts of the Review. This will provide the overview and context for Ministers in considering the detailed proposals from Part 2 of the Review

Background

- 8 In 2000 the Minister of Finance requested a review of the portability aspects of NZS ie the rules around payment of NZS to people resident overseas. This request was in the context of a re-write of the Act covering New Zealand Superannuation. The Minister of Finance and the Minister for Social Development and Employment agreed to the terms of reference for the Review in 2001. The terms of reference expanded the scope of the Review to include New Zealand's international social security policies as a whole. The expanded terms of reference recognised that, while the rules around payment of NZS overseas warranted review, the key issue in the international social security policy area is the treatment of overseas pensions paid into New Zealand.
- 9 The Review has been undertaken by the Ministry of Social Development and Treasury. The scope of the Review is limited to NZS and Veteran's Pensions entitlements and does not include other New Zealand benefits. The issues canvassed in this paper are also the subject of commitments in the Government's Confidence and Supply Agreement with New Zealand First. The agreement sets out a commitment to "investigate ways to improve options for senior citizens who may be eligible for foreign pensions as well as New Zealand Superannuation".

Objectives of the Review

- 10 The overarching objectives of the Review are:
 - to modernise the current policy for treatment of overseas pensions where a superannuitant has an overseas pension;
 - to address issues associated with the payment of NZS overseas.
- 11 The secondary objectives are:
 - to provide an interface between New Zealand and overseas social security systems that provides a fair sharing of social security costs between countries;
 - to ensure that the treatment of overseas pensions paid to New Zealanders is equitable for New Zealanders who have lived and worked in New Zealand all their lives;
 - to allow New Zealanders to retire comfortably in the country of their choice.

Context

Problem definition

- 12 The central question for the Review concerns the rules around eligibility and level of entitlement of NZS when:
- a person aged 65 or over has spent some portion of their working life overseas, and is now resident in New Zealand;
 - a person aged 65 or over has spent some portion of their working life in New Zealand, and is now resident in another country.
- 13 NZS is recognised by the Organisation for Economic Cooperation and Development (OECD) as a good first-tier pension system which is simple, relatively inexpensive, and excellent at preventing poverty. NZS is, however, different from most other countries' retirement systems, which makes its interface with foreign pension systems problematic. Most other countries have pension systems in which a retiree's level of entitlement is based on social security contributions made by that person over the period of their working life. By contrast, NZS has a simple period of residence and presence requirement and an 'all or nothing' entitlement. The two different types of system can be difficult to match when people migrate to or from New Zealand, and the interface between the New Zealand system and other systems can be seen by some people as creating inequities.
- 14 Increasing international mobility means that the interface between the New Zealand system and other countries' systems is likely to continue to be problematic unless adjustments are made. There is an increasing number of New Zealand residents who have spent periods of their working life overseas, as well as New Zealanders and other ex-New Zealand residents who are now resident overseas having spent periods of their working life in New Zealand.

New Zealand Superannuation

- 15 NZS is a universal entitlement paid to all eligible New Zealand residents who are aged 65 years or older. To be eligible for NZS a person must:
- be a New Zealand citizen or permanent resident;
 - have been resident and present in New Zealand for not less than ten years since the age of 20, of which five years or more must be since the age of 50;
 - be ordinarily resident in New Zealand on the date of application.
- 16 NZS is paid at a standard amount unrelated to previous earnings. It is not subject to means testing except where a superannuitant chooses to receive the married rate in respect of a spouse or partner who does not qualify for NZS in their own right. The amount generally paid depends only on relationship status and living arrangements. There are currently three basic rates: the married and civil union person rate, the single sharing rate, and the single living alone rate. Current rates are as set out in Table 1 below.

Table 1: Current NZS rates and approximate number of recipients at 31 July 2007

Living arrangement	Gross weekly rate of New Zealand Superannuation	Approximate number of recipients
Married/de facto/civil union	\$255.70	294,000
Single sharing	\$309.66	70,000
Single living alone	\$336.65	138,000
Total		502,000

