

# **New Zealand Superannuation and Veteran's Pension Legislation Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This is an omnibus Bill introduced under Standing Order 263(a). The amendments in the Bill deal with an interrelated topic that can be regarded as implementing a single broad policy.

The interrelated topic is social assistance for older people (New Zealand superannuation and the veteran's pension).

The single broad policy is to modernise and simplify New Zealand superannuation and the veteran's pension by—

- shifting toward an assessment of entitlement on an individual basis; and
- improving the consistency and clarity of policy and legislation.

The shift toward assessing entitlement on an individual basis consists of 2 changes given effect to by the Bill, which are—

- removing the option for a superannuitant (including a person entitled to receive a veteran's pension) whose spouse or civil union partner or de facto partner is not eligible for New Zealand superannuation or a veteran's pension to elect to receive a rate that is designed to provide social assistance to the couple as a whole; and
- exempting any standard rate of New Zealand superannuation or a veteran's pension from being reduced because of a government-administered overseas pension received by the recipient's spouse or civil union partner or de facto partner (known as spousal deduction).

The Bill improves the consistency and clarity of New Zealand superannuation and veteran's pension policy and legislation by—

- allowing a single person living alone in a self-contained mobile home to receive the single living alone rate of New Zealand superannuation or a veteran's pension; and
- allowing further kinds of residences for the purposes of entitlement to that rate to be set out in regulations (enabling a timely response to developments in older people's living arrangements); and
- treating people who have volunteered overseas for secular charitable organisations more equitably with missionaries (including by requiring those volunteers to be treated as having been resident and present in New Zealand during the absences concerned for the purposes of deciding on eligibility for New Zealand superannuation), and clarifying the existing position for people who have worked as missionaries overseas; and
- increasing the level of wage indexation relating to annual adjustment of rates of New Zealand superannuation and a veteran's pension to a level that reflects long-standing practice; and
- treating voluntary components of government-administered overseas pensions in the same way as overseas pensions that are entirely voluntary, by ensuring that those components are not deducted from New Zealand superannuation, a veteran's pension, or other benefits; and
- making minor and technical amendments, including the following:
  - requiring a person who has worked overseas to be treated as having been resident and present in New Zealand during the absence concerned (for the purposes of deciding on eligibility for New Zealand superannuation) if the person's employer withheld New Zealand income tax on those overseas earnings:
  - streamlining provisions on special disability allowances, by dealing with those allowances under the Social Security Act 2018 only (rather than also under the New Zealand Superannuation and Retirement Income Act 2001):
  - as a consequence of removing spousal deduction from any standard rate of New Zealand superannuation or a veteran's pension (referred to above), also exempting the recipient's winter energy payment from being reduced because of a government-administered overseas pension entitled to be received by the recipient's spouse or civil union partner or de facto partner:
  - allowing tax that the Ministry of Social Development must withhold from New Zealand superannuation or a veteran's pension, and pay to the Commissioner of Inland Revenue, to be determined by the Commissioner in consultation with the Ministry (including where those benefits are backdated or paid in respect of part of the fortnightly pay period for those benefits).

The Bill amends the New Zealand Superannuation and Retirement Income Act 2001, the Veterans' Support Act 2014, the Social Security Act 2018, the Income Tax Act 2007, and the Tax Administration Act 1994.

The New Zealand Superannuation and Retirement Income Act 2001 and the Veterans' Support Act 2014 contain the eligibility settings for New Zealand superannuation and a veteran's pension, respectively. Both benefits are administered under the Social Security Act 2018. Amendments to all 3 Acts are consequently required to give effect to the policy, including the shift toward assessing entitlement on an individual basis.

Amendments to the Income Tax Act 2007 and Tax Administration Act 1994 are required to give effect to the technical amendments relating to tax on New Zealand superannuation and a veteran's pension, referred to above.

This Bill is currently *not* intended to be divided by select committee or committee of the whole House into 4 separate amendment Bills.

### **Minister of Finance's statement on the consultation process followed in the formulation of amendments to the New Zealand Superannuation and Retirement Income Act 2001**

#### **Introduction**

Section 73 of the New Zealand Superannuation and Retirement Income Act 2001 (the **Act**) provides that the Minister must, on the introduction into the House of Representatives of a Government Bill that proposes an amendment to the Act, bring to the attention of the House the consultation process that was followed in formulating the proposed amendment.

For the purposes of section 73, **Minister** is defined in section 5 of the Act as the Minister of Finance.

The statement must include (without limitation)—

- whether consultation has taken place with the parties that are in agreement with the Part proposed to be amended (as listed in Schedule 4 of the Act):
- whether consultation has taken place with the Guardians of New Zealand Superannuation (to the extent that the amendment relates to Part 2 of the Act):
- the results of the consultation.

This Bill proposes amendments to Part 1 and Schedules 1 and 1AA of the Act.

The Bill also proposes parallel amendments to the Veterans' Support Act 2014, amendments to the Social Security Act 2018 and the Income Tax Act 2007, and amendments to the Tax Administration Act 1994 as a consequence of the amendments to the Income Tax Act 2007.

#### **Consultation process**

Consultation has been undertaken with the parties that are in agreement with the Part proposed to be amended (as listed in Schedule 4 of the Act). These are the Green Party and the New Zealand National Party. The New Zealand National Party endorse

the amendments and the Green Party have not noted any concern with the amendments.

Whilst the New Zealand First Party are not currently listed in Schedule 4 of the Act, they have also been consulted and are supportive of the amendments.

No consultation was undertaken with the Guardians of New Zealand Superannuation, as the Bill does not propose to amend Part 2 of the Act.

### **Departmental disclosure statement**

The Ministry of Social Development is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2019&no=182>

### **Regulatory impact assessment**

The Ministry of Social Development produced a regulatory impact assessment on 3 April 2019 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact assessment can be found at—

- <http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/information-releases/nzs-yp-modernisation-and-simplification.html>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. The Bill, if enacted, will come into force on **1 July 2020**.

## **Part 1**

### **Amendments to New Zealand Superannuation and Retirement Income Act 2001**

#### *Preliminary*

*Clause 3* provides that *Part 1* amends the New Zealand Superannuation and Retirement Income Act 2001.

#### *Amendments relating to single living alone rate*

*Clause 5* amends section 4A, which provides for conditions that a single person must meet to be treated as living alone and, therefore, eligible for the single living alone

rate of New Zealand superannuation. The amendments replace a condition that lists the kinds of accommodation a person must live in as the person's principal place of residence to be treated as living alone. The list is extended to include the following:

- a mobile home, whether or not in a caravan park and whether or not travelling from time to time (*new section 4A(2)(f)*);
- any other accommodation of a kind prescribed by regulations (*new section 4A(2)(g)*).

