

# **Regulatory Systems (Social Security) Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The Ministry of Social Development (**MSD**) must ensure that its legislative framework is fit for purpose. Under section 52 of the Public Service Act 2020, the chief executive of MSD is responsible to the appropriate Minister for supporting that Minister to act as a good steward of the public interest, including by maintaining the currency of any legislation administered by their agency.

In order to address the responsibilities outlined above, this Bill will—

- make minor policy changes to the New Zealand Superannuation and Retirement Income Act 2001, the Social Security Act 2018, and the Veterans' Support Act 2014:
- make minor technical amendments to the New Zealand Superannuation and Retirement Income Act 2001, the Social Security Act 2018, and the Veterans' Support Act 2014:
- repeal the Family Benefits (Home Ownership) Act 1964.

These changes are minor in the context of the overarching policy settings of the systems of social assistance provided for under the Acts amended. The changes are intended to improve the provision of social welfare benefits and the functioning of the overall social security system. Some of the minor technical changes will address errors and omissions found in the Social Security Act 2018, which was a rewrite of social assistance legislation including the Social Security Act 1964.

## **Minister of Finance’s statement on consultation process followed in formulating amendments to New Zealand Superannuation and Retirement Income Act 2001 included in this Bill**

### **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 a statement of the consultation process followed in formulating the proposed amendment. The term Minister, for the purposes of section 73, 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.

### **Consultation process**

The Green Party and the New Zealand National Party, both currently listed in Schedule 4 of the Act, have been consulted on the proposed changes. No comment was received from these parties.

ACT New Zealand and Te Pāti Māori, which are not currently listed in Schedule 4 of the Act, have also been consulted on the changes. No comment was received from these parties.

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=2024&no=40>

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* provides that the Bill comes into force on the day after the date on which it receives Royal assent.

## Part 1

### Family Benefits (Home Ownership) Act 1964 repealed

*Part 1* repeals the Family Benefits (Home Ownership) Act 1964.

## Part 2

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

*Part 2* amends the New Zealand Superannuation and Retirement Income Act 2001 (the **Act**) to—

- provide that the provisions in section 31 of the Act (which relate to the payment of New Zealand superannuation to residents in certain Pacific countries) do not apply if the residency requirements in section 8(2) and (3) of the Act would only be met through reliance on a reciprocal social security agreement;
- clarify, in *new section 32A* (and related changes in *new sections 33 and 33A*), that a person resident in the Cook Islands, Niue, or Tokelau at the time they apply for New Zealand superannuation under section 31(4) of the Act is entitled to New Zealand superannuation from the later of—
  - the date on which the person meets the age qualification under section 7 of the Act; and
  - the date on which the person makes the application under section 31(4) of the Act;
- provide for transitional matters relating to amendments made by this Bill.

## Part 3

### Amendments to Social Security Act 2018

*Part 3* amends the Social Security Act 2018 (the **Act**) to—

- provide that where a person has a partner who is unlawfully resident or present in New Zealand, or a partner who is lawfully resident or present in New Zealand but only by virtue of holding a temporary entry class visa,—
  - the rate of benefit payable to the person is the appropriate single rate of benefit; and
  - the income and assets of both the person and the person's partner must be taken into account when determining the rate of benefit payable;
- clarify the circumstances in which a full-time student is eligible for jobseeker support;
- extend, from 26 weeks to 104 weeks, the period during which a person receiving a supported living payment on the ground of restricted work capacity can enter open employment for 15 hours or more per week and continue to receive the supported living payment;

- provide for a person receiving a supported living payment as a caregiver to receive an emergency benefit at the same rate as their supported living payment for a period of up to 12 weeks following a live organ donation:
- clarify the living circumstances for a child with a serious disability in which a child disability allowance can be granted for the child:
- clarify the period for which MSD will continue to pay a benefit following the death of a beneficiary:
- make minor and technical amendments to the provisions relating to relationship debt sharing:
- make technical drafting improvements to the provision relating to benefits review committees:
- correct cross-references:
- insert certain definitions that were in the Social Security Act 1964 but not carried over into the Act when it was rewritten in 2018:
- repeal an allowance in respect of a housekeeper for people receiving jobseeker support:
- provide for transitional matters relating to amendments made by this Bill.