17 Currently NZS costs the Crown approximately \$5.4 billion a year (net).

High-level Conclusions of the Review

- 18 In broad terms the Review found that current policies are operating reasonably well. The policies reflect the universal and residence-based nature of the New Zealand system and they provide very good protection for most New Zealanders.
- 19 The Review noted that New Zealand's residence-based system contrasts with the contributory systems operating in most other Western countries. Residence-based systems are primarily designed to cover people who reside permanently in the country in question. Such systems are not easily able to accommodate immigrants or residents who wish to spend time out of the country.
- 20 The Review found that because the New Zealand system is at variance with other countries' pension systems, the interface with those systems can be confusing for affected pensioners. Often an overseas pensioner's concerns about the interface will be because they see the New Zealand system and overseas systems as being fundamentally different, and therefore consider that entitlements in one system should not affect entitlements in the other. The Review notes that while there may be differences in the way NZS and state pensions in other countries are funded, both pensions are nevertheless state social security pensions that are paid for the same purposes.
- 21 The Review therefore concluded that there should be no argument about whether receipt of another country's state pension affects entitlement to NZS, but there could be an argument about how NZS entitlement is affected. Where a person moves between overseas countries that have contributory social security schemes, they generally cease making contributions to the first country's scheme and begin contributing to the second country's scheme. Therefore their pension entitlement from the first country will be less than if they had remained in that country. However, when the pension entitlement from the first country is added to that of the second country, the person will receive a pension effectively equivalent to one full pension.
- 22 When a person qualifies for NZS and they also receive an overseas pension because they have lived or worked in another country, they would effectively receive more than one pension. An adjustment is therefore made to their NZS entitlement under Section 70 of the Social Security Act 1964. The nature of the New Zealand system i.e. full pension entitlement after 10 years, requires the adjustment of pension entitlement to be achieved in a different way from how adjustment is achieved in contributory systems. The Review suggested that the current process applied for achieving this adjustment is not the only option. Within the

parameters set by the nature of the New Zealand system, the Review developed several different options by which overseas pensions can be taken into account.

- 23 The Review noted that there are tensions between protecting a system that serves lifelong New Zealand residents very well, and ensuring equitable treatment for people who have not spent their whole life in New Zealand. Maintaining the current system will benefit lifelong New Zealanders who have no intention of leaving the country, but to some extent can be seen as inequitable for many migrants and other New Zealanders who have lived overseas or wish to spend their retirement overseas. Compromising the residence-based system could risk opening the system up to exploitation by those who seek to access New Zealand’s relatively generous provisions while having made little or no contribution to New Zealand society.
- 24 While the Review found that the current policies are broadly adequate, it did identify a number of specific issues with the current policy settings under three broad headings. They are:
- treatment of overseas pensions;
 - payment of NZS overseas;
 - payment of NZS to Pacific countries.
- 25 The issues identified are outlined in the following sections.

Treatment of Overseas Pensions

The treatment of overseas pensions policy

- 26 The policy settings for the treatment of overseas pensions provide a framework in which to establish systems to manage superannuation payments to people who are eligible for NZS and who are also eligible for a pension payment from another country. The policy is found in sections 69G, 69H and 70 of the Social Security Act and in Article 15 of the Social Security Agreement with the United Kingdom.
- 27 Section 70 reduces a superannuitant’s NZS by the amount of his/her (or his/her partner’s) overseas social security pension. The effect of this on superannuitants’ NZS payments is shown in Table 2 below. Sections 69G and 69H provide that applicants for NZS must take reasonable steps to obtain an overseas pension to which they may be entitled, and must provide information to the Ministry of Social Development (MSD) on the rate of any overseas pension granted to them.

Table 2: Effect of treatment of overseas pension policy on NZS payments at 31 July 2007

Living arrangement	Gross weekly total pension rate	Average weekly direct deduction	Average gross weekly rate of NZS	Approximate number of recipients
Married/civil union/de facto	\$255.70	\$73.27	\$182.43	30,000
Single sharing	\$309.66	\$80.22	\$229.44	5,000
Single living alone	\$336.65	\$61.74	\$274.91	13,000
Total				48,000

- 28 The effect of section 70 and Article 15 is that in general:
- overseas pensions are taken into account in the calculation of NZS on a dollar-for-dollar basis;
 - if an overseas pension is greater than NZS, the recipient receives no NZS but retains their entire overseas pension;
 - first-tier pensions (ie basic universal flat-rate state pensions), and second-tier pensions (ie contributory earnings-related state pensions) that are paid into New Zealand by other governments are taken into account;
 - pensions that are mandated by a government but that are nevertheless private in nature, eg pensions paid from the Chilean scheme in which workers make compulsory contributions into private accounts, are not covered by the policy;
 - private pensions are not covered by the policy.
- 29 Appendix I shows the ten countries paying the highest number of overseas pensions into New Zealand, and the type of pensions that are deducted and not deducted.