*Clause 20* inserts *new section 35A*, which enables the Governor-General to make regulations, including regulations prescribing that accommodation.

#### *Treatment of periods of absence from New Zealand*

*Clauses 8 to 10* make amendments concerning periods for which a person absent from New Zealand must be treated as having been resident and present in New Zealand for the purposes of section 8(b) and (c) (which relate to entitlement to New Zealand superannuation).

In addition to the changes noted below, *clauses 8 and 9* respond to comments of the Supreme Court in *Greenfield v The Chief Executive of the Ministry of Social Development* [2015] NZSC 139 by clarifying that sections 9 and 10 are concerned with the residence and presence requirements in section 8(b) and (c).

*Clause 8* replaces section 9 with *new section 9*, adding a new category of absence from New Zealand to the existing categories for which the absent person concerned must be treated as having been resident and present in New Zealand. The new category is any period of absence from New Zealand while the person was engaged in full-time voluntary humanitarian work for a charitable entity (or an entity affiliated with or closely related to a charitable entity). The principal function of the charitable entity must be to give aid and assistance to less advantaged communities in 1 or more countries.

The term charitable entity (as inserted into section 4(1) by *clause 4*) is defined as having the same meaning as in the Charities Act 2005.

*Clause 9* amends section 10, which relates to periods of absence from New Zealand while the person concerned, or the person's spouse or partner, was engaged in missionary work outside New Zealand. The term missionary work is defined in section 10(4) (unchanged by the Bill) as including the advancement of religion or education and the maintenance, care, or relief of orphans or the aged, infirm, sick, or needy.

The effect of the amendments made by *clause 9* is as follows:

- to require a person to have been ordinarily resident in New Zealand immediately before the period of absence *in all cases* (removing the current alternative requirement that the person be born in New Zealand);
- to add a requirement for the missionary work to have been carried out for an entity registered as a charitable entity affiliated with a religious body:

- to make it clear that a person is not to be regarded as ceasing a period of absence under section 10 merely because the person visited New Zealand during the absence so long as the arrangement under which the person, or the person's spouse or partner, was engaged in missionary work continued during the visit.

*New clause 5 of Schedule IAA* (inserted by *clause 21* of the Bill) sets out savings arrangements related to the amendments made by *clause 9*.

*Clause 10* inserts *new section 10A*. *New section 10A* generally recreates the effect of section 79 of the Social Security Act 1964 (to the extent that it could relate to entitlement for New Zealand superannuation). That section was repealed on 26 November 2018 by the Social Security Act 2018.

*New clause 6 of Schedule IAA* (inserted by *clause 21* of the Bill) sets out a related validation for things done on or after the repeal of section 79 of the Social Security Act 1964 and before the commencement of *new section 10A*.

*Clause 19* amends section 26A as a consequence of the amendments made by *clauses 8 to 10*.

#### *Removing option to elect to receive alternative couple rate*

*Clause 11* replaces section 12. *New section 12* removes the option, currently available to a person whose spouse, civil union partner, or de facto partner is not entitled to receive New Zealand superannuation, of electing to receive either of the following rates:

- the rate generally paid to a person who is married or in a civil union or in a de facto relationship, which is currently \$360.42 a week;
- an alternative rate, which is currently \$720.84 (for persons who elected to receive the alternative rate before 1 October 1991) or \$682.86 a week, subject to an income test.

*New clauses 7 to 10 of Schedule IAA* (inserted by *clause 21*) set out savings arrangements relating to the alternative rate. The general effect of those arrangements is that the alternative rate (as transferred to *new Part 2* of Schedule 1 by *clause 22(6) and (7)* and adjusted from time to time) may continue to be payable to a person whose election to receive the rate is in effect immediately before the date on which the Bill commences (1 July 2020). In particular,—

- *new clause 7* specifies that the rate will be payable to the person only if, among other things, the person is married or in a civil union or in a de facto relationship and the election of the person to receive the rate (or its equivalents) is in effect immediately before 1 July 2020; and
- *new clause 8* specifies the circumstances in which elections to receive the rate (or its equivalents) must be treated, for the purposes of *new clause 7*, as being in effect immediately before 1 July 2020; and

- *new clause 9* specifies when elections to receive the rate must be treated as taking effect if they are included in applications for New Zealand superannuation or a veteran's pension not finally determined before 1 July 2020; and
- *new clause 10* specifies when other elections to receive the rate that are not processed before 1 July 2020 must be treated as taking effect.

*Clause 12* amends section 15 as a consequence of the amendments to Schedule 1 by *clause 22(3), (6), and (7)*.

*Clause 22(2), (3), (6), and (7)* amends Schedule 1 (which sets out rates of New Zealand superannuation) as a consequence of *clauses 11 and 12*. *Clause 22(6) and (7)* transfers the alternative rate referred to above to *new Part 2* of Schedule 1. That rate is required to be adjusted on 1 April 2020 by Order in Council made under section 15 and may also be adjusted under section 452 of the Social Security Act 2018. As the Bill is not commencing until 1 July 2020, it is proposed to update, in select committee or committee of the whole House, the rate specified in the Bill.

#### *Annual adjustment of New Zealand superannuation*

*Clause 13(1)* amends section 16(1)(a). The amendment increases the lower boundary for the annual adjustment (made on 1 April each year) of New Zealand superannuation payable to couples who are married or in a civil union or in a de facto relationship from 65% to 66% of the net average wage.

*Clause 13(2)* updates a cross-reference to the Title of an Act.

#### *Special disability allowance*

*Clause 18* repeals section 20, abolishing the special disability allowance that is payable under the New Zealand Superannuation and Retirement Income Act 2001 to a recipient of New Zealand superannuation whose spouse or partner is—

- a patient in hospital receiving the hospital rate (which is a reduced rate) of New Zealand superannuation; or
- a resident assessed as requiring care in respect of whom a funder is paying the cost of contracted care services under the Residential Care and Disability Support Services Act 2018.

A related amendment made by *clause 34* in *Part 3* extends section 89 of the Social Security Act 2018 (which also provides for a special disability allowance) so that it covers a recipient of New Zealand superannuation currently covered by section 20 of the New Zealand Superannuation and Retirement Income Act 2001. The rate of special disability allowance payable under that Act is the same as under the Social Security Act 2018 (currently \$40.10).

*Clauses 14, 15(1), and 22(1) and (6)* make amendments as a consequence of the repeal of section 20 by *clause 18*.

#### *Miscellaneous amendments*

*Clause 6* replaces a cross-heading.

*Clause 7* deletes a redundant word.

*Clause 15(2)* inserts *new section 17(4)* to clarify the relationship of section 17 to other provisions of the New Zealand Superannuation and Retirement Income Act 2001.

