Office of the Acting Minister for Social Development and Employment

Chair
Cabinet Social Development Committee

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

Proposal

1 This paper proposes that Cabinet:

- agree to:
  - undertake work which could facilitate the conclusion of a social security agreement with the United States of America;
  - update the Social Security (Overseas Pension Deduction) Regulations 1996;
- agree in principle, subject to funding in Budget 2008, to further proposals concerning treatment of overseas pensions paid to superannuitants and the payment of New Zealand Superannuation[1] (NZS) overseas.

2 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 One – Overview*, which sets out the findings of the Review of Treatment of Overseas Pensions and Payment of New Zealand Superannuation and Veteran's Pension Overseas (the Review).

Executive Summary

3 This paper contains proposals to address issues around the treatment of foreign state pensions paid into New Zealand and payment of NZS overseas.

4 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 (the Review). The background to the Review and its findings are described in the accompanying paper. The scope of this Review is limited to NZS and Veteran's Pensions entitlements and does not include other New Zealand benefit types.

5 The Review found that current policies on the treatment of overseas pensions and payment of NZS overseas are operating reasonably well. The policies reflect the universal nature of the New Zealand system and provide very good protection for most New Zealanders. The Review nevertheless identified a number of areas that could be improved. I am seeking Cabinet's agreement to proceeding with proposals relating to the treatment of overseas

[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. The Veteran's Pension is an alternative to NZS for certain eligible veterans. There are currently just over 9,000 people receiving Veteran's Pensions rather than NZS.

pensions and payment of NZS in the Pacific and overseas, which would be implemented in two phases.

6 Phase 1 would be implementing proposals that do not require amendment to primary legislation and have no fiscal implications; these proposals are:

- undertake work which could facilitate the conclusion of a social security agreement with the United States of America (paragraphs 34-36);
- update the Social Security (Overseas Pension Deduction) Regulations 1996, which set out the mechanics of the treatment of overseas pension policy (paragraph 13).

7 Phase 2 comprises the remaining seven or eight proposals that require amendment to the Social Security Act 1964, the New Zealand Superannuation and Retirement Income Act 2001, the War Pensions Act 1954 or the Income Tax Act 2004.

- remove the proportion of foreign state pensions built up by voluntary contributions from the scope of section 70 of the Social Security Act 1964 (paragraph 12);
- clarify the wording of section 70 of the Social Security Act so that it is in plain English, and set out the treatment of each country's pension in regulations (paragraph 14);
- discontinue the policy of deducting a person's overseas pension from their spouse's NZS entitlement by amending sections 69G, 69H and 70 of the Social Security Act, and a consequential amendment to the Special Banking Option (SBO)[2] so that only one partner of a couple can join the SBO if they wish (paragraphs 15-17);
- allow full NZS entitlement where a superannuitant is working overseas and paying income tax to New Zealand (paragraph 20-24);
- allow payment overseas of New Zealand Superannuation and Veteran's Pension to be made to superannuitants travelling to or residing in more than one country for more than 30 weeks (paragraph 19);
- amend the SBO legislation to allow for refunds (paragraph 18);
- pay 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 (paragraphs 25-26);
- allow residents of Niue, the Cook Islands, Tokelau, Samoa, Tonga and Fiji to apply for NZS from those countries (the full Pacific option), OR 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 (the reduced Pacific option) (paragraphs 28-33).

[2] The Special Banking Option (otherwise called an alternative arrangement) is a system whereby overseas pensioners can choose to have their overseas pension paid directly into a special bank account which they cannot access – instead, these amounts are periodically withdrawn by the Ministry of Social Development to partially recover the cost of NZS paid to overseas pensioners. In return, the overseas pensioner receives the regular full payment of NZS.

8 The body of this paper presents the proposals thematically for ease of understanding. The recommendations then revert to a presentation of the proposals in a phased format.

9 Examples of the impact of each proposal are shown in Appendix 1.

Background

10 In general the Review found that the current policies on the treatment of overseas pensions and payment of NZS overseas are operating reasonably 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 to current policy, which in my view is broadly appropriate for New Zealand's circumstances. The Review nevertheless identified a number of amendments that would improve the current policies covering the treatment of overseas pensions and the payment of NZS to Pacific countries and overseas. These proposed amendments are presented in this paper.