## Part 4

### Amendment to Veterans' Support Act 2014

*Part 4* amends the Veterans' Support Act 2014 (the **Act**) to—

- repeal section 190A, which has been replaced by section 127 of the Legislation Act 2019:
- provide that the provisions in section 191 of the Act (which relate to the payment of a veteran's pension to residents in certain Pacific countries) do not apply if the residency requirements in section 8(2) and (3) of the New Zealand Superannuation and Retirement Income Act 2001 would only be met through reliance on a reciprocal social security agreement:
- clarify, in *new section 192A* (and related changes in *new sections 193 and 193A*), that a person resident in the Cook Islands, Niue, or Tokelau at the time they apply for a veteran's pension under section 191(4) of the Act is entitled to the veteran's pension from the later of—
  - the date on which the person meets the age qualification for New Zealand superannuation under section 7 of the New Zealand Superannuation and Retirement Income Act 2001; and
  - the date on which the person makes the application under section 191(4) of the Act:
- provide for transitional matters relating to amendments made by this Bill.

*Hon Louise Upston*

## **Regulatory Systems (Social Security) Amendment Bill**

Government Bill

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

**1 Title**

This Act is the Regulatory Systems (Social Security) Amendment Act **2024**.

**2 Commencement**

This Act comes into force on the day after Royal assent.

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**Part 1**

**Family Benefits (Home Ownership) Act 1964 repealed**

**3 Family Benefits (Home Ownership) Act 1964 repealed**

The Family Benefits (Home Ownership) Act 1964 (1964 No 32) is repealed.

## Part 2

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

- 4 Principal Act**  
This Part amends the New Zealand Superannuation and Retirement Income Act 2001. 5
- 5 Section 31 amended (Entitlement to be paid New Zealand superannuation in specified Pacific country)**  
After section 31(1), insert:
- (1A) However, a person described in subsection (1) is not entitled to be paid the benefit in a specified Pacific country if that person would only meet the residency requirements in section 8(2) and (3) through reliance on a reciprocity agreement adopted under section 380 of the Social Security Act 2018. 10
- 6 New section 32A inserted (Commencement date of entitlement to New Zealand superannuation under section 31(4) in specified Pacific country)** 15  
After section 32, insert:
- 32A Commencement date of entitlement to New Zealand superannuation under section 31(4) in specified Pacific country**  
The commencement date of New Zealand superannuation for a person to whom section 31(4) applies is the later of— 20
- (a) the date on which the person meets the age qualification for New Zealand superannuation under section 7; and
- (b) the date on which the application referred to in section 31(4) is made.
- 7 Section 33 replaced (Commencement and termination of payments)** 25  
Replace section 33 with:
- 33 Commencement date of payment of New Zealand superannuation under section 31(2) or (3) in specified Pacific country**  
The commencement date of payment of a benefit under section 31(2) or (3) is the first pay day after the date of the person's departure from New Zealand.
- 33A Termination of New Zealand superannuation under section 31(2), (3), or (4)** 30
- (1) This section applies when a person being paid a benefit under section 31(2), (3), or (4) dies.
- (2) The benefit terminates on a date to be determined by the chief executive.



- (3) The date determined must be a date not more than 4 weeks after the person's date of death.

## 8 Schedule 1AA amended

In Schedule 1AA,—

- (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and 5  
 (b) make all necessary consequential amendments.

## Part 3

### Amendments to Social Security Act 2018

## 9 Principal Act

This Part amends the Social Security Act 2018. 10

## 10 New section 19A inserted (General rules about rate of benefit for person whose spouse or partner not entitled or eligible to receive benefit in accordance with section 19)

After section 19, insert:

### 19A General rules about rate of benefit for person whose spouse or partner not entitled or eligible to receive benefit in accordance with section 19 15

- (1) This section applies to a person (**person A**) whose spouse or partner is not entitled or eligible to receive a benefit in accordance with section 19.  
 (2) The rate of benefit payable to person A is the appropriate rate for a single person (and not the rate for a person who is in a relationship). 20  
 (3) In determining the rate of benefit payable to person A, the income and assets of both person A and their spouse or partner must be taken into account as person A's income and assets.

Compare: 1964 No 136 s 74A(2), (3)

## 11 Section 25 amended (Jobseeker support: discretionary grant on ground of hardship) 25

- (1) In section 25(3), replace “section 20(c) and (d)” with “section 20(a) to (e)”.  
 (2) In section 25(4), after “MSD is satisfied that”, insert “P meets the requirements in section 20(a), (b), (d), and (e) and—”.

## 12 Section 26 amended (Jobseeker support: ineligibility) 30

In section 26(a), replace “section 25” with “section 25(3) or (4)”.

## 13 Section 39 amended (Supported living payment: on ground of restricted work capacity: encouraging open employment)

In section 39(3), replace “26 weeks” with “104 weeks”.

