

Social Security (Accommodation Supplement) Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill clarifies eligibility for, and the rate of, an accommodation supplement for a community spouse or partner, which is a person—

- who is not receiving long-term residential care in a hospital or rest home; and
- whose spouse or partner—
 - is receiving long-term residential care in a hospital or rest home; and
 - is, or is not, a resident assessed as requiring care in respect of whom a funder is paying some or all of the cost of contracted care services under section 54, 55, 56, 57, or 58 of the Residential Care and Disability Support Services Act 2018.

The amendments apply only to specified existing or new recipients or applicants.

Minister of Finance’s statement on consultation process followed in formulating amendment 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 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.

This Bill proposes an amendment to (section 17 in) Part 1 of the Act. The Bill also proposes a similar amendment to section 173 of the Veterans' Support Act 2014.

Consultation process

The proposed amendment to Part 1 of the Act is only to make clearer the effect of section 17(3) of the Act.

Consultations began on 1 November 2022, at which time the Minister for Social Development and Employment wrote to the leaders of The Green Party and the New Zealand National Party, both currently listed in Schedule 4 of the Act, and other political parties represented in Parliament, but not currently listed in Schedule 4 of the Act, namely Te Pāti Māori and ACT. The letters advised them of the Government's intention to introduce the Social Security (Accommodation Supplement) Amendment Bill and of the proposed consequential amendment to section 17 of the New Zealand Superannuation and Retirement Income Act 2001. As of midday Tuesday 8 November 2022, no comments were received.

This consequential amendment to section 17 of the Act clarifies the approach to the abatement of benefits for a community partner. Specifically, it confirms that a community partner would not be subject to abatement of benefit, such as Accommodation Supplement, in respect of any income that was included as part their partner-in-care's financial means assessment. The inclusion of this amendment will maintain current practice and, thus, ensure no disruption or change to the Accommodation Supplement benefit individuals currently receive.

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=2022&no=193>

Regulatory impact statement

A regulatory impact statement is not required for this Bill.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 relates to commencement. The Bill comes into force on the day after the date of Royal assent.

Part 1 Amendments to Social Security Act 2018

Clause 3 says that *Part 1* amends the Social Security Act 2018.

Clause 4 inserts *new section 17A*. *New section 17A* is a guide to the specified abatement exemptions (which means section 17(3) of the New Zealand Superannuation and Retirement Income Act 2001, and section 173(3) of the Veterans' Support Act 2014). The specified abatement exemptions ensure that a benefit (for example, an accommodation supplement) payable to a community spouse or partner (**CSP**) is not subject to abatement in respect of any income of the CSP that has been included in a means assessment—

- of the CSP's spouse or partner; and
- under the Residential Care and Disability Support Services Act 2018.

Under section 13 of the Act (status of guides), the guide in *new section 17A*—

- is by way of explanation only; and
- does not affect the provisions specified in it.

Clause 5 replaces section 67(e), which makes a person (**P**) ineligible for an accommodation supplement if **P** is receiving New Zealand superannuation or a veteran's pension and the total income of **P** and **P**'s spouse or partner (if any) is more than the applicable amount specified in Part 2 of Schedule 5. *New section 67(e)*, in contrast, makes a person (**P**) ineligible for an accommodation supplement if **P** is receiving New Zealand superannuation or a veteran's pension and—

- if **P** is not a community spouse or partner (as defined in Schedule 2), the total income of **P** and **P**'s spouse or partner (if any) is more than the applicable amount specified in Part 2 of Schedule 5; or
- if **P** is a community spouse or partner (as so defined), the total income of **P** alone (disregarding any income of **P**'s spouse or partner who is receiving long-term residential care in a hospital or rest home) is more than the applicable amount specified in Part 2 of Schedule 5.