Treatment of Overseas Pensions

Proposed Policy Changes

11 I propose a package of amendments to the policy on the treatment of overseas pensions as follows:

Remove from the scope of section 70 of the Social Security Act 1964 the proportion of foreign state pensions built up by voluntary contributions

12 Both voluntary and compulsory components of overseas pensions are covered by section 70. It is desirable that voluntary components are not covered as they are essentially private savings; therefore I propose that section 70 be amended to exempt voluntary components. Officials estimate that approximately 200 superannuitants would benefit from this proposal

Update the Social Security (Overseas Pension Deduction) Regulations 1996, which set out the mechanics of how the treatment of overseas pensions policy works

13 This amendment would update the regulations used to calculate the applicable exchange rate when converting pensions paid in overseas currency into New Zealand dollars and the treatment of bank fees (the regulations stipulate that bank fees are not included in the section 70 calculation). Over time the regulations have become outdated. The operational impact of this proposal is minimal. There would be no impact on superannuitants with overseas pensions and there are no costs associated with this amendment.

Clarify the wording of section 70 of the Social Security Act 1964 so that it is in plain English, and set out the treatment of each country's pensions in regulations

14 This proposal would clarify the intent of section 70, which is frequently contested by superannuitants with overseas pensions, and would also set out the treatment of each country's pensions in regulations. The proposal would have no direct impact on overseas pensioners as it would only make the existing policy on the treatment of overseas pensions more explicit and transparent. This would allow the Ministry of Social Development to better communicate the policy to superannuitants and to highlight that the effect is to top up a superannuitant's overseas pension to the equivalent level of NZS.

Discontinue the policy of deducting a person's overseas pension from their partner's NZS entitlement, and make a consequential amendment to the Special Banking Option (SBO) so that only one partner needs to choose this option

15 Currently where one partner of a couple has an overseas pension that exceeds the half married-couple rate of NZS, the amount of overseas pension in excess of the half married rate is counted against the other partner's entitlement. In addition, where a couple consists of a superannuitant and a non-superannuitant, the non-superannuitant must apply for any overseas pension they may be entitled to, and this is counted against the superannuitant's entitlement. This proposal would eliminate these policies and would require amendments to sections 69G, 69H and 70 of the Social Security Act 1964.

16 Under current rules both partners must join the SBO. This is to ensure that the counting of one partner's overseas pension entitlement against the other partner's NZS is replicated in the SBO provisions. If the proposal regarding partners is agreed to, the need for both partners to join the SBO becomes redundant and therefore I propose removing this rule.

17 The proposal would benefit an estimated 1,000 people a year

Amend the Special Banking Option rules to allow for a refund

18 Generally only people who have an overseas pension that is less than their relevant rate of NZS will use the SBO. On rare occasions a superannuitant's overseas pension amount may exceed the NZS rate because of exchange rate fluctuations. Section 70 of the Social Security Act does not allow a refund of the excess amount of overseas pension to be paid to the superannuitant. This proposal would make a refund possible and would require an amendment to section 70 of the Social Security Act, the Special Banking Option regulations, and the Income Tax Act 2004. The proposal would benefit approximately 750 superannuitants a year

Payment of NZS Overseas

Proposed Policy Changes

Allow superannuitants to travel to or reside in more than one country and continue to receive NZS

19 This proposal would allow superannuitants to move between countries and continue to receive NZS. It would rectify the situation that under current provisions a superannuitant must reside in one particular overseas country to continue to receive NZS. An estimated 10 superannuitants would benefit each year from this proposal.

Allow superannuitants who are resident overseas and who are New Zealand taxpayers to receive full NZS

20 This proposal was identified in the latter stages of the Review. While it initially showed some merit, further investigation has revealed some significant negative aspects. I am therefore asking the Committee to decide whether this proposal should remain as part of the Phase 2 package or be withdrawn.

21 Some superannuitants reside overseas but continue to pay New Zealand income tax during their period of overseas residence because they are still working for a New Zealand employer. This proposal would ensure that these people are treated as if they remained resident in New Zealand so that their NZS is not reduced during their period of overseas residence.

22 The key disadvantage of this proposal is that it would be difficult to prevent fraudulent use of the provision. It would be relatively easy for a superannuitant to establish a New Zealand company and, while working overseas as an employee of that company, receive a company wage liable for New Zealand tax. There would be a real risk that superannuitants would use the provision to circumvent the payment overseas rules. The Ministry of Social Development would introduce measures to attempt to ensure that this provision only applied to those superannuitants who were genuinely employed overseas, but it would be difficult for the Ministry to establish, in all instances, whether the New Zealand company and/or the overseas employment were legitimate.

23 A further disadvantage is that amendments would need to be made to New Zealand's eight Social Security Agreements before this provision could be offered to people residing overseas who are covered by the Agreements. The process of amending an Agreement can take up to four years to complete.

