

Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Bill

Government Bill

As reported from the Social Services
Committee

Commentary

Recommendation

The Social Services Committee has examined the Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Bill and recommends that it be passed with the amendments shown.

Introduction

This bill is an omnibus bill, seeking to amend the New Zealand Superannuation and Retirement Income Act 2001, the War Pensions Act 1954 (now repealed), and the Social Security Act 1964. It would amend the arrangement under which New Zealanders can receive their New Zealand Superannuation payments or Veterans' Pensions in the Cook Islands, Niue, and Tokelau.

Currently, applicants must have been resident and present in New Zealand for 10 years since the age of 20, five of them since the age of 50. Also, they must be resident and present in New Zealand on the date of application, which, typically, is when they turn 65. The bill

seeks to change this requirement to allow applicants who live in the Cook Islands, Niue, and Tokelau to apply for New Zealand Superannuation or a Veteran's Pension from those places, rather than from New Zealand, and to receive either of these payments in a specified Pacific country.

The effect of the bill would be that people would be able to leave New Zealand to live in the Cook Islands, Niue, or Tokelau after the age of 55, and apply and qualify for Superannuation and Veterans' Pensions when they turned 65, without having to return to New Zealand.

Amendments

The bill proposes to change the War Pensions Act 1954. However, since the bill was introduced, that Act has been repealed and replaced by the Veterans' Support Act 2014. We recommend that all references in the bill to the War Pensions Act 1954 be changed to refer to corresponding provisions in the Veterans' Support Act 2014.

New Zealand Labour Party minority view

Labour will support the Social Assistance (Portability to Cook Islands, Niue and Tokelau) Bill because it is a step in the right direction towards equal treatment of New Zealand citizens throughout the realm. We do however share some of the concerns raised by submitters, particularly about the eligibility criteria, and intend to introduce a Supplementary Order Paper which will seek to remove the requirement to be resident and present in New Zealand for five years between the ages of 50 and the qualification age of 65. This will ensure residents of the islands of the realm are not disadvantaged by being forced to absent themselves from family and work commitments in order to receive New Zealand superannuation. New Zealanders citizens, including those within the realm of New Zealand, should be treated equitably, and this SOP will more closely align the criteria for all applicants living in New Zealand and the countries of the realm.

New Zealand First minority view

New Zealand First supports this bill, which would waive section 8(a) of the New Zealand Superannuation and Retirement Income Act 2001, allowing all those entitled to New Zealand Superannuation to

apply for this without having to be “resident and present” in New Zealand at time of application.

Many have retired already in these islands before age 65. The simple change in rules means they do not have to return and live in New Zealand prior to application.

This is a matter of equity for New Zealand citizens. The concession to those who retire to these three countries is a gesture of goodwill and acknowledges their special relationship to New Zealand, noting that citizens of the realm countries of Cook Islands, Niue and Tokelau are born New Zealand citizens and have the democratic right to vote in the New Zealand elections (subject to the same restrictions as any other citizen).

These three Pacific island nations continue to suffer from a declining population, which will eventually make them non-viable island States—probably within the next decade. Tourism barely sustains these islands and they are already heavily dependent on New Zealand and other foreign aid.

Encouraging Cook Islanders and New Zealanders to retire to these islands would be considered an attractive retirement option which would reduce demands on health and aged care in New Zealand—at the same time providing economic stimulation for the host economy. We also take this opportunity to ask for a special dispensation for a special group of retirees unfairly treated by the New Zealand Superannuation system, the Rarotongan NZ Superannuation Lobby Group of Cook Islanders and expat Kiwis (including Cook Islands Permanent Residents), represented by Mr Les Priest and others. These residents of Cook Islands, Tokelau and Niue, as well as expat Kiwis, have spent up to 30 adult years living and working in New Zealand. They are being denied New Zealand Superannuation because they have not spent five years in New Zealand after age 50. It is grossly unfair that people affected by section 8(c) will never receive New Zealand Superannuation. Compare this to the generosity of giving full New Zealand Superannuation entitlement to non-New Zealand citizens from non-reciprocal pension countries after just 10 years’ residency. Those who enter under the parent category have no requirement to contribute to the economy.