Clause 6 amends section 69, under which accommodation supplement may be refused, reduced, or cancelled if MSD is satisfied that an applicant for an accommodation supplement (**A**), or **A**'s spouse or partner, has not realised any assets available for **A**'s personal use. Section 69(2) ensures that, for the purposes of section 69 and the assets requirement in regulations made under section 423 (*see* section 65(1)(b)), the assets of an applicant for an accommodation supplement (**A**) include the assets of **A**'s

spouse or partner, if any. *New section 69(2), (2A), and (2B)* re-enact section 69(2), but clarify—

- how section 69(2) applies if—
 - A is a community spouse or partner (as defined in Schedule 2); and
 - A's spouse or partner is receiving long-term residential care in a hospital or rest home; and
- how section 69(2) does not limit section 67(c), under which a person (**P**, who may, or may not, be A's spouse or partner) is ineligible for an accommodation supplement if P is a resident assessed as requiring care in respect of whom a funder is paying some or all of the cost of contracted care services under section 54, 55, 56, 57, or 58 of the Residential Care and Disability Support Services Act 2018.

Clause 7 amends Schedule 1, which contains transitional, savings, and related provisions. The amendment inserts new transitional provisions related to the amendments in *Part 1*. The transitional provisions make it clear that those amendments apply only to specified existing or new recipients of, or applicants for, an accommodation supplement.

Clause 8 amends Schedule 2 (which is the dictionary that defines terms used in the Act).

The amendment inserts a new definition of community spouse or partner.

A community spouse or partner, in *new section 17A* (which is a guide to specified abatement exemptions), means—

- for the purposes of section 17(3) of the New Zealand Superannuation and Retirement Income Act 2001, a person to whom section 17 of that Act applies; and
- for the purposes of section 173(3) of the Veterans' Support Act 2014, a person to whom section 173 of that Act applies.

A community spouse or partner, in *new sections 67(e) and 69(2A) and (2B)*, *new item 6A of Part 7 of Schedule 4*, and *new item 9A of Part 2 of Schedule 5* (which are provisions about eligibility for, and the rate of, an accommodation supplement), means a person—

- who is not receiving long-term residential care in a hospital or rest home; and
- whose spouse or partner—
 - is receiving long-term residential care in a hospital or rest home; and
 - is, or is not, a resident assessed as requiring care in respect of whom a funder is paying some or all of the cost of contracted care services under section 54, 55, 56, 57, or 58 of the Residential Care and Disability Support Services Act 2018.

The amendment also inserts a definition of specified abatement exemptions (which is defined in *new section 17A* for the purposes of that section).

Clause 9 amends Part 7 of Schedule 4, which sets out rates of accommodation supplement. *New item 6A of Part 7 of Schedule 4* ensures that the rate payable to a community spouse or partner is the rate in item 1 to 6 that would apply to them if they were single (and their other circumstances were unchanged).

Clause 10 amends Part 2 of Schedule 5, which sets out amounts of income limits that are mentioned in various provisions, including section 67(e) and *new section 67(e)*. *New item 9A of Part 2 of Schedule 5* provides that, for the purposes only of *new section 67(e)*, the income limit for a community spouse or partner (as defined in Schedule 2) is the income limit in item 5, 6, 8, or 9 that would apply to them if they were single (and their other circumstances were unchanged).

Clause 11 makes consequential amendments to the specified abatement exemptions (mentioned in *new section 17A* of the Social Security Act 2018). These amendments make it clearer that, in those exemptions, any benefit—

- has, under existing sections of the Acts concerned, the meaning given to it in Schedule 2 of the Social Security Act 2018; and so
- includes, for example, an accommodation supplement.

Part 2 Amendments to Social Security Regulations 2018

Clause 12 says that *Part 2* amends the Social Security Regulations 2018.

Clause 13 amends regulation 15, which sets out the assets requirement for the purposes of section 65(1)(b) of the Act. *New regulation 15(2)* re-enacts regulation 15(2), but adjusts it in the light of *new section 69(2) to (2B)* of the Act, explained in *new regulation 15(3) to (6)*.