24 This proposal would benefit approximately 10 superannuitants a year

Proportional portability of New Zealand Superannuation

25 Instead of the flat-rate 50% payment of NZS to people who retire to a country covered by the general portability provisions, I propose that a person would be able to receive up to 100% of NZS depending on the number of working-age years they have lived in New Zealand - entitlement would be calculated based on a 45-year denominator, so that a person would need 45 years of residence in New Zealand between the ages of 20 and 65 to receive full payment

26 This change would allow more superannuitants to retire overseas and provides a cost-effective and equitable policy for payment overseas. It also mirrors the payment provisions in most of New Zealand's social security agreements. Officials estimate that up to 500 additional superannuitants a year would retire overseas due to this proposal. The payment rates will be increased, where applicable, for those superannuitants who are already being paid under the existing payment overseas provisions.

Temporary absence provisions

27 In general the rules around temporary absence are operating reasonably well. A 26-week temporary absence period is common in other countries with residence-based pensions. Any complaints around the rules tend to focus on the length of the temporary absence period, with some people wanting the period to be extended. The proposal to change general portability from a flat 50% payment to a proportional payment should alleviate most of these concerns, as a superannuitant will be able to travel to any country for a period of more than 26 weeks and receive up to 100% of NZS.

Payment of NZS in Pacific Countries

Proposed Policy Change

28 I propose that the Special Portability Arrangement for Pacific countries be amended either:

- to allow residents of Niue, the Cook Islands, Tokelau, Samoa, Tonga and Fiji, who have met the NZS residence rules to apply for NZS from one of those countries, regardless of when they left New Zealand,

  OR

- to limit this proposal to Niue, the Cook Islands, and Tokelau, with which New Zealand has special constitutional relationships.

29 Up to 550 residents of the six countries in the first of these two proposals would use the new provision each year

. If coverage of the proposal is limited to Niue, the Cook Islands and Tokelau, approximately 80 residents would benefit from the provisions in the first year and an addition ten per year in the following years

30 The Ministry of Foreign Affairs and Trade has advised that New Zealand has introduced a number of sanctions, including a suspension of high-level contact, with the interim Fijian administration. The Ministry of Social Development does not recommend extending this proposal to Fiji until it has been advised by the Minister of Foreign Affairs that Fiji has made sufficient progress towards a democratic system of government.

31 While New Zealand also has special immigration arrangements for citizens of Kiribati and Tuvalu as part of the Pacific Access Category (PAC), it is not proposed that these arrangements be extended to these two Pacific countries because they have less substantial ties with New Zealand (whether in terms of family links with local community in New Zealand compared to Niue, the Cook Islands, Tokelau, Fiji, Samoa and Tonga, or in economic linkages) and make up less than 2%[3] of the Pacific population living in New Zealand.

32 The Ministry of Justice has advised that confining the proposal to Niue, the Cook Islands and Tokelau, those countries with which New Zealand has a special constitutional relationship, could be justified in terms of section 5 of the New Zealand Bill of Rights Act 1990: however further justification would be required to support extending the proposal to other Pacific countries.

33 There is a risk associated with allowing applications to be made from Pacific countries. Applications for NZS, including verification of the applicant's identity and determination of entitlement, are normally dealt with by Work and Income offices in New Zealand. This service will not be available in Pacific countries and an alternative method of verifying identity and obtaining corroboration of periods of New Zealand residence, on which the rate of payment is based, could prove difficult and costly. Limiting the proposal to a maximum of six countries is a prudent way to minimise the risk and uncertainty associated with implementing a new system in new locations, including countries which mostly comprise a number of widely dispersed islands.

[3] 2006 Census data.

Social Security Agreement with the United States of America

34 New Zealand does not have a social security agreement with the United States. This is a significant gap in New Zealand's social security agreements network, given the well-developed relationship the two countries have in other areas. The lack of a social security agreement means that portability of pensions and benefits between the two countries is restricted, and that companies and workers from both countries are paying more social security tax than they need to when they do business or work in the other country. In 2006/2007 the United States was the seventh-largest source of skilled migrants granted residence in New Zealand, and the fourth-largest source of temporary workers.

35 An agreement cannot be achieved unless New Zealand undertakes to provide a tax rebate to American seconded workers in New Zealand. A further issue is that US social security agreements must combine "periods of coverage" under the two systems, which in US law are defined as periods of work or periods of contributions. New Zealand has a residence-based system under which coverage is not based on periods of work or contributions.

36 I consider that officials should explore the possibility of removing the barriers currently preventing a social security agreement. Work on the tax issue will need to be undertaken by Treasury and the Inland Revenue Department. Work on the issue of combining periods of coverage under the two systems will need to be undertaken by the Ministry of Social Development and the US Social Security Administration concurrently with the tax work. There are no costs associated with this preliminary work.

37 The US Social Security Administration has indicated that it is willing to enter into discussions with the Ministry of Social Development towards the conclusion of a social security agreement.