The five years over 50 rule as it stands is the cause of much inappropriate dislocation, disruption, and relocation to the social co-

hesion of the countries involved, which has a flow-on effect on their economies. For example, at the moment far too many Cook Islanders return to New Zealand to begrudgingly fulfil their five years over 50 just to qualify for New Zealand Superannuation. Once they qualify, an estimated half of them will return to the Cook Islands, and their families, who inevitably accompany them to New Zealand, do not return, as they have entered the workforce or accessed the welfare system and feel quite comfortable in New Zealand.

Many countries enjoy an exemption from the five years over 50 rule because they are countries which have a reciprocal pension agreement with New Zealand, for example, Australia, UK and Netherlands. We feel these are compelling reasons to now rectify these anomalies and allow the realm countries to enjoy the same privilege as other more prosperous pension agreement countries.

Appendix

Committee process

The Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Bill was referred to the committee on 4 November 2014. The closing date for submissions was 28 January 2015. We received and considered 13 submissions from interested groups and individuals, including one late written submission. We heard 6 submissions.

We received advice from the Ministry of Social Development.

Committee membership

Alfred Ngaro (Chairperson)

Darroch Ball

Matt Doocey

Jan Logie

Todd Muller

Jono Naylor

Dr Parmjeet Parmar

Stuart Smith

Louisa Wall

Poto Williams

Denise Roche replaced Jan Logie for this item of business.

**Social Assistance (Portability to Cook
Islands, Niue, and Tokelau) Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

text deleted unanimously

Hon Anne Tolley

**Social Assistance (Portability to
Cook Islands, Niue, and Tokelau)
Bill**

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Act **2014**.
- 2 Commencement** 5
This Act comes into force on 1 July 2015.

Part 1
Preliminary provisions

- 3 Purpose** 10
The purpose of this Act is to allow eligible persons who reside in the Cook Islands, Niue, or Tokelau to be able to apply from either of those countries or that territory for New Zealand superannuation or a veteran's pension and be paid these benefits in either of those countries or that territory or in other specified Pacific countries. 15

Part 2
Amendments to enactments

- Subpart 1—Amendments to New Zealand Superannuation and Retirement Income Act 2001 20
- 4 Principal Act**
This subpart amends the New Zealand Superannuation and Retirement Income Act 2001 (the **principal Act**).

5 Section 8 amended (Residential qualification for New Zealand superannuation)

Replace section 8(a) with:

“(a) is ordinarily resident in New Zealand on the date of application for New Zealand superannuation, unless **section 31(4)** of this Act or **section 740191(4)** of the ~~War Pensions Act 1954~~ Veterans’ Support Act 2014 applies; and”.

6 Section 31 amended (Entitlement to be paid New Zealand superannuation in specified Pacific country)

(1) In section 31(1), after “subsection (3)”, insert “or **subsection (4)**”.

(2) After section 31(3), insert:

“(4) This subsection applies to a person—

“(a) who, on or after the date this subsection comes into force, makes an application to be paid New Zealand superannuation in a specified Pacific country; and

“(b) who is resident in the Cook Islands, Niue, or Tokelau on the date of the application; and

“(c) who, before he or she left New Zealand to reside in one of the countries or in the territory specified in **paragraph (b)**, met the residential qualifications for New Zealand superannuation set out in section 8(b) and (c); and

“(d) who is resident in a specified Pacific country when each payment of New Zealand superannuation is due to be paid to him or her.

“(5) If **subsection (4)** applies, an application to be paid New Zealand superannuation in a specified Pacific country must be made in addition to an application to be paid New Zealand superannuation under section 11D of the Social Security Act 1964.