Clause 14 amends regulation 17, which prescribes the base rate of accommodation supplement for beneficiaries and non-beneficiaries (as defined in regulation 17(1)). The amendments are as follows:

- *new regulation 17(2)(ea)* ensures that the base rate for a beneficiary who is a community spouse or partner (as defined in Schedule 2 of the Act) is the base rate that would apply to them under regulation 17(2)(a), (b), or (c) if they were single (and their other circumstances were unchanged);
- *new regulation 17(2)(i)* ensures that the base rate for a non-beneficiary who is a community spouse or partner (as defined in Schedule 2 of the Act) is the base rate that would apply to them under regulation 17(2)(f) or (g) if they were single (and their other circumstances were unchanged).

Clause 15 amends regulation 18, which provides for income-based reductions to the amount of the assessed base rate of accommodation supplement for a non-beneficiary (as defined in regulation 17(1)). The amendments are as follows:

- *new regulation 18(2)* requires that amount to be reduced by 25 cents for every \$1 of the relevant weekly income (*see new regulation 18(2A)*) in excess of the income level specified in regulation 18(3):

- *new regulation 18(2A)* defines the **relevant weekly income** mentioned in *new regulation 18(2)* as,—
 - if the applicant is not a community spouse or partner (as defined in Schedule 2 of the Act), the combined weekly income of—
 - the applicant; and
 - any spouse or partner of the applicant; and
 - if the applicant is a community spouse or partner (as so defined), the weekly income of the applicant alone (disregarding any income of the applicant’s spouse or partner who is receiving long-term residential care in a hospital or rest home).

Clause 16 amends Schedule 1, which contains transitional, savings, and related provisions. The amendment inserts new transitional provisions related to the amendments in *Part 2*. The transitional provisions make it clear that those amendments apply only to specified existing or new recipients of, or applicants for, an accommodation supplement.

Hon Carmel Sepuloni

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Social Security (Accommodation Supplement) Amendment Act **2022**.
- 2 Commencement** 5
This Act comes into force on the day after the date of Royal assent.

Part 1
Amendments to Social Security Act 2018

- 3 Principal Act**
This Part amends the Social Security Act 2018. 10
- 4 New section 17A inserted (Guide to specified abatement exemptions)**
After section 17, insert:

- 17A Guide to specified abatement exemptions**
- (1) In this section, the **specified abatement exemptions** means—
- (a) section 17(3) of the New Zealand Superannuation and Retirement Income Act 2001; and 15
- (b) section 173(3) of the Veterans' Support Act 2014.
- (2) The specified abatement exemptions ensure that a benefit (for example, an accommodation supplement) payable to a community spouse or partner (**CSP**) is not subject to abatement in respect of any income of the CSP that has been included in a means assessment— 20
- (a) of the CSP's spouse or partner; and
- (b) under the Residential Care and Disability Support Services Act 2018.

- 5 Section 67 amended (Other funding exclusion)** 25
Replace section 67(e) with:
- (e) P is receiving New Zealand superannuation or a veteran's pension and—
- (i) if P is not a community spouse or partner (as defined in Schedule 2), the total income of P and P's spouse or partner (if any) is

more than the applicable amount specified in Part 2 of Schedule 5;
or

- (ii) if P is a community spouse or partner (as so defined), the total income of P alone (disregarding any income of P's spouse or partner who is receiving long-term residential care in a hospital or rest home) is more than the applicable amount specified in Part 2 of Schedule 5.

6 Section 69 amended (Accommodation supplement: refusal, reduction, or cancellation of grant in certain circumstances)

Replace section 69(2) with:

- (2) For the purposes of this section and the assets requirement in regulations made under section 423 (*see* section 65(1)(b)), the assets of A include the assets of A's spouse or partner, if any.

(2A) **Subsection (2)** applies, without limitation, even if—

- (a) A is a community spouse or partner (as defined in Schedule 2); and
- (b) A's spouse or partner is receiving long-term residential care in a hospital or rest home.