Principles Underpinning Treatment of Overseas Pensions

- 30 The policy for the treatment of overseas pensions is longstanding and the legislation giving effect to it has been tested in the courts. The rationale behind the policy is to ensure that all New Zealand residents receive an equitable level of either the full rate of NZS or an amount that is at least equivalent to that rate. The policy has also come to be seen as a way of sharing the burden of social security costs between New Zealand and an individual's home country.
- 31 A key principle of NZS is its universal provision to those who are eligible, regardless of individual levels of tax paid. NZS is relatively generous because it is paid in full after 10 years of qualifying New Zealand residence and presence since the age of 20 (five years of which must be after age 50). In most other countries the amount of a retirement pension is based on the level of contributions a person has made to a scheme during their working life. This means that a person will often not receive full social security coverage unless they have contributed to a social security scheme for between 40 to 50 years. In effect most countries do not pay any pension for periods where contributions have not been made or a person has not been present.
- 32 Canada can be used as example. Suppose a Canadian, Mr X, spent the first 12 years of his working life in Canada and the remaining years of his working life in the United States, and returned to Canada to retire. Mr X would be entitled to a Canadian pension roughly equating to 12/40th of the full Canadian entitlement. He would also be entitled to a pension from the United States roughly equating to 28/40th of the full American entitlement, and the two pensions added together would make a full pension. The Canadian authorities would not make any adjustments to Mr X's Canadian entitlement in respect of his United States pension.
- 33 The Australian system bears some similarities to the New Zealand system and therefore there are some similarities in the way overseas pensions are treated. If Mr X had migrated to Australia on retirement he would be covered by the social security agreement between

Australia and Canada, which would mean that he would immediately be entitled to an Australian Age Pension. Australia would direct deduct Mr X's Canadian and United States pensions, until such time as he qualifies for Age Pension in his own right (after 10 years residence). Once Mr X qualifies for Age Pension in his own right, his foreign pensions will no longer be direct deducted, but they will be taken into account for the income and asset test that applies to the Age Pension.

- 34 When a person migrates to New Zealand, or returns home after a period overseas, they may bring with them a partial entitlement to a pension from another country. If that person is aged 65 years or older, after only 10 years New Zealand residence they will become entitled to full NZS. If a person were to receive a partial overseas pension entitlement as well as their NZS, they would be financially advantaged in comparison with a person who has lived all their life in New Zealand, paid their taxes and retired here. In order to ensure equality of treatment, New Zealand therefore reduces a person's New Zealand benefit entitlements by the amount of any social security-based overseas pension.

Issues with the Treatment of Overseas Pensions Policy Identified by the Review

- 35 The treatment of overseas pension policy can be a contentious issue for recipients of overseas pensions and for the overseas governments that pay the pensions. For some overseas pensioners, whether migrants or returning expatriates, it comes as a surprise that they will not receive a full NZS entitlement on top of their overseas state pension.¹ Some other governments consider that New Zealand is using their pensions simply to reduce its own pension liabilities. As a result the policy can make conclusion of social security agreements with some countries² difficult or impossible.
- 36 Some countries have suggested that New Zealand use alternative methods to share the cost of pension provision with other countries. For example, in 2004 the Swedish Ministry of Health and Social Affairs informed MSD that it could not continue with negotiations towards a social security agreement unless New Zealand undertook to modify the effect of section 70. The Swedish Ministry presented MSD with a suggested alternative to section 70, under which New Zealand residents covered by the Agreement would receive a proportional payment from New Zealand, and the Swedish pension would not be taken into account by New Zealand. This system is very similar to the dual system proposed earlier in the Review, which I have decided not to pursue for equity reasons (refer to paragraphs 37 to 39).
- 37 At the time of the introduction of the treatment of overseas pensions policy in 1938, the majority of immigrants to New Zealand were from the United Kingdom. New Zealand now receives migrants from a wide variety of countries (key permanent resident source countries in 2006/2007 were, in numerical order, the United Kingdom, China, India, South Africa and the Phillipines), and retirement pensions are paid into New Zealand from a wide variety of types of pension systems. As overseas pension systems evolve and their nature changes, it can be difficult to determine the deductibility of pensions. The Review found that this presents a number of policy and administrative issues, for example:
- *Inequity in the treatment of overseas pensions:* in 1978 the United Kingdom introduced provisions that allow a person to “contract out” of the state earnings-related pension scheme and join a privately administered occupational pension scheme. United Kingdom state earnings-related pensions are deductible under the direct deduction policy but

¹ Work and Income and Immigration New Zealand have recently amended websites and printed material to better inform prospective migrants of the policy.