*Clause 16* replaces section 18 as a consequence of the insertion of *new section 17(4)*.

*Clause 17(1) and (2)* corrects terminology and expression.

*Clause 17(3)* inserts *new section 19(4A)* (recreating the effect of section 19(6), which is replaced by *clause 17(5)*).

*Clause 17(4)* replaces a redundant cross-reference with a relevant cross-reference.

*Clause 17(5)* replaces section 19(6) with *new section 19(6)* as a consequence of the repeal of section 20 by *clause 18*.

*Clause 17(6)* replaces section 19(7) with *new section 19(7) to (7B)* to improve expression and remove a redundant cross-reference.

*Clause 17(7)* amends section 19(10) to clarify the relationship of section 19 with other provisions of the Act.

*Clause 22(4) and (5)* makes minor and technical drafting corrections.

## **Part 2**

### **Amendments to Veterans' Support Act 2014**

#### *Preliminary*

*Clause 23* provides that *Part 2* amends the Veterans' Support Act 2014.

The amendments set out in *Part 2* relate to the scheme for a veteran's pension that is set out in Part 6 of that Act. A veteran's pension is an alternative to New Zealand superannuation. Most of the amendments in *Part 2* align with similar amendments to the New Zealand Superannuation and Retirement Income Act 2001 in *Part 1*.

#### *Amendments relating to single living alone rate*

*Clause 25* amends section 159, which provides for conditions that a single person must meet to be treated as living alone and, therefore, eligible for the single living alone rate of a veteran's pension. In particular, the kind of accommodation a person entitled to a veteran's pension must live in as the person's principal residence is extended to include the following:

- a mobile home, whether or not in a caravan park and whether or not travelling from time to time (*new section 159(2)(f)*);
- any other accommodation of a kind prescribed by regulations (*new section 159(2)(g)*).

*Clause 31* amends section 265 to enable the Governor-General to make regulations prescribing that accommodation.



*Removing option to elect to receive relationship (partner not receiving superannuation or pension) rate*

Clause 29 repeals section 172 to remove the option, currently available to a veteran entitled to a veteran's pension (a **veteran's pensioner**) whose spouse, civil union partner, or de facto partner is not entitled to a veteran's pension or New Zealand superannuation, to elect to receive either of the following rates:

- the relationship rate, which is the rate generally paid to a veteran's pensioner who is married or in a civil union or in a de facto relationship and is currently \$360.42 per week (the same as the equivalent rate of New Zealand superannuation):
- the relationship (partner not receiving superannuation or pension) rate, which is currently \$682.86 a week (the same as the equivalent rate of New Zealand superannuation) and is subject to an income test.

Clause 32 inserts *new Part 5 (new clause 22)* into Schedule 1. *New clause 22* sets out a savings arrangement under which the relationship (partner not receiving superannuation or pension) rate may continue to be payable to a veteran whose election to receive that rate was in effect immediately before 1 July 2020 (the Bill's commencement date).

Clause 26(2) replaces section 169(3) with *new section 169(3)*. This is a consequential amendment providing that the relationship (partner not receiving superannuation or pension) rate is the appropriate rate of a veteran's pension payable to a person only in the circumstances specified in *new clause 22* of Schedule 1.

*Annual adjustment of veteran's pension*

Clause 27 amends section 170(6)(a). The amendment increases the lower boundary for the annual adjustment (made on 1 April each year) of a veteran's pension payable to a veteran and the veteran's spouse, civil union partner, or de facto partner from 65% to 66% of the net average wage.

*Miscellaneous amendments*

*Clauses 24 and 26(1)* remove a definition of relationship (partner not receiving superannuation or pension) legacy rate and a reference to that grandparented rate, respectively. The definition and reference are redundant because there are no longer any eligible recipients of the grandparented rate.

Clause 28 removes a reference from section 171 (as replaced by the Social Assistance Legislation (Budget 2019 Welfare Package) Amendment Act 2019) to that grandparented rate. The replacement of section 171 by the Social Assistance Legislation (Budget 2019 Welfare Package) Amendment Act 2019 comes into force on 1 April 2020.

Clause 30 replaces section 185 as a consequence of the amendments made to the New Zealand Superannuation and Retirement Income Act 2001 by *clauses 8 to 10* in *Part 1*.

## Part 3 Amendments to Social Security Act 2018

### *Preliminary*

*Clause 33* provides that *Part 3* amends the Social Security Act 2018.

### *Special disability allowance*

*Clause 34* amends section 89 as a consequence of the repeal of section 20 of the New Zealand Superannuation and Retirement Income Act 2001 by *clause 18 in Part 1*. The effect of the amendment to section 89 is described in the analysis of *clause 18* above.

### *Deduction of overseas pensions*

*Clause 36* amends the definition of overseas pension in section 187 to exclude any benefit, pension, or periodical allowance that is determined by the chief executive of the Ministry of Social Development to be attributable to any voluntary contributions made by or on behalf of the person to whom it is granted or the person's spouse, partner, or parent. The effect of the amendment is that the rate of benefits payable under the Social Security Act 2018 or of New Zealand superannuation or a veteran's pension will not be reduced under section 189 by any amount of an overseas pension that is attributable to those voluntary contributions.

*Clause 37* inserts *new section 189(3)*, which provides that the rate of any of the following benefits that a person is qualified to receive must not be reduced by any amount of an overseas pension that the person's spouse or partner is entitled to receive:

- New Zealand superannuation or a veteran's pension;
- a winter energy payment that the person is qualified to receive because New Zealand superannuation or a veteran's pension is payable to the person.

*Clause 37* also replaces section 189(2) as a consequence of *new section 189(3)*.

*Clause 38* inserts *new Part 3* into Schedule 1, which provides that *new section 189(3)* (as inserted by *clause 37*) does not apply in relation to a person who is qualified to receive—

- New Zealand superannuation at a rate specified in **clause 1 of Part 2 of Schedule 1** of the New Zealand Superannuation and Retirement Income Act 2001 (inserted by *clause 22 in Part 1*); or
- a veteran's pension at the relationship (partner not receiving superannuation or pension) rate specified in regulations referred to in section 169 of the Veterans' Support Act 2014.

### *Miscellaneous amendments*

*Clauses 35 and 39* make amendments as a consequence of the amendments made by *clause 22(6) and (7) in Part 1*. *Clause 35* also removes a reference to the relationship (partner not receiving superannuation or pension) legacy rate of a veteran's pension.

The reference to that grandparented rate is redundant (*see* the analysis of *clauses 24 and 26(1)* in *Part 2* above).

## **Part 4**

### **Amendments to other Acts**

#### Subpart 1—Amendments to Income Tax Act 2007

*Clause 40* provides that *subpart 1* amends the Income Tax Act 2007.