(2B) However, **subsection (2)** does not limit section 67(c), under which a person (P, who may, or may not, be A's spouse or partner) is ineligible for an accommodation supplement if P is a resident assessed as requiring care in respect of whom a funder is paying some or all of the cost of contracted care services under section 54, 55, 56, 57, or 58 of the Residential Care and Disability Support Services Act 2018.

7 Schedule 1 amended

In Schedule 1,—

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

8 Schedule 2 amended

In Schedule 2, insert in their appropriate alphabetical order:

community spouse or partner,—

(a) in **section 17A** (which is a guide to specified abatement exemptions), means—

- (i) for the purposes of section 17(3) of the New Zealand Superannuation and Retirement Income Act 2001, a person to whom section 17 of that Act applies; and
- (ii) for the purposes of section 173(3) of the Veterans' Support Act 2014, a person to whom section 173 of that Act applies; and

- (b) in **sections 67(e) and 69(2A) and (2B), item 6A of Part 7 of Schedule 4, and item 9A of Part 2 of Schedule 5** (which are provisions about eligibility for, and the rate of, an accommodation supplement), means a person—
- (i) who is not receiving long-term residential care in a hospital or rest home; and
 - (ii) whose spouse or partner—
 - (A) is receiving long-term residential care in a hospital or rest home; and
 - (B) is, or is not, a resident assessed as requiring care in respect of whom a funder is paying some or all of the cost of contracted care services under section 54, 55, 56, 57, or 58 of the Residential Care and Disability Support Services Act 2018
- specified abatement exemptions** is defined in **section 17A** for the purposes of that section (which is a guide to specified abatement exemptions)

9 Schedule 4 amended

In Schedule 4, Part 7, after item 6, insert:

- 6A The rate of accommodation supplement payable to a community spouse or partner (as defined in Schedule 2) is the rate in item 1 to 6 that would apply to them if they were single (and their other circumstances were unchanged).

10 Schedule 5 amended

In Schedule 5, Part 2, after item 9, insert:

- 9A For the purposes only of **section 67(e)**, the income limit for a community spouse or partner (as defined in Schedule 2) is the income limit in item 5, 6, 8, or 9 that would apply to them if they were single (and their other circumstances were unchanged).

11 Consequential amendments

Amend the Acts specified in **Schedule 2** of this Act as set out in that schedule.

Part 2
Amendments to Social Security Regulations 2018

12 Principal regulations

This Part amends the Social Security Regulations 2018.

13 Regulation 15 amended (Assets requirement)

Replace regulation 15(2) with:

- (2) This regulation is subject to **section 69(2), (2A), and (2B)** of the Act.

- (3) Under **section 69(2)** of the Act, for the purposes of the assets requirement in this regulation and of section 69 of the Act, the assets of an applicant for an accommodation supplement (**A**) include the assets of **A**'s spouse or partner (if any).
- (4) Under **section 69(2A)** of the Act, **section 69(2)** of the Act applies, without limitation, even if— 5
- (a) **A** is a community spouse or partner (as defined in Schedule 2 of the Act); and
- (b) **A**'s spouse or partner is receiving long-term residential care in a hospital or rest home. 10
- (5) Under **section 69(2B)** of the Act, **section 69(2)** of the Act does not limit section 67(c) of the Act, under which a person (**P**, who may, or may not, be **A**'s spouse or partner) is ineligible for an accommodation supplement if **P** is a resident assessed as requiring care in respect of whom a funder is paying some or all of the cost of contracted care services under section 54, 55, 56, 57, or 58 of the Residential Care and Disability Support Services Act 2018. 15
- (6) **Subclauses (3) to (5)** are by way of explanation only. They do not affect the provisions specified in them.