Finalising Minor Technical Policy Issues

38 The social security system is very complex, and there may be some minor technical policy issues which will need to be resolved to draft legislation and implement the packages. I propose that Cabinet delegate authority to the Minister for Social Development and Employment to make decisions on these minor policy issues.

Financial Implications

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Consultation

40 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. The Retirement Commissioner's Office, the Department of the Prime Minister and Cabinet and the Inland Revenue Department have been informed.

Human Rights Implications

41 The majority of proposals in this paper appear to be consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. However the proposal to allow persons resident in only certain specified Pacific countries who have met the NZS and Veteran's Pension residence requirements to apply for NZS or Veteran's Pension from those countries appears to be inconsistent with the right to be free from discrimination on the ground of ethnic or national origins.

42 The Ministry of Justice has advised that confining the proposal to those countries with a special constitutional relationship with New Zealand would be justified in terms of section 5 of the Bill of Rights Act; however further justificatory material is required to support extending the proposal to other Pacific countries. Officials from the Ministry of Social Development will continue to work with the Ministry of Justice in this regard. A final view on the inconsistency of the proposals with the Bill of Rights Act will be possible once the legislation has been drafted.

Legislative Implications

43 Amendments will be required to the Social Security Act 1964, the New Zealand Superannuation and Retirement Income Act 2001, the War Pensions Act 1954 and the Income Tax Act 2004.

44 Amendments will be required to the Social Security (Overseas Pension Deduction) Regulations 1996, the Social Security (Alternative Arrangement for Overseas Pensions) Regulations 1996 and the Social Welfare (Reciprocity with the United Kingdom) Order 1990.

45 If the overseas taxpayer proposal is chosen, amendments will also be required to New Zealand's Social Security Agreements with Australia, Canada, Jersey and Guernsey, Ireland, Greece, Denmark and the Netherlands. These amendments would need to be reflected in amendments to the Orders made under section 19 of the Social Welfare (Transitions Provisions) Act 1990 which give effect to the Social Security Agreements. These are the Social Welfare (Reciprocity with Australia) Order 2002, the Social Welfare (Reciprocity with Canada) Order 1996, the Social Welfare (Reciprocity with Jersey and Guernsey) Order 1995, the Social Welfare (Reciprocity with Ireland) Order 1993, the Social Welfare (Reciprocity with

the Hellenic Republic) Order 1993, the Social Welfare (Reciprocity with Denmark) Order 1997 and the Social Welfare (Reciprocity with the Netherlands) Order 2003.

Timing and Funding

46 If Cabinet agrees to the first two proposals in this paper (updating the Social Security (Overseas Pension Deduction) Regulations and investigating the possibility of a social security agreement with the United States), work can begin immediately on these because they require no funding and no legislative change.

47 If Cabinet agrees to the remaining eight proposals, they will need to be assessed against the other Families - Young and Old initiatives in Budget 2008. If the proposals gain funding approval in Budget 2008, legislation would need to be enacted and an administrative lead-in time would be required before the proposals could be implemented. The costs in this paper have been based on an implementation date of 1 April 2009. A final proposed implementation date will be included in the paper setting out the bids for Budget 2008.

Regulatory Impact and Compliance Cost Statement

48 A regulatory impact statement is attached and complies with the requirements for regulatory impact statements.

Gender Implications

49 The proposals will provide benefits for both men and women. Marginally more women are likely to be affected by the proposals.

Disability Perspective

50 The decisions in this paper do not have any specific impacts for disabled people.

Publicity

51 During the Review there has been much interest on this issue from stakeholders. Therefore, regardless of which policy proposals are adopted, the Government needs to put out clear and robust messages on this issue.

52 A communications strategy detailing comprehensive stakeholder engagement will be developed. This will be built around the following key messages:

- the current system provides very good protection for most New Zealanders and therefore the Government is maintaining the wider policy largely in its current form
- in terms of treatment of overseas pensions, most countries apply a principle that people receive the equivalent of one state pension – New Zealand achieves this through section 70 of the Social Security Act.

53 The key audiences are NGOs such as Grey Power and Age Concern, migrant community groups, Pacific governments, other governments, in particular social security agreement partners and potential agreement partners, the New Zealand public, and the media.