*Clause 41* replaces section RD 11(3) with *new section RD 11(3) and (3B)*. The main substantive change to the existing provision is that the amount of tax that the Ministry of Social Development must withhold from each payment of New Zealand superannuation or a veteran's pension, and provide to the Commissioner of Inland Revenue, must be determined by the Commissioner in consultation with the chief executive of that Ministry.

*Clause 42* makes an amendment as a consequence of the amendments made by *clause 22(6) and (7)* in *Part 1*.

#### Subpart 2—Amendment to Tax Administration Act 1994

*Clause 43* provides that *subpart 2* amends the Tax Administration Act 1994.

*Clause 44* makes an amendment as a consequence of the amendment to the Income Tax Act 2007 made by *clause 41*.



*Hon Carmel Sepuloni*

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Government Bill

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**Part 4**

**Amendments to other Acts**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the New Zealand Superannuation and Veteran’s Pension Legislation Amendment Act **2019**.

**2 Commencement**

5

This Act comes into force on **1 July 2020**.

**Part 1**

**Amendments to New Zealand Superannuation and Retirement  
Income Act 2001**

**3 Amendments to New Zealand Superannuation and Retirement Income Act 2001** 10

This Part amends the New Zealand Superannuation and Retirement Income Act 2001.

**4 Section 4 amended (Interpretation of Part 1 and Schedule 1)**

In section 4(1), insert in its appropriate alphabetical order: 15  
**charitable entity** has the same meaning as in the Charities Act 2005

**5 Section 4A amended (Meaning of living alone)**

- (1) Replace section 4A(2) with:
- (2) The first condition is that person A occupies any of the following kinds of accommodation as person A's principal residence:
- (a) a house or flat: 5
  - (b) a boat or craft moored within the following sea or waters (whether or not it travels within that sea or any of those waters from time to time):
    - (i) the territorial sea of New Zealand or any internal waters of New Zealand:
    - (ii) any waters within New Zealand that are a lake, estuary, lagoon, river, stream, creek, or other waters: 10
  - (c) a hotel room or motel unit:
  - (d) a room in a boarding house:
  - (e) a unit of accommodation in a caravan park:
  - (f) a mobile home (whether or not it is in a caravan park and whether or not it travels from time to time) that the chief executive is satisfied is sufficiently self-contained to be reasonably habitable as a residence: 15
  - (g) any other accommodation of a kind prescribed by regulations made under **section 35A(1)**. 20
- (2) Repeal section 4A(6). 20
- (3) In section 4A(7), after “waters”, insert “of New Zealand”.

**6 Cross-heading above section 7 replaced**

Replace the cross-heading above section 7 with:

*Preliminary and general provisions*

**7 Section 8 amended (Residential qualification for New Zealand superannuation) 25**

In section 8(c), delete “also”.

**8 Section 9 replaced (Periods of absence that are not counted)**

Replace section 9 with:

**9 Treatment of various periods of absence 30**

- (1) For the purposes of section 8(b) and (c)(i), a person must be treated as having been both resident and present in New Zealand during a period of absence from New Zealand if the chief executive is satisfied that—
- (a) the person was ordinarily resident in New Zealand during the period; and 35



- (b) the person—
- (i) was absent for the purpose of obtaining special medical or surgical treatment or vocational training and that there were good and sufficient reasons for the person leaving New Zealand to obtain that special treatment or training; or 5
  - (ii) while absent, served as a mariner on board a ship registered or owned in New Zealand and engaged in trading to and from New Zealand; or
  - (iii) while absent, served in any capacity as a member of any naval, military, or air force of any Commonwealth country or served in connection with any war in which New Zealand forces were involved as a member of any organisation attached to any of those forces; or 10
  - (iv) while absent, was engaged in eligible charitable work.
- (2) For the purposes of this section, a person is engaged in **eligible charitable work** if the person is engaged in— 15
- (a) full-time voluntary work that—
    - (i) is humanitarian work; and
    - (ii) is carried out for an entity that is, or is affiliated with or closely related to, a charitable entity that has as its principal function the giving of aid and assistance to less advantaged communities in 1 or more countries; and 20
  - (b) any capacity as an accredited volunteer appointed by Volunteer Services Abroad Incorporated. 25
- (3) In this section,— 25
- entity** has the same meaning as in the Charities Act 2005
- voluntary work** includes work that the chief executive is satisfied is remunerated by nothing more than an insubstantial allowance or a token payment
- Volunteer Service Abroad Incorporated** means the body incorporated under the Incorporated Societies Act 1908 on 8 April 1963 as Volunteer Service Abroad Inc. 30
- 9 Section 10 amended (Periods of absence as missionary also not counted)**
- (1) Replace the heading to section 10 with “**Treatment of periods of absence as missionary**”.
  - (2) Replace section 10(1) and (2) with: 35
    - (1) For the purposes of section 8(b) and (c)(i), a person must be treated as having been both resident and present in New Zealand during a period of absence from New Zealand if the chief executive is satisfied that—

- (a) immediately before the period, the person was ordinarily resident in New Zealand (*see clause 5 of Schedule 1AA* in relation to absences commencing before **1 July 2020**); and
  - (b) one or both of the following apply in relation to the person's absence:
    - (i) while absent, the person was engaged in missionary work: 5
    - (ii) the person was absent with the person's spouse or partner who was engaged in missionary work; and
  - (c) the missionary work was carried out for a charitable entity affiliated with a religious body (*see clause 5 of Schedule 1AA* in relation to the application of this paragraph to missionary work that began before **1 July 2020**). 10
- (2) A person is not to be regarded as ending a period of absence referred to in this section merely because the person visited New Zealand during the absence if the arrangement under which the person, or the person's spouse or partner, was engaged in missionary work continued during the visit. 15

**10 New section 10A inserted (Treatment of periods of absence if New Zealand income tax withheld on overseas earnings)**

After section 10, insert:

- 10A Treatment of periods of absence if New Zealand income tax withheld on overseas earnings** 20
- (1) For the purposes of section 8(b) and (c)(i), a person must be treated as having been both resident and present in New Zealand during a period of absence from New Zealand if the chief executive is satisfied that one or both of the following apply in relation to the person's absence:
    - (a) while absent, the person was employed outside New Zealand and the person's employer (or any other relevant person) made specified payments with respect to the person's period of employment: 25
    - (b) the person was absent with the person's spouse or partner who was employed outside New Zealand and the spouse's or partner's employer (or any other relevant person) made specified payments with respect to the spouse's or partner's period of employment. 30
  - (2) This section applies in relation to a person's period of employment, whether or not the person's employer (or any other relevant person) failed to pay to the Commissioner of Inland Revenue a deducted or withheld amount of tax, if the chief executive is satisfied that— 35
    - (a) the person's employer (or any other relevant person) deducted or withheld tax from specified payments with respect to the person's period of employment; and
    - (b) the person did not contribute to the employer's (or any other relevant person's) failure to pay that tax to the Commissioner. 40