**14 Section 63 amended (Emergency benefit: discretionary grant on ground of hardship)**

(1) Before section 63(1), insert:

*General*

(2) In section 63(4),—

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(a) after “However,”, insert “unless **subsection (4A)** applies,”; and

(b) after “of an emergency benefit”, insert “granted under subsection (1) or (2)”.

(3) After section 63(4), insert:

*Caregiver recovering from live organ donation*

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(4A) **Subsection (4B)** applies to a person (C) who—

(a) is recovering from a live organ donation; and

(b) was, immediately before the live organ donation, receiving a supported living payment on the ground of caring for another person.

(4B) MSD may grant C an emergency benefit at the rate of supported living payment that C was receiving immediately before the live organ donation for a period of up to 12 weeks after the date of the live organ donation.

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*Community spouse or partner of person in long-term residential care*

(4C) *See also* section 17(2)(c) of the New Zealand Superannuation and Retirement Income Act 2001, under which a person specified in section 17(1) of that Act may be entitled to an emergency benefit under this section at the appropriate rate of a supported living payment payable to a person who is single or is single with 1 or more dependent children (as the case may be).

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*Conditions*

**15 Section 65 amended (Accommodation supplement: discretionary grant)**

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In section 65(2), insert in their appropriate alphabetical order:

**owner**, in relation to any premises, includes a person legally entitled to occupy the premises under—

(a) a deferred payment disposition; or

(b) a lease, where the occupier is also the lessor as owner or one of the lessors as one of the owners; or

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(c) a licence to occupy, where the premises are a residential unit in a retirement village (as those terms are defined in the Retirement Villages Act 2003); or

(d) a licence to occupy under subpart 6 of Part 3 of the Land Transfer Act 2017; or

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(e) a deferred payment licence under the Land Act 1948—

and **owned**, in relation to any premises, has a corresponding meaning  
**premises**—

- (a) means the place that the person occupies as a home; and
- (b) if the person is a boarder or lodger, includes a room, or other accommodation, that the person occupies as a home

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#### 16 Section 66 amended (Social housing exclusion)

Replace section 66(3) with:

- (3) In this section and section 68, **tenant**, in relation to rented premises, includes a person who pays rent, whether or not the person is a party to the tenancy agreement or lease of the premises.

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#### 17 Section 78 amended (Child disability allowance: discretionary grant)

Replace section 78(1) with:

- (1) MSD may grant a child disability allowance for a child with a serious disability (C) if C is being cared for—
  - (a) in a private home that is the residence of a person described in section 82 who is caring for C; or
  - (b) in approved weekly accommodation (and C is cared for by their parent or guardian during school holidays or weekends).

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#### 18 Section 326 replaced (After death of beneficiary receiving specified benefit)

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Replace section 326 with:

##### 326 After death of beneficiary

*Specified main benefit if surviving spouse or partner, or child, not entitled to lump sum accident compensation payment*

- (1) **Subsection (2)** applies to a person and a benefit only if,—
  - (a) when the person died, the person was receiving the benefit; and
  - (b) the benefit is a specified main benefit (as defined in **subsection (5)**); and
  - (c) the person leaves a spouse or partner, or a child, not entitled to a lump sum accident compensation payment (as defined in **subsection (5)**).
- (2) If this subsection applies to a person and a benefit, that benefit of the person ends 28 days after the date of the person's death.

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*Specified main benefit, or any other benefit, that does not end under subsection (2)*

- (3) **Subsection (4)** applies to a person and a benefit only if,—
  - (a) when the person died, the person was receiving the benefit; and

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- (b) the benefit is—
- (i) a specified main benefit (as defined in **subsection (5)**); or
  - (ii) any other benefit (for example, accommodation supplement, or temporary additional support); and
- (c) the benefit does not end under **subsection (2)**. 5
- (4) If this subsection applies to a person and a benefit, that benefit of the person ends on a date that is—
- (a) set by MSD; and
  - (b) not later than 28 days after the date of the person’s death.
- Definitions* 10
- (5) In this section,—
- lump sum accident compensation payment** means a lump sum payment under—
- (a) section 56 of the Accident Rehabilitation and Compensation Insurance Act 1992; or 15
  - (b) section 444 of the Accident Insurance Act 1998; or
  - (c) section 382 of the Accident Compensation Act 2001
- specified main benefit** means—
- Main benefit under other Act*
- (a) New Zealand superannuation: 20
  - (b) a veteran’s pension:
- Main benefit under this Act*
- (c) jobseeker support:
  - (d) sole parent support:
  - (e) a supported living payment on the ground of restricted work capacity or total blindness, under section 34: 25
  - (f) a supported living payment on the ground of caring for another person, under section 40:
  - (g) a youth payment:
  - (h) a young parent payment: 30
  - (i) an emergency benefit related to a benefit specified in any of **paragraphs (c) to (h)**.
- 19 Section 359 amended (Recovery from spouse or partner of apportioned excess amount beneficiary obtained by fraud)**
- Replace section 359(1) with: 35