² Austria, Germany, Switzerland and Sweden are some of the countries that will not conclude Social Security Agreements with New Zealand until there is a change in the current treatment of overseas pensions policy.

occupational pensions are not. This results in inconsistent treatment of United Kingdom pensioners, many of whom chose to remain covered by the state earnings-related scheme and therefore have the amount of these pensions deducted from their NZS.

- *Administration of the policy:* administration presents a number of difficulties, because it is not always clear what pensions should be deducted, and therefore decisions made by MSD officials are highly contestable. Significant administration time is spent in dealing with reviews and appeals made by clients who disagree with the MSD decision about their individual case. The OECD estimates that the average life of a pension system is 15 years, which means that pension systems continually have to be reassessed in the light of section 70.

38 The Review also found that there are aspects of the policy that are arbitrary, particularly the treatment of spouses or partners of overseas pensioners, and the way it treats the voluntary components of overseas pensions.

Proposals on the Treatment of Overseas Pensions

The Basis of the Treatment of Overseas Pensions Policy is Sound

- 39 While I consider that we should make some technical changes to improve the operation of the treatment of overseas pensions policy, my fundamental conclusion is that the policy is sound. Many countries, including New Zealand, apply a principle that a person should not be able to receive two pensions for what is effectively one contribution period. In New Zealand this principle is implemented through section 70 of the Social Security Act 1964. The effect of the policy is broadly equitable. Where a person's overseas pension is paid at a higher rate than NZS, they get to keep the difference over and above NZS rates. If the overseas pension is paid at a lower rate than NZS, it is effectively topped up to the appropriate NZS rate. In other words, a person will receive the higher rate of the two pensions – either NZS or the overseas state pension.
- 40 During the course of the Review, officials proposed an option for a dual system of proportionalisation of NZS and the *status quo* treatment of overseas pensions. This proposal would have given superannuitants with overseas pensions the choice of receiving a proportional payment of NZS based on their years of residence in New Zealand between the ages of 20 and 65, or having their pensions treated under the existing policy.
- 41 This dual system would bring the New Zealand system more into line with other countries' systems.³ The dual system would therefore make the interface with systems in other countries easier, and in so doing meet many of the concerns expressed by complainants.
- 42 The dual system would, however, provide more generous provisions for migrants or for New Zealanders who have had the opportunity to work in another country than for lifelong New Zealand residents. People with an overseas pension entitlement would be financially advantaged in comparison with people who lived all their life in New Zealand. The dual system would therefore represent a significant change to the longstanding principle that all New Zealanders should receive an equitable level of state benefit payment in retirement.

³ Other countries with universal pensions generally proportionalise pension entitlement. For example, the Canadian universal pension is calculated as 1/40th of the maximum pension for each year of residence in Canada after age 18, up to a maximum of 40 years.

- 43 In seeking to improve the international aspects of NZS it is important that we do not lose sight of the principles behind the system, and the advantages of the system. In my view there is insufficient evidence to suggest that we should take the step of establishing a less equitable and more complex system to improve the international interface of NZS, when this interface affects only 10% of superannuitants.

Proposals to improve the implementation/administration of the policy

- 44 In the accompanying paper *Review of Treatment of Overseas Pensions and Payment of New Zealand Superannuation and Veteran's Pension Overseas: Paper Two – Proposals*, I outline five proposals that will make a range of improvements to the treatment of overseas pensions policy. These proposals will need to be considered as part of Budget 2008. If agreed the proposals will address most of the key issues identified by the Review and will resolve problems around determination of the type of pensions to be deducted and administration of the policy, as well as removing the inequitable aspects of the policy. The five proposals, described in more detail in the accompanying technical paper, are:

- clarify the wording of section 70 of the Social Security Act 1964 so that it is in plain English and sets out the treatment of each country's pension in regulations;
- remove the proportion of foreign state pensions built up by voluntary contributions from the scope of section 70;
- update the Social Security (Overseas Pension Deduction) Regulations 1996, which set out the mechanics of how the treatment of overseas pension policy works;
- discontinue the policy of deducting a person's overseas pension from their spouse's NZS entitlement;
- amend the Special Banking Option legislation to allow for refunds.