- (3) For the purposes of this section, an employer (or any other relevant person) makes a **specified payment** with respect to a person's period of employment if the employer (or any other relevant person) makes—
- (a) PAYE income payments (as that term is used in the Income Tax Act 2007) from which the person, the person's employer, or any other relevant person must withhold an amount of tax under the PAYE rules as defined in that Act; or 5
  - (b) source deduction payments (as that term is used in the Income Tax Act 2004) from which the person, the person's employer, or any other relevant person must withhold an amount of tax under the PAYE rules as defined in that Act; or 10
  - (c) source deduction payments (as that term is used in the Income Tax Act 1994) from which the person, the person's employer, or any other relevant person must make a tax deduction under the PAYE rules as defined in that Act; or 15
  - (d) source deduction payments (as that term is used in the Income Tax Act 1976) from which person, the person's employer, or any other relevant person must make a tax deduction under Part 11 of that Act; or
  - (e) source deduction payments (as that term is used in the Income Tax Assessment Act 1957) from which person, the person's employer, or any other relevant person must make a tax deduction under Part 2 of that Act. 20
- (4) See **clause 6 of Schedule 1AA** in relation to the application of this section before **1 July 2020**.
- 11 Section 12 replaced (Standard rates of New Zealand superannuation)** 25  
Replace section 12 with:
- 12 Rates of New Zealand superannuation**  
The rate of New Zealand superannuation payable to any person is the appropriate rate specified in Schedule 1.
- 12 Section 15 amended (Annual adjustment of standard rates of New Zealand superannuation)** 30
- (1) Replace the heading to section 15 with “**Annual adjustment of rates**”.
  - (2) In section 15(2), replace “paragraphs (a), (b), and (c) of clause 1 and paragraph (b) of clause 2 of Schedule 1” with “**clause 1 of Part 1 of Schedule 1, and clause 1(b) of Part 2 of that schedule**,”. 35
  - (3) Replace section 15(3)(b) with:
    - (b) so that the rate of New Zealand superannuation specified in **clause 1(b) of Part 2 of Schedule 1** preserves its proportional relationship (after

the deduction of standard tax) to the rates specified in **clause 1 of Part 1 of that schedule.**

- (4) After section 15(6), insert:
- (7) *See* section 452 of the Social Security Act 2018 under which rates of New Zealand superannuation may be adjusted by Order in Council (including rates not required to be adjusted under this section). 5

**13 Section 16 amended (Annual adjustment of New Zealand superannuation: relationship to net average wage)**

- (1) In section 16(1)(a), replace “65%” with “66%”.
- (2) In section 16(2), replace “Injury Prevention, Rehabilitation, and Compensation Act 2001” with “Accident Compensation Act 2001”. 10

**14 Cross-heading above section 17 replaced**

Replace the cross-heading above section 17 with:

*Effect of long-term residential care or hospitalisation*

**15 Section 17 amended (Entitlement to benefits for spouses or partners of persons in long-term residential care in hospital or rest home)** 15

- (1) After section 17(2), insert:
- (2A) *See* section 89 of the Social Security Act 2018, under which a person to whom this section applies may be entitled to a special disability allowance for the purpose of assisting with expenses arising from the hospitalisation of the person's spouse or partner. 20
- (2) After section 17(3), insert:
- (4) This section applies despite anything to contrary in this Act (except sections 19 and 21 to 35).

**16 Section 18 replaced (Single living alone rate for spouses or partners of persons in long-term residential care in hospital or rest home)** 25

Replace section 18 with:

**18 Appropriate rate for spouses or partners of persons in long-term residential care in hospital or rest home**

The appropriate rate of New Zealand superannuation to which a person who is living alone is entitled under section 17(2)(a) or (b) is the single living alone rate. 30

**17 Section 19 amended (Hospital rates of New Zealand superannuation)**

- (1) In section 19(1), replace “provided” with “operated”.
- (2) In section 19(4), replace “stated” with “specified”. 35

- (3) After section 19(4), insert:
- (4A) The chief executive may pay to any patient referred to in subsection (4) a higher rate than the rate specified in **clause 3 of Part 1 of Schedule 1** after having regard to the patient's personal financial circumstances.
- (4) In section 19(5), replace "22(2)" with "24". 5
- (5) Replace section 19(6) with:
- (6) *See* section 89 of the Social Security Act 2018, under which the spouse or partner of a patient referred to in subsection (4) or (5) may be entitled to a special disability allowance for the purpose of assisting with expenses arising from the patient's hospitalisation. 10
- (6) Replace section 19(7) with:
- (7) If the New Zealand superannuation of a person who is married or in a civil union or in a de facto relationship is reduced because of the operation of subsection (4), any New Zealand superannuation payable to the person's spouse or partner must be increased, on the date on which the reduction takes effect, by the specified amount. 15
- (7A) The **specified amount** is an amount equal to the difference between—
- (a) the maximum rate of New Zealand superannuation payable to a single person; and
- (b) the maximum rate of New Zealand superannuation payable to a person who is married or in a civil union or in a de facto relationship and whose spouse or partner is receiving New Zealand superannuation. 20
- (7B) **Subsection (7)** does not apply if the person's spouse or partner is also in hospital and has been for more than 13 weeks.
- (7) In section 19(10), replace "the Social Security Act 2018 or in the Residential Care and Disability Support Services Act 2018" with "this Act (other than sections 21 to 35), the Social Security Act 2018, or the Residential Care and Disability Support Services Act 2018". 25
- 18 Section 20 repealed (Special disability allowance)**
- Repeal section 20. 30
- 19 Section 26A amended (Calculation of amount of New Zealand superannuation payable overseas)**
- Replace section 26A(2) to (4) with:
- (2) For the purposes of subsection (1), a person must be treated as having resided in New Zealand during a period of absence from New Zealand if **section 9**, **10**, or **10A** requires the person to be treated as having been resident and present in New Zealand during the period. 35

**20 New section 35A and cross-heading inserted**

After section 35, insert:

*Miscellaneous provisions*

**35A Regulations**

- (1) The Governor-General may, by Order in Council, make regulations for the purposes of **section 4A(2)(g)**. 5
- (2) The Governor-General may, by Order in Council, make regulations providing for any other matters contemplated by this Part, necessary for its administration, or necessary for giving it full effect.