14 Regulation 17 amended (Base rate)

- (1) In regulation 17(2)(d), after “paragraph (e)”, insert “or **(ea)**”. 20
- (2) After regulation 17(2)(e), insert:
- (ea) for a beneficiary who is a community spouse or partner (as defined in Schedule 2 of the Act), the base rate that would apply to them under paragraph (a), (b), or (c) if they were single (and their other circumstances were unchanged): 25
- (3) In regulation 17(2)(h), after “relationship”, insert “and is not a non-beneficiary to whom **paragraph (i)** applies”.
- (4) After regulation 17(2)(h), insert:
- (i) for a non-beneficiary who is a community spouse or partner (as defined in Schedule 2 of the Act), the base rate that would apply to them under paragraph (f) or (g) if they were single (and their other circumstances were unchanged). 30

15 Regulation 18 amended (Income-based reductions to assessed base rate for non-beneficiary)

- Replace regulation 18(2) with: 35
- (2) That amount must be reduced by 25 cents for every \$1 of the relevant weekly income (*see* **subclause (2A)**) in excess of the income level specified in subclause (3).
- (2A) The **relevant weekly income** mentioned in **subclause (2)** is,—

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- (a) if the applicant is not a community spouse or partner (as defined in Schedule 2 of the Act), the combined weekly income of—
 - (i) the applicant; and
 - (ii) any spouse or partner of the applicant; and
- (b) if the applicant is a community spouse or partner (as so defined), the weekly income of the applicant alone (disregarding any income of the applicant's spouse or partner who is receiving long-term residential care in a hospital or rest home).

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16 Schedule 1 amended

In Schedule 1,—

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- (a) insert the Part set out in **Part 2 of Schedule 1** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Schedule 1
Transitional, savings, and related provisions

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Part 1
New Part of Schedule 1 of Social Security Act 2018 5

Part 8
Provisions relating to the Social Security (Accommodation Supplement) Amendment Act 2022

- 93 Definitions for this Part**
- In this Part,— 10
- amendments** means the amendments made—
- (a) to this Act; and
 - (b) by **Part 1** of the Amendment Act
- Amendment Act** means the Social Security (Accommodation Supplement) Amendment Act **2022** 15
- commencement** means the commencement of the Amendment Act.
- 94 Amendments apply only to specified existing or new recipients or applicants**
- The amendments apply, after the commencement, only to—
- (a) a person who, immediately before the commencement, was entitled to receive, had applied for, and was receiving, an accommodation supplement: 20
 - (b) an applicant for an accommodation supplement whose application was made, but was not withdrawn or determined, before the commencement:
 - (c) an applicant for an accommodation supplement whose application is made after the commencement. 25

Part 2**New Part of Schedule 1 of Social Security Regulations 2018****Part 8****Provisions relating to the Social Security (Accommodation Supplement) Amendment Act 2022**

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13 Definitions for this Part

In this Part,—

amendments means the amendments made—

- (a) to these regulations; and
- (b) by **Part 2** of the Amendment Act

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Amendment Act means the Social Security (Accommodation Supplement) Amendment Act **2022****commencement** means the commencement of the Amendment Act.**14 Amendments apply only to specified existing or new recipients or applicants**

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The amendments apply, after the commencement, only to—

- (a) a person who, immediately before the commencement, was entitled to receive, had applied for, and was receiving, an accommodation supplement:
- (b) an applicant for an accommodation supplement whose application was made, but was not withdrawn or determined, before the commencement:
- (c) an applicant for an accommodation supplement whose application is made after the commencement.

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Schedule 2
Consequential amendments

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New Zealand Superannuation and Retirement Income Act 2001 (2001 No 84)

After section 17(3), insert:

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(3A) In subsection (3), any **benefit**,—

- (a) has, under section 4(2) of this Act, the same meaning as it has in the Social Security Act 2018 (*see* Schedule 2 of that Act); and so
- (b) includes, for example, an accommodation supplement (as is explained in the guide in **section 17A** of that Act).

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Veterans' Support Act 2014 (2014 No 56)

After section 173(3), insert:

(3A) In subsection (3), any **benefit**,—

- (a) has, under section 158(2)(b) of this Act, the meaning given to it in Schedule 2 of the Social Security Act 2018; and so
- (b) includes, for example, an accommodation supplement (as is explained in the guide in **section 17A** of that Act).

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