- (1) This section applies to a benefit apportioned between spouses or partners under regulations made under section 442 so that—
- (a) one proportion of the benefit (**proportion B**) is paid to one spouse or partner (**B**); and
  - (b) another proportion of the benefit (**proportion S**) is paid to the other spouse or partner (**S**); and
  - (c) the beneficiary, for the purposes of those regulations, is either B or S.
- 20 Section 361 amended (Recovery from spouse or partner of unapportioned excess amount beneficiary obtained by fraud)**
- (1) In section 361(1)(d)(ii), replace “(even if B did not know)” with “(even if S did not know)”.
  - (2) In section 361(2), replace “S obtained by B’s fraud” with “B obtained by B’s fraud”.
- 21 Section 393 amended (Benefits review committee)**
- (1) In section 393(3), replace “what benefits review committee” with “which benefits review committee”.
  - (2) Replace section 393(3)(a) with:
    - (a) the location of the MSD office where the decision of MSD that is the subject of the application was made; and
  - (3) Replace section 393(4) with:
  - (4) The appropriate benefits review committee may be the benefits review committee of an MSD office other than the MSD office where the decision of MSD that is the subject of the application was made.
- Example**
- The decision of MSD that is the subject of the application was made in the MSD office at a location. Afterwards, the applicant moves away from that location. The benefits review committee of the MSD office of a location nearer to the applicant’s new usual place of residence is appropriate because it enables the applicant conveniently, and at minimum expense, to attend in person, or otherwise take part in, a review hearing.
- 22 Section 397 amended (Decision under specified social assistance enactments)**
- Repeal section 397(1)(g).
- 23 Section 417 amended (Benefits cannot, in general, be assigned or charged, or pass by operation of law)**
- Repeal section 417(2)(b).

**24 Schedule 1 amended**

In Schedule 1,—

- (a) insert the Part set out in **Schedule 2** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

**25 Schedule 2 amended**

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(1) In Schedule 2, repeal the definition of **action or inaction on MSD's part**.

(2) In Schedule 2, insert in their appropriate alphabetical order:

**action or inaction by MSD**, in section 318, includes the meaning given to it by section 318(3)

**lump sum accident compensation payment** is defined in **section 326(5)** for the purposes of **section 326**

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**owner** and **owned** are defined in section 65(2) for the purposes of subpart 10 of Part 2, section 423, and Part 7 of Schedule 4 (accommodation supplement)

**specified main benefit** is defined in **section 326(5)** for the purposes of **section 326**

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**tenant** is defined in **section 66(3)** for the purposes of sections 66 and 68

(3) In Schedule 2, definition of **cash assets**, paragraph (a), after “Part 2”, insert “, section 423,”.

(4) In Schedule 2, definition of **mortgage security**, paragraph (a), after “services)”, insert “and, in that case, the sum or sums of money required to be paid to the person selling or agreeing to sell the property or the person providing or agreeing to provide the services under any such disposition must be treated as money advanced under a mortgage security”.

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(5) In Schedule 2, replace the definition of **premises** with:

**premises** is defined in section 65(2) for the purposes of subpart 10 of Part 2, section 423, and Part 7 of Schedule 4 (accommodation supplement)

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**26 Schedule 4 amended**

In Schedule 4, Part 1, repeal item 2.

**Part 4****Amendments to Veterans' Support Act 2014**

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**27 Principal Act**

This Part amends the Veterans' Support Act 2014.

**28 Section 190A repealed (Orders are confirmable instruments)**

Repeal section 190A.

**29 Section 191 amended (Entitlement to be paid veteran’s pension in specified Pacific country)**

After section 191(1), insert:

- (1A) However, a person described in subsection (1) is not entitled to be paid the pension in a specified Pacific country if that person would only meet the residency requirements in section 8(2) and (3) of the New Zealand Superannuation and Retirement Income Act 2001 through reliance on a reciprocity agreement adopted under section 380 of the Social Security Act 2018.

**30 New section 192A inserted (Commencement date of entitlement to veteran’s pension under section 191(4) in specified Pacific country)**

After section 192, insert:

**192A Commencement date of entitlement to veteran’s pension under section 191(4) in specified Pacific country**

The commencement date of a veteran’s pension for a person to whom section 191(4) applies is the later of—

- (a) the date on which the person meets the age qualification for New Zealand superannuation under section 7 of the New Zealand Superannuation and Retirement Income Act 2001; and
- (b) the date on which the application referred to in section 191(4) is made.