**21 Schedule 1AA amended** 10

In Schedule 1AA, after Part 2, insert:

**Part 3**

**Provisions relating to New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2019**

**4 Definitions** 15

In this Part,—

**amending Act** means the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act **2019**

**commencement date** means **1 July 2020**

**non-standard couple rate** means either of the following kinds of rate: 20

(a) a rate specified in clause 2 of Schedule 1 before the commencement date (which is the date on which that clause is repealed):

(b) the relationship (partner not receiving superannuation or pension) rate

**old law relating to employment of a person's spouse or partner** means—

(a) section 12(3) of this Act (as in force immediately before the commencement date); or 25

(b) section 172(4) and (5) of the Veterans' Support Act 2014 (as in force immediately before the commencement date)

**relationship (partner not receiving superannuation or pension) rate** means the relationship (partner not receiving superannuation or pension) rate specified in regulations referred to in section 169 of the Veterans' Support Act 2014. 30

*Treatment of periods of absence for purposes of residential qualification*

**5 Residence and presence when engaged in missionary work**

- (1) For the purposes of **section 10(1)(a)** (as inserted by the amending Act), a person who was absent from New Zealand for a period that began before the commencement date is taken to have been ordinarily resident in New Zealand immediately before that period if the person was born in New Zealand. 5
- (2) **Section 10(1)(c)** (as inserted by the amending Act) does not apply to missionary work that began before the commencement date.

**6 Residence and presence when in overseas employment**

- (1) **Section 10A** (as inserted by the amending Act) extends to a person who made an application for New Zealand superannuation or a veteran's pension, before the commencement date, that is finally determined on or after that date. 10
- (2) Anything done during the period of validation (for example, the granting or payment of New Zealand superannuation or a veteran's pension) that was not validly done, but would have been validly done had **section 10A** (as inserted by the amending Act) been in force when the thing was done is validated. 15
- (3) In this clause, **period of validation** means the period beginning on 26 November 2018 and ending with the close of 30 June 2020.

*Generally abolished rate for person with non-qualifying spouse or partner*

**7 General**

- (1) A rate specified in **clause 1 of Part 2 of Schedule 1** is the appropriate rate of New Zealand superannuation payable to a person only if— 20
- (a) the person is married or in a civil union or in a de facto relationship; and
  - (b) immediately before the commencement date, an election of the person to receive New Zealand superannuation, or a veteran's pension, at a non-standard couple rate was in effect (*see clauses 8 to 10*); and 25
  - (c) the person is not barred from receiving New Zealand superannuation at a rate specified in **clause 1 of Part 2 of Schedule 1**.
- (2) A person is **barred** from receiving New Zealand superannuation at a rate specified in **clause 1 of Part 2 of Schedule 1** if,— 30
- (a) at any time on or after the commencement date, the person's spouse or partner is entitled to receive New Zealand superannuation or a veteran's pension; or
  - (b) at any time on or after the commencement date, the person elects to no longer receive New Zealand superannuation at that rate and does not elect, on the same date, to receive a veteran's pension at the relationship (partner not receiving superannuation or pension) rate; or 35

- (c) on a specified date, the person was or is absent from New Zealand and, because of that absence,—
- (i) is not authorised under Part 1 of this Act or Part 6 of the Veterans' Support Act 2014 to be paid New Zealand superannuation or a veteran's pension for that date; or 5
  - (ii) is authorised to be paid New Zealand superannuation or a veteran's pension for that date but only at a reduced rate; or
- (d) on a specified date, the person was or is in custody in prison, in custody on remand, or an escapee from prison, and both of the following apply:
- (i) because of the operation of section 217 of the Social Security Act 2018, New Zealand superannuation or a veteran's pension is not payable to the person for that date: 10
  - (ii) the person, the person's spouse or partner, or another person is not authorised under section 218 of the Social Security Act 2018 to be paid all or any part of the New Zealand superannuation or veteran's pension for that date. 15
- (3) In **subclause (1)(b)**, **non-standard couple rate** means any of the following kinds of rate:
- (a) a rate specified in clause 2 of Schedule 1 before the commencement date (which is the date on which that clause was repealed): 20
  - (b) the relationship (partner not receiving superannuation or pension) rate:
  - (c) a rate specified in clause 2 of Schedule 1 of the Social Welfare (Transitional Provisions) Act 1990 before the repeal of that schedule on 14 April 2003:
  - (d) a rate specified in clause 2(b) of Schedule 11 of the War Pensions Act 1954 before the repeal of that schedule on 7 December 2014. 25
- (4) In this clause, **specified date** means the close of **30 June 2020** or any time after that date.
- 8 Treatment of elections**
- (1) For the purposes of **clause 7(1)(b)** of this schedule and **clause 22(1)(d) of Schedule 1** of the Veterans' Support Act 2014, an election of a person to receive New Zealand superannuation, or a veteran's pension, at a non-standard couple rate must be treated as being in effect immediately before the commencement date if— 30
- (a) an election to receive New Zealand superannuation, or a veteran's pension, at the non-standard couple rate was made before the commencement date; and 35
  - (b) the person who made the election did not, after making it,—



- (i) cease to be entitled to receive New Zealand superannuation at a non-standard couple rate or a standard couple rate because the person ceased to be married or in a civil union or in a de facto relationship; or
    - (ii) cease to be entitled to receive New Zealand superannuation at a non-standard couple rate because the person's spouse or partner became entitled to receive New Zealand superannuation or a veteran's pension; or
    - (iii) elect to receive New Zealand superannuation, or a veteran's pension, at a standard couple rate; and
  - (c) the old law relating to employment of the person's spouse or partner did not operate to prevent the election being in effect immediately before the commencement date.
- (2) Nothing in this clause limits **clause 9 or 10**.
- (3) In this clause,—
- non-standard couple rate** has the same meaning as in **clause 7(3)**
- standard couple rate** means a rate, other than a non-standard couple rate, of New Zealand superannuation or of a veteran's pension prescribed before the commencement date for a person who is married or in a civil union or in a de facto relationship.
- 9 When elections included in pending applications take effect**
- (1) This clause applies to an election of a person to receive New Zealand superannuation, or a veteran's pension, at a non-standard couple rate that is included in a pending application for New Zealand superannuation or a veteran's pension.
- (2) For the purposes of **clause 7(1)(b)** of this schedule and **clause 22(1)(d) of Schedule 1** of the Veterans' Support Act 2014, the election may be treated as being in effect immediately before the commencement date only if the New Zealand superannuation or veteran's pension commences on or before that date. (*See* section 11 of this Act, section 168 of the Veterans' Support Act 2014, and section 317 of the Social Security Act 2018.)
- (3) The election must be treated as taking effect,—
- (a) except as provided by **paragraph (b)**, on the date on which the New Zealand superannuation or veteran's pension commences; or
  - (b) if the old law relating to employment of the person's spouse or partner applied to the election, on the date on which the New Zealand superannuation or veteran's pension commences or the date determined under that old law (whichever is the later).
- (4) **Subclause (3)** applies only to the extent that it treats the election as taking effect before the commencement date.