“(6) The applications referred to in **subsection (5)** may be made together or separately, and may be made—

“(a) before an applicant meets the age qualification for New Zealand superannuation in section 7, in anticipation of

becoming entitled to be paid that benefit on reaching the qualifying age; or
“(b) when or after the applicant meets the age qualification.”

7 Section 33 amended (Commencement and termination of payments) 5

(1) Replace section 33(1) with:

“(1) The commencement date of payment of a benefit under section 31 is the first pay day after the date of the person’s departure from New Zealand, unless **subsection (1A)** applies.”

(2) After section 33(1), insert: 10

“(1A) The commencement date of payment of a benefit to a person to whom **section 31(4)** applies is the later of—

“(a) the date that the person meets the age qualification for New Zealand superannuation in section 7; and

“(b) the date that the application referred to in **section 31(4)** is made.” 15

Subpart 2—Amendments to War Pensions Act 1954 Veterans’ Support Act 2014

8 Principal Act

This subpart amends the War Pensions Act 1954 Veterans’ Support Act 2014 (the **principal Act**). 20

9 Section 74~~Θ~~ 191 amended (Entitlement to be paid veteran’s pension in specified Pacific country)

(1) In section 74~~Θ~~ 191(1), after “subsection (2) or (3)”, insert “or **subsection(4)**”. 25

(2) After section 74~~Θ~~ 191(3), insert:

“(4) This subsection applies to a person—

“(a) who, on or after the date this subsection comes into force, makes an application to be paid a veteran’s pension in a specified Pacific country; and 30

“(b) who is resident in the Cook Islands, Niue, or Tokelau on the date of the application; and

“(c) who, before he or she left New Zealand to reside in one of the countries or in the territory specified in **paragraph (b)**, met the residential qualifications for New 35

Zealand superannuation set out in section 8(b) and (c)
of the New Zealand Superannuation and Retirement In-
come Act 2001; and

“(d) who is resident in a specified Pacific country when each
payment of the veteran’s pension is due to be paid to 5
him or her.

“(5) If **subsection (4)** applies, an application to be paid a veteran’s
pension in a specified Pacific country must be made in addition
to an application to be paid a veteran’s pension under section
11D of the Social Security Act 1964. 10

“(6) The applications referred to in **subsection (5)** may be made
together or separately, and may be made—

“(a) before an applicant meets the age qualification for New
Zealand superannuation in section 7 of the New Zealand
Superannuation and Retirement Income Act 2001, in 15
anticipation of becoming entitled to be paid a veteran’s
pension on reaching the qualifying age; or

“(b) when or after the applicant meets the age qualification.”

10 **Section 74Q 193 amended (Commencement and
termination of payments) 20**

(1) In section 74Q193(1)(b), after “into force”, insert “; and”.

(2) After section 74Q193(1)(b), insert:

“(c) in the case of a person to whom **section 74Q 191(4)**
applies, the later of—

“(i) the date that the person meets the age qualifica- 25
tion for New Zealand superannuation in section 7
of the New Zealand Superannuation and Retire-
ment Income Act 2001; and

“(ii) the date that the application referred to in **sec-
tion 74Q 191(4)** is made.” 30

Subpart 3—Amendment to Social Security Act 1964

11 **Principal Act**

This subpart amends the Social Security Act 1964 (the **prin-
cipal Act**). 35

12 Section 11D amended (Application process for benefits)

After section 11D(9), insert:

“(9A) Subsection (8) does not apply to an application for—

- “(a) New Zealand superannuation, if **section 31(4)** of the
New Zealand Superannuation and Retirement Income 5
Act 2001 applies; or
- “(b) a veteran’s pension, if **section 740 191(4)** of the ~~War
Pensions Act 1954~~ Veterans’ Support Act 2014 ap-
plies.”

Legislative history

31 July 2014
4 November 2014

Introduction (Bill 233–1)
First reading and referral to Social Services
Committee