Other Options Considered

- 45 The review considered a wide range of other options ranging from removing the policy on the treatment of overseas pensions to the *status quo*. The former was rejected because it would result in inequitable outcomes for lifelong New Zealand residents. The latter was rejected because the review has clearly identified some issues with the current policy. A number of options on the continuum between these two extremes were considered.
- 46 In general, the other options identified sought to target the treatment of overseas pensions policy more precisely in terms of the types of overseas pensions it covered, or in terms of the categories of pensioners who were covered (for example based on their other income). These options were rejected because they would have a relatively high fiscal cost but limited equity and administrative benefits.

Payment of NZS overseas

Payment overseas rules

- 47 Sections 21 to 35 of the New Zealand Superannuation and Retirement Income Act 2001 provide rules governing payment of NZS overseas. The main ways that NZS can be paid overseas are:
- the general portability provisions, which pay a flat rate of 50% of the gross full rate provided that the person applies for NZS while resident in New Zealand and qualifies for NZS before leaving New Zealand (sections 21 to 29);
 - the Special Portability Arrangement for persons retiring to a Pacific Island country, which allow a person to receive 50% of NZS after 10 years of residence in New Zealand, rising to 100% after 20 years (sections 30 to 35);
 - temporary absence provisions, which allow superannuitants who leave New Zealand for up to six months to receive NZS at the full rate provided either that their absence does not exceed 30 weeks or that their absence beyond 30 weeks is due to unforeseen circumstances beyond the superannuitant's control (section 22);
 - social security agreements, which modify the rules in legislation by allowing persons covered to receive up to 100% of NZS while they are resident overseas and overseas residents to apply for New Zealand benefits. Social security agreements also allow periods of contributions to a foreign pension system to count as New Zealand residence for the purposes of qualifying for certain New Zealand benefits, and for New Zealand residence to count as contributions and/or residence in the other country (known as "totalisation").

Payment overseas rationale

- 48 Until the late 1980s New Zealand's social security system covered only New Zealand residents. Although people could receive payment while outside of New Zealand, entitlement to payment of NZS was restricted to periods of absence of up to 26 weeks, provided that the person returned to New Zealand within 30 weeks of their departure.
- 49 By the late 1980s migrants were coming to New Zealand from a greater range of source countries than the traditional European, and New Zealanders were emigrating in larger numbers to a greater variety of countries. Overseas-born New Zealand residents reaching retirement age who wished to retire in their countries of origin lobbied for a change in the payment overseas rules. In 1988 the Government agreed to allow the payment of NZS overseas under social security agreements, and New Zealand has since entered into seven⁴ such agreements with Australia, Canada, Denmark, Greece, Jersey and Guernsey, the Netherlands and the Republic of Ireland.

⁴ New Zealand also has a social security Agreement with the United Kingdom, but this Agreement was last revised in 1983 and does not provide for payment of NZS to New Zealanders resident in the United Kingdom. The Department for Work and Pensions in the United Kingdom have previously indicated that they do not want to make a substantive changes to the Agreement at this time.

50 In 1990, in response to concerns that people from non-social security agreement countries should be able to receive NZS overseas, Cabinet sanctioned the payment overseas of NZS to all non-agreement countries at 50% of the full rate. A variation of this provision was negotiated in 1993 with the Cook Islands, Niue and Tokelau. In 1999, the provision was extended to most other Pacific countries and the maximum payment rate was increased to 100%.

Issues with the Payment Overseas Policy Identified by the Review

51 The Review found that there are two key issues with this policy:

- the flat rate payment of 50% deters some older New Zealanders from retiring overseas because it provides insufficient income to allow a reasonable standard of living in retirement in most countries;
- under the legislation a superannuitant must reside in one particular country (the country to which the application related) to continue to receive payment.

52 The Review also noted that New Zealand does not have a social security agreement with the United States of America, and that this appears to be a significant gap in the social security agreements network, given the well-developed relationship the two countries have in other areas.