Recommendations

54 I recommend that the Committee:

Background

1 **note** that the Review of Treatment of Overseas Pensions and Payment of New Zealand Superannuation and Veteran's Pension Overseas has concluded that there are a number of issues for which amendments are required;

Proposed Policy Changes

2 **note** that the findings of the Review can be implemented in two phases:

2.1 the first phase consisting of proposals that can be commenced or implemented immediately with no fiscal cost;

2.2 the second phase consisting of proposals that have budgetary and legislative implications;

PHASE 1

3 **agree** to updating the Social Security (Overseas Pension Deduction) Regulations 1996, which set out the mechanics of the how the treatment of overseas pensions policy works;

4 **agree** to undertaking work which could facilitate the conclusion of a social security agreement with the United States of America;

PHASE 2

5 **agree**, to clarifying the wording of section 70 of the Social Security Act 1964 so that it is in plain English, and set out the treatment of each country's pension in regulations;

6 **agree**, to allowing payment of New Zealand Superannuation and Veteran's Pension to be made to superannuitants and veteran's pensioners travelling to more than one country for more than 30 weeks;

7 **agree**, , to removing the proportion of foreign state pensions built up by voluntary contributions from the scope of section 70 of the Social Security Act 1964 as it applies to New Zealand Superannuation and Veteran's Pension;

8 **agree**, to paying New Zealand Superannuation and Veteran's Pension 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;

9 **agree**, , to discontinuing the policy of deducting a person's overseas pension from their spouse's New Zealand Superannuation or Veteran's Pension entitlement and amend the Special Banking Option so that only one partner of a couple can join the Special Banking Option if they wish;

10 **agree**, to:

either

10.1 the inclusion in Phase 2, in recognition of New Zealand's special constitutional relationships with Niue, the Cook Islands and Tokelau, the ability for residents of these countries who have met the New Zealand Superannuation and Veteran's Pension residence requirements to apply for New Zealand Superannuation or Veteran's Pension from those countries;

or

10.2 the inclusion in Phase 2 the ability for persons resident in Niue, the Cook Islands, Tokelau Samoa, Tonga and Fiji (once Fiji has made sufficient progress towards a democratic system of government) who have met the New Zealand Superannuation and Veteran's Pension residence requirements to apply for New Zealand Superannuation or Veteran's Pension from those countries;

or

10.3 the inclusion in Phase 2 the ability for persons resident in Niue, the Cook Islands, Tokelau, Samoa, Tonga, Fiji (once Fiji has made sufficient progress towards a democratic system of government), Kiribati and Tuvalu, who have met the New Zealand Superannuation and Veteran's Pension residence requirements to apply for New Zealand Superannuation or Veteran's Pension from those countries;

11 **agree**, to

either

11.1 the removal of the proposal that would allow full New Zealand Superannuation or Veteran's Pension entitlement where a superannuitant or veteran's pensioner is overseas and is a New Zealand taxpayer;

or

11.2 the inclusion of the proposal to allow full New Zealand Superannuation or Veteran's Pension entitlement where a superannuitant or veteran's pensioner is overseas and is a New Zealand taxpayer;

Financial implications

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Legislative Implications

15 **note** that Phase 1 will require an amendment to the Social Security (Overseas Pension Deduction) Regulations 1996;

16 **note** that Phase 2 will require amendments to the Social Security (Alternative Arrangement for Overseas Pensions) Regulations 1996, the Social Welfare (Reciprocity with the United Kingdom) Order 1990, the Social Security Act 1964, the New Zealand Superannuation and Retirement Income Act 2001, the War Pensions Act 1954 and the Income Tax Act 2004;

17 **note** that, if the overseas taxpayer proposal in Recommendation 11.2 is agreed to, Phase 2 would also require amendments to New Zealand's Social Security Agreements with the United Kingdom, Australia, Canada, Jersey and Guernsey, Ireland, Greece, Denmark and the Netherlands, which would need to be negotiated with the governments of these countries and given effect in New Zealand law through an Order in Council made under section 19 of the Social Welfare (Transitions Provisions) Act 1990;

18 **invite** the Acting Minister for Social Development and Employment to instruct the Parliamentary Counsel Office to draft the necessary amendments to progress Phase 1 and Phase 2;

Finalising minor technical policy issues

19 **authorise** the Acting Minister for Social Development and Employment to make any minor and technical policy decisions necessary for drafting legislation and implementation of Phase 1 and Phase 2.

Hon Steve Maharey
Acting Minister for Social Development and Employment

Date

APPENDIX ONE

Review of Treatment of Overseas Pensions and Payment of New Zealand Superannuation and Veteran's Pension Overseas: Proposal scenarios

1 Update the Social Security (Overseas Pension Deduction) Regulations 1996, which set out the mechanics of how the treatment of overseas pensions policy works

This proposal will have no direct impact on superannuitants. The Regulations specify the applicable exchange rate to use when converting pensions paid in overseas currency into New Zealand dollars and the treatment of bank fees (the regulations stipulate that bank fees are not included in the section 70 calculation). These were appropriate at the time they were introduced 11 years ago but have become outdated.

