



Social Assistance (Residency Qualification) Legislation Bill

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Report of the Social Services and Community Committee

August 2018

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Gareth Hughes
Chairperson

Social Assistance (Residency Qualification) Legislation Bill

Recommendation

The Social Services and Community Committee has examined the Social Assistance (Residency Qualification) Legislation Bill and recommends that it be passed without amendment.

About New Zealand Superannuation and the veteran's pension

Under the New Zealand Superannuation and Retirement Income Act 2001 and the Veterans' Support Act 2014, eligible New Zealanders can receive New Zealand Superannuation and the veteran's pension in the Cook Islands, Niue, and Tokelau. This is on the condition that they have been resident and present in New Zealand for at least 10 years since the age of 20 (section 8(b) of the New Zealand Superannuation and Retirement Income Act) and at least 5 years since the age of 50 (section 8(c) of that Act).

A 2015 amendment to these provisions removed the requirement for people to be ordinarily resident in New Zealand at the time of applying for a pension. People aged 65 years or over living in the Cook Islands, Niue, or Tokelau can now apply for a pension from those countries.

About the bill as introduced

The Social Assistance (Residency Qualification) Legislation Bill is an omnibus bill that would amend the two Acts noted above. It would remove the requirement that people must live in New Zealand for 5 years after the age of 50 to qualify for a pension. Instead, people could live in any combination of New Zealand, the Cook Islands, Niue, or Tokelau for those 5 years in order to qualify.

The bill reflects New Zealand's close constitutional relationships with the Cook Islands, Niue, and Tokelau. People born in these countries are New Zealand citizens. The Cook Islands and Niue have constitutions that allow them to maintain this citizenship while administering their own affairs. Tokelau is a non-self-governing territory of New Zealand.

Given that depopulation is an important issue for the Cook Islands, Niue, and Tokelau, the bill would help by encouraging people to remain, or return, thus supporting these countries' economic and social viability.

We consider that the bill as introduced needs no amendment. We discuss below the matters raised by submitters that are within the scope of the bill.

Different requirements for residency

Several submitters expressed concern that the bill could discriminate against people from the Cook Islands, Niue, or Tokelau. A person who moves to one of these countries at the age of 50 may require a total of 15 years' residence across one of these countries or New Zealand. This must include at least 10 years after the age of 20 in New Zealand. However, a person who lives in New Zealand between the ages of 45 and 55 could meet the residency requirements in 10 years.

We were advised that these provisions are not discriminatory as they also apply to New Zealanders who spend time living overseas. A person who returns to New Zealand at the age of 50 from a country which does not have a reciprocal agreement would also need to meet the requirements in section 8(b) and (c) of the Act.

Several other submitters suggested that the bill could unfairly advantage people from these islands by allowing them easier access to a New Zealand pension. However, we received advice that the change would not be restricted to citizens of the Cook Islands, Niue, and Tokelau. Any New Zealander who qualifies for New Zealand Superannuation or a veteran's pension could use this provision if they chose to live in any of these countries.

Further, we note that the Ministry of Justice vetted the bill to ensure that it complies with the New Zealand Bill of Rights Act 1990. The ministry concluded that the bill appears to be consistent with the rights and freedoms affirmed in that Act.

Effect on economic activity in Niue

It was suggested to us that the bill could negatively affect economic activity in Niue by incentivising Niueans to live in New Zealand to become eligible for a pension. However, we heard that the current requirement means that some people actually return to New Zealand after the age of 50 to ensure that they will be eligible to claim New Zealand Superannuation or a veteran's pension. The bill would reduce the incentive for people to return to New Zealand in order to satisfy the 5 years after 50 requirement.

It was also suggested that the full entitlement to New Zealand Superannuation and the veteran's pension should be extended to all citizens living in Niue. We note that this would not align with New Zealand's approach to superannuation. The residency requirements exist to ensure that a person applying for a pension has a connection with New Zealand or has contributed to it. Also, the constitutional arrangements in the Cook Islands, Niue, and Tokelau mean that they are responsible for their own tax and welfare systems.

Extending the changes to other countries in the Pacific

One submitter suggested that the changes in the bill should be applied to all Pacific countries. However, we note that this proposal does not reflect the aim of the bill—that is, to recognise New Zealand's close constitutional relationships with the Cook Islands, Niue, and Tokelau.

Implementing the proposed changes

One submitter supported the bill but suggested that the pension application process be automatic, if possible. We heard that the Ministry of Foreign Affairs and Trade (MFAT) provides services to applicants in the islands. The Ministry of Social Development will develop a communications plan to ensure that local communities and agencies know about the changes. It will also provide refresher training to MFAT officials. To expedite an initial backlog of applications if the bill is passed, people would be able to register that they intended to apply.

Appendix

Committee procedure

The Social Assistance (Residency Qualification) Legislation Bill was referred to the committee on 5 April 2018. The closing date for submissions was 23 May 2018. We received and considered seven submissions from interested groups and individuals. We heard oral evidence from two submitters.

We received advice from the Ministry of Social Development.

Committee members

Gareth Hughes (Chairperson)
Darroch Ball
Dan Bidois
Hon Kris Faafoi
Greg O'Connor
Hon Alfred Ngaro
Maureen Pugh
Priyanca Radhakrishnan
Hon Louise Upston

Advice and evidence received

The documents that we received as advice and evidence are available on the Parliament website, www.parliament.nz.