Proposals on Payment of NZS Overseas

53 In the attached paper *Review of Treatment of Overseas Pensions and Payment of New Zealand Superannuation and Veteran's Pension Overseas: Paper Two – Proposals I* recommend that the following proposals be agreed to for consideration in Budget 2008 (the proposals are described in more detail in that paper):

- allow payment of NZS overseas based on a formula of 1/45th of the full rate for each year of residence in New Zealand between the ages of 20 and 65;
- allow payment of NZS and Veteran's Pension to be made to superannuitants travelling to or residing in more than one country for more than 30 weeks;
- undertake work which could facilitate the conclusion of a social security agreement with the United States of America;
- allow full NZS entitlement where a superannuitant is overseas and is a New Zealand taxpayer for the duration of his or her absence.

Other Options Considered

54 Other options considered ranged from: paying full NZS overseas and allowing overseas residents to apply for NZS, to continuing with the *status quo*. The former was rejected because it would require an unacceptable compromise of New Zealand's residence-based system. The latter was rejected because it does not recognise increasing movement of people in and out of New Zealand.

55 The proportion of New Zealand's working-age population that was born overseas has grown from 18% in 1981 to 25% in 2006. For example, from 1999/2000 to 2005/2006 the number of

work permits granted has more than tripled, from around 34,000 to around 115,000. Temporary and permanent immigration will continue to be an important contributor to economic transformation, including meeting skills shortages

Payment of NZS in Pacific Countries

Rules for payment in Pacific countries

56 Persons who wish to retire in Pacific countries may be covered by the Special Portability Arrangement. Under this arrangement NZS is paid at a minimum rate of 50% after 10 years residence in New Zealand, rising to 100% after 20 years residence. To qualify for payment a person must be resident and present in New Zealand and entitled to receive NZS on the date of application, or be entitled to receive NZS before leaving New Zealand. The Arrangement covers 22 Pacific countries.

Rationale for the policy

57 The Special Portability Arrangement is designed to recognise the contribution Pacific people make to New Zealand and the inability of Pacific countries to fulfil the reciprocal obligations necessary to conclude social security agreements with New Zealand.

Population affected by the Pacific policy

58 The Special Portability Arrangement currently provides payments for 482 residents of Pacific countries (this number increases by an average of two per month) at an annual cost of \$6.844 million.

Issues with the payment in the Pacific policy identified by the Review

59 Under current provisions Pacific Islanders who wish to retire in their “home” countries are not able to leave New Zealand until they are 65 if they wish to receive New Zealand Superannuation. The former New Zealand High Commissioner in Niue, the Hon Sandra Lee-Vercoe, urged in her valedictory despatch that some flexibility in the rules would be highly desirable to encourage population flows back to Niue. In particular she noted that the “disincentive for established Niueans to return home to Niue hinges on the requirement to be ‘ordinarily resident in New Zealand’ on the date that one applies at age 65 for their superannuation”.

60 Depopulation is also a problem for the two other “realm” countries, the Cook Islands and Tokelau. Long-standing New Zealand policies seek to encourage population retention in each of these countries. Removing a disincentive to return to these countries, by allowing people to return at the age of, say, 55 rather than 65, would help address depopulation by making returning home a more viable option.

61 New Zealand also has close and substantial ties with other Pacific countries, particularly Samoa, Tonga and Fiji. Approximately 72% of the Pacific population in New Zealand identify themselves as being Samoan, Tongan or Fijian and therefore make up the largest Pacific groups contributing to the New Zealand economy. There are also special immigration quotas that include all three countries, and many of the people who migrate to New Zealand under the quotas may wish to retire in their home countries.

Proposals on Payment of NZS to Pacific Countries

62 I recommend that the policy should be changed to allow persons resident in some Pacific countries to apply for NZS. I have identified two sub-options which would allow coverage of the new policy to be either restricted to the three countries with which New Zealand has the closest constitutional ties, or widened to the three other countries with which New Zealand has close relationships. The two options are:

- *restricted option* - allow residents of Niue, the Cook Islands and Tokelau to apply for NZS from those countries to reflect New Zealand's special constitutional relationships with these three Pacific countries; OR
- *wider option* - allow residents of Niue, the Cook Islands, Tokelau, Samoa, Tonga and Fiji, once Fiji has made sufficient progress towards a democratic system of government, to apply for NZS from those countries.

Other Options Considered

63 Consideration was given to allowing residents of all 22 Pacific countries covered by the Arrangement to apply for NZS. This was rejected, as many of these countries suffer from over-population rather than depopulation and do not have either sufficiently close relationships with New Zealand or a large enough number of migrants in New Zealand to warrant additional special treatment. Consideration was also given to restricting the change to Niue. This was rejected because the Cook Islands and Tokelau have similar constitutional relationships with New Zealand and also suffer from depopulation problems.