As an example: When the Regulations were introduced, most of the overseas pensions paid into New Zealand were from countries such as the United Kingdom or the Netherlands. Exchange rates for these countries were readily available from the New Zealand Government's contracting bank (currently Westpac); however, Westpac cannot provide us with exchange rates for some countries with which they have limited or no transactions e.g. Lithuania, Macedonia. In this instance, the Regulations currently do not provide for an alternative (and reliable) source of exchange rates.

2 Remove from the scope of section 70 of the Social Security Act 1964 foreign state pensions built up by voluntary contributions

Currently section 70 of the Social Security Act 1964 requires that the total amount of an overseas pension is to be deducted, on a dollar-for-dollar basis, from the rate of New Zealand benefits and pensions. This provision applies to overseas pension amounts made up of both compulsory and voluntary contributions[4].

Scenario	Current situation	Situation under proposal	Impact on Superannuitant
• Ernest K migrated to NZ from the Austria • He receives an Austrian pension (AP) of NZ$100 gross[5] per week based on the compulsory contributions he made when he was in Austria. • He receives a further amount of Austrian pension of NZ$50 gross per week based on 10 years of voluntary contributions to the Austrian social security system • His total Austrian pension is $150 gross per week • Ernest is entitles to the NZS single living alone rate, of $336.65 gross per week	Ernest's NZS amount is reduced by the total amount of his Austrian pension: NZS rate = $336.65 Less AP = $150.00 New rate = $186.65 Ernest's NZS of $186.65 and his Austrian pension of $150.00 add up to the normal NZS single living alone rate of **$336.65**	The NZ$50 pension amount that Ernest had accrued as a result of voluntary contributions will not be deducted from NZS NZS rate = $336.65 Plus AP = $100.00 Total pension = $236.65 Ernest's NZS of $236.65 and his Austrian pension of $150.00 add up to **$386.65**	Ernest will receive a combined New Zealand and Austrian pension payment that is **$50.00** per week more than the single living alone rate

[4] There is a provision in the Social Security Agreement between New Zealand and the Netherlands which provides an exemption for the deduction of any voluntary component of a Dutch pension. There is also a provision in the Social Security Agreement between New Zealand and the United Kingdom which provides an exemption from deduction in limited circumstances. To qualify for this exemption under the New Zealand/United Kingdom Agreement, a person must qualify for New Zealand Superannuation in his or her own right, must have been resident in New Zealand at 1 January 1970 and, while so resident, must have made at least one contribution to the United Kingdom National Insurance scheme.

[5] Overseas pensions are usually paid at a gross rate. The gross amount of overseas pension is deducted from the gross amount of NZS.

3 Clarify the wording of section 70 of the Social Security Act 1964 so that it is in plain English, and set out the treatment of each country's pensions in regulations

This proposal will have no direct impact on superannuitants. This proposal would set out the treatment of each country's pensions in regulations by specifying each pension type from each country that would be covered by section 70 of the Act. The current wording of section 70 has a negative connotation because it clearly states that the amount of overseas pensions reduce (or are deducted from) the rate of NZS. Under this proposal the principles of section 70 would not change, in that a person would still receive an amount of NZS that took into account the amount of their overseas pension, but a more positive message about the policy being a top-up rather than a deduction could be conveyed.

4 Discontinue the policy of deducting a person's overseas pension from their partner's NZS entitlement, and make a consequential amendment to the Special Banking Option (SBO) so that only one partner needs to choose this option

Currently where one partner of a couple has an overseas pension which exceeds the amount of their NZS entitlement, the excess overseas pension amount is deducted from the other partner's entitlement. In addition, both partners must join the SBO to ensure that the counting of one partner's excess overseas pension amount against the other partner's NZS is replicated in the SBO provisions.

Scenario	Current situation	Situation under proposal	Impact on Superannuitant
• Peter and his wife Johanna migrated to NZ from the Netherlands in 1996 • He receives a Netherlands pension (AOW) of NZ$300 gross per week • She receives a Netherlands pension(AOW) of $200 gross per week • As a couple, they are entitled to the gross rate of NZS of $255.70 each (or $511.40 combined)	Peter's rate of NZS is reduced by the amount of overseas pension that he receives. The amount of overseas pension that is in excess of half of the married rate is deducted from Johanna's NZS entitlement. *Calculation for Peter:* NZS rate = $255.70 Less AOW = $300.00 Excess amount = - $44.30 *Calculation for Johanna* NZS rate = $255.70 Less excess = $ 44.30 Less her AOW = $200.00 NZS payable = $ 11.40 *As a couple* Combined AOW = $500.00 NZS = $ 11.40 Total = **$511.40** The combined amount of AOW and NZS is equivalent to the amount that a couple would be entitled to if they were not receiving an overseas pension	The excess amount of overseas pension that Peter receives would not be deducted from Johanna's NZS entitlement *Calculation for Peter:* NZS rate = $255.70 Less AOW = $300.00 His excess = - $44.30 *Calculation for Johanna* NZS rate = $255.70 Less AOW = $200.00 NZS payable = $ 55.70 *As a couple* Combined AOW = $500.00 NZS = $ 55.70 Total = **$555.70**	Peter and Johanna will receive a combined NZS and AOW payment that is **$44.30** per week more than they, as a couple, would receive under the current rules