- (5) In this clause, **pending application** means an application for New Zealand superannuation or a veteran's pension that,—
- (a) immediately before the commencement date, had not been finally determined or withdrawn; and
  - (b) on or after the commencement date, is finally determined by granting the application. 5
- 10 When other elections not processed before commencement date take effect**
- (1) This clause applies to an election of a person to receive New Zealand superannuation, or a veteran's pension, at a non-standard couple rate (other than an election to which **clause 9** applies) that, immediately before the commencement date, had been received but not yet processed by the department. 10
- (2) For the purposes of **clause 7(1)(b)** of this schedule and **clause 22(1)(d) of Schedule 1** of the Veterans' Support Act 2014, the election is to be treated as taking effect,—
- (a) except as provided by **paragraph (b)**, on the date on which the election was received by the department; or 15
  - (b) if the old law relating to employment of the person's spouse or partner applied to the election, on the date on which the election was received by the department or the date determined under that old law (whichever is the later). 20
- (3) In this clause, **department**,—
- (a) in the case of an election to receive New Zealand superannuation, has the same meaning as in section 4; and
  - (b) in the case of an election to receive a veteran's pension,— 25
    - (i) except as provided by **subparagraph (ii)**, means Veterans' Affairs New Zealand; or
    - (ii) has the same meaning as in section 4 if an applicable delegation is in force under section 160 of the Veterans' Support Act 2014.

**22 Schedule 1 amended**

- (1) In the Schedule 1 heading, delete "20". 30
- (2) In the Schedule 1 heading, after "32", insert ", **cl 7 of Sch 1AA**".
- (3) After the Schedule 1 heading, insert:

**Part 1**  
**Rates generally**

- (4) In Schedule 1, clause 1(a), replace "person at the single living alone rate" with "single person who is living alone". 35

- (5) In Schedule 1, clause 1(b), replace “person at the single sharing accommodation rate” with “single person who is not living alone”.
- (6) In Schedule 1, repeal clauses 2 and 4.
- (7) In Schedule 1, after clause 3, insert:

**Part 2**  
**Rates saved by Schedule 1AA**

5

The following rates are before deduction of tax:

- 1 Rate payable under **clause 7 of Schedule 1AA** to a person who is married or in a civil union or in a de facto relationship and whose spouse or partner is not entitled to receive New Zealand superannuation or a veteran's pension—
  - (a) if, before 1 October 1991, the person was receiving (or had applied for and was entitled to receive) New Zealand superannuation, or a veteran's pension, at the alternative rate specified in clause 2 of Schedule 1 of the Social Welfare (Transitional Provisions) Act 1990 \$720.84 a week (subject to Income Test 3) or the rate specified in **paragraph (b)**, whichever is the greater
  - (b) in any other case \$682.86 a week (subject to Income Test 3)

**Part 2**  
**Amendments to Veterans' Support Act 2014**

10

**23 Amendments to Veterans' Support Act 2014**

This Part amends the Veterans' Support Act 2014.

**24 Section 158 amended (Interpretation)**

In section 158(1), repeal the definition of **relationship (partner not receiving superannuation or pension) legacy rate**.

15

**25 Section 159 amended (Meaning of living alone)**

- (1) Replace section 159(2) with:
- (2) The first condition is that person A occupies any of the following kinds of accommodation as person A's principal residence:
  - (a) a house or flat:
  - (b) a boat or craft moored within the following sea or waters (whether or not it travels within that sea or any of those waters from time to time):

20

<ul style="list-style-type: none"> <li>(i) the territorial sea or any internal waters of New Zealand; or</li> <li>(ii) any waters within New Zealand that are a lake, estuary, lagoon, river, stream, creek, or other waters:</li> </ul>	5
<ul style="list-style-type: none"> <li>(c) a hotel room or motel unit:</li> <li>(d) a room in a boarding house:</li> <li>(e) a unit of accommodation in a caravan park:</li> <li>(f) a mobile home (whether or not it is in a caravan park and whether or not it travels from time to time) that VANZ is satisfied is sufficiently self-contained to be reasonably habitable as a residence:</li> <li>(g) any other accommodation of a kind prescribed by regulations made under section 265.</li> </ul>	10
 (2) Repeal section 159(6).	
<b>26 Section 169 amended (Rates of veteran's pension)</b>	
(1) Repeal section 169(2)(e).	
(2) Replace section 169(3) with:	
<ul style="list-style-type: none"> <li>(3) The relationship (partner not receiving superannuation or pension) rate is the appropriate rate of veteran's pension payable to a person only in the circumstances specified in <b>clause 22 of Schedule 1</b>.</li> </ul>	15
 <b>27 Section 170 amended (Annual adjustment of rates of veteran's pension)</b>	
In section 170(6)(a), replace "65%" with "66%".	
 <b>28 Section 171 amended (Abatement of veteran's pension)</b>	
In section 171(2)(b)(ii) (as replaced by the Social Assistance Legislation (Budget 2019 Welfare Package) Amendment Act 2019), delete "or the relationship (partner not receiving superannuation or pension) legacy rate".	
 <b>29 Section 172 repealed (Election if spouse or partner not entitled to superannuation or veteran's pension)</b>	
Repeal section 172.	
 <b>30 Section 185 replaced (Certain absences excluded from calculation)</b>	
Replace section 185 with:	
<ul style="list-style-type: none"> <li><b>185 Treatment of certain absences for purposes of calculation</b></li> </ul>	30
For the purposes of section 184, a person must be treated as having resided in New Zealand during a period of absence from New Zealand if section <b>9</b> , <b>10</b> , or <b>10A</b> of the New Zealand Superannuation and Retirement Income Act 2001 requires the person to be treated as having been resident and present in New Zealand during the period.	
	35

**31 Section 265 amended (Regulations)**

After section 265(1)(27), insert:

(27A) section 159 (forms of accommodation linked to meaning of living alone):

**32 Schedule 1 amended**

5

In Schedule 1, after Part 4, insert:

**Part 5**  
**Provision relating to New Zealand Superannuation and Veteran's  
Pension Legislation Amendment Act 2019**

**22 Generally abolished rate for veterans with non-qualifying spouse or partner**

10

(1) The relationship (partner not receiving superannuation or pension) rate is the appropriate rate of veteran's pension payable to a person only if—

(a) the person is a veteran; and

(b) the person is married or in a civil union or in a de facto relationship; and

15

(c) the person's spouse or partner is not entitled to New Zealand superannuation or a veteran's pension; and

(d) immediately before **1 July 2020**, an election of the person to receive a veteran's pension, or New Zealand superannuation, at a non-standard couple rate was in effect (*see clauses 8 to 10 of Schedule 1AA* of the New Zealand Superannuation and Retirement Income Act 2001); and

20

(e) the person elects to no longer receive a veteran's pension at the relationship (partner not receiving superannuation or pension) rate and does not elect, on the same date, to receive New Zealand superannuation at the rate specified in **clause 1(b) of Part 2 of Schedule 1** of the New Zealand Superannuation and Retirement Income Act 2001; and

25

(f) the person is not barred under **clause 7 of Schedule 1AA** of the New Zealand Superannuation and Retirement Income Act 2001 from receiving New Zealand superannuation at the rate specified in **clause 1(b) of Part 2 of Schedule 1** of that Act.