Next Steps

64 The accompanying technical paper seeks Cabinet's agreement to the proposals. Funding, timing and implementation issues are set out in that paper. The treatment of overseas pensions policy is contested by some recipients of overseas pensions. Therefore we will need to be clear about why we are retaining the policy. I propose to brief Caucus on key messages following Cabinet's decisions on the accompanying paper.

Consultation

65 Treasury, the Ministry of Foreign Affairs and Trade, the Ministry of Pacific Island Affairs, the Department of Labour, Veterans Affairs New Zealand, and the Ministry of Women's Affairs have been consulted and agree with the recommendations in this paper. A copy of this paper has also been sent to the Retirement Commissioner's Office and the Department of the Prime Minister and Cabinet.

Financial implications

66 This paper has no financial implications. The proposals outlined in the accompanying technical paper set out a range of options for modifying current policy, some of which have fiscal implications.

Human rights implications

67 There are no human rights implications.

Legislative implications

68 There are no legislative implications.

Regulatory impact and compliance cost statement

69 A regulatory impact and compliance cost statement is not required.

Gender implications

70 There are no gender implications.

Disability perspective

71 This paper has no specific impacts for disabled people.

Publicity

72 A publicity strategy is set out in the accompanying technical paper.

Recommendations

73 It is recommended that the Committee:

- 1 **note** that in May 2005 Cabinet [POL Min (05) 11/7 refers] directed the Ministry of Social Development and Treasury to report to the Minister of Finance and the Minister for Social Development and Employment on options for modernising the treatment of overseas pensions policy and addressing issues associated with payment of New Zealand Superannuation (NZS) overseas;
- 2 **note** that the Confidence and Supply Agreement with New Zealand First sets out a commitment to “investigate ways to improve options for senior citizens who may be eligible for foreign pensions as well as New Zealand Superannuation”;
- 3 **note** that the Ministry of Social Development and Treasury have undertaken a Review of the Treatment of Foreign State Pensions Paid into New Zealand and Payment of NZS Overseas;
- 4 **note** that the Review of the Treatment of Foreign State Pensions Paid into New Zealand and Payment of NZS Overseas found that the current policies are operating reasonably well, but also identified a number of aspects of the policy which could be improved;
- 5 **note** that the Acting Minister for Social Development and Employment proposes to retain the underlying principles relating to treatment of overseas pensions outlined in section 70 of the Social Security Act 1964;

- 6 **note** that the Acting Minister for Social Development and Employment has accepted and is seeking to implement ten proposals identified by the Review, subject to consideration in Budget 2008, to improve the administration of the policy, and these proposals are set out in the accompanying paper *Review of Treatment of Overseas Pensions and Payment of New Zealand Superannuation and Veteran's Pension Overseas: Paper Two – Proposals*.

Hon Steve Maharey
Acting Minister for Social Development and Employment

Date

Appendix I: Countries paying most pensions into New Zealand

Country	Total overseas pension/yr	No of people	Type of pension covered by policy	Pensions not covered by policy
United Kingdom	\$162.823m	40,391	- Retirement Pension: a contributory, flat-rate, pay-as-you-go pension - State Second Pension: a contributory earnings related pay-as-you-go pension	- 'Contracted-out' pensions (into an occupational or personal pension) - Pension Credit: a means-tested flat-rate pension (not exported)
Netherlands	\$16.874m	3,124	- AOW: a universal, flat-rate, pay-as-you-go, state pension	- Means-tested, flat-rate pay-as-you-go, state pension (not exported) - Compulsory/voluntary tax-incentivised occupational pensions (not nationally compulsory but mandatory in some industries)
Australia	\$13.201m	3,862	- Age Pension: a means-tested, flat-rate, pay-as-you-go state pension	Superannuation Guarantee – a compulsory occupational tax-incentivised pension
Canada	\$2.508m	645	- Old-age security: a universal, flat-rate, pay-as-you-go, state pension - Canada Pension Plan: a contributory, earnings-related, pay-as-you-go, state pension	Means-tested, flat-rate, pay-as-you-go, state pension (not exported)
United States	\$2.272m	270	- Social Security: a contributory, earnings-related, pay-as-you-go, state pension	Means-tested, flat-rate, pay-as-you-go, state pension (not exported)
Ireland	\$1.029m	157	- Old-age Contributory Pension and Retirement Pension: contributory, pay-as-you-go, flat-rate, state pensions	Old-age non-contributory pension: means-tested, flat-rate, pay-as-you-go state pension (not exported)
Germany	\$0.741m	167	Contributory, earnings-related, pay-as-you-go, state pension (there is no minimum pension)	Voluntary occupational/private tax-incentivised savings
Jersey & Guernsey	\$0.652m	154	Contributory, pay-as-you-go, flat-rate, state pensions	Means-tested, flat-rate, pay-as-you-go, benefit (not exported)
Switzerland	\$0.589m	150	Base pension: contributory, pension formula has flat rate and earnings-related component, pay-as-you-go, state pension	Mandatory occupational pensions – earnings-related
Fiji	\$0.491m	86	- Provident Fund: lump sums or optional pensions	