5 Amend the Special Banking Option rules to allow for a refund

Generally only people who have an overseas pension that is less than their relevant rate of NZS will use the SBO. On rare occasions a superannuitant's overseas pension amount may exceed the NZS rate because of exchange rate fluctuations. Section 70 of the Social Security Act does not allow a refund of the excess amount of overseas pension to be paid to the superannuitant so the person has to choose to either forfeit any excess amount of pension by remaining on SBO or to opt out of SBO in order to receive the higher overseas pension amount. However, once a person opts out of SBO, they are not able to rejoin at a later date.

Scenario	Current situation	Situation under proposal	Impact on Superannuitant
• Peter migrated to NZ from the Netherlands in 2006 • He was receiving a Netherlands Old Age pension (AOW) of NZ$335 gross per week • He is entitled to NZS at the single living alone rate of $336.65 gross per week[6] • As the AOW amount was less than the NZS amount, Peter chose to have his AOW paid through the SBO • An exchange rate fluctuation has meant that Peter's AOW rate has now risen to NZ$340 per week	The amount of $340 per week is paid into the SBO *Calculation for Peter:* NZS rate = $336.65 Less AOW = $340.00 Excess = - $ 3.35 Peter has the choice of remaining on SBO and receiving $336.65 gross per week, thereby forfeiting $3.35 excess overseas pension amount or going off SBO in order to receive the excess amount. However, Peter cannot rejoin the SBO if , in the future, his AOW pension falls below the applicable NZS rate due to an exchange rate fluctuation	Peter would remain on SBO and the excess amount, in this case $3.35 per week, would be refunded to him.	Peter will receive full NZS and the excess AOW payment which will provide him with **$3.35** per week more than the single living alone rate

[6] The Social Security Agreement with the Netherlands allows residence in the Netherlands to be treated as residence in New Zealand to assist with meeting the residential qualifications for New Zealand benefits and pensions. Other Social Security Agreements have similar provisions.

6 Proportional portability of New Zealand Superannuation

Instead of the flat-rate 50% payment of NZS to people who retire to a country covered by the general portability provisions, superannuitants would be able to receive up to 100% of NZS depending on the number of working-age years they have lived in New Zealand - entitlement would be calculated based on a 45-year denominator, so that a person would need 45 years of residence in New Zealand between the ages of 20 and 65 to receive full payment

Scenario	Current situation	Situation under proposal	Impact on Superannuitant
• Lionel and Adele have lived in New Zealand for all of their lives • Lionel and Adele wish to move to France • As a couple, they are entitled to the gross[7] rate of NZS of $255.70 each (or $511.40 combined) while in New Zealand	If Lionel and Adele wished to move to France, they would only be entitled to **$127.85** per week each (or 50% of the gross rate of NZS)	Instead of only receiving 50% of the NZS rate, Lionel and Adele would be able to receive the full rate based on the fact they had spent 45 years in New Zealand between the ages of 20 and 65	Lionel and Adele will receive **$255.70** each per week, an increase of **$127.85** each per week

[7] NZS is paid overseas at a gross rate. A superannuitant living overseas is generally expected to pay tax in their country of residence.

7 Allow superannuitants to travel to more than one country and continue to receive NZS

Under current provisions, payment of NZS overseas is limited to those superannuitants who intend to reside in one particular overseas country for more than 26 weeks, where that overseas country is not a country with which New Zealand has a reciprocal Social Security Agreement[8]. The rate payable under this provision is 50% of the gross NZS entitlement. NZS superannuitants who want to visit more than one overseas country are not entitled to payment of NZS during their absence unless they return to New Zealand within 30 weeks of the date of their departure.

This provision would allow superannuitants to travel to or reside in multiple countries for more than 30 weeks and still retain entitlement to NZS.