30

(2) In this clause,—

**non-standard couple rate** has the same meaning as in **clause 7(3) of Schedule 1AA** of the New Zealand Superannuation and Retirement Income Act 2001

**relationship (partner not receiving superannuation or pension) rate** means the rate of that name referred to in section 169.

35

### Part 3

## Amendments to Social Security Act 2018

### 33 Amendments to Social Security Act 2018

This Part amends the Social Security Act 2018.

### 34 Section 89 amended (Special disability allowance: entitlement in special circumstances) 5

(1) Replace section 89(1)(c) with:

- (c) has a spouse or partner who is—
- (i) a patient in a hospital and receiving a reduced benefit under section 19 of the New Zealand Superannuation and Retirement Income Act 2001 or under section 206; or 10
  - (ii) a qualifying person or a special case person, and in respect of whom a funder is paying some or all of the cost of contracted care services under section 18, 24, 26, 54, or 55 of the Residential Care and Disability Support Services Act 2018. 15

(2) After section 89(2), insert:

(3) In this section, **qualifying person** and **special case person** have the same meanings as in section 5 of the Residential Care and Disability Support Services Act 2018.

### 35 Section 169 amended (Interpretation) 20

In section 169, definition of **specified beneficiary**, replace paragraphs (b) and (c) with:

- (b) New Zealand superannuation paid at a rate specified in **clause 1 of Part 2 of Schedule 1** of the New Zealand Superannuation and Retirement Income Act 2001; or 25
- (c) a veteran's pension at the relationship (partner not receiving superannuation or pension) rate specified in regulations referred to in section 169 of the Veterans' Support Act 2014.

### 36 Section 187 amended (Interpretation)

In section 187, definition of **overseas pension**, after paragraph (d), insert: 30

- (e) is not determined by MSD to be attributable to any voluntary contributions made by or on behalf of the person to whom it is granted or the person's spouse, partner, or parent.

### 37 Section 189 amended (Benefit of person affected is reduced by amount of overseas pension) 35

Replace section 189(2) with:

- (2) The rate of New Zealand superannuation or a veteran's pension that a person is qualified to receive must not be reduced under this section by any amount of an overseas pension if the New Zealand superannuation or veteran's pension is payable to the person overseas under section 26 of the New Zealand Superannuation and Retirement Income Act 2001 or section 182 of the Veterans' Support Act 2014. 5
- (3) The rate of any of the following benefits that a person is qualified to receive must not be reduced under this section by any amount of an overseas pension that the person's spouse or partner is entitled to receive or receives (as referred to in section 188(b)): 10
- (a) New Zealand superannuation or a veteran's pension:
  - (b) a winter energy payment that the person is qualified to receive because New Zealand superannuation or a veteran's pension is payable to the person.
- (4) *See* **clause 79 of Schedule 1** in relation to persons who are qualified to receive New Zealand superannuation or a veteran's pension at certain grand-parented rates. 15

**38 Schedule 1 amended**

In Schedule 1, after Part 2, insert:

- Part 3** 20
- Provision relating to New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2019**
- 79 Effect of partner's or spouse's overseas pension on New Zealand superannuation and veteran's pension**
- Section 189(3)**, as inserted by the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act **2019**, does not apply in relation to a person who is qualified to receive (subject to the appropriate income test)— 25
- (a) New Zealand superannuation at a rate specified in **clause 1 of Part 2 of Schedule 1** of the New Zealand Superannuation and Retirement Income Act 2001; or 30
  - (b) a veteran's pension at the relationship (partner not receiving superannuation or pension) rate specified in regulations referred to in section 169 of the Veterans' Support Act 2014.

**39 Schedule 2 amended**

In Schedule 2, definition of **Income Test 3**, paragraph (a), replace "clause 2" with "**clause 1 of Part 2**". 35

## Part 4

### Amendments to other Acts

#### Subpart 1—Amendments to Income Tax Act 2007

- 40 Amendments to Income Tax Act 2007** 5  
This subpart amends the Income Tax Act 2007.
- 41 Section RD 11 amended (Reduction in certain circumstances)**
- (1) Replace the heading to section RD 11 with “**Amount of tax in certain circumstances**”.
- (2) Replace section RD 11(3) and the heading above section RD 11(3) with:  
*Income-tested benefits, New Zealand superannuation, and veteran's pension* 10
- (3) Despite section RD 10(1), the amount of tax for a PAYE income payment that is a payment of any of the following benefits must be determined by the Commissioner in consultation with the chief executive of the administering department:  
15
- (a) an income-tested benefit:
- (b) New Zealand superannuation:
- (c) a veteran's pension.
- Education allowances*
- (3B) Despite section RD 10(1), the amount of tax for a PAYE income payment that is a payment of an allowance under regulations made under section 303 of the Education Act 1989 must be determined by the Commissioner in consultation with the Secretary for Education. 20
- 42 Section YA 1 amended (Definitions)**
- In section YA 1, definition of **New Zealand superannuitant**, replace paragraph (b) with: 25
- (b) does not include a person who receives New Zealand superannuation—
- (i) before **1 July 2020** (which is the commencement date of the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act **2019**) at a rate specified in clause 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001; or 30
- (ii) on or after **1 July 2020** at a rate specified in **clause 1 of Part 2 of Schedule 1** of the New Zealand Superannuation and Retirement Income Act 2001.



Subpart 2—Amendment to Tax Administration Act 1994

**43 Amendment to Tax Administration Act 1994**

This subpart amends the Taxation Administration Act 1994.

**44 Section 24B amended (PAYE tax codes)**

Replace section 24B(3) and the heading above section 24B(3) with: 5

*Income-tested benefits, New Zealand superannuation, and veteran's pension*

(3) The amount of tax for a payment of any of the following is determined under **section RD 11(3)** of the Income Tax Act 2007:

- (a) an income-tested benefit:
- (b) New Zealand superannuation: 10
- (c) a veteran's pension.

*Education allowances*

(3B) The amount of tax for a payment of an allowance under regulations made under section 303 of the Education Act 1989 is determined under **section RD 11(3B)** of the Income Tax Act 2007. 15