Appendix II: Population Affected by the Policies under Review

Population Affected by the Treatment of Overseas Pensions Policy

- 1 At 30 May 2007, approximately 10% of all NZS recipients had an overseas pension that was being deducted from their New Zealand entitlement. In total (NZS and other means-tested benefits) 49,863 New Zealanders were receiving overseas pensions that were being direct-deducted from their NZS entitlement.
- 2 The majority of overseas pensions are paid into New Zealand by:
 - the United Kingdom (40,391 pensions amounting to \$162.8 million a year);
 - the Netherlands (3,124 pensions at a value of \$22.8 million a year);
 - Australia (3,862 pensions amounting to \$13.2 million a year);
 - United States, Canada, Ireland, Germany, Jersey and Guernsey, Switzerland and Fiji (a combined total of 1,629 pensions amounting to approximately \$8.3 million a year).
- 3 Approximately 7% of overseas pensioners are New Zealand-born individuals who have spent some portion of their working life overseas.
- 4 The average value of overseas pensions paid into New Zealand is \$4,084 a year. New Zealand pays each overseas pensioner an average of \$11,474 a year in NZS and other income-tested benefits. Some 85% of overseas pensioners have lived in New Zealand for 30 years or more.
- 5 Overseas pensioners typically belong to low-income households. Over 60% of overseas pensioners are entitled to a Community Services Card.

Population affected by the payment overseas policy

- 6 At 1 June 2007 NZS was being paid to 10,699 New Zealanders living overseas at a cost of \$72 million a year⁵ (refer to table below).

Number of recipients under portability arrangements by average weekly rate and annual cost

Payment Arrangement	Numbers of recipients	Gross weekly rate of NZS ⁶	Annual cost
Social Security Agreements	9,974	\$124.35	\$64.498m
Special Portability Arrangement for the Pacific	482	\$273.09	\$6.844m
General portability	213	\$121.77	\$1.384m
Total	10,699		\$72,760m

⁵ Data on numbers of people receiving payment under temporary absence provisions is not available.

⁶ NZS payments overseas are not taxed in New Zealand.

- 7 The majority of payments overseas (8,059) are made to New Zealanders resident in Australia and these figures are increasing by approximately 170 per month.
- 8 New Zealanders who receive payments overseas under social security agreement provisions, other than under the Australian agreement, account for an additional 1,915 payments and these numbers increase by an average of 11 per month. The table below shows the numbers of NZS recipients in agreement countries at 1 June 2007 and the value of the payments made into those countries.

NZS paid in social security agreement countries by numbers of persons and annual value/cost at 1 September 2005

Agreement country	Number of superannuitants*	Cost
Australia	8,059	\$51.544m
Canada	429	\$2.178m
Denmark	50	\$0.216m
Greece	259	\$1.472m
Ireland	112	\$1.188m
Jersey and Guernsey	58	\$0.146m
The Netherlands	1,007	\$7.754m
Total	9,974	\$64.498m

*There are an additional 20,000 approximately former New Zealand residents who are paid UK and Australian pensions overseas under the terms of a previous social security agreement with Australia and the current agreement with the UK

- 9 There are currently 213 people receiving payment under the general portability provisions (annual cost \$1.348 million). The number of New Zealanders who are applying under the general payments overseas rules remains fairly static, with an average increase of one person per month. The low number of applicants for payment of NZS overseas indicates that the rate of payment of 50% and the restrictive residence rules do not make this option attractive to potential applicants.