Scenario	Current situation	Situation under proposal	Impact on Superannuitant
• Lionel and Adele have lived in New Zealand for all of their lives. They have three adult children. One child lives in South Africa, another in France and the third in the United States • Their children have paid for a world trip and each child has invited Lionel and Adele to spend a 4 month stay with them during their trip • As a couple, they are entitled to the gross rate of NZS of $255.70 each (or $511.40 combined) while in New Zealand	Lionel and Adele have the choice of spending two months with each child and then returning to New Zealand within 30 weeks to maintain entitlement to NZS during their absence: OR spending 4 months with each child and forfeiting entitlement to NZS during their absence	Lionel and Adele can visit multiple countries for more than 30 weeks without losing entitlement to NZS. This means that they can visit the overseas countries in which each of their children resides for a four month stay and still retain entitlement to NZS.	Lionel and Adele will receive **$127.85**[9] each (or 50% of the rate that they would receive if they were in New Zealand) during their absence.

[8] New Zealand has Social Security Agreements with Australia, Canada, Denmark, Greece, the Republic of Ireland, Jersey and Guernsey, the Netherlands and the United Kingdom.

[9] If the proportional portability proposal (proposal 6 of this paper) is also agreed to, Lionel and Adele would receive **$255.70** each (100% of NZS) based on the fact that they have spent all of their working age years in New Zealand

8 Payment of NZS in Pacific Countries

New Zealand has special constitutional relationships with Niue, the Cook Islands and Tokelau. The proposed new rules for payment in the Pacific would allow residents of these three Pacific countries, who have met the NZS residence rule of 10 years residence since the age of 20, five of which are after the age of 50, to apply for NZS from one of those countries once they turn 65. This would allow people to leave New Zealand at 55, having completed 5 years of New Zealand residence since age 50, and apply for NZS while ordinarily resident in either Niue, the Cook Islands or Tokelau once they turn 65. This proposal could also be extended to Samoa, Tonga and Fiji (once Fiji has taken sufficient steps towards democracy).

Scenario	Current situation	Situation under proposal	Impact on Superannuitant
• Fred came to New Zealand when he was 25, worked here for 35 years and then returned permanently to Niue when he was 60 • At age 65, he wants to receive NZS	• Fred will not be entitled to NZS if he remains in Niue because he will not meet the qualifications for NZS which require him to be resident and present and ordinarily resident in New Zealand on the date of application for NZS • Fred will not be entitled to NZS if he returns to New Zealand to apply because, having spent the last 5 years in Niue and with an intent to return to Niue, he will not be deemed to be ordinarily resident in New Zealand on the date he applies for NZS	Fred would be deemed to be ordinarily resident in New Zealand on the date of application for NZS, if he was ordinarily resident in Niue on the date he applied for NZS	People from specified Pacific countries could return to those countries after their 55th birthday (and prior to their 65th birthday) and still be entitled to NZS once they turned 65

9 Allow superannuitants who are resident overseas and who are New Zealand taxpayers to receive full NZS

Some superannuitants reside overseas but continue to pay New Zealand income tax during their period of overseas residence because they are still working for a New Zealand employer. This proposal would ensure that these people are treated as if they remained resident in New Zealand so that their NZS is not reduced during their period of overseas residence.

Scenario	Current situation	Situation under proposal	Impact on Superannuitant
• John is a single superannuitant who is working overseas as an engineer for a New Zealand construction company • John will be overseas for 10 months • John came to New Zealand when he was 45 so he has 20 years of working age residence in New Zealand • John is entitled to the net living alone rate of $277.06 ($336.65 gross) per week while living in New Zealand • John is paying NZ tax on the wages he receives as an engineer	The amount John would receive overseas would depend on what country he was working in. If he was working in: • Canada, Denmark, Ireland or the Netherlands, **$149.62** per week(or 20/45ths of the gross rate) • Greece and Jersey/Guernsey, **$168.32** per week(or 20/40ths of the gross rate) • Australia, **nil** NZS because he would need to intend to reside in Australia for more than a year before NZS could be paid • the UK, **nil** NZS but could apply for the equivalent UK pension • one of the 22 Pacific countries under the Special Portability Arrangement, **$336.65** per week (or 20/20ths) • any other country, **$168.32** per week (or 50% of the gross rate payable in NZ)	John would receive 100% of the net rate in all countries other than the agreement countries. The payment provisions in agreements would prevail until amendments to the Agreements could be mae	If John was working in one of the 22 specified Pacific countries under the special Portability Arrangement, he would receive **$277.06** per week (100% of the ***net*** living alone rate) rather than **$309.66** per week (100% of the ***gross*** entitlement that he would receive under current rules If John was working in any country other than one of the 22 specified Pacific countries Pacific countries under the Special Portability Arrangement, he would receive **$277.06** instead of the amount of his current entitlement of **$168.32**

10 Social Security Agreement with the United States of America

The proposal would allow the Ministry of Social Development to further explore the possibility of a Social Security Agreement with the United States of America. The lack of such an agreement means that portability of pensions and benefits between the two countries is restricted, and that companies and workers from both countries are paying more social security tax than they need to when they do business or work in the other country.