**31 Section 193 replaced (Commencement and termination of payments)**

Replace section 193 with:

**193 Commencement date of payment of veteran’s pension paid under section 191(2) or (3)**

The commencement date of payment of a pension paid under section 191(2) or (3) is,—

- (a) for a person to whom section 191(2) applies, the first pay day after the date of the person’s departure from New Zealand; and
- (b) for a person to whom section 191(3) applies, the first pay day after the date on which this section comes into force.

**193A Termination of veteran’s pension under section 191(2), (3), or (4)**

- (1) This section applies when a person being paid a pension under section 191(2), (3), or (4) dies.
- (2) The pension terminates on a date to be determined by VANZ.
- (3) The date determined must be a date not more than 4 weeks after the person’s date of death.

**32 Schedule 1 amended**

In Schedule 1,—

- (a) insert the Part set out in **Schedule 3** of this Act as the last Part; and
- (b) make all necessary consequential amendments.



**Schedule 1**  
**New Part 4 inserted into Schedule 1AA of New Zealand**  
**Superannuation and Retirement Income Act 2001**

s 8

<b>Part 4</b>	5
<b>Provision relating to Regulatory Systems (Social Security) Amendment Act 2024</b>	
<b>11 Reliance on reciprocity agreements</b>	
(1) In this clause,—	
<b>amendment Act</b> means the Regulatory Systems (Social Security) Amendment Act <b>2024</b>	10
<b>commencement</b> means the commencement of the amendment Act.	
(2) A person being paid New Zealand superannuation in a specified Pacific country immediately before commencement through reliance on a reciprocity agreement adopted under section 380 of the Social Security Act 2018 is entitled, on and after commencement, to continue to be paid that benefit.	15
(3) This clause applies despite <b>section 31(1A)</b> (as inserted by the amendment Act).	

**Schedule 2**  
**New Part 10 inserted into Schedule 1 of Social Security Act 2018**

s 24

<b>Part 10</b>	
<b>Provisions relating to Regulatory Systems (Social Security) Amendment Act 2024</b>	5
<b>99 Interpretation</b>	
In this Part,—	
<b>amendment Act</b> means the Regulatory Systems (Social Security) Amendment Act 2024	10
<b>commencement</b> means the commencement of the amendment Act.	
<b>100 Supported living payment on ground of restricted work capacity: encouraging open employment</b>	
(1) This clause applies to a person ( <b>P</b> ) who, immediately before commencement, was with MSD’s agreement undertaking open employment for a period agreed with MSD in order to establish whether P can sustain open employment.	15
(2) The person may, with MSD’s agreement, extend the period of open employment to up to 104 weeks less any weeks of open employment undertaken by P before the extension of the period of open employment was agreed with MSD under this clause.	20
<b>101 Housekeeper allowance</b>	
(1) This clause applies to a person who, immediately before commencement, was entitled to an increase to their jobseeker support payment in respect of a housekeeper under item 2 of Part 1 of Schedule 4 (as it was immediately before commencement).	25
(2) The person is entitled to continue receiving that increase to their jobseeker support payment after commencement as though item 2 of Part 1 of Schedule 4 had not been repealed by the amendment Act.	
(3) The person ceases to be entitled to the increase to their jobseeker support in respect of a housekeeper when the person ceases receiving jobseeker support.	30
<b>102 Decisions and determinations of MSD in relation to Family Benefits (Home Ownership) Act 1964</b>	
(1) Despite its repeal by the amendment Act, section 397(1)(g) continues to apply to any decision or determination of MSD made—	
(a) in relation to an applicant or a beneficiary under the Family Benefits (Home Ownership) Act 1964; and	35

- (b) before the repeal of section 397(1)(g).
- (2) The repeal of section 417(2)(b) by the amendment Act does not affect the operation of section 417(2)(b) before its repeal.

## Schedule 3

## New Part 7 inserted into Schedule 1 of Veterans' Support Act 2014

s 32

## Part 7

Provision relating to Regulatory Systems (Social Security)  
Amendment Act 2024

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## 24 Reliance on reciprocity agreements

(1) In this clause,—

**amendment Act** means the Regulatory Systems (Social Security) Amendment Act 2024

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**commencement** means the commencement of the amendment Act.

(2) A person being paid a veteran's pension in a specified Pacific country immediately before commencement through reliance on a reciprocity agreement adopted under section 380 of the Social Security Act 2018 is entitled, on and after commencement, to continue to be paid that pension.

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(3) This clause applies despite **section 191(1A)** (as inserted by the amendment Act).